

## CHAPTER 113

## ( SB 144 )

AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 100.211 is amended to read as follows:

- (1) *For the purposes of this section, "administratively complete" means that a proposal for a zoning map amendment is accurate and complete by meeting all the applicable requirements of this chapter and any other applicable administrative regulatory requirements or approvals formally required by the local legislative body or applicable state law.*
- (2)
  - (a) A proposal for a zoning map amendment may originate with the planning commission of the unit, with any fiscal court or legislative body which is a member of the unit, or with an owner of the property in question.
  - (b) ~~Regardless of the origin of~~ The proposed amendment~~, it~~ shall be referred to the planning commission before adoption. The planning commission shall:
    1. ~~then~~ Hold at least one (1) public hearing after notice as required by this chapter; and
    2. Make findings of fact and a recommendation of approval or disapproval of the proposed map amendment to the various legislative bodies or fiscal courts involved.
  - (c)
    1. *The planning commission shall make its recommendation within sixty (60) days of the date of the receipt of the administratively complete proposed amendment.*
    2. *The originator of the proposed map amendment may waive the sixty (60) day requirement for the recommendation.*
    3. *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.*
  - (d) *Notwithstanding the provisions of paragraph (c) of this subsection:*
    1. *The planning commission of a consolidated local government shall make its recommendation within one hundred twenty (120) days of the date of the receipt of the administratively complete proposed amendment.*
    2. *The originator of the proposed map amendment may waive the one hundred twenty (120) day requirement for the recommendation.*
    3. *If the planning commission of a consolidated local government fails to make a recommendation upon the proposal within one hundred twenty (120) 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 legislative body of the consolidated local government without a recommendation of approval or disapproval.*
  - (e) *Notwithstanding the provisions of paragraph (c) of this subsection:*
    1. *The legislative body of the jurisdiction that created the planning commission may, via ordinance, extend the provisions of paragraph (c) of this subsection to either ninety (90) or one hundred twenty (120) days; or*
    2. *The legislative bodies which are members of a joint planning commission may, via ordinances passed separately, extend the provisions of paragraph (c) of this subsection to either ninety (90) or one hundred twenty (120) days.*
  - (f) 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.

- (g) 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 fiscal court or legislative body without a recommendation of approval or disapproval.
  - (h) It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission and it shall take a majority of the entire legislative body or fiscal court to adopt a zoning map amendment whenever the planning commission forwards the application to the fiscal court or legislative body without a recommendation of approval or disapproval due to a tie vote.
  - (i) Unless a majority of the entire legislative body or fiscal court 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 fiscal court or legislative body adopting the zoning map amendment shall be deemed to have passed by operation of law.
- (3){(2)} A proposal to amend the text of any zoning regulation which must be voted upon by the legislative body or fiscal court may originate with the planning commission of the unit or with any fiscal court or legislative body which is a member of the unit. Regardless of the origin of the proposed amendment, it shall be referred to the planning commission before adoption. The planning commission shall hold at least one (1) public hearing after notice as required by KRS Chapter 424 and make a recommendation as to the text of the amendment and whether the amendment shall be approved or disapproved and shall state the reasons for its recommendation. In the case of a proposed amendment originating with a legislative body or fiscal court, the planning commission shall make its recommendation within sixty (60) days of the date of its receipt of the proposed amendment. It shall take an affirmative vote of a majority of the fiscal court or legislative body to adopt the proposed amendment.
- (4){(3)} Procedures prescribed in KRS 100.207 applicable to the publication of notice also shall apply to any proposed amendment to a zoning regulation text or map; provided that:
- (a) 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
  - (b) 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 the two (2) streets on either side of the property.
- (5){(4)} When a property owner proposes to amend the zoning map of any planning unit other than a planning unit containing a city of the first class or a consolidated local government, the provisions of KRS 100.212 shall apply in addition to the requirements and procedures prescribed in subsection (4){(3)} of this section.
- (6){(5)} When a property owner proposes to amend the zoning map of any planning unit comprising any portion of a county containing a city of the first class or a consolidated local government, the provisions of KRS 100.214 shall apply in addition to the requirements and procedures prescribed in subsection (4){(3)} of this section.
- (7){(6)} In addition to the public notice requirements prescribed in subsection (4){(3)} of this section, when the planning commission, fiscal court, or legislative body of any planning unit 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 to determine the identity and address of said owner.
- (8){(7)} The fiscal court or 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.

➔Section 2. KRS 100.237 is amended to read as follows:

The board shall have the power to hear and decide applications for conditional use permits to allow the proper integration into the community of uses which are specifically named in the zoning regulations which may be suitable only in specific locations in the zone only if certain conditions are met:

- (1) The board may approve, modify, or deny any application for a conditional use permit. If it approves such permit it may attach necessary conditions such as time limitations, requirements that one (1) or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the board's minutes and on the conditional use permit, along with a reference to the specific section in the zoning regulation listing the conditional use under consideration. The board shall have power to revoke conditional use permits, or variances for noncompliance with the condition thereof. Furthermore, the board shall have a right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in personam for such cost.
- (2)
  - (a) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of building, housing, and other regulations.
  - (b) *If the applicant submits a modified plan to the relevant regulatory authorities in order to comply with all of the requirements of building, housing, and other regulations that expands the applicant's conditional use beyond the previously established geographic boundaries of the original conditional use permit, then the expanded conditional use shall be reviewed by the board. This review shall be limited to an examination solely of the expanded geographic boundaries of the modified plan. The board may deny the applicant's conditional use permit for the expanded geographic area.*
  - (c) *The applicant shall have the duty of informing the board of modifications made in accordance with paragraph (b) of this subsection, within fourteen (14) days of their submission. The applicant's failure to provide the board with notification shall be grounds for the board to revoke the conditional use permit, after a hearing before the board.*
- (3) In any case where a conditional use permit has not been exercised within the time limit set by the board, or within one (1) year if no specific time limit has been set, such conditional use permit shall not revert to its original designation unless there has been a public hearing. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building or other improvement have been let; or in the absence of contracts that the main building or other improvement is under construction to a substantial degree, or that prerequisite conditions involving substantial investment under contract, in development, are completed. When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions as set forth in the permit.
- (4) The administrative official shall review all conditional use permits, except those for which all conditions have been permanently satisfied, at least once annually and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions listed on the conditional use permit, the administrative official shall report the fact in writing to the chairman of the board of adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the conditional use permit, and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the chairman of the board of adjustment. The board shall hold a hearing on the report within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner at least one (1) week prior to the hearing. If the board of adjustment finds that the facts alleged in the report of the administrative official are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the board of adjustment may authorize the administrative official to revoke the conditional use permit and take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.
- (5) Once the board of adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied, and enter the facts which indicate that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file. Thereafter said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.
- (6) When an application is made for a conditional use permit for land located within or abutting any residential zoning district, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, administrative official, the mayor and city clerk of any city of the fifth or sixth class so affected within any county containing a city of the first class or a consolidated local government, an owner of every parcel of property adjoining the property to which the application applies, and such other persons as the local zoning ordinance, regulations, or board of adjustment bylaws shall direct. Written notice

shall be by first-class mail with certification by the board's secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the board the name and address of an owner of each parcel of property as described in this subsection. 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 chairperson 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.

- (7) When any property within the required notification area for a public hearing upon a conditional use permit application is located within an adjoining city, county, or planning unit, notice of the hearing shall be given at least fourteen (14) days in advance of the hearing, by first-class mail to certain public officials, as follows:
- (a) If the adjoining property is part of a planning unit, notice shall be given to that unit's planning commission; or
  - (b) If the adjoining property is not part of a planning unit, notice shall be given to the mayor of the city in which the property is located or, if the property is in an unincorporated area, notice shall be given to the judge/executive of the county in which the property is located.

**Signed by Governor April 10, 2014.**