
ARTICLE XVII

AMENDMENT PROCEDURE

SECTION 17.0 AMENDMENT PROCEDURE

- A. **FILING OF AMENDMENT APPLICATION:** All applications for amendments to this ordinance shall be filed in writing, with the zoning administrator, to be transmitted to the planning commission on forms furnished by the zoning administrator (in duplicate). The fee required for applying for such amendment shall be as provided for by the local planning commission.
- B. **PLANNING COMMISSION REVIEW REQUIRED:** A proposal for an amendment to this ordinance may originate with the planning commission, the legislative body, or with the owner of the property in question. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission for its action before adoption.
- C. **PUBLIC HEARING REQUIRED, NOTICE GIVEN:** The planning commission shall hold at least one public hearing on the proposed amendment, at which hearing parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published at least once, but may be published two or more times, in a newspaper of general circulation in the county, provided that one publication occurs not less than seven (7) calendar days nor more than twenty-one (21) calendar days before the occurrence of such hearing.
- D. **OTHER HEARING REQUIREMENTS, ZONING MAP AMENDMENT:** In addition to the public hearing notice required in Section 17.0, C., above, the following notices shall also be given when a proposal is submitted by a property owner to amend the official zoning map:
 - 1. Notice of the hearing shall be posted conspicuously on the property, the classification of which is proposed to be changed, for fourteen (14) consecutive days immediately prior to the hearing. Said posting shall consist of one or more signs, constructed of durable material, and clearly depicting the following information: the words "ZONING CHANGE" (three (3) inch high lettering); current zoning classification of property and proposed zoning classification (three (3) inch high lettering); date, place, and time of public hearing (one (1) inch high lettering); and address, including telephone number, of the planning commission where additional information regarding hearing may be obtained; and

2. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, with certification by the commission secretary, or other officer of the planning commission that the notice was mailed to an owner of every parcel of property adjoining the property, the classification of which is proposed to be changed. Where said property adjoins a street or alley, property abutting the opposite side of such street or alley shall be considered adjoining property. It shall be the duty of the person(s) proposing the amendment to furnish to the planning commission the names and addresses of the owners of all adjoining property. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners.
 3. All procedures for public notice and publication, as well as for adoption, shall be the same as for the original enactment of a zoning regulation, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name the two (2) streets on either side of the property.
- E. FINDINGS NECESSARY FOR MAP AMENDMENT: Before any map amendment is granted, the planning commission, or legislative body, must find that the amendment is in agreement with the adopted comprehensive plan, or in the absence of such a finding, that one or more of the following apply, including the making of a written report, setting forth explicitly, the reasons and substantiation as to how each would apply, and such finding and report shall be recorded in the minutes and records of the planning commission or legislative body.
1. That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and
 2. That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

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- F. **MINIMUM SIZE OF NEW ZONES:** No amendment to this ordinance shall be adopted whereby the zoning classification of an area is changed unless the total area being applied for meets the following requirements as to minimum size: the zoning map shall not be amended, changed, or modified in such manner as to create a free standing zone of less than five (5) acres, except where specific area restrictions are stipulated in this ordinance, or as outlined in the adopted comprehensive plan by the planning commission. For the purpose of computing the total size of an area to be rezoned for compliance herewith, there shall be added to such area: (1) the area of public rights-of-way interior to the area being changed; (2) one-half the area of public rights-of-way abutting the area being changed; and (3) the area of any land which is contiguous to the area being changed (including land located outside the jurisdiction of the legislative body but contiguous thereto and which land already bears the zoning classification sought for the area being changed). For the purpose of this section, neither continuity nor abutment shall be destroyed by the existence of a street, alley, or city's corporation line.
- G. **PLANNING COMMISSION ACTION:** Following the public hearing held by the planning commission on a proposed amendment, the commission shall, within sixty (60) calendar days from the date of its receipt, advise the legislative body whether it approved or disapproved of the amendment to the zoning regulation, including a statement setting forth explicitly the reasons and substantiation for such action and, in the case of a map amendment, the submission of a written report as required in Section 17.0, E., above.
- H. **LEGISLATIVE BODY DISPOSITION:** Within a reasonable time after receipt of the planning commission's recommendations and findings concerning the application the legislative body shall act on such application. A majority of the entire legislative body shall be required to override the recommendations of the planning commission.
- I. **SUBMISSION OF DEVELOPMENT PLAN AS CONDITION TO COMMERCIAL, MULTI-FAMILY RESIDENTIAL, OR INDUSTRIAL ZONING MAP AMENDMENT:** Any request for a zoning map amendment, excluding those submitted by the legislative body (other than for a zone change for land under city ownership that the city intends to develop) and the planning commission, to any commercial (i.e., NC) multi-family residential zone (i.e., R-2, R-3, etc.), or industrial zone (i.e., IP) shall be made in accordance with all applicable requirements of this ordinance, including the following:

1. APPLICATION AND PROCESSING: Application for a zoning map amendment shall be processed in two stages:
 - a. Application for a zoning amendment shall be filed with the zoning administrator as required by Section 17.0, A., and shall include a Development Plan in accordance with the applicable requirements of Section 9.20, A., of this ordinance. The zoning administrator may waive the submission of such data involving detailed engineering study until such time as the zoning amendment has been granted.
 - b. The planning commission shall hold a public hearing on the proposed application and review said application with regard to the required elements of the Development Plan, and other applicable requirements of this section. Upon holding such a hearing, the planning commission shall make one of the following recommendations to the legislative body: approval, approval with condition(s), or disapproval. The planning commission shall submit, along with their recommendations, a copy of the Development Plan and the bases for their recommendation.
 - c. The legislative body shall, within forty-five (45) consecutive days after receiving the recommendations of the planning commission, review said recommendations and take action to approve or disapprove the proposed Development Plan. Such approval may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose different conditions than were reviewed and recommended by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendations, in accordance with the process required for the initial review.

Approval of the zoning map amendment shall require that development be in accordance with the approved Development Plan. Additionally, upon approval of the zoning map amendment, the official zoning map shall be amended for the area as shown on the approved development plan.
 - d. The legislative body shall forward a copy of the approved Development Plan to the zoning administrator, or the city's duly authorized representative, for further processing, in accordance with the applicable requirements of this ordinance.
 - e. If the detailed engineering data required under Section 9.20, A. had been waived by the zoning administrator in the initial submission of

the Development Plan, then such data shall be submitted for review in accordance with the requirement of Section 9.19 before a permit may be issued for construction.

The zoning administrator, in reviewing the Site Plan, may authorize minor adjustments from the approved development plan, provided that the adjustments do not: affect the spatial relationship of structures, change land uses, increase overall density, alter circulation patterns (vehicular and/or pedestrian), decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

2. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the zoning administrator as noted above, shall be made in accordance with the procedure required by this ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.
3. EXPIRATION: The zoning map amendment shall be subject to the time constraints as noted below. Upon expiration of said time period, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said zoning map amendment should revert to its original designation. A public hearing may be initiated if substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Development Plan by the legislative body, provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the approved Development Plan obsolete. The amount of construction that constitutes initiating substantial construction shall be as approved in the Development Plan.

J. PLANNING COMMISSION - TO HEAR AND DECIDE APPLICATIONS FOR VARIANCES AND CONDITIONAL USE PERMITS

1. In accordance with KRS 100.203, an applicant, at the time of filing of the application for a map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustment as otherwise provided for

in this ordinance.

2. Application to review a variance and conditional use permit shall include submission of a development plan in accordance with the applicable requirements of Section 9.20, A., of this ordinance. In review and approval of said application, the planning commission shall assume all powers and duties otherwise exercised by the board of adjustment pursuant to KRS 100.231, 100.233, 100.241, 100.243, 100.247, and 100.251.
3. Any judicial proceedings to appeal the planning commission's actions in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347 (2).

SECTION 17.1 PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY STAFF REVIEW AND RECOMMENDATION REQUIRED PRIOR TO OR AT THE SCHEDULED PUBLIC HEARING: Planning and Development Services of Kenton County staff, pursuant to KRS 147.673, shall review and make recommendations upon all applications to the local planning commission and the applicant, along with supporting information and comprehensive plan documentation, prior to or at the scheduled public hearing.

SECTION 17.2 OVERRIDING PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY RECOMMENDATIONS --REASONS, IN WRITING, REQUIRED: Pursuant to KRS 147.650, any legislative body that overrides Planning and Development Services of Kenton County's recommendations must notify Planning and Development Services of Kenton County, in writing, stating the action that was taken by said legislative body and specifying the reasons for such actions.

SECTION 17.3 ACTIONS OF LOCAL GOVERNMENTAL UNITS TO BE FURNISHED TO PLANNING AND DEVELOPMENT SERVICES OF KENTON COUNTY: Pursuant to KRS 147.705, the legislative body shall, after final adoption of any zoning ordinance or resolution, including amendments thereto, furnish, or cause to be furnished, within sixty (60) days after adoption, a copy of same to Planning and Development Services of Kenton County.