

COMMONWEALTH OF KENTUCKY
MASON FISCAL COURT
ORDINANCE NO. 17-05

**AN ORDINANCE REJECTING THE FINDINGS
OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDATIONS OF THE MAYSVILLE-MASON
COUNTY JOINT PLANNING COMMISSION, AND THEREBY
REJECTING THE ADOPTION OF THE ALTERNATIVE
REGULATIONS FOR MAP AMENDMENTS PROVIDED
BY KRS 100.2111**

WHEREAS, the Mason Fiscal Court adopted a Land Use Ordinance, by virtue of its Ordinance No. 02-07, such Ordinance, as subsequently amended from time to time; and

WHEREAS, KRS 100.2111 permits a legislative body to adopt alternate regulations for zoning map amendments; and

WHEREAS, the Maysville-Mason County Joint Planning Commission held a duly noticed Public Hearing on April 5, 2017, to consider a proposed amendment to such Ordinance to adopt the alternative regulations and procedures for zoning map amendments in accordance with KRS 100.2111; and

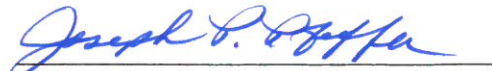
WHEREAS, the Maysville-Mason County Joint Planning Commission adopted Findings of Fact recommending such amendment; and

WHEREAS, the Fiscal Court of Mason County, Kentucky, hereby rejects the amendment to its Ordinance No. 02-07 as recommended by the Findings of Fact, Conclusions of Law, and Recommendations of the Maysville-Mason County Joint Planning Commission.

NOW THEREFORE, THE FISCAL COURT OF MASON COUNTY, KENTUCKY, does hereby **REJECT** the Findings of Fact, Conclusions of Law and Recommendations entered by the Maysville-Mason County Joint Planning Commission on April 5, 2017, are and the alternative regulations for zoning map amendments as provided by KRS 100.2111 shall not be adopted as part of Mason Fiscal Court Ordinance No. 02-07. The subject Findings of Fact, Conclusions of Law and Recommendations rejected hereby are attached hereto as Exhibit A.

Given first reading this 9th day of May, 2017.

Thereafter, given second reading, and unanimously adopted, after publication in accordance with KRS Chapter 424 this 13th day of June, 2017.



Hon. Joseph P. Pfeffer
Judge/Executive

ATTESTED BY:



Stephanie Schumacher
Mason County Clerk

MASON COUNTY JOINT PLANNING COMMISSION
PUBLIC HEARING
April 5, 2017 - 5:30p.m.

IN RE: Proposed land use text amendment.

*** **
FINDINGS OF FACT,
CONCLUSIONS OF LAW,
and
RECOMMENDATION
*** **

In accordance with the Maysville Code Of Ordinances and KRS Chapter 100, the Mason County Joint Planning Commission (hereinafter "Commission") conducted a public hearing at Maysville City Hall on April 5, 2017 at 5:30p.m. regarding the proposed adoption of an amendment to the land use ordinance.

The purpose of the hearing was to receive comments from the public and address any questions the public may have regarding the proposed amendment.

The meeting was called to order with a quorum in attendance. Commission members present were Jean Everett, Tommy Stanfield; Joe Brannen, Tim Teegarden, Bob Biddle, David Reed, Tom Coe and Xandy Stewart.

At the conclusion of the public hearing, a quorum being present, and upon a majority vote of the members present, the Commission adopted the following Findings Of Fact, Conclusions Of Law, and Recommendation.

FINDINGS OF FACT

A. The notice requirements of KRS Chapters 100 and 424 were complied with, written notice of the public hearing having been provided to the public in general by publication in the Ledger-Independent newspaper, as evidenced by the documents submitted for the record by the staff.

B. That no negative public comments were made during the hearing. Bill Marshall stated he was in favor of the proposed text amendment and Barry Fields asked (and was told in the affirmative) that a public hearing would still be required for map amendments and the only difference would be that the commission's findings would be final unless an appeal was filed or the legislative body requested that the matter be sent to it.

C. That codes officer George Larger explained the following proposed change which is set forth on "Exhibit A" attached hereto and incorporated herein by reference. Said change would basically adopt the procedure set out in KRS 100.2111. The change would alter our existing ordinance, allowing the Planning Commission to make a decision that becomes final in 21 days unless an aggrieved citizen files an appeal to the legislative body; or if the legislative body requests that the matter be forwarded to them, and in which case it would take a majority of the legislative body to overturn the Planning Commission decision.

Conclusions Of Law

1. That the Mason County Joint Planning Commission is empowered by KRS Chapter 100 and the Code Of Ordinances to conduct public hearings regarding land use matters, and are, in fact, required by law to conduct such hearings.

2. That pursuant to KRS 100.201, the Maysville City Commission and the Mason County Fiscal Court are empowered to enact land use regulations in conjunction with the comprehensive plan.

RECOMMENDATION

WHEREFORE, the Mason County Joint Planning Commission respectfully recommends to the Maysville City Commission and to the Mason County Fiscal Court that the land use text amendment, in the form attached hereto as "Exhibit A", be adopted for application within the city and county.

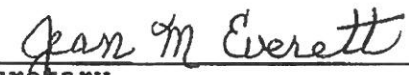
Motion made by Tom Coe, seconded by Bob Biddle. Motion passed unanimously.

MASON COUNTY JOINT PLANNING COMMISSION



Tim Teegarden
Chairman

Attest:



Secretary

**Exhibit – Text Amendment – KRS 100.2111 – Alternative Regulation for Zoning Map
Amendment**

The adoption of KRS 100.2111 will now change the process for how map amendment decisions are finalized. Essentially, the Planning Commission's recommendation becomes final after 21 days unless a citizen or the appropriate body (City Commission or Fiscal Court) decides that the City Commission or Fiscal Court should make the decision. Written notification must be submitted during the 21-day period in order to revert to the old process. Furthermore, a majority of the appropriate body must vote to override the Planning Commission's recommendation. I have made the appropriate edits below for the Land Use Management Ordinance.

401.2(C)(6) through 401.2(C)(8) will now read:

6. A 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, all as set forth in the Planning Commission recommendations, unless within twenty-one (21) days after the final action by the Planning Commission:

(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 fiscal court; or

(b) The appropriate legislative body or fiscal court files a notice with the Planning Commission that the legislative body or fiscal court shall decide the map amendment.

It shall take a majority of the entire legislative body or fiscal court to override the recommendation of the planning commission.

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, 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.

7. Action by the Board of Commissioners or Fiscal Court: In cases of deferring proposed map amendment final decisions to the appropriate legislative body or fiscal court as described by 401.2(C)(6)(a) and 401.2(C)(6)(b), the appropriate legislative body shall not act upon a proposed amendment to the Official Land Use Management Map until it shall have received the written finding of fact and recommendation from the Planning Commission. It shall take a majority vote

of the entire membership of the legislative body to override the recommendation of the Planning Commission. It shall take a majority vote of the entire membership of the legislative body to adopt a Land Use Map amendment when the Planning Commission forwards the application without a recommendation due to a tie vote.

8. The Planning Commission, legislative body, or fiscal court may adopt provisions which prohibit for a period of (2) years, the reconsideration of a denied map amendment or the consideration of a map amendment identical to a denied map amendment.