

Subpart D. Amendment Processes

§200A-312. General

Amendment requests/applications may run concurrently with permit applications, *site plan* review or other applications for approvals required for the particular development. Amendments to the *Comprehensive Plan* and this Chapter shall adhere to the applicable review and approval process as outlined in this Article.

§200A-313. Comprehensive Plan Amendments

- A. Purpose. The Comprehensive Plan Amendment process is designed to allow for: (1) regularly scheduled amendment evaluation; (2) consistency in how amendments are handled; (3) the consideration of the current plan and the proposed amendment to the plan concurrently, with an evaluation of the consequences of each; (4) the consideration of land *use* changes in a countywide context by simultaneous amendment review; (5) the separation of land *use* issues from specific zoning issues; (6) thorough staff and board analysis and evaluation; and (7) meaningful public input. All actions taken to amend, supplement, change or repeal the *Comprehensive Plan* shall follow the appropriate process as outlined below.
- B. Administrative Amendments.
 - (1) Approval Authority. Board of Commissioners.
 - (2) Initiation. The Commissioners, County Manager, Planning Board and Planning Staff may submit *administrative amendments* to the *Planning Director*.
 - (3) Staff Review. The *Planning Director* drafts submitted amendments and provides them to the County Manager for review, consideration and action by the Commissioners.
 - (4) Review Schedule. As needed.
 - (5) Public Hearing. None required.
 - (6) Public Notification. None required.
 - (7) Amendment Validity. The amendment is effective immediately following the decision of the Commissioners.
- C. Substantive Amendments.
 - (1) Approval Authority. Board of Commissioners
 - (2) Initiation. The Commissioners, County Manager, Planning Board and *Planning Director* may initiate *substantive amendments*.
 - (3) Review Schedule. Amendments shall be considered annually, and shall be reviewed based on the following:
 - a. Interim Review, Community Plan Begun, not Yet Adopted. Where the site of a proposed rezoning or *special use* permit request is located in the area under study, the Planning Department will not initiate consideration of whether the site's current formally adopted land *use* classification should be changed to allow the proposed development, but encourage the

landowner to participate in the development of the applicable *Community Plan*. If the landowner continues with the rezoning or *special use* permit request, review of *Comprehensive Plan* consistency will be based on the site's current or assumed classification (until the *Community Plan* is adopted).

- b. Interim Review, Community Plan not Yet Begun. Where a proposed rezoning or *special use* permit request is located in the area scheduled for study, the Planning Department will initiate an ad hoc consideration of whether the site's current formally adopted land *use* classification should be changed. This process shall occur concurrently with the review process of the proposed rezoning or *special use* permit request.
 - c. Annual Review. The County will review amendment requests as submitted in January. Planning Staff assesses suggested revisions within the context of the plan as a whole, proposes plan amendments deemed appropriate to address them, and submits the proposed amendments to the Planning Board for review and recommendation to the Commissioners. The Commissioners hold a public hearing and decide whether to adopt the proposed amendments.
 - d. Five-Year Review. The *Comprehensive Plan* is subject to a review every five (5) years, with the first review scheduled after the last *Community Plan* is complete. Planning Staff prepares draft amendments and submits them to the Planning Board for initial review. Planning Staff distributes copies of the draft amendments widely, invites public comment, addresses received public comments and submits amendments as revised to the Planning Board for review and recommendation to the Commissioners. The Commissioners hold a public hearing on the proposed amendments, review and decide whether to adopt the amendments. If the Commissioners direct that further modifications to the proposed amendments be made, and such modifications are deemed by the Commissioners to be significant, the modified proposal shall be resubmitted to the Planning Board for further review and recommendation before the Commissioners take action.
- (4) Public Hearing. Prior to amending the *Comprehensive Plan* substantively, the Commissioners shall hold a public hearing on the amendment(s) in accordance with *NCGS* §153A-323, as amended (See §200A-337 (Legislative Process Standards)).
 - (5) Public Notification. Public notification of such hearing shall comply with the provisions of *NCGS* §153A-323 and §153A-343, as amended (See §200A-337 (Legislative Process Standards)). Planning Staff shall be responsible for all necessary public notifications.
 - (6) Amendment Validity. The amendment is effective immediately following the decision of the Commissioners.

§200A-314. Ordinance Amendments

A. Purpose. The regulations, restrictions and boundaries set forth in this Chapter may from time to time be amended, supplemented, changed or repealed by the Board of Commissioners. Prior to final action by the Commissioners under this Chapter, the Planning Board shall review the amendment and offer any comments or recommendations as appropriate. All actions to amend, supplement, change or repeal this Chapter shall follow the appropriate process as outlined below.

B. Text Amendments.

- (1) Initiation. The Commissioners, Planning Board, Zoning Board of Adjustment (*ZBA*), Watershed Review Board and Flood Damage Prevention Board may initiate amendments to the text of this Chapter through adopted motion and submittal to the *Planning Director*. The County Manager, *Zoning Administrator*, *Planning Director*, or an affected owner of property in Henderson County may initiate an amendment to the text of this Chapter.
- (2) Application. Each *applicant* shall submit a copy of the proposed amendment which explains the purpose for the amendment to the *Planning Director*.
- (3) Staff Review. Planning Staff shall: (1) process and review the amendment request, (2) present the application to the Technical Review Committee (*TRC*) for its comments and recommendations, (3) forward the application on to the appropriate departments and agencies for their review, and (4) prepare a recommendation on the proposed amendment.
- (4) Formal Review. Prior to amending the text of this Chapter, the Commissioners shall consider the Planning Board's recommendation which must be in writing and must address consistency with the *Comprehensive Plan*.
- (5) Public Hearing. Prior to amending the text of this Chapter the Commissioners shall hold a public hearing on the amendment in accordance with *NCGS* §153A-323, as amended (See §200A-337 (Legislative Process Standards)).
- (6) Public Notification. Public notification of such hearing shall comply with the provisions of *NCGS* §153A-323 and §153A-343, as amended (See §200A-337 (Legislative Process Standards)). Planning Staff shall be responsible for all necessary public notifications.
- (7) Amendment Validity. The amendment is effective immediately following the decision of the Commissioners.

C. Map Amendments.

- (1) Initiation. The Commissioners, Planning Board, *ZBA*, Watershed Review Board and Flood Damage Prevention Board may initiate amendments to the Official Zoning Map through the adoption of a motion. The County Manager, *Planning Director*, *Zoning Administrator* and any County Department Director/Head may initiate an amendment to the *zoning map*. A property owner may initiate an amendment to the Official Zoning Map on property that he/she owns, but may not initiate a *map amendment* on another individual's property without that property owner's consent.

(2) Application.

- a. Pre-application Conference. Each *applicant* for an amendment shall meet with Planning Staff in a pre-application conference at least 15 days prior to the application submission deadline. The purposes of this conference are to provide information to the *applicant* regarding the review process and assist in the preparation of the application.
- b. Application. Each *applicant* for an amendment shall submit the application to the Planning Department on or before the first business day of the month. The application shall include: (1) the name(s) and address(es) of the owner(s) of the property in question; (2) the location of the property; (3) the *PIN* as shown on the County tax listing; (4) a description/statement of the present and proposed district; (5) a description of the property in question sufficient to unequivocally describe and identify said property (such description may take the form of a property survey, a legal description or a legible copy of a County cadastral or composite tax map clearly annotated with district lines which follow political boundaries, geographical features or property lines); and where an *applicant* chooses to appoint an agent to speak on their behalf, (6) an agent form. Planning Staff may modify applications as necessary. Incomplete applications must be resubmitted on or before the first business day of the month or will not be processed until the proceeding month.
- c. Review Schedule. Applications for amendments shall have a 45 day processing period for review by Planning Staff before the first consideration by the Planning Board. Applications involving more than one (1) parcel not under common ownership by the *applicant* shall be forwarded to the Planning Board at its first regularly scheduled monthly meeting. (The Planning Board will review the application and determine if it should proceed or, due to the size of the area, number of parcels or number of property owners, if the scope of the application will require a *Small Area Zoning Study*. If the Planning Board agrees that the application calls for a *Small Area Zoning Study*, then the application will be tabled and the request is forwarded to the Commissioners for direction on how to proceed with the amendment application).
- d. Withdrawal of Application. Each application for an amendment which is withdrawn by the *applicant* after the first newspaper notice appears, shall not be considered for a *map amendment* within the following six (6) months.
- e. Application Resubmittal.
 - A. Resubmittal of Any Application. The Planning Board and the Commissioners will not consider an application (by a property owner or owner's agent) when, within the previous 12 months, the *map amendment* request was denied by the Commissioners.

B. Resubmittal of Application After Completion of a Small Area/Community Plan. Applications for *map amendments* located in an area that is currently undergoing or (within the previous 12 months) has completed a Small Area/Community Plan, shall not be considered by the Planning Board or the Commissioners unless the *Planning Director* initiates such application.

f. Fees. Any review fee established by the Commissioners shall be submitted with the application.

- (3) Staff Review. Planning Staff: (1) shall process and review the amendment request, (2) shall present the application to the *TRC* for its comments and recommendations, (3) may forward the application to the appropriate departments and agencies for their review, and (4) shall prepare a recommendation on the proposed amendment.
- (4) Formal Review. Prior to amending the Official Zoning Map, the Commissioners shall consider the Planning Board's recommendation which must be in writing and must address consistency with the *Comprehensive Plan*. The Planning Board shall have 45 days after the first consideration of an application for an amendment to submit its written recommendation to the Commissioners. Failure of the Planning Board to submit a written recommendation within the 45 day period shall constitute a favorable recommendation, except that, if by agreement of the Planning Board and the *applicant* that 45 days is insufficient due to the size of the area, the complexity of the request or similar circumstances, the Planning Board shall have 60 days to submit its written recommendations. Time limitations shall not be applied to applications for amendments initiated by the Commissioners.
- (5) Public Hearing. Prior to amending the *zoning map* the Commissioners shall hold a public hearing on the amendment in accordance with *NCGS* §153A-323, as amended (See §200A-337 (Legislative Process Standards)).
- (6) Public Notification. Public notification of the Planning Board meeting shall comply with the provisions outlined in §200A-337 (Legislative Process Standards) B(5) (Posted Notice), for posted notices. Public notification of the Commissioners public hearing shall comply with the provisions of *NCGS* §153A-323 and §153A-343, as amended (See §200A-337 (Legislative Process Standards)). Planning Staff shall be responsible for all necessary public notifications.
- (7) Amendment Validity. The amendment is effective immediately following the decision of the Commissioners. The Commissioners shall issue a written statement on all *map amendment* decisions (both adoptions and rejections) addressing reasonableness, consistency with the *Comprehensive Plan*, and public interests furthered.

D. Water Supply Watershed Text and/or Map Amendments.

- (1) Initiation. The Commissioners may initiate amendments to the text of this Chapter related to the *watershed* and amendments to the *Watershed Map* through adopted motion and submittal to the *Planning Director*.

- (2) Application, Formal Review, Public Hearing and Public Notification. An amendment to the text of this Chapter related to the *water supply watershed* shall adhere to the review and approval process for *Text Amendments* (see §200A-314 (Ordinance Amendments) subsection B (excluding (1) “Initiation”)). An amendment to the *watershed* map shall adhere to the review and approval process for *Map Amendments* (see §200A-314 (Ordinance Amendments) subsection C (excluding (1) “Initiation”)). The Commissioners may incorporate the minimum requirements of the North Carolina Environmental Management Commission (*NCEMC*) into this Chapter without undertaking the official amendment processes; this may include identifying the boundaries of *watershed* districts proposed by the *NCEMC* on the Watershed Protection Map and may include *text amendments* necessary to conform to the minimum requirements of the *NCEMC*.
- (3) Amendment Validity. The Commissioners may not adopt any amendment, supplement, change or modification that is less stringent than the minimum requirements imposed by the *NCEMC* without approval of said Commission. The amendment is effective immediately following the decision of the Commissioners. All amendments must be filed with the North Carolina Division of Environmental Management, North Carolina Division of Environmental Health and the North Carolina Division of Community Assistance.

Subpart E. Permit Approval Processes

§200A-315. General

All permit applications shall include, at minimum: (1) the name(s) and address(es) of the owner(s) of the property in question; (2) the location of the property; (3) the *PIN* as shown on the County tax listing; (4) a description and/or statement of the present zoning district; (5) the appropriate level of *site plan*; and, where an *applicant* chooses to appoint an agent to speak on their behalf, (6) an agent form. Permit applications may run concurrently with *site plan* review, amendment requests or other applications for approvals required for the particular development. All permit applications shall adhere to the applicable review and approval process as outlined in this Article.

§200A-316. Category One (1) or Two (2) Communication Facility Permits

- A. Purpose. Category One (1), or Two (2) *Communication Facility Permits* are required for any construction, alteration or expansion of a communication facility of these categories.
- B. Permit Issuance. The *Communication Facilities Administrator* shall issue permits. No permit shall be issued until a communication facility *site plan* has been reviewed and approved by the *Communication Facilities Administrator*.
- C. Application.
 - (1) Pre-application Conference. Each *applicant* for a permit shall meet with the *Communication Facilities Administrator* in a pre-application conference prior to, or at the time of, the submittal of a request for approval of the communication facility. The purposes of this conference are to provide information to the