

20-1303 ZONING MAP AMENDMENTS (REZONINGS)**(a) Initiation**

An amendment to the zoning map may be initiated by the City Commission, the [Planning Commission](#), or, as to Urban Conservation district, by the Historic Resource Commission; and adopted in accordance with the rules of that body. Applications for zoning map amendments initiated by the [Landowner](#) shall be filed with the [Planning Director](#). Any proposed amendment shall follow the process set forth in this section after initiation.

(b) Application Contents

- (1) An application for amendment shall be accompanied by a conceptual plan and data necessary to demonstrate that the proposed amendment is in general conformance with the [Comprehensive Plan](#) and that the public necessity and convenience; and general welfare require the adoption of the proposed amendment.
- (2) The application shall include a General Location Map, which shall show the location of the property in relation to at least one intersection of two streets shown as [Collector](#) or [Arterial Streets](#) on the City's Major Thoroughfares Map of the [Comprehensive Plan](#).
- (3) Each application for an amendment to the [Zoning Districts](#) map shall be accompanied by a certified list of all property [Owner](#) within the notification area. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration. In addition to a published notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all [Owners](#) of record of lands located within at least 400 feet of the area proposed to be altered for regulations of the city. If the city proposes a zoning amendment to property adjacent to the city's limits, the area of notification of the city's action shall be extended to at least 1,000 feet in the unincorporated area. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available.

(c) Public Hearing Notice

- (1) Newspaper, posted and mailed notice of the [Planning Commission's](#) public hearing shall be provided in accordance with Section 20-1301(q), except as noted in subsection (c)(2) of this Section. For purposes of K.S.A. §12-757, any [Zoning District](#) listed in the right-hand column of the Lesser Change Table that follows shall be considered a "lesser change" than a change to the [Zoning District](#) listed in the left-hand column of the same row of the table; in accordance with the cited section, a recommendation or action to amend the zoning map to assign the "lesser change" [Zoning District](#) to the land, rather than the [Zoning District](#) advertised in the notice, shall not require further notice. A recommendation or action to amend the Zoning Map to assign any [Zoning District](#) other than the one advertised in the notice or one included in the corresponding right-hand column of the Lesser Change Table will be inconsistent with the advertised hearing and shall require re-advertising and the holding of a new hearing, after proper notice. Such recommendation or action by the [Planning Commission](#) or the City

Commission shall be construed as an instruction to the [Planning Director](#) to set a new hearing and to give notice of the proposed hearing, including the new [Zoning District](#) in the notice.

Table of Lesser Changes	
Advertised/Proposed Zoning District	Districts to be Considered a "Lesser Change"
RS40	None
RS20	RS40
RS10	RS20 or RS40
RS7	RS10, RS-20 or RS40
RS5	Any other RS except RS3 or RSO
RS3	Any other RS except RSO
RSO	Any other RS except RS-3
RM12, RM12D	Any RS except RSO
RM15	RM12 or any RS except RSO
RM24	RM15, RM12 or any RS except RSO
RM32	Any RM or any RS
RMG	Any RM or any RS
RMO	RM15, RM12 or any RS
CN1	None
CN2	CN1, RSO or RMO
CD	CN1, CN2 or CC200
CC200	CN1 or CN2
CC400	CC200 or CN2
CC600	CC400, CC200 or CN2
CR	CC600, CC400 or CC200
CS	CN1, CN2 or CO
IBP	None
IL	IBP or CN2
IM	IBP or IL
IG	IL, IM, IBP, or CN2
Other Zoning Districts	Not Applicable

(2) Applications for Urban Conservation Overlay District zoning amendments shall only require newspaper notice and mailed notice of the Planning Commission’s public hearing in accordance with Section 20-1301(q)(2) and (q)(3). Any posted notice under Section 20-1301(q)(4) shall be at the discretion of the Planning Director.

(d) Staff Review/Report

The [Planning Director](#) will review each proposed zoning map amendment in accordance with the review and decision-making criteria of Subsection (g) of this Section and, if deemed necessary, distribute the proposed amendment to other agencies and reviewers. Based on the results of those reviews, the [Planning Director](#) will provide a report on the proposed amendment to the [Planning Commission](#) and City Commission. The report will include documentation proof of posting and other required notice.

(e) Planning Commission's Review/Recommendation

The **Planning Commission** shall hold a public hearing on the proposed zoning map amendment, review the proposed amendment in accordance with the review and decision-making criteria of Subsection (g) of this Section and recommend that the City Commission approve, approve with modifications or deny the proposed amendment. The **Planning Commission** is also authorized to forward the proposed amendment to the City Commission with no recommendation.

(f) City Commission Decision

After receiving the **Planning Commission's** recommendation, the City Commission shall take one of the following actions on the proposed zoning map amendment:

- (1) approve, approve with conditions or modifications, or deny; or
- (2) return the application to the **Planning Commission** for further consideration, together with a written explanation of the reasons for the City Commission's failure to approve or disapprove.
 - (i) The **Planning Commission**, after considering the explanation by the City Commission, may resubmit its original recommendations with its reasons for doing so or submit a new or amended recommendation.
 - (ii) Upon the receipt of such recommendation, the City Commission may, by a simple majority vote, approve the proposed zoning map amendment, approve it with modifications, or deny it.
 - (iii) If the **Planning Commission** fails to deliver its recommendations to the City Commission following the **Planning Commission's** next regular meeting after receipt of the City Commission's report, the City Commission will consider such course of inaction on the part of the **Planning Commission** as a resubmission of the original recommendations and proceed accordingly.
- (3) The City Commission may act by a simple majority vote, except for the following cases:
 - (i) action that is contrary to the **Planning Commission's** recommendations, in which case the decision shall be by a 2/3 majority vote of the full membership of the City Commission; or
 - (ii) approval, or approval with modifications, when a valid protest petition has been submitted in accordance with subsection (h) of this Section, in which case a decision approving the application shall be effective only if supported by the votes of at least 3/4 of the members of the entire City Commission.
- (4) The City Commission shall:
 - (i) State the reasons for its decision on the minutes or official record; and
 - (ii) notify the applicant, and all other parties who have made a written request for notification, in writing of its decision and the reasons for its decision.

(g) Review and Decision-Making Criteria

In reviewing and making decisions on proposed zoning map amendments, review and decision-making bodies shall consider at least the following factors:

- (1) conformance with the [Comprehensive Plan](#);
- (2) zoning and use of nearby property, including any overlay zoning;
- (3) character of the neighborhood;
- (4) plans for the area or neighborhood, as reflected in adopted area and/or sector plans including the property or adjoining property;
- (5) suitability of the subject property for the uses to which it has been restricted under the existing zoning regulations;
- (6) length of time the subject property has remained vacant as zoned;
- (7) the extent to which approving the rezoning will detrimentally affect nearby properties;
- (8) the gain, if any, to the public health, safety and welfare due to denial of the application, as compared to the hardship imposed upon the [Landowner](#), if any, as a result of denial of the application; and
- (9) the recommendation of the City's professional staff.
- (10) For proposals that will create more than 100,000 square feet of retail space within the city: the impact of the proposed project on the retail market. Staff will provide an analysis based on the addition of the square footage to the retail market, vacancy rate trends, square footage per capita trends, and current demand trends, including but not limited to population, income, pull factors, and retail sales using the latest available city-wide retail market report.

(h) Protest Petitions

A valid protest petition opposing a zoning map amendment may be submitted to the City Clerk within 14 days of the conclusion of the [Planning Commission's](#) public hearing.

- (1) A protest petition will be considered "valid" if it is signed by the [Owner](#) of 20% or more of:
 - (i) any real property included in the proposed amendment; or
 - (ii) the total area of real property located within 200 feet of any real property included in the proposed amendment (or 1,000 feet into the unincorporated area when the real property included in the proposed amendment abuts the city limits), excluding streets and public ways.
- (2) In the case of joint Ownership, all [Owners](#) shall sign the petition.
- (3) For the purpose of determining the sufficiency of a protest petition, if the proposed rezoning was requested by the [Owner](#) of the specific property subject to the rezoning, or the [Owner](#) of the specific property subject to the rezoning does not oppose in writing such rezoning, such property shall be excluded when calculating the total real property within the area required to be notified.

(i) Date of Effect

The zoning map amendment will become effective upon publication of the adopting ordinance.

(j) Limitation on Successive Applications

- (1) Withdrawal of an original application after it has been advertised for public hearing shall constitute denial of the application as if the public hearing had been held and concluded;
- (2) A successive application shall not be accepted for a period of twelve (12) months from the date of City Commission denial of the original application unless a successive application is substantially different from the original application that was denied;
- (3) A successive application shall not be accepted until 120 days after the date of the City Commission denial and then will only be accepted if substantially different from the original application. The threshold for measuring substantially different shall be based on meeting one or more of the following criteria:
 - a. A different **Zoning District** category has been applied for;
 - b. The same **Zoning District** category has been applied for and the **Density** of use is at least 25% greater or less than the original petition;
 - c. The same **Zoning District** category has been applied for and the intensity of use is at least 25% greater or less than the original petition; or
 - d. Specific responses to the reasons for denial set forth in the findings of fact by the City Commission are, in the opinion of the **Planning Director**, addressed in the resubmission.
- (4) A new rezoning application may be submitted after at least twelve (12) months from the date of City Commission denial.

(k) Appeals

Within 30 days of the City Commission's decision on the zoning map amendment, any person aggrieved by such decision may maintain an action in District Court to determine the reasonableness of the final decision.

(l) Plans

- (1) A plan shall be prepared and adopted prior to review of a petition for map amendment when:
 - (i) No water or sanitary sewer mains exist or are planned to serve the proposed site;
 - (ii) The request is not consistent with adopted plans; or,

- (iii) In-fill development is proposed and, at the discretion of the [Planning Commission](#), additional information is needed specific to unanswered questions or concerns related to transportation, compatibility of land use(s), or adequacy of transitions between established and proposed land uses.
- (2) Depending on the size or type of request, the plans to be prepared include:
 - (i) Watershed or Sub-basin Plan. This Plan will encompass an entire watershed or sub-basin.
 - (ii) Sector Plan. This Plan includes approximately one square mile.
 - (iii) Neighborhood Plan. This Plan encompasses a specific neighborhood.
 - (iv) Special Area Plan. This includes a Nodal Plan which plans for an area immediately surrounding an intersection. A Corridor Plan is a type of linear area plan that generally encompasses a roadway or specific feature.
 - (v) Specific Issue/District Plan. Deals with a specific issue or project that does not fall into any of the above listed categories.