

ARTICLE XIV ◇ ZONING MAP AND TEXT AMENDMENTS

Shelby County Zoning Regulations

2013

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Section 1400 General

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

Section 1410 Application for Amendment

A proposal for amendment to the official Zoning Map may originate with the Planning Commission, the legislative body, the owner of the subject property, or by a person having written authorization from the owner of the subject property. A proposal for amendment to the text of these Regulations may originate with the Planning Commission or the legislative body. 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 these Regulations and the Planning Commission. As per section 1490, the Planning Commission shall require the prior submission of a preliminary development plan prepared in accordance with Article XIII of these Regulations or a preliminary subdivision plat prepared in accordance with the *Shelby County Subdivision Regulations*, which when approved by the Planning Commission, shall be followed. At the time of filing an application, a non-refundable application fee shall be paid according to the schedule of fees as established by the Planning Commission; however, there shall be no filing fee for an amendment requested by the Planning Commission or legislative body. Upon the filing of an application for a map amendment by a legislative body, the Planning Commission shall promptly notify the owner of the subject property by certified mail, receipt requested.

Section 1420 Planning Commission Procedure

- A. Upon the filing of an application for an amendment to the Official Zoning Map or the text of these Regulations, the Planning Commission shall study and review the application as provided in these Regulations and the Bylaws of the Planning Commission. No amendment shall be adopted without first being reviewed by the Planning Commission.
- B. 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 the proposed amendment to the various legislative bodies involved. 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 legislative body without a recommendation for approval or disapproval.

Section 1430 Notice of Public Hearing

- A. The Planning Commission shall present every proposed amendment to the public at a public hearing. Public hearings on amendments to the zoning order shall be scheduled at the time of application for the next regular Planning Commission meeting and shall comply with the required submission date.
 - 1. The Planning Commission shall publish notice once weekly for two (2) consecutive weeks in a newspaper having general circulation throughout the county no less than seven (7) and no more than twenty-one (21) days before the scheduled hearing, indicating the time and place of each public hearing on proposed amendments to the zoning order and may establish a schedule of reasonable fees to be paid by the applicant for a zoning amendment.
 - 2. The Planning Commission may also issue notification of the public hearings by such other means as it may determine.
- B. 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 the 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.
- C. When a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation or ordinance:
 - 1. Notice of the hearing shall be posted conspicuously on the property, indicating the proposed classification to be changed, for fourteen (14) consecutive days prior to the hearing. Posting shall be as follows:
 - a. The sign shall state "Zoning Change" and the proposed classification change 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
 - b. The sign shall be constructed of durable material and shall state the telephone number of the Planning Commission office; and
 - c. It shall be the responsibility of the Administrative Official to post the sign conspicuously on the property. The Administrative Official shall verify to the Planning Commission at the hearing that placement occurred pursuant to the provisions of these regulations.
 - 2. Notice of the hearing shall be given at least fourteen (14) days in advance of the hearing by certified mail with return receipt requested. Certification by the Planning Commission Secretary or other official of the Commission that the notice was received by the owners of every parcel of property adjoining the property requesting the zone change is necessary before a public hearing can be held on the map amendment. Willful non-receipt of notice by an adjoining property owner shall not, in itself, cause the notice procedure to be deficient. 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 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 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.

3. In addition to the public notice requirements of this section, when the Planning Commission or legislative body 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 certified mail, return of receipt 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.

Section 1435 Special Public Hearing

The Planning Commission may call a special public hearing in accordance with KRS 100 and KRS 424 at any time to consider a zoning amendment and may establish a separate schedule of reasonable fees to be paid by the applicant for the zoning advertisement of the special hearing by such means as the Planning Commission determines to be necessary.

Section 1440 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.

Section 1445 Conditional Uses and Variances Allowed at the Time of Zoning

The Planning Commission shall hear and act upon requested conditional uses and variances associated with a zoning map amendment, when the applicant elects to have the Planning Commission hear and finally decide said requests at the same public hearing set for the map amendment. When the Planning Commission is elected by the applicant to hear a conditional use or variance request, the Planning Commission shall assume all powers and duties otherwise exercised by the Board of Adjustment pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251. Any appeal from an action by the Planning Commission in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2).

Section 1450 Recommendation of Commission for Zoning Map Amendment

- A. 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 County's Comprehensive Plan, or in the absence of such a finding, that:
 1. The original zoning classification given to the property was inappropriate or improper, and that the proposed classification is proper, or
 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 the area.
- B. Any owner of property who requests a map amendment shall provide at his/her expense, a stenographer who will make a transcript of the public hearing before the Planning

Commission.

1. Should the legislative body or the Planning Commission originate the map amendment, the Planning Commission shall provide the stenographer to produce the transcript.
2. The transcript and findings of fact shall be presented to the Commission at the next regularly scheduled monthly meeting for approval by the Commission.
3. The deliverance of the recommendation, with the approved findings of fact and approved transcript, to the legislative body shall constitute the final action by the Planning Commission on the map amendment.

Section 1460 Action by Legislative Body on Zoning Map Amendments

- A. The legislative body shall not act upon a proposed amendment to the Official Zoning Map until it has received the written findings of fact, the transcript, and the recommendation thereon from the Planning Commission.
 1. The Planning Commission recommendation relating to the proposed amendment shall become final and the map amendment shall be automatically implemented subject to the provisions of KRS 100.347, as set forth in the Planning Commission recommendations, unless within twenty-one (21) days after the final action by the Planning commission: KRS 100.2111 (4)
 - a. Any aggrieved person files a written request with the Planning Commission that the final decision shall be made by the appropriate legislative body; or
 - b. The appropriate legislative body files a notice with the Planning Commission that the legislative body shall decide the map amendment.
 2. 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.
 3. 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.
 4. 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 Administrative Official and 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 with conditions.

Section 1465 Amendment of Comprehensive Plan Prior to Annexation Permitted

- A. When a city which has adopted zoning or other land use regulations pursuant to KRS 100 proposes to annex new territory, it may amend the Comprehensive Plan and the Official

Zoning Map to incorporate and establish zoning or other land use regulations for the property proposed for annexation prior to adoption of the ordinance of annexation.

1. If the city elects to follow this procedure, the Planning Commission shall hold a public hearing, after the ordinance stating the city's intent to annex and prior to final action upon the ordinance of annexation, for the purpose of adopting the Comprehensive Plan amendment and making its recommendations as to the zoning and other land use regulations which will be effective for the property upon its annexation. Notice setting forth the time, date, location, and purpose of the public hearing shall be published as required by KRS 424 and these Regulations and shall be given to the owners of all properties within the area proposed for annexation and to adjoining property owners in accordance with KRS 100.212(2). The city legislative body shall take final action upon the Planning Commission's recommendations prior to adoption of the ordinance of annexation and shall include in the ordinance of annexation a map showing the zoning or other land use regulations which will be effective for the annexed property.
2. If the city elects not to follow the procedure provided for in this section prior to the adoption of the ordinance of annexation, the newly annexed territory shall remain subject to the same land use restrictions, if any, as applied to it prior to annexation until those restrictions are changed by zoning map amendments or other regulations in accordance with these Regulations.

Section 1470 Recommendation of Commission for Text Amendment

- A. After voting to recommend that an application for amendment to the text of these Regulations be granted or denied, the Planning Commission shall forward to the legislative body, a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons, in writing, for its recommendation. This action shall be deemed the final action by the Planning Commission on the amendment.
- B. In the case of a proposed amendment originating with the legislative body, the Planning Commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment.

Section 1480 Action by Legislative Body on Text Amendments

- A. The legislative body shall not act upon a proposed amendment to the text of these Regulations until it shall have received the written recommendation thereon from the Planning Commission.
 1. 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.
 2. 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.
- B. 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.

Section 1490 Special Conditions to the Granting of Zoning Changes

- A. As a condition to the granting of any zoning change, the Planning Commission shall

require the submission of a preliminary development plan as per Article XIII or a preliminary subdivision plat prepared in accordance with the *Shelby County Subdivision Regulations*.

1. Upon approval of the final development plan, such plan shall be followed.
- B. As a further condition to the granting of a zoning change, the Planning Commission may require that substantial construction be initiated for which the zone change was granted, within two (2) years of the date of final approval of said zone change or the property may revert to its original designation after a public hearing has been held by the Planning Commission and a recommendation made to the legislative body.

Section 1491 Denial of a Zone Change Request

- A. The Planning Commission shall take no action on property or receive a request for action on property for which litigation is pending relating to some action that the Planning Commission has taken or is requested to take regarding said property until such time as the litigation is settled.
- B. A zone change denied for any reason shall not be resubmitted to the Planning Commission for a period of one (1) year from the date of denial unless the Planning Commission is ordered by a judicial court to consider said zone change.