

ARTICLE 29  
AMENDMENTS

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29-101 Who May Petition or Apply: Applications for amendments, revisions or changes in the Zoning District Boundary Map in effect for Valley Falls, Kansas, or for a Conditional Use Permit, 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 this Ordinance. 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 any public hearing.

Recommendations for amendments, revisions or changes to the Zoning Ordinance or the Zoning District Boundary Map may also be made by the Planning Commission upon its own motion, for final determination by the Governing Body; likewise the Governing Body may amend the Zoning Ordinance or the Zoning District Boundary Map upon its own motion; provided, however, such proposed amendments shall first be submitted to the Planning Commission for recommendation and report as provided herein.

29-102 Procedures for Consideration of Request for Amendments, Revisions or Changes: All applications or requests for amendments, revisions or changes to the Zoning Ordinance or the Zoning District Boundary Map or for a Conditional Use Permit shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator and the payment of the application fee established by the Governing Body. Immediately upon receipt of an application for rezoning or conditional use by the owner of a particular tract of land, 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. All such applications shall be set down for hearing not later than 60 days after receipt of a completed application. Notice of such hearing shall be published once in the official City newspaper at least 20 days prior to the date set for said hearing and a hearing shall be granted to any person at the time and place specified in such notice. In addition to such publication notice, notice of such proposed hearing shall be mailed to all the owners of land located within 200 feet of the area proposed to be altered at least 10 days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such notice shall be given by regular first class mail, and shall be in the form of a letter explaining the proposed change. Such mailed notices shall be addressed to the owners of land mentioned above and not to occupants of such lands. The applicant shall provide a certified list of the owners of said lands at the time of the filing of the application. The applicant shall furnish proof that he is the owner, the owner's agent, or has an option to buy the land described in the application, in which case the present owner must consent in writing to the application prior to the public hearing.

In the case of an application to amend, revise or change the Zoning Ordinance, whether by an individual, the Planning Commission or the Governing Body, all the above stated requirements shall be followed except:

1. No fee shall be required if the request is from the Planning Commission or the Governing Body.
2. 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.

For action on zoning amendments, a quorum of the Planning Commission is more than one-half of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the Planning Commission; whereas a vote either for or against an amendment by less than a majority of all the members of the Planning Commission present constitutes a "failure to recommend."

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Governing Body may either adopt such recommendation by ordinance or take no further action thereof, as appropriate. In the event the Planning Commission submits a "failure to recommend" to the Governing Body, the Governing Body may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the Governing Body disapproves, the Governing Body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval. The Planning Commission, after reconsidering the same, may resubmit its original recommendations giving the reasons therefor or submit new and amended recommendations. Upon receipt of such recommendations, the Governing Body may adopt or may revise or amend and adopt such recommendations by resolution, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body within 10 days after receipt of the Governing Body's statement specifying disapproval, 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 Planning Commission shall submit its first recommendation, in whatever form, no later than 3 months after the first public hearing.

If the zoning amendment shall affect the boundaries of any zone or district, the resolution of the Governing Body shall define the change or the boundary as amended, shall order the official map to be changed to reflect such amendment and shall reincorporate such map as amended. Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or "fails to recommend," if a protest against an amendment, supplement or change is filed in the office of City Clerk within 14 days after the date of the conclusion of the public hearing duly signed and acknowledged by the owners of 20 percent or more of any property proposed to be rezoned, or by the owners of 20 percent or more of the total area, excepting public streets and highways, which is located within 200 feet of the boundaries of the property proposed to be rezoned, such amendment shall not be passed except by three-fourths majority vote of the Governing Body.

29-103 Posting of Sign: Each applicant for a rezoning and each applicant for a Conditional Use Permit 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 Zoning Administrator to 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 shall read as follows:

REZONING PENDING  
(or)  
CONDITIONAL USE ~~PERMIT~~ PENDING  
Application Number \_\_\_\_\_  
From \_\_\_\_\_ To \_\_\_\_\_  
PUBLIC HEARING BEFORE THE  
VALLEY FALLS PLANNING COMMISSION  
on \_\_\_\_\_  
(date) ~~at~~ (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 by the applicant until final disposition of such application, or until withdrawal of the application. The sign shall be removed by the applicant after final action on 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 obstructions 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 both streets. 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. Any such hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.

29-104 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.

29-105 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 this Ordinance;
  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;
  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 proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan;
  12. 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,

13. 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 this Ordinance;
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;
6. Whether the applicant's property is suitable for the proposed use;
7. The recommendations of permanent or professional staff;
8. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;
9. 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,

10. Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 16 of this Ordinance), will not adversely affect the property in the area affected.

11. Such other factors as may be relevant from the facts and evidence presented in the application.

29-106 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 ninety (90) days after the said denial.