Article XXXIV. Amendments

SECTION 1. AMENDMENTS

The Governing Body may, from time-to-time, amend, supplement, or change the district boundaries or regulations contained in this Zoning Ordinance. A proposal for an amendment or a change in zoning may be initiated by the Governing Body or by the Planning Commission or upon application of the owner of the property affected. All such proposed changes shall first be submitted to the Planning Commission for Public Hearing, recommendation and report. The Planning Commission shall hold a public hearing thereon and shall cause an accurate, written summary to be made of the proceedings.

SECTION 2. APPLICATIONS

1. Any party desiring any change in zoning district boundaries or regulations contained in this Zoning Ordinance, as to any lot, tract, or area of land, shall file with the Zoning Administrator an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the Planning Commission. At the time of filing said application with the Zoning Administrator, the applicant shall provide the Zoning Administrator with the names and addresses of all owners of any land within the City's boundary located within two hundred (200) feet of the outer limits of said area to which the applicant desires change of zoning.

   Where the proposed zoning amendment will include property located adjacent to or outside the City's limits, the applicant shall provide the Zoning Administrator with the names and addresses of all owners of any land located within one thousand (1,000) feet in the unincorporated area.

2. An applicant for a change in zone to "PUD" Planned Unit Development, or "M – P" Manufactured Home Park District must satisfy the Planning Commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule for construction. The proposed construction shall begin within a period of eighteen (18) months following approval by the Governing Body, and forty (40) percent of the total

planned construction shall be completed within a period of three (3) years following such approval.

Such applicant shall also prepare and submit a preliminary development plan for review and approval by the Planning Commission and Governing Body. Applicants for the “PUD,” or “M – P” zones shall submit a plan prepared in accordance with the requirements of the individual district regulations.

Upon approval of the zoning application and preliminary development plan by the Planning Commission, the applicant shall prepare and submit a final development plan which shall incorporate any changes or alterations requested. The final development plan and the Planning Commission recommendation shall be forwarded to the Governing Body for their review and final action.

In the event that, within eighteen (18) months following approval by the Governing Body of an “PUD” or “M – P” District, the applicant does not proceed with construction substantially in accordance with the plan so approved, the Planning Commission shall initiate action to rezone the property. A public hearing, as required by law, shall be advertised and held, at which time the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the Planning Commission shall make findings of fact and shall submit their recommendation to the Governing Body for official action.

SECTION 3. FILING FEE

For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon the filing of the application, shall pay to the City Clerk a fee in an amount as required by a schedule of fees determined by the Governing Body. Promptly upon the filing of any such application, the Zoning Administrator shall refer the application to the Planning Commission for study and recommendation.

SECTION 4. PUBLIC HEARING AND NOTICE

Before the Planning Commission shall, by proper action, formulate its recommendation to the Governing Body on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the Governing Body or Planning Commission or by others, the Planning Commission shall hold a public hearing on such proposal. The secretary of the Planning Commission shall cause a notice of public hearing to be published once in the official newspaper and at least twenty (20) days shall elapse between the date of such publication and the date set for the hearing. Such notice shall fix the time and place for such hearing and shall contain a statement regarding the proposed changes in the regulations or restrictions or in the boundary of any district, and if such proposed amendment will affect specific property, the legal description and general street address shall be given; provided that, in addition to such publication notice, at least twenty (20) days before the hearing written notice of such proposed change shall be mailed to all the owners of land within the City's boundary located within two hundred (200) feet of the area proposed to be altered, except that where the change will include property located adjacent to or outside the City's limits, the written notice shall also be mailed to all owners of land outside the City's boundary located within one thousand (1,000) feet of the area proposed to be altered. Failure to receive such notice shall not invalidate any subsequent action taken when the notice has been properly addressed and deposited in the mail. Whenever five or more property owners of record owning 10 or more contiguous or non-contiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by publication and hearing, however, such zoning amendment shall not require written notice and shall not be subject to protest petition.

SECTION 5. ZONING CLASSIFICATIONS OF LESSER CHANGE

In accordance with the provisions of K.S.A. 12-757, the Planning Commission and the Governing Body may recommend and approve a lesser change in zoning districts without re-publication of a notice or re-distribution of notices to property owners when such change is more restrictive than the district which is applied for as shown on the table below; ***provided, however, that such recommendation and approval shall not be for***

a lesser classification than the existing zoning district. If the applicant at the Governing Body meeting, at which a zoning amendment is being considered, desires to amend the application and/or the Governing Body desires to consider a “lesser” zoning change, then such a proposed change shall be returned to the Planning Commission for reconsideration and further recommendation to the Governing Body without further publication or notice.

For the purposes of this section, zoning classifications of lesser change shall be as shown below, based on descending order of use restriction:

1. Most Restrictive to Least Restrictive.
    - “AG – 1” Agriculture District
    - “A – C” Commercial Agriculture District
    - “R – S” Residential Suburban District
    - “R – 1” Single-Family Dwelling District
    - “R – 2” Two-Family Dwelling District
    - “R – 3” Multiple-Family Dwelling District
    - “C – S” Highway Service District
    - “C – 2” General Commercial District
    - “I – 1” Light Industrial District
    - “I – 2” Heavy Industrial District
1. Zones Not Included.

    Because of the highly specialized purposes of the “PUD” Planned Unit Development; “M – P” Manufactured Home Park; “C – 1” Central Business; and “C – 3” Adult Entertainment Districts, they are not included in the table of lesser zoning changes, and are excluded from designation through the lesser change provisions.

SECTION 6. ZONING AMENDMENT CONSIDERATIONS

When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3)

a statement of the factors where relevant upon which the recommendations of the Commission is based using the following factors as guidelines:

1. What are the existing uses of property and their character and condition on the subject property and in the surrounding neighborhood?
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change in zoning classification?
3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration for a change in zoning?
4. Would the requested change in zoning correct an error in the application of these regulations as applied to the subject property?
2. Is the change in zoning requested because of changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property if the change in zoning was approved?
7. Would the subject property need to be platted or re-platted or in lieu of dedications made for rights-of-way, easements, access control or building setback lines if the change in zoning was approved?
8. Would a screening plan be necessary for existing and/or potential uses of the subject property if the change in zoning was approved?
9. Is the general amount of suitable vacant land or buildings available or not available for development that currently has the same zoning district classifications as is requested for the subject property?
10. In the event that the subject property is requested for business or industrial uses, are such uses needed to provide more services or employment opportunities?
11. Is the subject property suitable for the current zoning to which it has been restricted?
12. If the change in zoning were approved, would the uses which would be permitted on the subject property be compatible with the uses permitted on other property in the neighborhood?

13. Would the change in zoning as requested be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
14. Is the request for the zoning change in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
15. What is the nature of the support or opposition of the requested change in zoning?
16. Are there any informational materials or recommendations available from professional persons knowledgeable on this request which would be helpful in its evaluation?
17. Does the relative gain to the public health, safety and general welfare outweigh the loss in value or the hardship imposed upon the applicant by not approving the requested change in zoning?

Of those factors considered as relevant to the requested change in zoning district classification or boundary, not all factors need to be given equal consideration by the Commission in deciding upon its recommendation.

SECTION 7. PROTEST

If a protest against such amendment is filed in the office of the Zoning Administrator within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, said protest being duly signed and acknowledged by the owners of twenty (20) percent or more of any real property proposed to be rezoned or by the owners of twenty (20) percent of the area, excepting public streets and ways located within the corporate limits of the City and located within two hundred (200) feet of the boundaries of the property proposed to be rezoned, or within one thousand (1,000) feet in the unincorporated area if the property to be rezoned is located adjacent to or outside the City's limits, such amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the Governing Body.

Whenever the City initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or non-contiguous lots, tracts or parcels of the same zoning classification having five or more owners of record, only such owners shall be eligible to initiate a protest petition.

This is an accessible version of the original document, Article XXXIV, Amendments, published by the City of Ulysses, Kansas. To request the document in another format, contact City Hall at (620) 356-4600.