
ARTICLE XVI
AMENDMENT PROCEDURE

SECTION 16.0 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 18.0 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 city, 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 16.0, C, above, the following notices shall also be given when a proposal is submitted 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 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 first class mail to the owners of all property adjoining the property, the classification of which is proposed to change. 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 or persons

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 by the Planning Commission for the city, 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 comprehensive plan and which have substantially altered the basic character of such area.
- F. **MINIMUM SIZE OF NEW ZONES:** No zoning map amendment to this ordinance shall be adopted whereby the zoning classification of an area is changed in such a 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
 3. the area of any land which is contiguous to the area being changed (including land located outside the city but contiguous to the city's corporation line) and which land already bears the zoning classification sought for the area being changed except that in the case of computing the size of an area to be zoned for commercial, (i.e., LSC, NC, and PO Zones) any of the commercial zones may be used, interchangeably to compute one contiguous area. 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 the 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 16.0, E.
- H. **LEGISLATIVE BODY DISPOSITION:** Within forty-five consecutive calendar days after receipt of the Planning Commission's recommendations and findings concerning the

application and a copy of 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 ZONING MAP AMENDMENT:** Any request for a zoning map amendment to any commercial (SC, NSC, GC, MLU, POM, LSC) or multi-family residential zone (i.e., R-2, R-3,) 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:

STAGE I -- Development Plan and Zoning Map Amendment – Application for a zoning map amendment shall include a development plan in accordance with the applicable requirements of Section 10.12, D, or this ordinance.

- a. The Planning Commission shall hold a public hearing on the proposed application in accordance with the requirements of KRS Chapter 424, 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.
- b. The legislative body shall, within forty-five (45) 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 legislative body. However, should the legislative body take action to impose different conditions than were reviewed and considered by the Planning Commission, then said conditions shall be resubmitted to the Planning Commission for further review and recommendations in accordance with Section 17.0, I, a.

Approval of the zoning map amendment shall require the development be in accordance with the approved development plan.

The legislative body shall forward a copy of the approved development plan to the Zoning Administrator of the city's duly authorized representative for further processing in accordance with the applicable requirements for a development plan, as regulated by Section 9.19 of this ordinance.

Zoning Map Amendment – Upon approval of the Zoning Map Amendment, the official zoning map shall be amended for the are as shown on the approved development plan.

STAGE II -- Site Plan – Before a permit is issued for constructions, a site plan shall be developed in conformity with the approved development plan and in accordance with the applicable requirements of Section 9.19 of this ordinance, and submitted to the Zoning Administrator of the city’s duly authorized representative for review and approval. The site plan may be developed and submitted in sections, in accordance with the phasing identified in the approved development plan. The Zoning Administrator of the city’s duly authorized representative 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 pedestrian), decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

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.

Expiration - The zoning map amendment shall be subject to the time constraint, 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 either of the following conditions apply:

- a. A site plan has not been approved by the Zoning Administrator within a period of twelve (12) consecutive months from the date of final approval of the zoning map amendment 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 prevailing conditions have not changed appreciably to render the approved development plan obsolete.
- b. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the site plan by the Zoning Administrator; 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 approved development plan.