
ARTICLE

3

AMENDMENT

SECTION 300

Procedure for Amendment or District Changes

This order may be amended utilizing the procedures specified in this article.

SECTION 301

General

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the legislative bodies or Fiscal Court may by ordinance or order, after receipt of recommendation thereon from the Planning Commission, and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification of property.

SECTION 302

Initiation of Zoning Text Amendments and Map Amendments

Amendments to this zoning ordinance's text and map may be initiated to be in conformance with the *Boone County Comprehensive Plan* in the following manner:

1. Zoning Text - Initiated and adopted by a motion of the Planning Commission. Initiated and adopted a resolution and/or ordinance by a legislative body or Fiscal Court of Boone County.
2. Zoning Map- Initiated and adopted by a motion of the Planning Commission. Initiated and adopted a resolution and/or ordinance by a legislative body or Fiscal Court of Boone County. Also, by filing an application by at least one (1) majority owner, owner by contract (option) or lessee with permission of owner of property within the area proposed to be changed or affected by said map amendment.

SECTION 303

Contents of Application for a Zoning Map Amendment

Applications for amendments to the zoning map adopted as part of this Ordinance by Section 500 shall be completed in full, signed, supplemented with any additional information found appropriate by the Planning Commission and accompanied by a fee established according to Section 460.

The Planning Commission, as a condition to the approval of a zone change for zoning districts of commercial, multi-family (including apartments, townhouses, and condominiums), industrial, mobile home park development, office, public facility, recreation, highly recommends that a Concept Development Plan be submitted. In accordance with the applicable provisions of Chapter 100 of the Kentucky Revised Statutes, this Concept Development Plan, when submitted and agreed upon, shall be followed and be binding as a requirement of the zone change or map amendment. However, an applicant does have the option of not

submitting a Concept Development Plan for the Planning Commission's review and approval, although such zone change application will be reviewed from the perspective of a "worst case scenario" based upon the requirements and permitted uses of the zone in question. A Concept Development Plan must be submitted for applications involving the Planned Development District (PD), Employment Planned Development District (EPD), and Residential Planned Development District (RPD) as specified in Article 15 and Article 16, for all applications requesting the Suburban Residential Three (SR-3) District per Section 957, and for all applications requesting the Industrial Four (I-4) District per Section 1193. A "Development Plan" must also be submitted for applications involving the Industrial Three (I-3) District as specified in Article 11. Excluded from the Concept Development Plan requirement are requests made by municipal legislative bodies, the Boone County Fiscal Court, and the Boone County Planning Commission and organizations or agencies that are sanctioned by any legislative body.

If an applicant submits a Concept Development Plan and as a further condition to the approval of a zone change involving a Concept Development Plan, where substantial construction as determined by the Boone County Planning Commission is not initiated within two years from the date of final approval by the applicable legislative body or Fiscal Court concerning the zone change, such zoning change may revert to its original designation prior to the zone change after a public hearing and following the required procedure for a map amendment.

Where a concept development plan is required under these regulations, and where such zoning change has been approved by the appropriate legislative body or fiscal court, the property owner and any other appropriate person, such as an option holder in the property shall sign a written agreement providing that the Concept Development Plan is a condition to the zoning change and such agreement shall be made of record in the office of the Boone County Clerk in Burlington, Kentucky. The property owner or other applicable person shall be required to furnish the information necessary to make such agreement of record. This written agreement shall be noted and a Certificate of Land Use Restriction shall be filed with the County Clerk within 30 days of final action, as further specified in Section 280. At the time of filing an application for a zoning map amendment, an applicant may also request a dimensional variance or a conditional use permit for the same development. A development that is subject to a zone change or Concept Development Plan approval shall comply with all applicable requirements of this order unless a written request for a variance(s), or exception(s) pursuant to Article 15 or Article 16, are expressly approved through the procedures of this Article, or pursuant to Article 2, as applicable. If an approved Zoning Map Amendment is subject to a Concept Development Plan and/or conditions pursuant to a written agreement, and/or is approved in conjunction with a variance or conditional use permit, the notation "CD" shall be placed on the Official Zoning Map in combination with the adopted zoning designation.

If an applicant decides to submit a Concept Development Plan, the Plan shall include the following minimum requirements. The list of other requirements are optional only for sites that do not involve the Planned Development District (PD), Employment Planned Development District (EPD), or Residential Planned Development District (RPD). With certain types of developments, it may be beneficial to submit a Concept Development Plan that is more detailed or provides more information to the Planning Commission. The list of other requirements are highly recommended for these types of developments and to provide further support for approval of a Concept Development Plan by the Planning Commission. The minimum Development Plan requirements for applications involving the Industrial Three District (I-3) are listed in Article 11.

Minimum Requirements

1. General Site Characteristics - ownership, topography, soils, drainage, vegetation and other physical characteristics;
2. Transportation Patterns - public and private roads and internal and external circulation patterns;
3. Land Use Characteristics - existing and proposed land uses, open spaces, impervious surfaces including streets, parking areas, structures and buildings (general description of size, area, intensities/densities, and height);
4. Utilities and Infrastructure;

5. Relationship of Proposed Zone Change with Comprehensive Plan - how specifically the proposed zone change would conflict, conform, compliment or otherwise affect the Comprehensive Plan as well as any special studies that are designed to further detail the Comprehensive Plan in a specific area." (Utilize the criteria in Section 308);
6. A 8.5" by 11" or 8.5" by 14" reduction of the plan that can be copied on a standard photocopier.
7. A written explanation of any requested variance or conditional use permit.

****OPTIONAL REQUIREMENTS OF CONCEPT DEVELOPMENT PLAN**** (Mandatory requirements for projects involving the Planned Development District [PD], Employment Planned Development [EPD], or Residential Planned Development [RPD]. If a particular item is not provided in the Concept Development Plan, then the application materials must state why the requirement does not pertain to the specific proposal).

1. Include items 1-7 in the previously mentioned list of minimum requirements.
2. An area map showing adjacent property owners and existing land uses within 200 feet of the parcel.
3. The location, description and size (acreage) of land uses.
4. Approximate location and number of residential units (if any) along with approximate square footage, density and height.
5. Approximate location and size (square footage) of non-residential buildings.
6. The location of public and private roads, rights-of-way, easements and parking.
7. Calculation of approximate amount of open space both before and after construction. Indicate areas of expected open space and new landscaping. Include maintenance plans for these areas.
8. Submit a conceptual landscape plan that indicates the locations of landscape and buffering features. For applications involving the EPD, RPD, or PD overlay, design guidelines that include landscaping standards shall be submitted for multi-phased projects.
9. Where portions of the site are subject to flooding, the Concept Development Plan shall indicate extent and frequency.
10. General location of water, sanitary sewer, telephone, electrical and storm water lines. Capacity levels are recommended.
11. General description of the availability of community facilities such as schools, fire protection services and other types of facilities that would serve the development, if any, and how these facilities are affected by this proposal.
12. Approximate location and size of storm water detention and/or retention areas.
13. Information describing proposed signage (types, sizes, materials, and locations on site). For applications involving the EPD, RPD, or PD overlay, design guidelines that include signage standards shall be submitted for multi-phased projects.
14. Indicate the construction schedule of the project. For multi-phased projects, submit a phasing plan that describes the anticipated timing and geographical extent of each phase.
15. Submit a detailed traffic study if the proposed development is large-scaled or if the project would significantly alter existing traffic patterns or volume (See Article 32).

16. Submit a sketch or drawing of the proposed buildings to demonstrate the visual appearance or a type of architecture. For applications involving the EPD, RPD or PD overlay, design guidelines that include architectural standards shall be submitted for multi-phased projects.
17. For applications involving the EPD or RPD, a table of proposed dimensional standards for the proposed land uses or phases including lot sizes and frontages, building heights and intensities, and setbacks. For applications involving the PD overlay zone, a description of any requested exceptions to the requirements of the underlying zone.
18. For applications involving the EPD, RPD, or PD overlay, a written narrative that describes how the applicable requirements and standards in Article 15 or Article 16 have been satisfied shall be submitted.

The Planning Commission and legislative body or Fiscal Court may recommend or approve the proposed district subject to any conditions or qualifications found merited in the Concept Development Plan or other conditions on the site.

SECTION 304

Transmittal to Planning Commission

Immediately after the adoption of a resolution by the legislative body or Fiscal Court or the filing of an application by at least one (1) majority owner, owner by contract (option), or lessee with permission of the owner of property, said resolution or application shall be referred to the Planning Commission to make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the various legislative bodies or Fiscal Court involved.

SECTION 305

Public Hearing by Planning Commission

Upon referral of a resolution by a legislative body or Fiscal Court or an application for zoning amendment, the Planning Commission shall hold at least one public hearing after notice as required by Kentucky Revised Statutes, Chapter 424. The following notice, in addition to any other notice required by statute or local regulations or order, shall be given:

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; and,
2. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by registered mail or by certified mail, return receipt requested to owners of all 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 amendment to furnish 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 property owners;
3. Notice of the hearing shall be published in a newspaper of general circulation at least once, but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) nor more than twenty-one (21) days prior to the hearing. Said published notice shall state, at a minimum, the time, place and purpose of the hearing.

In addition to the public notice requirements prescribed above, when the planning commission, fiscal court or legislative body of the county originates a proposal to amend the zoning map of that unit, 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 conclusively to determine the identity and address of said owner.

SECTION 306

Recommendation by Planning Commission for Text and Zoning Map Amendments

The Planning Commission shall make its recommendation within sixty (60) days of the date of the receipt of the administratively complete proposed zoning map amendment application. "Administratively complete" means that a proposal for a Zoning Map Amendment is accurate and complete by meeting all the applicable requirements of KRS Chapter 100 and any other applicable regulatory requirements or approvals formally required by this order or applicable state law. The sixty (60) day time limit may be waived by the originator.

Within sixty (60) days of the date of the receipt of the administratively complete proposed zoning map amendment application, or 60 days from the receipt of the proposed text amendment, the findings of the Planning Commission shall be recorded in the minutes and records of that body and the Planning Commission shall transmit its recommendation to the legislative body or Fiscal Court. The Planning Commission may recommend that the amendment be approved or disapproved. If the Planning Commission recommends denial, it must state the reasons for disapproval. In the event of a tie vote, the request shall be subject to further consideration by the planning commission for a period not to exceed 30 days, at the end of which if the tie has not been broken, the application shall be forwarded without a recommendation of approval or disapproval. If the Planning Commission fails to make a recommendation upon the proposal within sixty (60) days of its receipt of the administratively complete proposed amendment and the time has not been waived by the originator, the application shall be forwarded to the fiscal court or legislative body without a recommendation of approval or disapproval.

SECTION 307

Action by City Council or Fiscal Court

Within ninety (90) days of final action of the Planning Commission, the legislative body or Fiscal Court shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof upon its own hearing and findings. In the event the legislative body or Fiscal Court denies or modifies the recommendation of the Planning Commission, a majority of the entire membership shall be required to take such action as explained in KRS 100.211. It shall also take a majority of the entire membership to adopt a zoning map amendment whenever the planning commission forwards the application without a recommendation due to a tie vote.

SECTION 308

Findings Necessary for Map Amendment

Before any map amendment is granted, the Planning Commission or the legislative body use the following criteria in granting approval of a zone change or map amendment:

1. The map amendment is in agreement with the adopted comprehensive plan and any specific study designed to further detail the Boone County Comprehensive Plan for the location in question; or
2. The existing zoning classification is inappropriate and that the proposed zoning classification is appropriate; or
3. There have been major changes of an economic, physical, or social nature not anticipated in the adopted comprehensive plan that substantially alter the area's character.

The above criteria shall be the basis for findings of fact in a map amendment and shall be recorded in the minutes and records of the Planning Commission or the legislative body or Fiscal Court.

For map amendments involving the Planned Development District (PD), Employment Planned Development (EPD), or Residential Planned Development (RPD), the applicable provisions of Article 15 or Article 16 must be met in addition to the criteria stated above.

SECTION 309

Areas Unassigned to a Zoning District

All land which becomes part of the jurisdiction of a City or Boone County subsequent to the adoption of this order shall remain subject to the previous city or county zoning district until such time as the Zoning Map is amended according to the provisions of this Article. All land which was not zoned prior to becoming part of a City or County shall remain unzoned until the Zoning Map is amended according to the provisions of this Article.

SECTION 310

Restrictions on Resubmittals of Zoning Map Amendments

After a request or application for an amendment to the zoning map has received a denial as final action from the legislative body having territorial jurisdiction over the property, the property owner, option holder, or other person having an interest in the property submitted to apply for a map amendment shall not be permitted to reapply for the same map amendment and submit the same concept development plan after receiving the final action of denial for ninety (90) days from the date of such denial. This ninety (90) day restriction shall also apply where the legislative body takes no action and the last action taken is the recommendation from the Commission of denial for the zoning map amendment proposal and the person making the request has not asked the legislative body to take further action.

However, the ninety (90) day limitation shall not prohibit or preclude the Boone County Planning Commission from reconsidering any matter. Further, the legislative bodies comprising the membership of the Commission are not subject to this ninety (90) day limitation. These legislative bodies are the Cities of Florence, Union and Walton, Kentucky and the Boone County Fiscal Court.

SECTION 314

Amendments to an Approved Zoning Map Amendment

Major amendments to the terms of an approved Zoning Map Amendment, including a Concept Development Plan, that involve substantial or significant changes in the development concept, uses, intensity, supplemental conditions of approval, or other plan elements of substantive effect must be submitted to the Planning Commission and shall conform to the procedure and requirements described in Sections 301-310. Minor amendments to the approved Concept Development Plan that do not involve changes in the development concept, uses, intensity, supplemental conditions of approval, or other plan elements of substantive effect may be approved by the Zoning Administrator.