



TO: Knoxville-Knox County Planning Commission
FROM: Jeff Welch, Executive Director
DATE: 11/27/2022
SUBJECT: 12-A-22-OA, Agenda Item #17

REQUEST

The City of Knoxville requested that Knoxville-Knox County Planning review and make a recommendation on amendments to the Knoxville City Code, Appendix B- Zoning Code, Article 15, Section 15.2 (a) and Table 15-2 as well as Knoxville City Code, Appendix B- Zoning Code, Article 16, Section 16.12(A)(4)(a)(i) as shown in Exhibit 1.

RECOMMENDATION

Staff recommends approval of amendments to the Knoxville City Code, Appendix B- Zoning Code, Article 15, Section 15.2 (a) and Table 15-2 to require the posting of notices for variances to be heard by the Board of Zoning Appeals and appeals of the Zoning Administrator's decision to the Board of Zoning Appeals. Staff also recommends approval of amendments to the Knoxville City Code, Appendix B- Zoning Code, Article 16, Section 16.12(A)(4)(a)(i) to require the posting of notices for appeals of decision by the Zoning Administrator or Director of Plans Review and Building Inspections to the Board of Zoning Appeals.

Exhibit 1: City of Knoxville Memorandum

Exhibit 2: Proposed amendments to Article 15.2 (a) and Table 15-2

Exhibit 3: Proposed amendments to Article 16.12(A)(4)(a)(i)

Exhibit 4: Resolution



CITY OF KNOXVILLE, TENNESSEE
OFFICE OF THE CITY COUNCIL

Exhibit 1

Memorandum

To: Jeff Welch, Executive Director
Knoxville-Knox County Planning Commission

From: Will Johnson, City Recorder

Date: October 19, 2022

Re: Referred Ordinance

At its October 18, 2022 meeting, the Knoxville City Council adopted a motion to refer the attached ordinance to the Planning Commission for its consideration and recommendation.

Please let me know if you require additional information.



Table 15-2: Zoning Approvals Required Notice			
Zoning Application	Notice Type		
	Published	Mailed	Posted
Zoning Text Amendment Notice for Public Hearing	•		
Zoning Map Amendment Notice for Public Hearing	•	•	•
Comprehensive Updates and Revisions to Zoning Code and/or Zoning Map Notice for Public Hearing	•		
Variances Notice for BZA Public Hearing	•		•
Special Use Review Notice for Public Hearing	•	•	•
Planned Development—Concept Plan Notice for Public Meeting		•	•
Planned Development—Preliminary Plan Notice for Public Hearing	•	•	•
Appeals of Zoning Administrator Interpretations and Decisions Notice for BZA Public Hearing	•		•

16.12 -ZONING APPEALS

A. Preliminary Appeals of Administrative Decisions**1. Purpose**

This appeals process is intended to provide appropriate checks and balances both on the administrative zoning authority of the Zoning Administrator or Director of Plans Review and Building Inspections and on the administrative planning authority of the Knoxville-Knox County Planning staff.

2. Initiation

Any person or entity may appeal a decision made by the Zoning Administrator, Director of Plans Review and Building Inspections, or Knoxville-Knox County Planning staff, regarding a site plan review, zoning interpretation, temporary use permit, or any other administrative zoning decision related to this Code.

3. Authorization

- a. The Board of Zoning Appeals will take formal action on appeals of the decisions made by the Zoning Administrator or Director of Plans Review and Inspections.
- b. The Knoxville-Knox County Planning Commission will take formal action on all other decisions made by the Knoxville-Knox County Planning staff.

4. Procedure

- a. All applications to appeal a decision by the Zoning Administrator or Director of Plans Review and Building Inspections must be filed with the Zoning Administrator.
 - i. ~~The Zoning Administrator will schedule the completed application for consideration by the Board of Zoning Appeals.~~ **The Zoning Administrator will schedule the completed application for consideration by the Board of Zoning Appeals and shall post a sign no less than 12 days prior to the public hearing/ meeting date. Calculation of the notice period commences on the first date of posting, but does not include the hearing date.**
 - ii. The Board of Zoning Appeals will consider the appeal at a public hearing.
 - iii. The Board of Zoning Appeals must evaluate the application based upon the evidence presented at the public hearing.
 - iv. Following the close of the public hearing, the Board of Zoning Appeals may affirm, modify, impose restrictions, or overrule the initial decision.
- b. All applications to appeal a decision by the Knoxville-Knox County Planning staff must be filed with the Knoxville-Knox County Planning Commission.
 - i. The Knoxville-Knox County Planning staff will schedule the completed application for consideration by the Knoxville-Knox County Planning Commission.
 - ii. The Knoxville-Knox County Planning Commission will consider the appeal at a public hearing.
 - iii. The Knoxville-Knox County Planning Commission must evaluate the application based upon the evidence presented at the public hearing.
 - iv. Following the close of the public hearing, the Knoxville-Knox County Planning Commission may affirm, modify, impose restrictions, or overrule the initial decision.

B. Final Appeals from Administrative Body Decisions to City Council**1. Purpose**

The final appeals process is intended to provide appropriate checks and balances on the authority of the Knoxville-Knox County Planning Commission or Board of Zoning Appeals.

2. Initiation

Any person aggrieved by any land use-related decision of the Knoxville-Knox County Planning Commission or the Board of Zoning Appeals may appeal to the City Council.

3. Authorization

The City Council will take formal action on appeals of Knoxville-Knox County Planning Commission or Board of Zoning Appeals decisions.

4. Procedure

The petition must be filed with the Knoxville-Knox County Planning Commission no more than 15 days from the date of the Commission's decision to be considered, and must be scheduled for public hearing before City Council at the earliest date possible consistent with these regulations. The same applies to petitions regarding a decision from the Board of Zoning Appeals, except that these petitions must be filed with the Director of Plans Review and Building Inspections.

- a. The petition must be in writing. All such petitions must be submitted on forms available in the Knoxville-Knox County Planning Commission office or the Director of Plans Review and Building Inspections. Each petition must clearly describe the petitioner's grounds for the appeal.
- b. The Knoxville-Knox County Planning Commission will mail a copy of such petition by certified mail, return receipt requested, to any opposing party who registered as such at the time the matter was heard by the Knoxville-Knox County Planning Commission. If the petition is in regard to a decision from the Board of Zoning Appeals, the Director of Plans Review and Building Inspections will follow the same procedure.
- c. The City Council will consider de nova in public hearing and may affirm, modify, impose restrictions, or overrule the action of the Knoxville-Knox County Planning Commission or Board of Zoning Appeals.
- d. Prior to holding such public hearing, at least 15-day notice of time and place of said hearing must be published once in a daily newspaper of general circulation in the City of Knoxville and Knox County. The notice must meet the following requirements:

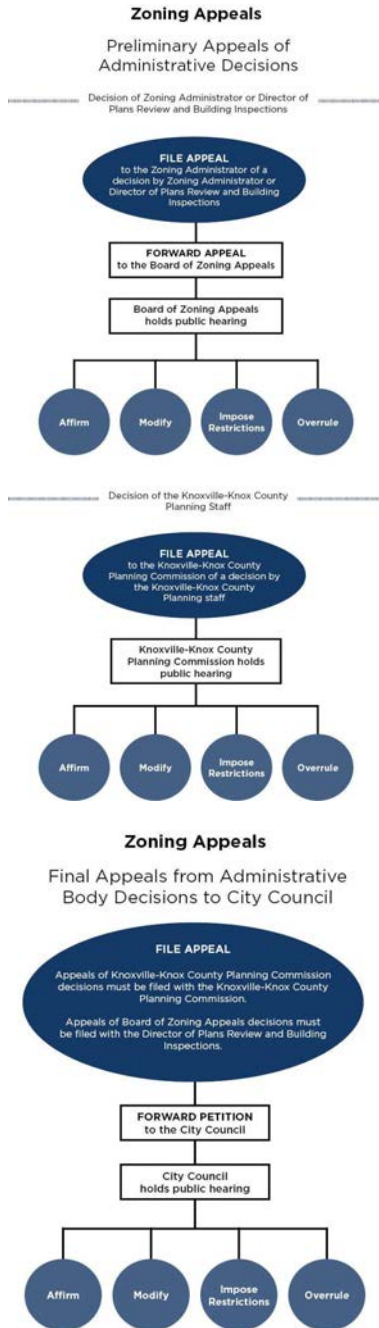
- i. It must be placed in the "Want Ads" section of the newspaper before the "Legal Notices" classification or similar section.
- ii. The caption must be all capital letters no smaller than two-line type and contain the words "PUBLIC NOTICE-APPEAL OF (action to be appealed)."

5. Limitations on Appeals

A decision of Knoxville-Knox County Planning Commission or the Board of Zoning Appeals may only be appealed if an application is filed within 15 days of the date the decision is made.

6. Issuance of Building Permit

No building permit will be issued until 16 days after action by the Knoxville-Knox County Planning Commission or Board of Zoning Appeals. If the action of the Knoxville-Knox County Planning Commission or Board of Zoning Appeals is appealed to City Council, no building permit will be issued until City Council has acted on the appeal.



ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KNOXVILLE AMENDING APPENDIX B- ZONING CODE, ARTICLE 15, SECTION 15.2 (A) AND TABLE 15-2 OF THE KNOXVILLE CITY CODE SO AS TO ADD TO THE NOTICE PROVISIONS A REQUIREMENT OF NOTICE OF VARIANCE APPLICATIONS TO BE HEARD BY THE BOARD OF ZONING APPEALS, AS WELL AS TO REQUIRE NOTICE OF APPEALS OF THE ZONING ADMINISTRATOR'S INTERPRETATIONS AND DECISIONS TO BE HEARD BY THE BOARD OF ZONING APPEALS, AND AMENDING APPENDIX B- ZONING CODE, ARTICLE 16, SECTION 16.12(A)(4)(a)(i).

ORDINANCE NO: _____

REQUESTED BY: Councilmember Smith

PREPARED BY: Council

APPROVED ON 1ST

READING: _____

APPROVED ON 2ND

READING: _____

APPROVED AS AN EMERGENCY

MEASURE: _____

MINUTE BOOK: _____ PAGE _____

WHEREAS, Appendix B- Zoning Code, Article 15, Section 15.2 (a) of the Knoxville City Code lists the types of notification that are required for zoning applications; and

WHEREAS, while the City of Knoxville presently posts notices for variances to be heard by the Board of Zoning Appeals and appeals of the Zoning Administrator's decision to the Board of Zoning Appeals, it is done on a voluntary basis; and

WHEREAS, upon further review, it will be beneficial to the public that Appendix B- Zoning Code, Article 15, Section 15.2 (a) and Table 15-2 are amended to require the posting of notices for variances to be heard by the Board of Zoning Appeals and appeals of the Zoning Administrator's decision to the Board of Zoning Appeals; and

WHEREAS, while the City of Knoxville also presently posts notices for appeals of a decision by the Zoning Administrator or Director of Plans Review and Building Inspections to by the Board of Zoning Appeals, it is done on a voluntary basis; and

WHEREAS, it will also be beneficial to the public that Appendix B- Zoning Code, Article 16, Section 16.12(A)(4)(a)(i) is amended to require the posting of notices for appeals of decision by the Zoning Administrator or Director of Plans Review and Building Inspections to the Board of Zoning Appeals.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KNOXVILLE:

SECTION 1: Appendix B- Zoning Code, Article 15, Section 15.2 (a) and Table 15-2 are hereby amended to require the posting of notices for variances to be heard by the Board of Zoning Appeals and appeals of the Zoning Administrator's decision to the Board of Zoning Appeals.

SECTION 2: Appendix B- Zoning Code, Article 16, Section 16.12(A)(4)(a)(i) is hereby amended by deleting the current Section 16.12(A)(4)(a)(i) and replacing it with the following:

- i. The Zoning Administrator will schedule the completed application for consideration by the Board of Zoning Appeals and shall post a sign no less than 12 days prior to the public hearing/meeting date. Calculation of the notice period commences on the first date of posting, but does not include the hearing date.

SECTION 3: This ordinance shall take effect seventeen (17) days from and after its passage, the welfare of the City requiring it.

Presiding Officer of the Council

City Recorder

