

Article 23

AMENDMENT PROCEDURES

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Section 23-1. General Authority and Procedure

- 23-1.01** The Board of County Commissioners may, from time to time, amend, supplement or change, by resolution, the boundaries of the districts or the regulations herein established. The resolution shall become effective upon publication thereof in the official County newspaper.
- 23-1.02** A proposal for an amendment or change in zoning may be initiated by the Board of County Commissioners, the Planning Commission, and, if the proposed amendment is not a general revision of the existing Regulations and affects specific property, upon application of the owner of the property affected or the owner's duly authorized agent.
- 23-1.03** An application for an amendment or change in zoning initiated by a property owner, shall be made to the Planning Commission upon appropriate forms available from the Planning and Building Office. Such application shall be made at least thirty (30) days prior to a regularly scheduled Planning Commission meeting.
- 23-1.04** All proposed amendments to the Zoning Regulations or change of zoning shall first be submitted to the Planning Commission for recommendations and report, and no amendment or change shall be approved without a hearing before the Planning Commission. If an application or proposal for an amendment to the Zoning Regulations or a change in zoning affects lands within the Highway Corridor Overlay District has been filed, notice of such request shall be submitted to KDOT at least twenty (20) days prior to the Planning Commission hearing.

Section 23-2. Fees for Rezoning

- 23-2.01** A fee, in the amount adopted by resolution of the Board of County Commissioners, shall accompany an application for rezoning, and in addition thereto, the applicant shall pay the cost of publication notice.
- 23-2.02** No fee shall be required if the zoning change is requested by the Planning Commission or the Board of County Commissioners.

Section 23-3. Conceptual Plans

23-3.01 A conceptual plan must be submitted with any application for rezoning, except for Single-Family Residential, which is filed by any property owner. The conceptual plan shall include such information as may be necessary to describe the purpose and intent of the rezoning and shall be submitted on forms available at the Planning and Building Office.

Section 23-4. Receipt of Rezoning Applications

23-4.01 Rezoning applications shall be submitted to the Planning Director together with the legal description and conceptual plan (if required).

23-4.02 The Planning Director shall have the authority to determine if a rezoning application is complete or incomplete. If a rezoning application is determined to be complete, then the Planning Director shall prepare the required legal notice pursuant to K.S.A. 12-757 and place said application on the next available Planning Commission agenda for consideration. If a rezoning application is certified as incomplete, then the Planning Director shall return the application to the applicant with a written explanation for his determination.

Section 23-5. Public Hearing Before Planning Commission

23-5.01 All proposed changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a hearing before the Planning Commission. The Planning Commission shall cause an accurate written summary to be made of the proceedings.

23-5.02 Public notice of such hearing shall be published by the Planning Director not less than twenty (20) days prior to the date of said hearing in the official County newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place of the hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. When the proposed change is not a general revision of an existing zoning regulation and will affect specific property, such property shall also be designated by legal description. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing.

22-5.03 If the proposed amendment is not a general revision to the Zoning Regulations and would affect surrounding properties, a separate written notice shall be sent by mail, at least twenty (20) days prior to the scheduled Planning Commission meeting, to all property owners within one thousand (1,000) feet of the boundaries of the land being considered for the rezoning where the surrounding properties are unincorporated or two hundred (200) feet where the surrounding properties are within the corporate limits of a city. Said written notice shall include the requirements as set forth in Section 22-5.02. Property owners notified of the public hearing shall have the opportunity to be heard or to submit a protest petition as provided in K.S.A. 12-757(e) to be filed in the office of the County Clerk and to be considered by the Board of County Commissioners in considering the proposed rezoning.

23-5.04 All such rezoning applications shall be set for hearing no later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, with the consent of the applicant, be continued. At such hearing, the Planning Commission

shall consider the appropriate issues contained in a staff report, including but not limited to the following factors:

1. Character of the neighborhood;
2. The zoning and uses of properties nearby;
3. The suitability of the subject property to its present use;
4. The extent to which removal of the present zoning will detrimentally affect nearby property;
5. The length of time the subject property has remained vacant;
6. The relative gain to the public health, safety and welfare by the destruction of the value of the nearby property as compared to the hardship imposed upon the individual landowner;
7. Whether the proposed rezoning would be consistent with the intent and purpose of these Regulations;
8. The recommendations of the County's permanent or professional staff;
9. The conformance of the requested zoning change to the adopted Franklin County Comprehensive Plan; and
10. Such additional matters as may apply in individual circumstance.

23-5.05 Table of Lesser Change: The following Table of Lesser Change is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Change designates what zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the least intense zoning district to the most intense zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of lesser intensity, as determined by the Table of Lesser Change. Where a Planned Development Overlay District has been combined with any basic zoning district, such combination shall be deemed to be a lesser zoning district for purposes of this table.

A-1	Agricultural District
A-2	Transitional Agricultural District
R-E	Residential Estate District
R-3A	Single-Family Residential Three-Acre
R-1	Single-Family Residential
MH-P	Mobile Home Park District
C-1	Neighborhood Commercial District
C-2	Commercial District
B-P	Business Park
I-1	Light Industrial District
I-2	Heavy Industrial District

Section 23-6. Action by Planning Commission and Board of County Commissioners

23-6.01 Planning Commission Actions: For action on zoning amendments, a quorum of the Planning Commission shall be more than one half (1/2) of all voting members. A vote for an amendment by a majority of the Planning Commission members present and voting at the hearing shall constitute a "recommendation for approval", and a vote against an amendment by a majority of the Planning Commission present and voting shall constitute a "recommendation of disapproval". If the Planning

Commission fails to make recommendation on a rezoning request, the Planning Commission shall be deemed to have made a “recommendation of disapproval”.

- 23-6.02** County Commission Actions: After receiving the recommendation of the Planning Commission, such amendment, together with the reasons therefore, the Board of County Commissioners may adopt such recommendation by resolution, override the Planning Commission’s recommendation by a ¾ majority vote of the membership of the Board of County Commissioners, or return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commissioners’ failure to approve or disapprove.
- 23-6.03** If the Board of County Commissioners returns the Planning Commission’s recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. Upon receipt of such recommendation, the Board of County Commissioners, by a simple majority, may adopt, may revise or amend and adopt such recommendation by resolution, or it may deny the zoning amendment.
- 23-6.04** If the Planning Commission fails to deliver a recommendation to the Board of County Commissioners following the Planning Commission’s next regular meeting after receipt of the Board of County Commissioners’ report, the Board of County Commissioners shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- 23-6.05** Zoning Amendment to be Reflected on Zoning District Map: If the zoning amendment shall affect the boundaries of any zoning district, the amending resolution of the Board of County Commissioners shall define the change of boundary as amended, shall order the zoning district to be changed to reflect the amendment and shall amend the Official County Zoning Map accordingly.
- 23-6.06** Protest Petition: Regardless of whether the Planning Commission approves or disapproves a proposed zoning amendment, if within fourteen (14) days after the date of the conclusion of the Planning Commission’s hearing, a petition signed by the owners of twenty percent (20%) or more of any property proposed to be rezoned, or by owners of twenty percent (20%) or more of the total area required to be notified by this Article of the proposed rezoning of a specific property, excluding streets and public ways, is filed in the office of the County Clerk, the amendment shall not be passed except by a 4/5 vote of all of the members of the Board of County Commissioners.
- 23-6.07** Conditions Attached to Rezonings: The Planning Commission may recommend, and the Board of County Commissioners may adopt, a zoning amendment with conditions attached. These conditions may include, but are not limited to, the following:

That existing sanitation facilities shall be brought into compliance with the County Sanitation Code within one (1) year from the date of rezoning approval. If sanitation facilities have not been brought into compliance within that time, the Planning Commission or Board of County Commissioners may instigate procedures to rezone the property to its

previous zoning. Said action shall not be taken without notification of the applicant by the County and a public hearing.

Section 23-7. Limitations on Reapplication for Amendments

23-7.01 Whenever an application has been made under this Article and the application has been denied by the Board of County Commissioners, such application, or one substantially similar shall not be considered sooner than one (1) year after the previous denial.

Section 23-8. Procedure for Amendment of Floodplain Zoning Regulations

23-8.01 In addition to the requirement of this Article, the procedure for amending Article 16 of these Zoning Regulations (Floodplain Overlay District F-P) is presented in Section 16-11.