

ORDINANCE 2016-1710

AN ORDINANCE AMENDING ORDINANCE NUMBER 794, CHAPTER 156-AMENDMENTS OF THE CITY OF MURRAY CODE OF ORDINANCES SO AS TO AMEND TEXT CONTAINED IN §156.060, §156.061, §156.062, §156.063, §156.064, §156.065 AND §156.066, TO ADOPT THE ALTERNATIVE REGULATIONS FOR ZONING MAP AMENDMENT PROCEDURES AS OUTLINED IN KRS 100.2111 AND TO PROVIDE FOR A SIX-MONTH TIME PERIOD TO REAPPLY AFTER DENIAL; AND TO REQUIRE THE ENTIRE CITY COUNCIL TO ADOPT THE AMENDMENT OR OVERRIDE THE RECOMMENDATION. SAID AMENDMENTS ARE APPROPRIATE IN ORDER TO REDUCE THE MAP AMENDMENT PROCESS TIME FOR THE APPLICANT; DECREASE ITEMS ON THE CITY COUNCIL AGENDA; AND REDUCE COSTS FOR ADDITIONAL ORDINANCE NOTICES WHILE STILL ALLOWING THE CITY COUNCIL THE OPTION TO REVIEW MAP AMENDMENTS AND MAKE THE FINAL DECISION.

WHEREAS, the Murray Planning Commission met on Tuesday, June 21, 2016 and voted 8 to 0 to recommend a text amendment to Ordinance 794, Chapter 156 of the City of Murray Code of Ordinances, §156.060, §156.061, §156.062, §156.063, §156.064, §156.065, and §156.066.

WHEREAS, the proposed text amendment to Chapter 156-Amendments would adopt the alternative regulations for Zoning Map Amendment Procedures as outlined in KRS 100.2111; provide for a six-month time period to reapply after denial and amend §156.066 requiring the entire city council to adopt the amendment or override the recommendation. Said amendments are necessary in order to reduce the map amendment process time for the applicant; decrease items on the city council agenda and reduce costs for additional ordinance notices while still allowing the city council the option to review map amendment sand make the final decision.

WHEREAS the Murray Planning Commission found that adopting the alternative regulations for Zoning Map Procedures as outlined in KRS 100.2111 will:

1. Reduce the map amendment process time for applicants;
2. Decrease items on the City Council's agenda;
3. Reduce costs for additional ordinance notices; and
4. Require the entire City Council to adopt the amendment or override the recommendation.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURRAY THAT CHAPTER 156 IS HEREBY AMENDED AS FOLLOWS, TO-WIT:

AMENDMENTS

§156.060 APPLICATION FOR ZONING MAP AND TEXT AMENDMENTS.

(A) A proposal for a zoning map amendment ~~to the zoning map~~ may originate ~~only~~ with the Planning Commission, the Murray City Council, the owner of the subject property, or by a person having notarized written authorization from the owner of the subject property. ~~A proposal for amendment to the text of this zoning ordinance may originate with any person or governmental body.~~ Regardless of the origin of the proposed map amendment, an application must be filed with the Planning Commission at least twenty-one (21) days prior to the regular monthly meeting date requesting the proposed amendment in such form and accompanied by such information as required by the zoning official. The commission may require the submission of further information subsequent to the filing of an application as provided by the zoning ordinance. An incomplete application will not be docketed for public hearing.

At the time of filing an application, a non-~~returnable-refundable~~ filing fee shall be paid according to the schedule of fees as established by ~~this ordinance the City council~~; however, there shall be no filing fee for ~~an a zoning map~~ amendment requested by the Murray City Council, the Planning Commission, or any governmental agency. Upon the filing of an application for ~~an a map~~ amendment by a governmental body, the commission shall promptly notify the owner of the subject property by first-class mail. In accordance with Kentucky Revised Statutes, Section 100.212, regardless of the origin of a proposed zoning map amendment, the owners of all property adjoining the subject property shall be notified. Property owners across public rights-of-way shall be notified as they are considered adjoining.

(B) ~~The application must be filled out completely and set for public hearing by the Zoning Official after conferring with the Chairman of the Commission. All text amendments will be taken to the Commission for study prior to scheduling for hearing procedures.~~ A proposal for a text amendment may originate with any person, the Planning Commission or the Murray City Council. Regardless of the origin of the proposed text amendment, it shall be referred to the Planning Commission for review prior to a public hearing being scheduled.

(C) ~~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 public hearing after notice as required by the Kentucky Revised Statutes Chapter 424. The Planning Commission shall then make its recommendation the Murray City Council.~~

~~§156.061~~ ~~COMMISSION PROCEDURE~~ NOTICE OF PUBLIC HEARING

~~Upon the filing of an application for an amendment to the zoning ordinance, the commission shall review the application, either directly or through the zoning official and schedule a public hearing within 40 days of receipt of the application.~~

~~§156.062~~ ~~NOTICE; PUBLIC HEARING.~~

(A) ~~Before voting upon any proposed zoning map or text amendment, notice of the time, place and reason for holding a public hearing shall be given by one publication in the newspaper of general circulation in Calloway County, not earlier than 21 days nor later than seven days before the public hearing, as required by Kentucky Revised Statutes, Chapter 424 and Kentucky Revised Statutes, Section 100.212 and 100.211.~~

(B) ~~After notice of the public hearing as provided in division (A) above, the Commission shall hold a public hearing on the proposed amendment. After notice of the public hearing as provided herein above, the commission shall hold at least one (1) public hearing on the proposed amendment. The hearing will be held in accordance with procedures as outlined in KRS Chapter 100 and the published opinions of the Kentucky Court of Appeals and the Kentucky Supreme Court and any applicable published opinions of the United States Supreme Court, the United States District Courts for the Eastern and Western Districts of Kentucky, and their successors.~~

(C) The hearing will be a trial-type hearing with procedures adopted by the Planning Commission pursuant to KRS 100.345 and in compliance with the Planning Commission bylaws. No formal rules of evidence shall be required. The hearing itself shall be as informal as possible, consistent with an orderly determination in a fair and impartial manner of the issues before the Commission.

(D) Testimony at the public hearing shall be taken under oath administered by the Chairman of the Commission.

(E) After voting to recommend that an application for amendment to the zoning map be granted or denied, the commission shall forward its findings of facts and recommendations in writing to the Murray City Council.

§156.0632 PROCEDURE OF COMMISSION FOR ZONING MAP AMENDMENT.

~~(A) Before recommending to the City Council that an application for amendment to the zoning map be granted or denied, the following procedure shall take place. A notice shall be given in accordance with KRS 100.212 which state the following.~~

~~———— (1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed for 14 consecutive days immediately prior to the hearing. Posting shall be as follows.~~

~~———— (a) The sign shall state “zoning change” and the proposed classification change in letters three inches in height. The time, place, and date of hearing shall be in letters at least one inch in height.~~

~~———— (b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission.~~

~~———— (2) Notice of the hearing shall be given at least 14 days in advance of the hearing by first-class mail to the 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 to the Planning Commission the names and addresses of the owners of all adjoining property.~~

~~(B) A hearing will be held in accordance with procedures as outlined by KRS Chapter 100, the Kentucky Supreme Court rulings, and pertinent Attorney General’s opinions.~~

~~(C) The hearing will be a trial-type hearing with procedures adopted by the Commission.~~

~~(D) Testimony at the zoning hearing shall be taken under oath administered by the Chairman of the Commission.~~

~~(E) After voting to recommend that an application for amendment to the zoning map be granted or denied, the Commission shall forward its finding of facts and recommendation in writing to the City Council.~~

(A) The Planning Commission shall follow the procedures as outlined in KRS 100.2111 when making a recommendation to approve or deny a proposed zoning map amendment. The recommendation shall become final and the map amendment shall be automatically implemented subject to the provisions of KRS 100.347, all as set forth in the Planning Commission recommendations of which will be forwarded to the Murray City Council the next business day following the final action by the Planning Commission, unless within twenty-one (21) days after the final action by the Planning Commission:

———— (1) Any aggrieved person files a written request with the Planning Commission that the final decision shall be made by the legislative body

or

(2) The legislative body files a notice with the Planning Commission that the legislative body shall decide the map amendment.

§156.0643 FINDINGS NECESSARY FOR MAP AMENDMENT

(A) Before any zoning map amendment is granted by the Planning Commission ~~and the City Council~~ it 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 or more of the following apply and such finding shall be recorded in the minutes and records of the Planning Commission and the City Council.

(1) The existing zoning classification given to the property is inappropriate and the proposed zoning classification is appropriate.

(2) There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

(B) The findings of fact made by the Commission shall be recorded in the minutes and records of the Commission.

(C) The Commission's findings shall not merely parrot the statutory requirements of KRS 100.213, as amended but shall include sufficient findings of adjudicatory facts specific to the property requested to be rezoned and/or the surrounding areas

(D) Once the Planning Commission has made a determination of fact and recommendation to the Murray City Council concerning the disposition of zoning on an individual tract of land, said tract of land, or any portion thereof, shall not be reconsidered by the Planning Commission for reclassification to the same zone for a period of at least six (6) months, except upon application for reclassification initiated by the Planning Commission or Murray City Council.

§156.0654 ACTION BY MURRAY CITY COUNCIL ON ZONING MAP AMENDMENTS.

(A) The final action for a zoning map amendment is made by the Planning Commission. As the legislative body ~~The the Murray City Council shall not act upon a~~ may choose to file a notice with the Planning Commission to request that the legislative body decide the proposed map amendment to the zoning map until it shall have received the written findings of fact and recommendation thereon from the Commission. An aggrieved person may also file a written request that the final decision be made by the legislative body. Before an amendment to the zoning map is granted, the City Council must find that the map amendment is in agreement with the comprehensive plan adopted by the Commission, or, in the absence of such a finding, that the original zoning classification given to the property was inappropriate or improper, or there have been major changes of an economic, physical or social nature within the area involved which were not anticipated by the Commission and which have substantially altered the basic character of such area. It shall take a majority of the entire City Council to override the recommendation of the Commission.

~~(B) The City Council has three choices in zoning map amendments brought before it by the Commission:~~

~~_____ (1) _____ First, the legislative body may follow the Commission's recommendation without a hearing or only an argument in support of its recommendation.~~

~~_____ (2) _____ Second, the legislative body may review the record made before the Commission and determine from that evidence adjudicative facts which differ from those found by the Commission.~~

~~_____ (3) _____ Third, the legislative body may hold its own trial-type hearing and based upon the evidence presented at the hearing, find different adjudicative facts than those found by the Commission.~~

(B) Before any amendment to the zoning map is granted, the Murray City Council must find that the map amendment is in agreement with the comprehensive plan adopted by the commission, or in the absence of such a finding, that

_____ (1) _____ The existing zoning classification given to the property was inappropriate or improper;
or

_____ (2) There have been major changes of an economic, physical or social nature within the area involved which were not anticipated by the commission and which have substantially altered the basic character of such area.

(C) The City Council's findings shall not merely parrot the statutory requirements of KRS 100.213, as amended or B(1) or (2) above, but shall include sufficient findings of adjudicatory facts specific to the property requested to be rezoned and/or the surrounding area.

(D) It shall take a majority of the entire Murray City Council to override the recommendations of the Commission.

(E) All procedures for public notice and publication as well as for adoption shall be the same as for the original enactment of a zoning regulation as outlined in KRS 100.211, and the notice of publication shall include the street address of the property in question, or if one is not available, or if it is not practicable due to the number of addresses involved, a geographic description sufficient to locate and identify the property and the names of the two (2) streets on either side of the property which intersect the street on which the property is located. If the property 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.

§156.0665 RECOMMENDATION OF COMMISSION, ACTION BY CITY COUNCIL ON FOR TEXT AMENDMENTS.

(A) After voting to recommend that an application for amendment to the text of this zoning ~~code~~ ordinance be granted or denied, the Commission shall forward its recommendation in writing to the Murray City Council.

(B) The Murray City Council shall not act upon a proposed amendment to the text of this zoning ~~code~~ ordinance until it shall have received the written recommendation thereon from the Commission. It shall take a majority of the entire Murray City Council to override the recommendation of the Commission.

1. The foregoing findings are hereby adopted by the City Council.

2. The Planning and Zoning Department of the City of Murray is hereby directed to amend the official Zoning Map of the City of Murray, Kentucky and the Land Use Map in the comprehensive plan to reflect the text amendments.

3. Any portion of Ordinance Number 794 as amended which may be in conflict with this ordinance is hereby repealed to the extent of such conflict and to such extent only. In all other respects Ordinance Number 794 as amended is hereby affirmed.

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character be lost impaired or affected by this Ordinance.

All other sections and provisions of The Zoning Ordinances for the City of Murray, not specifically amended herein, shall remain in full force and effect and shall not be considered amended and shall be incorporated by reference as if fully stated herein.

JACK D. ROSE, MAYOR

ATTEST:

JUNE BATTS, CITY CLERK

Introduced by the City Council on _____ 2016.

Adopted by the City Council on _____ 2016.

Published in the Murray Ledger and Times on _____ 2016.