

## **Article XII. Amendments and Administration**

### **Sec. 27-1201 Application for Zoning Amendment.**

- A. In order to obtain a zoning amendment, as provided for in these regulations, the applicant shall file an application with the zoning administrator. The application shall contain the following:
1. The legal description of the pertinent parcel or parcels and names and addresses of all owners of property;
  2. The legal description of all parcels or portions of parcels and names and addresses of all owners of property within 200 feet for an area within the corporate limits of Hutchinson;
  3. The legal description of all parcels or portions of parcels and names and addresses of all owners of property within 1,000 feet for locations which are adjacent to or outside the corporate boundary of the City;
  4. A statement listing property taxes and special assessments and a declaration that all of same have been paid; and
  5. Any other requested information necessary to determine compliance of the development with the ordinance.
- B. The applicant may submit a zoning statement. Zoning statements submitted shall become part of and be attached to the pertinent application. Zoning statements shall be completed in writing and submitted to the zoning administrator when the pertinent application is submitted. Zoning statements should address:
1. How the proposed use is in keeping with the character of the neighborhood;
  2. Whether the proposed use is consistent with the zoning and uses made of nearby parcels;
  3. The suitability of the parcel for its current zoning and use compared to the proposed use;
  4. The extent of detrimental effects of the proposed use to nearby properties;
  5. Whether and the length of time the property has been vacant prior to submittal of the application;
  6. The hardship imposed upon the property owner if the application were denied;
  7. How the proposed use helps to implement the Comprehensive Plan;
  8. Whether public facilities and utilities are adequate to serve the proposed use;
  9. Aspects of the proposed use which minimize impacts on the neighborhood, nearby properties, the public health, safety and welfare, and public facilities and utilities; and
  10. Any other information that the property owner or authorized agent desires to submit including photographs, drawings, maps, statistics, legal documents, letters of support and other pertinent materials.

**Sec. 27-1202            Zoning District Amendments.**

Upon receipt of an application for a zoning district amendment, the following procedures shall apply:

- A. The zoning administrator shall set the date of a Planning Commission public hearing concerning the application. The public hearing shall be held within 60 days after the submittal date. The application shall be submitted at least 30 days prior to a scheduled Planning Commission meeting in order to schedule a public hearing at that meeting.
- B. The zoning administrator shall publish a notice of the public hearing concerning the proposed zoning district amendment in the official newspaper at least 20 days before the public hearing. The notice shall describe the proposal in general terms and list the time and place of the public hearing.
- C. The zoning administrator may post on the site a sign announcing the time and date of the public hearing. This sign will be posted at least seven days prior to the public hearing.
- D. The zoning administrator shall prepare a staff report which may summarize the applicable sections of these regulations; describe the character of the neighborhood; list existing land uses on neighboring parcels; describe current zoning district boundaries; examine the suitability of the property for its current zoning; list detrimental effects on neighboring property if the amendment were approved; examine the length of time the property has remained vacant as presently zoned; compare the public health, safety and welfare gains to the hardship imposed on the landowner if the amendment were denied; examine whether the proposed amendment conforms to the Comprehensive Plan; evaluate the impact of the proposed amendment on public facilities and utilities; and contain other pertinent information and evaluations.
- E. Copies of the public hearing notice shall be distributed by mail at least 20 days prior to the public hearing to all owners of land located within 200 feet of the area designated in the proposed zoning district amendment and land within 1,000 feet in unincorporated areas if the subject property is adjacent to the city limits. The notice shall indicate the time and place of the public hearing and invite interested individuals to appear and be heard. Failure to receive the notice shall not invalidate any subsequent action taken when the notice has been properly addressed and deposited in the mail. Comments may be solicited from the Reno County, the City of South Hutchinson, the County Health Officer, and other affected agencies. Copies of the application, staff report and other relevant information shall be made available.
- F. Copies of the application, public hearing notice, and staff report shall be distributed prior to the public hearing by the zoning administrator to the City of South Hutchinson, Reno County and other appropriate entities.
- G. Prior to the public hearing, the zoning administrator shall notify the Planning Commission of the case, transmit copies of the application and staff report, forward copies of any associated correspondence and provide other pertinent reports and materials.

- H. The Planning Commission shall conduct the public hearing according to any adopted procedures and consistent with Kansas law. During the public hearing, the zoning administrator shall make what recommendations he/she deems appropriate. The public hearing may be adjourned from time to time.
- I. In most cases immediately following the public hearing, the Planning Commission shall make a recommendation to the City Council. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the City Council. The Planning Commission may recommend approval of the zoning district amendment or denial of the application. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval.
- J. The City Council shall consider the application at a regularly scheduled meeting not less than 14 days after the public hearing. The City Council may approve an ordinance adopting the recommendation by simple majority, override the Planning Commission's recommendation by a two-thirds vote, or return the recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.
- K. Should the City Council return an application to the Planning Commission for reconsideration, the Planning Commission, after considering the application at its next regularly scheduled meeting, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. If the Planning Commission fails to act, the original recommendation shall be resubmitted to the City Council. Upon receipt of the recommendation, the City Council, by a simple majority, may adopt or may revise or amend and adopt the recommendation by ordinance, or it need take no further action thereon.
- L. The rezoning shall become effective upon publication of the adopting ordinance.
- M. The Planning Commission may recommend and the City Council may approve an ordinance adopting a zoning district amendment which only affects a portion of the parcel or parcels described in the notice.

### **Sec. 27-1203      Zoning Classifications of Lesser Change.**

In accordance with the provisions of K.S.A. 12-757, the Planning Commission and the City Council may recommend and approve a lesser change in zoning districts without republication of a notice or redistribution 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 less restrictive classification than that set forth in the notice.** If the applicant, at the City Council Meeting at which a zoning amendment is being considered, desires to amend the application and/or the City Council 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 City Council without further publication or notice. For the purposes of this section, zoning classifications of lesser change shall be listed below, based on descending order of use restrictions:

A. Most Restrictive to Least Restrictive:

- TA Transitional Agricultural Rural District
- R-1 Single Household Suburban Residential District
- R-2 Single Household Residential District
- R-3 Moderate Density Residential District
- R-4 Residential Neighborhood Conservation District
- R-5 High Density Residential District
- P/I Public/Institutional District
- C-1 Office Commercial District
- C-2 Neighborhood Commercial District
- C-3 Outdoor Commercial District
- C-4 Special Commercial District
- I-1 Light Industrial District
- I-2 Industrial District
- I-3 Heavy Industrial District

B. Zones not included:

Because of the highly specialized purposes of the “EN” Established Neighborhood District; “MH” Manufactured Home Subdivision District; “MP” Manufactured Home Park District; “C-5” Downtown District; “CR” Commercial/Residential District; “AE” Adult Entertainment District; “PUD” Planned Unit Development District; A-I Airport Industrial Mixed Use District and all Overlay Districts, they are not included in the above list of zoning classifications of lesser change and are excluded from designation through the lesser change provisions. The overlay districts are “GATE” Gateway Corridor Overlay District; “AH” Airport Hazard Overlay District; “HP” Historic Preservation Overlay District and “FP” Floodplain Overlay District.

**Sec. 27-1204 Protest Petitions.**

Protest petitions may be filed regarding any proposed zoning district amendment. Protest petitions shall be received by the City Clerk within 14 days after conclusion of the public hearing. Protest petitions may be filed regardless of any action taken by the Planning Commission.

A. Protest petitions shall be deemed valid if signed and acknowledged by:

1. The owners or record of 20 percent or more of the total area, except public right-of-way, located within 200 feet of the boundaries of the pertinent parcels within the City limits or within 1,000 feet of the boundaries of the pertinent parcels outside the City limits; or
2. The owners of record of 20 percent or more of the total area to be rezoned, except public rights-of-way, whether located within or outside a city.

B. The zoning amendment is not subject to the above protest petition requirements whenever five or more property owners of record owning 10 or more contiguous or noncontiguous 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.

- C. Whenever the City initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record, only owners of record of 20 percent or more of the total area to be rezoned (excluding public rights-of-way) shall be eligible to initiate a protest petition.
- D. If the protest petition is deemed valid, the corresponding zoning amendment shall not be adopted except by a three-fourths (4 of 5) vote of all members of the City Council.

**Sec. 27-1205            Matters To Be Considered When Approving Or Disapproving A Zoning Amendment Request.**

The Planning Commission and City Council shall consider the following factors when approving or disapproving a rezoning or conditional use permit request:

- A. The character of the neighborhood;
- B. The zoning and uses made of nearby property;
- C. The suitability of the property for its current zoning and use compared to proposed zoning and use;
- D. The extent of detrimental effects to nearby properties if the application were approved;
- E. The length of time the property has remained vacant;
- F. The relative gain to the public health, safety and welfare compared to the hardship imposed upon the landowner if the application were denied;
- G. The conformance of the application to the Comprehensive Plan for the City;
- H. The impact of the proposed use on public facilities and utilities; and
- I. The recommendations of the professional staff.

**Sec. 27-1206            Zoning Administration.**

Zoning Administrator

The zoning administrator shall administer these regulations. The zoning administrator is authorized to enforce and carry out all provisions of these regulations. The zoning administrator is authorized to develop application forms and establish procedures consistent with these regulations. The zoning administrator has the following additional powers and responsibilities:

- A. Issue or deny zoning certificates required by these regulations.
- B. Receive, review, process, prepare staff reports and recommendations, and refer to the Planning Commission or Board of Zoning Appeals as appropriate all applications for conditional use permits, special use permits, zoning amendments and preliminary and final PUD plans as provided for in these regulations.
- C. Receive, review, process, prepare staff reports and recommendations, and refer to the Board of Zoning Appeals all requests for interpretations, appeals and applications for variances, exceptions and special use permits as provided for in these regulations.

- D. Record and file approved zoning certificates, conditional and special use permits, zoning amendments, PUD's, interpretations, appeals, and variances. All applications, plans and documents shall be a public record.
- E. Revoke any zoning certificate mistakenly issued due to factual errors or contrary to provisions of these regulations.
- F. If the boundary of any zoning district is changed by an amendment to these regulations, the change shall be promptly indicated on the zoning map, together with an ordinance number and date of passage.
- G. Maintain an up-to-date copy of the zoning map, as amended from time to time, which shall be available for public inspection in the Hutchinson Planning and Development Department during regular business hours.

**Sec. 27-1207 Zoning Certificates.**

- A. Before a building permit for any development may be issued, the zoning administrator must certify zoning compliance. No parcel or structure shall be used or occupied in a different manner unless the zoning administrator has certified zoning compliance through a zoning certificate.
- B. Zoning certificates shall be made in writing by the zoning administrator. The zoning certificate shall be issued or denied within five working days after a building permit application or development plans have been received by the zoning administrator.
- C. Zoning certificates for wireless communication facilities installation shall be issued or denied within 20 days provided a complete application has been submitted.
- D. A zoning certificate shall not constitute a defense in any action to abate an unlawful structure or use.

**Sec. 27-1208 Issuance of Building Permit.**

Applications for building permits shall be reviewed in a timely manner for compliance with these regulations. No building permit shall be issued by the Building Official for a building and/or zoning lot that is not in compliance with these regulations. Any building permit issued in conflict with the provisions of these regulations shall be deemed null and void.

**Sec. 27-1209 Occupancy Certificates.**

If any other code adopted by the City requires that an occupancy certificate be issued, the occupancy certificate shall not be issued until a zoning certificate has been issued by the zoning administrator. Any occupancy certificate issued in conflict with these regulations shall be deemed null and void.

**Sec. 27-1210 Violation and Penalty.**

- A. The owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor, or any other

person who commits, takes part or assists in any violation, or who maintains any building or premises in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed 500 dollars, or by imprisonment for not more than six months for each offense, or by both such fine and imprisonment. Each and every day that such violation continues shall constitute a separate offense.

- B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of the zoning regulations, the appropriate authorities of said area, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation or to prevent the occupancy of said building, structure or land.