

ARTICLE 20 AMENDMENTS

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20-101 Who May Petition or Apply: Applications for amendments, revisions or changes in the Zoning District Boundary Maps in effect for Gray County, Kansas, or for a Conditional Use Permit as authorized by Article 14, may be made by any person who owns the land for which such an amendment, revision, change or Conditional Use Permit 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, the Zoning District Boundary Maps and/or Conditional Use Permits may also be made by the Planning Commission or the Governing Body; provided, such proposed amendments, revisions, changes, or Conditional Use shall first be submitted to the Planning Commission for public hearing, recommendation and report and the final decision is made by the Governing Body.

20-102 Procedures for Consideration of Request for Amendments, Revisions or Changes: All applications or requests for amendments, revisions or changes to the Zoning Regulations, the Zoning District Boundary Maps or for a Conditional Use Permit 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 an application for rezoning or Conditional Use 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, any required development plan, the application fee, and such other documents necessary to process the application without further delay.

If the application concerns property located within the notification area of any city within Gray County as specified in Section 20-103 herein then the application shall be submitted to that city as specified herein. Upon expiration of the review and comment period for said city as specified in Section 20-103, the Zoning Administrator may then process the application for hearing by the Gray County Planning Commission.

Within Five (5) business days after receiving a completed application for amendment, revisions or changes to the zoning regulations, the Zoning District Maps or for a Conditional Use Permit, the Zoning Administrator shall set the matter for public hearing as hereinafter set forth.

Also, within the same Five (5) business day period, the Zoning Administrator shall post a sign on the proposed lot, tract, or parcel of land, pursuant to Article 20 Section 104 of these regulations.

All such proposed applications for amendment, revisions or changes to the Zoning Regulations and/or for a Conditional Use shall be submitted to the Planning Commission for their 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 once in the official county 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, or the requested Conditional Use.

If the application is not a general amendment, revision or change to the Zoning Regulations, but is for a rezoning or Conditional Use Permit affecting specific property, the property affected shall be designated by 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 and/or Conditional Use shall be mailed by certified mail with return receipt at least 20 days before the public hearing to all owners of record of lands located within at least 1,000 feet of the area proposed to be altered; provided, said notice shall extend only 200 feet in those areas where the notification area extends within the corporate limits of a city. 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 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 Regulations, 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:

1. 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.

Or, at the Planning Commission's discretion,

2. Continue deliberations to a scheduled future date, at which time action will be taken, on the request, and a recommendation prepared. Said scheduled date shall be held within Ten (10) business days of the conclusion of said public hearing. Said future date shall be scheduled, the location and time of said future meeting shall be set and announced at the public hearing. No further notification of said continued public meeting shall be necessary.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, revision, change or Conditional Use Permit and the reasons therefor, the Governing Body may:

1. Adopt such recommendation by resolution; OR
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 recommendation and proceed accordingly. The proposed

amendment, revision, change, or Conditional Use Permit, if approved with or without conditions, shall become effective upon publication of the adopting resolution.

If such amendment or Conditional Use Permit 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 or Conditional Use, 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, change, or Conditional Use Permit, if a protest against an amendment, supplement, change or Conditional Use Permit is filed in the office of County 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, change or Conditional Use of a specific property, excepting public streets and highways, the resolution of approval shall not be passed except by three-fourths majority vote of the Governing Body.

20-103 Referral of Amendments to Cities: In order to protect the area around all incorporated cities within Gray County from untimely, premature, or inappropriate development, all proposed changes in a zoning district (re-zonings) or requests for a Conditional Use Permit for all property within the designated notification area of all cities within Gray County shall be submitted to said city for official review and recommendation. The notification area for each city shall be mutually agreed upon by said city and Gray County. Such area shall not exceed that area a city would be able to include within its Zoning Ordinance as outlined in K.S.A. 12-715b, as amended. The notification area may be revised by mutual agreement at any time.

The Zoning Administrator shall submit the application, along with all supporting documentation and any development plans, to the appropriate city once the application has been determined to be complete. The application shall not be set for public hearing by the Gray County Planning Commission until the expiration of the review and comment period provided herein for said city; however, the required notices may be published to set the public hearing as soon after the expiration of the 30-day review and comment period as is practical.

Said city shall review such proposed rezoning or Conditional Use request and, within 30 days of receipt thereof, may submit a written recommendation regarding said application to the Gray County Planning Commission; or may appear before the Gray County Planning Commission and present its recommendation in person; or may elect to make no comments regarding said request. Any recommendation submitted may be from either the Planning Commission or the Governing Body, whichever said city so chooses.

Notwithstanding any other provision of these Regulations or of state law; and in addition to all other rights granted to the applicant and to adjoining landowners; in the event a city recommends that a rezoning or Conditional Use proposed within said notification area be denied; then a resolution of approval of such request shall not be passed except by three-fourths majority vote of the Board of County Commissioners.

20-104 Posting of Sign: The County Zoning Administrator shall cause a sign to be placed upon the lot, tract, or parcel of land (for which the application was filed), within Five (5) business days after the filing of said application, in a conspicuous place, for passersby to see, which displays the Pending Action of the posted property currently before the Gray County Planning Commission along with the Date, Time and Place of the Public Hearing where concerned citizens may attend and voice their opinion to the Gray County Planning Commission. Said sign shall be furnished by Gray County and shall be placed on the affected property by the Gray County Zoning Administrator.

Said sign shall read as follows:

REZONING PENDING
(or)
CONDITIONAL USE PERMIT PENDING
Application Number _____
From _____ To _____
PUBLIC HEARING BEFORE THE
GRAY COUNTY PLANNING COMMISSION
on
_____ (date) on _____ (time)

NOTE: Unauthorized Removal, Defacing, or Destruction of this Sign 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 until final disposition of such application, or until withdrawal of the application. The sign shall be removed after final action on the application. If the Lot, Tract or Parcel of Land has more than one (1) street abutting thereto, signs shall be placed facing all street frontages. Said sign shall include the proposed Zoning Change, Date, Time and Place of the Public Hearing. The sign shall be of adequate size that allows passersby to readily discern the sign's content. The sign shall be placed in a conspicuous, non-obstructed location on the property which is currently under consideration for a zoning change.

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.

20-105 Factors to be Considered:

- A. 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:
1. Whether the change in classification would be consistent with the intent and purpose of these Regulations;
 2. The character and condition of the surrounding neighborhood and its effect on the proposed change;
 3. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
 4. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
 5. 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;

6. The suitability of the applicant's property for the uses to which it has been restricted;
7. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;
8. 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;
9. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
10. The recommendations of permanent or professional staff;
11. 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,
12. Such other factors as may be relevant from the facts and evidence presented in the application.

- B. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as Conditional Uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

In approving a Conditional Use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the Planning Commission or the approval of the Governing Body. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

The Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines:

1. Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;
2. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;
3. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;
4. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;
5. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;
6. Whether the applicant's property is suitable for the proposed use;

7. The recommendations of permanent or professional staff;
8. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use; and,
9. Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 14 of these Regulations), will not adversely affect the property in the area affected.
10. Such other factors as may be relevant from the facts and evidence presented in the application.

20-106 Traffic Studies: In the case of an application for rezoning of land or for a Conditional Use Permit for a use 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 or Conditional Use Permit and guide the development of a recommendation or decision regarding the same.

20-107 Limitations on Reapplication for Amendments: Whenever an application for amendment, supplement, change, rezoning or Conditional Use Permit 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.