

## **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 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 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 registered mail, by certified mail, return receipt requested, or hand delivered with receipt of delivery, 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

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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 classifications 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 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 adoption 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 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 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 17.0, E, above.

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- 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, INSTITUTIONAL, INDUSTRIAL, OR MULTI-FAMILY RESIDENTIAL ZONING MAP AMENDMENT: Any request for a zoning map amendment to create or enlarge any commercial (i.e., NC, CBD, HC, etc.), institutional (M P), industrial (ie: I-1, I-2), planned unit development, or multi-family residential (i.e., R-2, R-3, etc.) zoning district 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 process in two stages:
    - a. Application for a zoning map amendment shall be filed with the zoning administrator as required by Section 17.0, A. It is highly recommended that a Development Plan be submitted 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. If a Development Plan is not submitted, then the zoning map amendment application will be reviewed from the perspective of a “worst case scenario.”
  
    - b. The planning commission shall hold a public hearing on the proposed application. If a Development Plan is submitted with the zoning map amendment , the planning commission shall review said application with regard to the required elements of the Development Plan, and other applicable requirements of this section. If a Development Plan is not submitted with the zoning map amendment, then the planning commission shall consider the impact of every use permitted or conditionally permitted within the requested zoning district on the health safety and welfare of the surrounding neighborhood. 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 zoning map amendment. If a zoning map amendment is accompanied by a Development Plan, then the zoning map amendment shall not be approved

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unless the Development Plan is found to meet all requirements for Section 9.20 B. If the zoning map amendment is not accompanied by a Development Plan, the zoning map amendment shall not be approved unless it is found that all of the permitted and conditionally permitted uses in the zoning district being considered would not adversely effect the health, safety, and welfare of the surrounding neighborhood. If accompanied by a Development Plan, 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 9.20, B, had been waived by the zoning administrator in the initial submission of the Development Plan, then such data such 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 special 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.

**NOTE: Article XVII, Section 17.0, Paragraph I Amended by Ordinance 2004-26**

- 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 purposes of determining whether said zoning map amendment should

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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 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.