

Section 902.12. - Amendments to the land development regulations text and official zoning atlas.

- (1) *Purpose and intent.* The purpose of this section is to provide a means for changing the text of the land development regulations or the official zoning atlas. It is not intended to relieve particular hardships or confer special privileges or rights to any person.
- (2) *Changes and amendments.* The board of county commissioners may from time to time, on its own motion, the motion of the Indian River County Planning and Zoning Commission, or the petition of the owner or the owner's authorized agent, amend, supplement, change, modify, or repeal by ordinance, pursuant to the authority and in the manner provided herein, any of the provisions of the land development regulations or any boundaries within the zoning atlas.

→ (3) **Standards of review.** In reviewing the application of a proposed amendment to the text of the land development regulations or an application for a proposed amendment to the official zoning atlas, the board of county commissioners and the planning and zoning commission shall consider:

- (a) Whether or not the proposed amendment is in conflict with any applicable portion of the land development regulations;
- (b) Whether or not the proposed amendment is consistent with all elements of the Indian River County Comprehensive Plan;
- (c) Whether or not the proposed amendment is consistent with existing and proposed land uses;
- (d) Whether or not the proposed amendment is in compliance with the adopted county thoroughfare plan;
- (e) Whether or not the proposed amendment would generate traffic which would decrease the service levels on roadways below level adopted in the comprehensive plan;
- (f) Whether or not there have been changed conditions which would warrant an amendment;
- (g) Whether or not the proposed amendment would decrease the level of service established in the comprehensive plan for sanitary sewer, potable water, solid waste, drainage, and recreation;
- (h) Whether or not the proposed amendment would result in significant adverse impacts on the natural environment;
- (i) Whether or not the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern;
- (j) Whether or not the proposed amendment would be in conflict with the public interest, and is in harmony with the purpose and interest of the land development regulations; as well as
- (k) Any other matters that may be deemed appropriate by the planning and zoning commission or the board of county commissioners in review and consideration of the proposed amendment such as police protection, fire protection, and emergency medical services.

NOTE: Some of these items of consideration may be deemed as inapplicable in the review and approval of Land Development Regulation amendment requests.

- (4) *Amendment procedures.*
 - (a) *Application and content.* All applications (other than board of county commissioners initiated amendments) for changes and amendments shall contain all the information required of this section and shall be in a form prescribed by the community development department and

approved by the board of county commissioners. The following information shall be provided by the applicant for an amendment to the official zoning atlas.

1. *Legal description; boundary survey.* The application shall describe by legal description and any street address, where possible, the property to be affected by the proposed change, setting forth the present zoning applicable thereto and specifying the district, zone or use requested by the applicant. The application shall also include a copy of the deed and at least one other conveying instrument indicating present legal and/or equitable ownership together with notarized authorization from the owner of the subject property if the applicant is not the owner. The application shall also include a boundary survey, sealed by a registered land surveyor, of the property proposed to be rezoned.
 2. *Statement of verification.* All such applications or petitions shall include a verified statement showing each and every individual person having legal and/or equitable ownership interest in the property upon which the application for rezoning is sought.
 3. *Concurrency certificate.* Each application shall include a valid conditional, or initial concurrency certificate or evidence of a concurrency certificate application.
 4. *Fees.* Each application shall include a publication and application fee for each requested change; provided, however, that as many lots or parcels of property as the applicant may desire may be included in a single petition if they constitute one contiguous area. Such fee shall be established by the board of county commissioners.
 5. *Application time limitations.* A rezoning or land development regulation text amendment application shall be considered active for a period of one year after it is submitted to the community development department. If the application is not complete or if the board of county commissioners does not hold a public hearing on the application because of delays by the applicant, the application shall be terminated one year after the submittal date.
- (b) *Staff review.* The community development department shall have twenty (20) working days from the date the completed application and required fees are submitted to review and comment upon the application. The community development department shall then place the completed application on the agenda of a regularly scheduled county planning and zoning commission meeting; provided, however, the following notice and publication requirements are met prior to the public hearing before the county planning and zoning commission.
1. *Published notice requirement.* The community development department shall publish the material contents of the application, together with a map indicating the area proposed to be rezoned, (map required only for rezoning requests and land development regulations amendment requests where state regulations require the publishing of a map), at least ten (10) days prior to the county planning and zoning commission's public hearing on the application, unless Florida Statutes mandate different notice requirements.
 2. *Mailed notice; posted notice.* Additionally, the community development department shall send by regular mail a written courtesy notice to all owners of property within three hundred (300) feet of the outer limits of the area described in the petition requesting a change, advising all such owners as shown upon the last prepared and completed tax assessment roll of the county, in simple terms, the proposed change and the time and place of the public hearing. In the event that more than ten (10) lots or parcels are proposed for rezoning, notification shall be by published notice only. For rezoning requests the community development department shall erect and conspicuously place upon the subject property at least one notice which shall contain the following information:
 - a. Map of property which is the subject of the rezoning petition;
 - b. Present zoning and requested rezoning classification; and
 - c. Dates of scheduled hearings.

3. *Failure to provide notice.* The provisions hereof for mailing notice are directory only and the failure to mail such notices shall not affect any change or amendment of said land development regulations. Moreover, regarding rezoning requests, failure to maintain a conspicuous notice on the property shall not affect said requests.
 - (c) *Action by planning and zoning commission.* After the public hearing, the county planning and zoning commission shall report its recommendations to the board of county commissioners for final action. For rezoning requests, a denial of the application by the county planning and zoning commission, unless appealed as provided for herein, will be final.
 - (d) *Appeals of decisions by the planning and zoning commission to deny a rezoning application.* Any applicant who is aggrieved by a decision of the county planning and zoning commission regarding denial of a rezoning application may file a written notice of intent to appeal the county planning and zoning commission decision with the director of the community development department, the chairman of the county planning and zoning commission, and the chairman of the board of county commissioners. Such appeal must be filed within twenty-one (21) days of the decision of the county planning and zoning commission.
 - (e) *Action by the board of county commissioners.* Upon receipt of the recommendations from the county planning and zoning commission, or upon receipt of a written notice of intent to appeal, the board of county commissioners shall consider the proposed change, amendment or rezoning application and appeal within forty-five (45) days of the submission of said recommendations or written notice of intent to appeal, at an advertised public hearing as required by F.S. § 125.66. An appeal of a denial of a rezoning application shall be heard de novo.
- (5) *Time for reapplying.* No new application for an amendment, change or modification of the official zoning atlas shall be permitted to be filed until after the expiration of at least twelve (12) months from the filing of a previous application with the community development department, covering substantially the same lands.
- (6) *Interim zoning.* The board of county commissioners may adopt stop-gap or interim zoning for periods of time not to exceed one year designed to preserve the status quo in any area in the county, pending the completion of zoning, water and sewer, urban renewal or other similar type plans.

(Ord. No. 90-16, § 1, 9-11-90; Ord. No. 91-7, § 32, 2-27-91; Ord. No. 91-23, § 2, 5-15-91; Ord. No. 96-6, § 8, 2-27-96; Ord. No. 98-9, § 7, 5-19-98; Ord. No. 2002-004, § 5, 2-12-02)

ADD DIAGRAM-REZONING FLOW CHART, P.106.1 OF ORD.