

CHAPTER XXVII. AMENDMENTS, REVISIONS, OR CHANGES

ARTICLE 1. General Provisions

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ARTICLE 1. GENERAL PROVISIONS

27-101. WHO MAY PETITION OR APPLY. Applications for amendments, revisions or changes in the Zoning District Boundary Maps in effect for the City of McLouth, Kansas may be made by any person who owns the land for which such an amendment, revision, or change is sought, or by the owner's agent as defined by these Regulations. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for said owner prior to the setting of any public hearing.

Applications for amendments, revisions or changes to the Zoning Regulations, or the Zoning District Boundary Maps may also be made by the Planning Commission or the Governing Body; provided, such proposed amendments, revisions, or changes shall first be submitted to the Planning Commission for public hearing, recommendation and report and the final decision is made by the Governing Body.

27-102. PROCEDURES FOR CONSIDERATION OF REQUEST FOR AMENDMENTS, REVISIONS OR CHANGES. All applications or requests for amendments, revisions or changes to the Zoning Regulations, or the Zoning District Boundary Maps shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator. The payment of the application fee, as established by the Governing Body by separate resolution, shall be made at the time of the submission of the application. Immediately upon receipt of the application for rezoning by the owner, or his agent, and the payment of the appropriate fee, the Zoning Administrator shall note thereon the date of filing and make a permanent record thereof. An application shall be deemed complete when the Zoning Administrator has received: a completed application form, the application fee, and such other documents necessary to process the application without further delay.

All such proposed applications for amendments, revisions or changes to the Zoning Regulations shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing thereon and shall cause a written summary to be made of the proceedings. Notice of such hearing shall be published in the official city newspaper at least 20 days prior to the date of the hearing. Said notice shall fix the time and place for such hearing, shall give the name and address of the applicant, and shall contain a statement regarding the proposed changes in regulations or restrictions, or in the boundary or classification of any zone or district.

If the application is not a general amendment, revision or change to the Zoning Regulations, but is for a rezoning affecting specific property, the property affected

shall be designated by a legal description and a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of such proposed rezoning shall be mailed by certified mail with return receipt requested at least 20 days before the public hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered. All notices shall include a statement that a complete legal description is available for public inspection in the office of the Zoning Administrator. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body. The applicant shall provide a certified list of the owners of record of said lands at the time of the filing of the application.

In the case of an application by the Planning Commission or the Governing Body, all the above stated requirements shall be followed except:

1. No fee shall be required.
2. If the application is for an amendment or revision to the text of the Zoning Regulation, notice of the public hearing shall not be required to be mailed to all affected persons; therefore a certified list of the owners of land shall not be required.

The Planning Commission shall hold the public hearing at the place and time so stated within the legal notice. The hearing may be adjourned from time to time, and at the conclusion of the same, the Planning Commission shall take action on the request by preparing a recommendation either to approve, approve with conditions as authorized by these Regulations, or disapprove the application by a majority of the members of the Planning Commission present and voting at the hearing. When the Planning Commission fails to make a recommendation on an application, the Planning Commission shall be deemed to have made a recommendation of disapproval. Any such hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, revision, or change and the reasons therefore, the Governing Body may: (1) adopt such recommendation by resolution; (2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt, may revise or amend and adopt, or may disapprove such recommendation by resolution, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the

Governing Body following the Planning Commission's next regular meeting. After receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly. The proposed amendment, revision, or change, if approved with or without conditions, shall become effective upon publication of the adopting resolution.

If such amendment affects the boundaries of any zone or district, the resolution shall describe the boundaries as amended, or if provision is made for the fixing of the same upon the official maps which has been incorporated by reference, the amending resolution shall define the change or the boundary as amended, shall order the official maps be changed to reflect such amendment, shall amend the section of the resolution incorporating the same, and shall reincorporate such maps as amended.

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment, supplement, or change, if a protest against the amendment, supplement, or change is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, duly signed and acknowledged by the owners of record of 20 percent or more of any property proposed to be rezoned, or by the owners of record of 20 percent or more of the total area required to be notified of the proposed amendment, supplement, or change of a specific property, excepting public streets and highways, the resolution of approval shall not be passed except by 3/4 majority vote of the Governing Body.

27-103 POSTING OF SIGN. Each applicant for a rezoning shall, within 48 hours of filing such application, place a sign upon the lot, tract, or parcel of land for which the application was filed. Said sign shall be furnished by the applicant and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

Said sign read as follows:

REZONING PENDING  
Application No. \_\_\_\_\_  
From \_\_\_\_\_ To \_\_\_\_\_  
PUBLIC HEARING BEFORE THE  
CITY OF MCLOUTH PLANNING COMMISSION  
On  
(date) \_\_\_\_\_ at \_\_\_\_\_ (time) \_\_\_\_\_

NOTE: Unauthorized removal, defacing, or destruction of this sign shall be punishable upon conviction by fine not exceeding \$100.00 and/or not more than thirty (30) days imprisonment.

Said sign shall be maintained and kept in place by the applicant until final dispositions of such application, or until withdrawal of the application. The sign shall

be removed by the applicant after final action of the application. The bottom of said sign shall be a minimum of two (2) feet above the ground line. Said sign shall be placed within five (5) feet of the street right-of-way line, in a position on such lot, tract or parcel of land as to have no visual obstruction thereto and to be readily seen by passersby. If the lot, tract or parcel of land has more than one (1) street abutting thereto, signs shall be placed facing all street frontages. Failure to comply with this requirement shall not deprive the Planning Commission of its jurisdiction or affect any decision, but may be due cause for the Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice.

27-104. FACTORS TO BE CONSIDERED.

1. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines:
  - a. Whether the change in classification would be consistent with the intent and purpose of these Regulations;
  - b. The character and condition of the surrounding neighborhood and its effect on the proposed change;
  - c. Whether the proposed amendment is made necessary because of change or changing conditions in the area affected, and, if so, the nature of such change or changing conditions;
  - d. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
  - e. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
  - f. The suitability of the applicant's property for the uses to which it has been restricted;
  - g. The length of time the subject property has remained vacant or undeveloped as zoned;
  - h. Whether adequate sewer and water facilities, and all other needed public services, including transportation, exist or can be provided to

serve the uses that would be permitted on the property if it were reclassified;

- i. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
- j. The recommendations of permanent or professional staff;
- k. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification; and
- l. Such other factors as may be relevant from the facts and evidence presented in the application.

27-105. **TRAFFIC STUDIES.** In the case of an application for rezoning of land which may, in the opinion of the Planning Commission or Governing Body, substantially change traffic patterns, or create traffic congestion, either the Planning Commission or Governing Body may require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study. Such traffic study shall show that the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner, that vehicular ingress and egress from the site onto public streets will function in an orderly and efficient manner and that no undue burden will be placed upon the existing public street system. The results of the traffic study shall be used in determining the impact of the proposed rezoning and guide the development of a recommendation or decision regarding the same.

27-106. **LIMITATIONS ON REAPPLICATION FOR AMENDMENTS.** Whenever an application for amendment, supplement, change, or rezoning has been denied by the Governing Body, such application, or one substantially similar, shall not be reconsidered sooner than one (1) year after the said denial.