

# ARTICLE IX

## AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time need to be amended, supplemented, changed or repealed. To make any amendments to the Zoning Ordinance, either to the text or to the map, the following procedure shall be followed. If any use or density is not permitted in a zoning district by the provisions of the Zoning Ordinance, it may not be permitted by any agency unless the Zoning Ordinance is amended according to the amendment procedure.

### **900 Application for Amendment**

A proposal for amendment to the Official Zoning Map may originate with the Planning Commission, the City Council, Fiscal Court, or the owner of the subject property. Regardless of the origin of the proposed amendment an application must be filed with the Planning Commission requesting the proposed amendment in such form and accompanied by such information as required by this ordinance and the Planning Commission. The Planning Commission shall require the prior submission of a development plan prepared in accordance with Article V, 503.3 of this Ordinance, which when approved by the Commission, shall be followed. At the time of filing an application, a non-returnable filing fee shall be paid according to the schedule of fees; however, there shall be no filing fee for an amendment requested by the Planning Commission, Fiscal Court, or City.

The Planning Commission may refuse the reconsideration of a denied map amendment or the consideration of a map amendment identical to a denied map amendment within the past year.

### **901 Planning Commission Procedure**

Upon the filing of an application for an amendment to the Official Zoning Map or the text of this ordinance, the Planning Commission shall study and review the application as provided in this ordinance and the bylaws of the Planning Commission.

The Planning Commission shall then hold at least one (1) public hearing after notice as required by KRS 424 and KRS 100 and shall make findings of fact and a recommendation for approval or disapproval of proposed amendment to the respective legislative body. 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 appropriate legislative body without a recommendation for approval or disapproval.

### **902 Notice of Public Hearing**

Notice of the time, place and reason for the required public hearing shall be given by one publication in the newspaper of general circulation in the County, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing in accordance with KRS 424 and KRS 100.

Any published notice shall include the street address of the property in question, or if one is not available or practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property, and the names of two (2) streets on either side of property which intersect the street on which the property is located; and when the property in question is located at the intersection of two (2) streets, the notice shall designate the intersection by name of both streets rather than name two (2) streets on either side of the property.

When a hearing is scheduled on a proposal to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation or ordinance, per KRS 100.

- A. 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). Posting shall be as follows:
1. The sign shall state "zoning change" and the proposed classification in letters three (3) inches in height. The time, place, and date of hearing shall be in letters at least one (1) inch in height; and
  2. The sign shall be constructed of durable material and shall state the telephone number of the Planning Commission Office; and
  3. It shall be the responsibility of the applicant to post the sign conspicuously on the property. The Zoning Administrator shall verify to the Planning Commission at the hearing that placement occurred pursuant to the provisions of this ordinance.
- B. 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. It shall be the duty of the person or persons proposing the map 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 the owner. If the property is in condominium or cooperative forms of ownership, the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address.

In addition to the public notice requirement of this section, when the Planning Commission, Fiscal Court, or City Council of any planning unit originates a proposal to amend the zoning map of that unit, notice of the public hearing 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.

### **903 Public Hearing on Application**

After notice of the public hearing as provided for above, the Planning Commission shall hold a public hearing on the proposed amendment. The Planning Commission shall submit its recommendations to the respective governing body within ninety days after the public hearing.

### **904 Findings Necessary for a Recommendation of Commission for Zoning Map Amendment**

Before recommending to the legislative body that an application for amendment to the Zoning Map be granted, the Planning Commission must find that the map amendment is in agreement with the community's Comprehensive Plan, or in the absence of such a finding, that one (1) or more of the following apply:

1. The original zoning classification given to the property is inappropriate or improper, 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 Comprehensive Plan adopted by the Planning Commission and which have substantially altered the basic character of such area.

The Planning Commission shall also have the power to hear and finally decide applications for variances or conditional use permits in conjunction with a requested zoning map amendment if the proposed development requires both a map amendment and one or more variances or conditional use permits (per KRS 100.203 (5)). Recommendations regarding these permits shall be a part of the record forwarded to the legislative body.

After voting to recommend that an application for amendment to the Official Zoning Map be granted or denied, the Planning Commission shall forward its finding of fact and recommendation in writing to the appropriate legislative body. 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.

**905 Action by Legislative Bodies on Zoning Map Amendments**

The legislative bodies shall not act upon a proposed amendment to the Official Zoning Map until it has received the written findings of fact and recommendation thereon from the Planning Commission.

It shall take a majority of the entire legislative body to override the recommendation of the Planning Commission and it shall take a majority of the entire legislative body to adopt a zoning map amendment whenever the Planning Commission forwards the application to the legislative body without a recommendation of approval or disapproval due to a tie vote. Unless a majority of the entire legislative body 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 adopting the zoning map amendment shall be deemed to have passed by operation of law.

If the legislative body chooses to decide the map amendment, the legislative body shall take final action upon a proposed zoning map amendment within ninety (90) days of the date upon which the Planning Commission takes its final action upon such proposal. The legislative body shall also notify the Zoning Administrator and the Chairman of the Planning Commission as to when the proposed map amendment will be heard by the legislative body prior to the legislative body's final action. The legislative body shall complete and file for recording with the County Clerk a Certificate of Land Use Restriction for any map amendment approved by the legislative body.

**906 Recommendation of Commission for Text Amendment**

After voting to recommend that an application for amendment to the text of this ordinance be granted or denied, the Planning Commission shall forward its recommendation in writing to the appropriate legislative body. In the case of a proposed amendment originating with a legislative body, the Planning Commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment.

**907 Action by Legislative Body on Text Amendments**

The legislative body shall not act upon a proposed amendment to the text of this ordinance until it has received the written recommendation thereon from the Planning Commission. If the proposed amendment originated with the Planning Commission, it shall take a majority of the entire legislative body to override the recommendation of the Planning Commission. If the proposed amendment originated with a legislative body, it shall take an affirmative vote of the majority of the legislative body to adopt the proposed amendment. The legislative body shall take final action within ninety (90) days of the date upon which the Planning Commission takes its final action upon such proposal.

**908 Special Conditions to the Granting of Zoning Changes**

As a condition to the granting of any zoning change, the Planning Commission shall require the submission of a development plan as per Article V which, where agreed upon, shall be followed. As a further condition to the granting of a zoning change, the planning unit may require that substantial construction be initiated within two (2) years; provided that such zoning change shall not revert to its original designation unless there has been a public hearing.