

## ARTICLE XVII

### AMENDMENT PROCEDURE

#### SECTION 17.0 AMENDMENT PROCEDURE

- A. **FILING OF AMENDMENT APPLICATION:** All applications for amendments to this ordinance shall be filed with the city, and the city shall promptly forward the application to the planning commission. A public hearing shall be scheduled to be held within forty-five (45) days of the date of receipt of the application by the city. The fee required for applying for such amendment shall be as provided for by the planning commission and/or the legislative body.
- B. **PLANNING COMMISSION REVIEW REQUIRED:** A proposal for a zoning map amendment to this ordinance may originate with the planning commission, any fiscal court or legislative body, or with an owner of the property in question. A proposal to amend the text of this ordinance may originate with the planning commission or with any fiscal court or legislative body. 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**
1. 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.
  2. In addition to the public notice requirements prescribed herein, when the planning commission, fiscal court, or legislative body originates a proposal to amend the zoning map, notice of the public hearing before the planning commission, fiscal court, or legislative body shall be given at least thirty (30) days in advance of the hearing, by first class mail, to an owner of every parcel of property, the classification of which is proposed to be changed. Records by the property valuation administrator may be relied upon to determine the identity and address of said owner.
- D. **OTHER HEARING REQUIREMENTS, ZONING MAP AMENDMENT:** In addition to the public hearing notice required in Section 17.0, C. of this ordinance, 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 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. A joint notice may be mailed to two or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.
3. If the property, the classification of which is proposed to be changed, adjoins property in a different planning unit, or property which is not part of any planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first class mail, to certain officials, as follows:
  - a. If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or
  - b. If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

4. 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.
- 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 such area is specifically referred to in the adopted comprehensive plan. 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 of the ordinance, neither continuity nor abutment shall be destroyed by the existence of a street, alley, or city's corporation line.

G. PLANNING COMMISSION ACTION

1. MAP AMENDMENT: Following the public hearing held by the planning commission on a proposed map amendment, the commission shall, within sixty (60) calendar days from the date of its receipt, make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the legislative body, 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. of this ordinance. The findings of fact and recommendation shall include a summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment. A tie vote shall be subject to further consideration by the planning commission for a period not to exceed thirty (30) days, at the end of which, if the tie has not been broken, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval.
2. TEXT AMENDMENT: Following the public hearing held by the planning commission on a proposed text amendment, the commission shall make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed text amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed text amendment.

H. LEGISLATIVE BODY DISPOSITION

1. MAP AMENDMENT: The legislative body or fiscal court shall take final action upon a proposed map amendment within ninety (90) days of the date upon which the planning commission takes its final action upon such proposal. It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment whenever the planning commission forwards the application to the legislative body or fiscal court without a recommendation of approval or disapproval due to a tie vote. Unless a majority of the entire legislative body or fiscal court votes to override the planning commission's recommendation, such recommendation shall become final and effective and if a recommendation of approval was made by the planning commission, the ordinance of the legislative body or fiscal court adopting the zoning map amendment shall be deemed to have passed by operation of law.

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2. TEXT AMENDMENT: It shall take an affirmative vote of a majority of the legislative body or fiscal court to adopt a proposed text amendment.
- 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 zone, multi-family residential zone, or industrial zone 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. In addition to the amendment application filing requirements, as provided for in Section 17.0, A of this ordinance, an application for a zoning map amendment shall also be filed with the zoning administrator and shall include a Development Plan indicating 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 ordinance. 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 ninety (90) 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 the 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 Stage I Development Plan to the planning commission, or its 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 of this ordinance, had been waived by the zoning administrator in the initial submission of the Stage I Development Plan, then such data shall be submitted for review in accordance with the requirements of Section 9.19 of this ordinance before a permit may be issued for construction.

The planning commission, or its duly authorized representative, in reviewing the Stage II Development Plan, may authorize minor adjustments from the approved Stage I 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 planning commission, or its duly authorized representative, 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 Stage I 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 Stage I Development Plan obsolete. The amount of construction that constitutes initiating substantial construction shall be as approved in the Stage I 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, 100.247, 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).