

**ARTICLE XI. POLICIES, PROCEDURES AND STANDARDS GOVERNING  
AMENDMENTS**

**Sec. 11-1. Intent.**

The purpose of this Article is to describe and establish procedures for making changes to the Official Zoning Map (i.e., rezoning of properties) and amending the text of this Ordinance. Such actions require legislative approval by the Board of Commissioners in order to be enacted.

**Sec. 11-2. Technical Evaluation and Qualification of Properties.**

- A. Every petition for a legislative change shall be subject to a technical evaluation. The evaluation shall be conducted by the Zoning Administrator who shall coordinate a review of the proposal with all appropriate County departments and public agencies. Following the evaluation, the Zoning Administrator shall prepare a report containing recommendations to be presented to the Planning Commission and the Board of Commissioners.
- B. The Zoning Administrator shall distribute copies of applications for amendment to the Planning Commission and the Board of Commissioners. In addition, the members of the Technical Review Committee (TRC) shall be supplied with copies of each application. Each department head or his/her designee shall return his or her comments, in writing, to the Zoning Administrator per the deadline established by the Planning & Zoning Department.
- C. Any lot(s) affected by proposed rezonings which are initiated by a party other than the Board of Commissioners of Fayette County shall each be of sufficient size and shape to meet all requirements of this Ordinance. Combination or division of lots, in accordance with County regulations, shall be accomplished as a condition of approval prior to the approval of any permits or applications.
- D. A property which is improved with existing structures and which would become nonconforming within the zoning district for which the rezoning is sought may be considered for rezoning; however, the concept plan shall illustrate an attempt by the applicant to meet, to the extent possible, all requirements herein. Any new construction or improvements, including expansion of any existing structure, shall comply with the minimum requirements herein.

**Sec. 11-3. Public Hearings.**

- A. *Date, Place, and Time.* The public hearings shall be conducted as follows:
  - 1. *Place:* Fayette County Administrative Complex
  - 2. *Time and Date:*
    - a. *Planning Commission:* First Thursday, 7:00 p.m.
    - b. *Board of Commissioners:* Second and Fourth Thursdays, 7:00 p.m.

Any changes from the standard schedule for public hearings will be published in the newspaper which carries legal advertisements for the County in compliance with the requirements for public notification as provided herein.

- B. *Conduct of Hearing.* Public hearings on amendments shall be conducted with 15 minutes provided for the proponents and 15 minutes provided for the opponents of an application for rezoning. If necessary, the Chairman or Vice-Chairman, may allocate an equal amount of additional minutes for both the proponents and the opponents. An applicant may reserve part or all of the allotted time for rebuttal.

1. *Decisions.* Recommendations of the Planning Commission and the decision of the Board of Commissioners on applications for rezoning shall be made subsequent to the public hearing.
2. *Minutes.* The Minutes of any public hearing/workshop/meeting shall be maintained with the zoning decision entered thereon. The Minutes shall be kept as public records.

**Sec. 11-4. Initiation of Amendments.**

Applications to amend the text of this Ordinance may be initiated by the Planning Commission, the Board of Commissioners, or by a member of the general public. The Planning Commission, the Board of Commissioners, a property owner, or the authorized agent of a property owner may initiate an application to amend the official zoning map (rezone property.) When an agent is authorized to act on behalf of an owner, such certificate of authorization shall be notarized on the rezoning application. All information and required fees shall be received by the Zoning Administrator by the deadline date for filing.

**Sec. 11-5. Limitation on Re-applying and Withdrawal.**

If the zoning decision of the Board of Commissioners is to deny a rezoning of property, then an application for the same property may not be re-submitted for rezoning until the expiration of at least six (6) months, immediately following the date of denial, unless approved for consideration by a four-fifths vote of the Board of Commissioners. An application for a map amendment shall not be withdrawn by the applicant after the legal advertising as required herein, except as provided herein.

**Sec. 11-6. Appeal.**

An applicant has 30 calendar days from the date of the Board of Commissioners rezoning decision to file an Appeal with the Superior Court of Fayette County.

**Sec. 11-7. Application for Amendment.**

Any citizen filing an application to amend the text or the official zoning map may obtain an application from the Zoning Administrator. Applications to amend the text or the official zoning map shall be submitted on forms provided by the Zoning Administrator.

**Sec. 11-8. Planning Commission Recommendation.**

- A. The Planning Commission shall make a recommendation of approval, denial, table, or withdrawal without prejudice on each application. An action to table shall include a justification of such action and a specific meeting date at which the application is to be reconsidered.

If there is not a full board present at the public hearing, the petitioner may request to table the petition to the next Planning Commission public hearing, provided the petitioner requests to table the agenda item prior to the presentation.

A new legal advertisement will not be required with an announcement to a specific meeting date if an application is tabled; however, the property shall be reposted with new signage indicating the new public hearing dates.

In addition, the Planning Commission may recommend amendments to the applicant's request which would reduce the land area for which the application is made, change the zoning district requested to one which is less intense, or recommend conditions which may be deemed advisable so that the purpose of this ordinance will be served and the public health, safety, and welfare secured.

- B. A report of the Planning Commission's recommendation shall be submitted to the Board of Commissioners. The report shall contain the recommendation of the Planning Commission, all grounds therefore, and shall be signed and approved by the Chairman or Vice-Chairman of the Planning Commission.
- C. If the Planning Commission fails to submit a report within 100 calendar days from the date of the acceptance of the completed amendment application, the application shall be forwarded to the Board of Commissioners with no recommendation. Actions of the Planning Commission which contribute to the delay, such as the lack of a full board or tabling the petition, shall count toward the 100 calendar days. Actions by the petitioner, such as a request to table, shall not count toward the 100 calendar days.

**Sec. 11-9. Public Hearing before the Board of Commissioners.**

- A. After receipt of the Planning Commission's report and recommendation on the proposed amendment, the Board of Commissioners shall hold a public hearing. The Board of Commissioners may approve, deny, or table an application. An action to table shall include a justification of such action and a specific meeting date at which the application is to be reconsidered. A new legal advertisement will not be required with an announcement to a specific meeting date; however, the property shall be reposted with new signage indicating the new public hearing dates.
- B. In addition, the Board of Commissioners may approve an amendment with a reduction in the land area requested, change the zoning district requested (as long as such change is to a less intense zoning district), or add or delete conditions of zoning which will enhance the health, safety and welfare of the County.
- C. The Board of Commissioners may, by a majority vote of all members, allow an application to be withdrawn without prejudice with regards to the waiting period required by a denial.
- D. The decision of the Board of Commissioners shall be contained in a written report prepared by the Clerk of the Board of Commissioners. The report shall contain the decision of the Board of Commissioners, all grounds therefore, and shall be signed and approved by the Chairman or Vice-Chairman of the Board of Commissioners.  
The Clerk shall provide a copy of the report to the Zoning Administrator, which copy shall become a part of the application file, and shall send one (1) copy to the applicant by certified mail.

**Sec. 11-10. Conditional Approval.**

Any application for an amendment may be approved subject to conditions which relate to the use, occupancy, or development regulations for the property contained in the petition. Conditions imposed on the property may only be more restrictive than the requirements of any zoning district and other applicable parts of this Ordinance as may apply to the property. The following policies shall apply:

- A. *Controls Proposed by Applicant.* An applicant may propose controls to be considered by the Planning Commission and the Board of Commissioners. Such proposed controls may include plans, limitations of use and occupancy, or more restrictive development standards than would otherwise be applied to the property.
  - 1. Such proposed controls may be eliminated or changed into conditions of approval as submitted, or they may be eliminated, modified, or extended.

2. The Board may choose to incorporate, as conditions of approval, selected restrictions, or requirements which were not included in the request for controls submitted in the original application.
- B. *Consent Not Required.* Approval of applications subject to conditions may occur with or without the consent of the applicant.
- C. *Conditions shall be Permanent.* All conditions imposed by action of the Board of Commissioners shall remain on the subject property regardless of changes in ownership.
- D. *Changes to Conditions.* Conditions shall be changed only through the amendment process by which they were established or when expressly overridden by a State government authority taking precedence over the area of regulation.

**Sec. 11-11. Standards for Map Amendment (Rezoning) Evaluation.**

All proposed map amendments shall be evaluated with special emphasis being placed on the relationship of the proposal to the Land Use Plan and related development policies of Fayette County. The Zoning Administrator shall prepare a report for each proposed map amendment which shall recommend a course of action including recommended conditions, if any. The following factors shall be considered by the Zoning Administrator, the Planning Commission and the Board of Commissioners when reviewing a request for rezoning:

- A. Whether the zoning proposal is in conformity with the Land Use Plan and policies contained therein;
- B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
- C. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing or planned streets, utilities, or schools;
- D. Whether there is other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

**Sec. 11-12. Public Notification.**

- A. *Newspaper.* Notice of scheduled hearings shall be published in the newspaper of general circulation within the County in which are carried the legal advertisements of the County.
  1. The notice shall be published at least seven (7) days prior to the public hearing before the Planning Commission, but not more than 45 calendar days, nor less than 15 calendar days prior to the public hearing before the Board of Commissioners. In the event that the time-frames above cannot be met with one (1) advertisement, the notice shall be published twice.
  2. The notice shall contain the dates of the public hearings before the Planning Commission and the Board of Commissioners.
  3. Public notification shall include at a minimum the time, date, place, purpose of the hearing, location, boundary description, area of the property, and the current and requested zoning classifications.
- B. *Posting of Sign(s).*
  1. A sign shall be posted on property for which the rezoning is sought. One (1) sign is required for each street frontage of said property. The sign shall be posted consistent with the requirements for newspaper notification.

2. Signs used for posting property shall be a minimum of 18 inches by 18 inches and shall indicate the application number, the time, date, place, purpose of the hearings, and the current and requested zoning classifications.
  3. A refundable sign deposit shall be required for each sign at the time of application for rezoning.
- C. *Applicant Notification.*
1. Upon certification by the Zoning Administrator that an application is complete, a notice giving the date, time, and place of the public hearings shall be given by certified mail to the applicant.
  2. The Clerk to the Board of Commissioners shall notify the applicant by mail of any action (including tabling of action) taken by the Board of Commissioners. All actions of the Board shall be deemed to be effective as of the date of the action.

**Sec. 11-13. Zoning Reversion.**

Within three (3) years of the date of rezoning, rezoned property shall be utilized for uses allowed in the new zoning district or substantial development shall be demonstrated toward such utilization. Failure to so utilize or demonstrate substantial development may subject the property to consideration for reversion to the previous zoning classification. In such event, public hearings shall follow the established procedures for rezoning petitions herein and a final decision shall be rendered by the Board of Commissioners.

**Sec. 11-14. Responsibilities of the Zoning Administrator.**

The Zoning Administrator shall have the following responsibilities associated with receiving and processing all amendment applications:

- A. Receive all applications and supporting information and collect all fees at the time of initial filing;
- B. Maintain a log of all applications;
- C. Return incomplete applications and all supporting information to the applicant upon determination that an application is incomplete with reasons for the determination;
- D. If the application is complete, issue a notice that lists the dates, times, and places of all hearings that are scheduled for the application;
- E. Establish and maintain a file for each application which shall contain:
  1. Copies of all materials submitted by the applicant;
  2. Correspondence, records, reports, and exhibits produced during processing;
  3. Minutes and all actions taken by the Planning Commission and the Board of Commissioners on an application; and
  4. All follow-up activities, if any, including re-filing of additional requests, copies of citations or violations and any other significant materials.
- F. Prepare a map for all map changes (rezoning), which shall show the location and dimensions of the subject property of the petition, all properties within at least 1,000 feet of the subject property, and the zoning districts thereon;
- G. Transmit to the appropriate departments within five (5) working days after the deadline for submissions, all materials to be evaluated;
- H. Schedule and provide notice for all public hearings, including the posting of the property, as required herein;

- I. Transmit the recommendation of the Planning Commission to the Board of Commissioners at least 14 calendar days prior to the scheduled public hearing before the Board of Commissioners; and
- J. Update the official Zoning Map.