

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 triplicate - See Appendix A). The fee required for applying for such amendment shall be as provided for in Section 19.0 of this ordinance.

- 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. Said posting shall consist of one or more signs clearly depicting the following information: current zoning classification of the property, proposed zoning classification, legal description of proposed zone change area, date and time of public hearing, and address, including telephone number 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 registered mail, to the owners of all 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.

- 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 original zoning classification given to the property was inappropriate or improper; 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.
- 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. 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. Subject to the foregoing limitations, every zone shall be of at least the following size: the zoning map or maps 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.
- 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.

- 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 OR MULTI-FAMILY RESIDENTIAL AMENDMENT:** Any request for a zoning map amendment to any commercial (i.e., NC, SC, HC etc.) or multi-family residential zone (i.e., R-2, R-3, etc.), 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, B., 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, B, 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 Site Plan 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.

SECTION 17.1 NORTHERN KENTUCKY AREA PLANNING COMMISSION STAFF REVIEW AND RECOMMENDATION REQUIRED PRIOR TO OR AT THE SCHEDULED PUBLIC HEARING: The Northern Kentucky Area Planning Commission 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 THE NORTHERN KENTUCKY AREA PLANNING COMMISSION RECOMMENDATIONS -- REASONS, IN WRITING, REQUIRED: Pursuant to KRS 147.650, any legislative body that overrides the Northern Kentucky Area Planning Commission's recommendations must notify the Northern Kentucky Area Planning Commission, 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 THE NORTHERN KENTUCKY AREA PLANNING COMMISSION: 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 the Northern Kentucky Area Planning Commission.