

CHAPTER 11.53
AMENDMENTS AND APPEALS

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11.53.010 PURPOSE. The purpose of this chapter is to establish procedures to amend the County's Zoning Map, Zoning Text, or appeal a Planning Commission recommendation or an administrative decision.

[Ord. 611 (2018) § 220]

11.53.020 ZONING MAP AND TEXT AMENDMENTS.

(a) The Board of Commissioners may, upon recommendation of the County Planning Commission, change by ordinance the following:

(1) The Benton County Official Zoning Map, pursuant to Chapter 11.05 BCC, including zoning district boundary lines and zoning classifications.

(2) Title 11 BCC Zoning Ordinance Text, including the amendment, supplement, or change of the zoning regulations.

[Ord. 611 (2018) § 221]

11.53.030 AMENDMENTS- INITIATION.

(a) The Board of Commissioners, upon its own motion, may request that the Planning Commission conduct a public hearing to develop a recommendation on a zoning map or zoning text amendment.

(b) The Planning Commission may initiate an open record hearing to develop a recommendation for a zoning map or zoning text.

(c) Any resident or property owner may petition, subject to BCC 11.53.040, the Planning Commission for a text amendment.
[Ord. 611 (2018) § 222]

11.53.040 AMENDMENT- APPLICATION REQUIRED- NON REFUNDABLE APPLICATION FEE.

(a) Application Form and Fees. The Planning Department shall provide application forms for zoning map or zoning text amendments and prescribe the type of information to be provided in the application. No application shall be processed unless it complies with the requirements of this section. A completed application for a zoning map or zoning text shall be filed with the Planning Department accompanied by a non-refundable fee as set by resolution of the Board of County Commissioners.

(b) Site Specific Zoning Map Amendment Applications.

(1) A petition for a site specific change to the zoning map shall be signed by all persons with an ownership interest in the property to be reclassified, as shown in the records of the Benton County Assessor, and all persons, if any, with separate ownership of the mineral rights in such property. Notwithstanding BCC 17.10.090(b)(2), a petition for a change in zoning classification shall not be deemed complete without a representation that the petition has been signed by all such persons.

(2) The signatures of all person or persons having a contract right, as purchaser to receive title to any lot or parcel of

property upon completion of the purchase price thereof, shall, for the purpose of this title, be deemed the signature of all persons with an ownership interest in the property; provided that the said person or persons state in writing over their signature that they are purchasing the property in question under contract. Nothing in this subsection eliminates the requirement that all persons, if any, with separate ownership of the mineral rights in such property must also sign said petition.

(3) All petitions requesting a change in zoning classification must state the address of each signer and the legal description of the property owned by him/her.

[Ord. 611 (2018) § 223]

11.53.050 AMENDMENTS- PLANNING COMMISSION HEARING. After holding at least one open record hearing, the County Planning Commission shall transmit to the Board of County Commissioners its recommendations for the zoning map or zoning text amendment. The Planning Commission may recommend for the approval, approval with conditions, or denial of the application request. The Planning Commission must make Findings of Fact with respect to the following:

(a) The amendment to the zoning map or zoning text will not result in any building construction, land use or other development related activity which would be detrimental to or endanger the public health, safety, comfort or general welfare of the community as a whole or any portion thereof.

(b) The amendment to the zoning map or zoning text is consistent with the spirit and intent of the Benton County Zoning Ordinance and Comprehensive Plan.

[Ord. 611 (2018) § 224]

11.53.060 AMENDMENTS- BOARD OF COMMISSIONERS REVIEW.

(a) Zoning Text and Area Wide Zoning Map Amendment Applications. The Board of County Commissioners, upon receipt of the Planning

Commission recommendation, may adopt, alter, or reject by ordinance the recommended amendment after holding its own open record hearing.

(b) Site Specific Zoning Map Amendment Applications. The Board of County Commissioners, upon receipt of the Planning Commission recommendation, may adopt, alter, or reject by ordinance the recommended amendment after holding a closed record appeal hearing, as outlined in BCC 11.53.070.

[Ord. 611 (2018) § 225]

11.53.070 APPEAL OF A PLANNING COMMISSION RECOMMENDATION.

(a) Any person may appeal to the Board of County Commissioners any recommendation of the County Planning Commission adverse to his interest.

(b) Appeals are to be filed with the Planning Department within fourteen (14) days from such recommendation.

(c) The appeal shall be provided in writing and explain the rationale for the appeal accompanied by a non-refundable fee as set by resolution of the Board of County Commissioners.

(d) Thereupon the Planning Department shall transmit to the Board of County Commissioners all papers constituting the record upon which the action appealed from was taken.

(e) The Board of County Commissioners shall then conduct a closed record appeal hearing. Closed record appeals shall be conducted in accordance with the Board's rules of procedures and shall serve to provide argument and guidance for the Board's decision. Closed record appeals shall be conducted generally as public hearings, except no new evidence or testimony shall be given. The Board of County Commissioners shall have the power to overrule or alter any such recommendation of the Planning Commission.

[Ord. 611 (2018) § 226]

11.53.080 APPEAL OF AN ADMINISTRATIVE DECISION. When the provisions of this title allow interpretation approval, conditional approval, or denial of a use to be made by the Planning Administrator or his designated representative, that decision may be appealed by any person aggrieved to the Benton County Hearings Examiner, and the following procedure shall apply:

(a) Appeals shall be filed within fourteen (14) days of the date of the decision being appealed. All appeals shall be in writing, in duplicate, shall be accompanied by a non-refundable fee as established by resolution of the Board of Benton County Commissioners, and shall be filed with the Hearings Examiner.

(b) Upon the filing of an appeal, the Hearings Examiner shall set the time and place at which the matter will be considered in an open record hearing. At least a ten (10) day notice of such time and place together with one copy of the written appeal, shall be given to the official whose decision is being appealed and to the adverse parties of record, if any. The official whose decision is appealed shall transmit to the Hearings Examiner all of the records pertaining to the decision, together with such additional written report as he/she deems pertinent.

(c) Notice shall be given not less than twelve (12) days before the hearing date, in the following manner:

(1) By United States Mail addressed to the applicant and to the owners of all property within a distance of three-hundred (300) feet in any direction from the subject property. (Notices addressed to the last known address of the person making the latest tax payment shall be deemed proper notice to the owner of such property.)

(2) By publication of a legal notice in a paper of general circulation.

(d) Upon hearing the appeal, the Hearings Examiner may reverse or affirm, wholly or in part, or may modify the decision appealed, and may make such decision as should be made and, to that end,

shall have all the powers of the officials whose decision is appealed, as to the particular issue.

(e) The Hearings Examiner shall keep in a written record of the case the findings of fact upon which the action is based.
[Ord. 611 (2018) § 227]

11.53.090 SEVERABILITY. If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[Ord. 611 (2018) § 249]

11.53.100 EFFECTIVE DATE. This chapter shall take effect and be in full force upon its passage and adoption.
[Ord. 611 (2018) § 250]