

SENATE BILL No. 296

By Committee on Assessment and Taxation

1-22

1 AN ACT concerning zoning; relating to rezoning; amending K.S.A. 2019
2 Supp. 12-757 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2019 Supp. 12-757 is hereby amended to read as
6 follows: 12-757. (a) (1) The governing body, ~~from time to time~~, may
7 supplement, change or generally revise the boundaries or regulations
8 contained in zoning regulations by amendment. A proposal for such
9 amendment may be initiated by the governing body or the planning
10 commission. ~~If such~~ the proposed amendment is not a general revision of
11 the existing regulations and affects specific property, the amendment may
12 be initiated by application of the owner of property affected. Any such
13 amendment, if in accordance with the land use plan or the land use
14 element of a comprehensive plan, shall be presumed to be reasonable. The
15 governing body shall establish in its zoning regulations the matters to be
16 considered when approving or disapproving a rezoning request. The
17 governing body may establish reasonable fees to be paid in advance by the
18 owner of any property at the time of making application for a zoning
19 amendment.

20 (2) *Any proposed amendment that has been rejected or an*
21 *amendment that is substantially the same as the rejected amendment may*
22 *not be proposed for a period of one year from the date of the rejection.*

23 (b) All ~~such~~ proposed amendments first shall be submitted to the
24 planning commission for recommendation. The planning commission shall
25 hold a public hearing thereon, shall cause an accurate written summary to
26 be made of the proceedings, and shall give notice in like manner as that
27 required for recommendations on the original proposed zoning regulations
28 provided in K.S.A. 12-756, and amendments thereto. ~~Such~~ The notice shall
29 fix the time and place for ~~such~~ the hearing and contain a statement
30 regarding the proposed changes in regulations or restrictions or in the
31 boundary or classification of any zone or district. ~~If such~~ the proposed
32 amendment is not a general revision of the existing regulations and affects
33 specific property, the property shall be designated by legal description or a
34 general description sufficient to identify the property under consideration.
35 In addition to ~~such~~ the publication notice, written notice of ~~such~~ the
36 proposed amendment shall be mailed at least 20 days before the hearing to

1 all owners of record of real property within the area to be altered and to all
2 owners of record of real property located within at least 200 feet of the
3 area proposed to be altered for regulations of a city and to all owners of
4 record of real property located within at least 1,000 feet of the area
5 proposed to be altered for regulations of a county. If a city proposes a
6 zoning amendment to property located adjacent to or outside the city's
7 limits, the area of notification of the city's action shall be extended to at
8 least 1,000 feet in the unincorporated area. Notice of a county's action
9 shall extend 200 feet in those areas where the notification area extends
10 within the corporate limits of a city. All notices shall include a statement
11 that a complete legal description is available for public inspection and
12 shall indicate where ~~such~~ *the* information is available. When the notice has
13 been properly addressed and deposited in the mail, failure of a party to
14 receive ~~such~~ *the* notice shall not invalidate any subsequent action taken by
15 the planning commission or the governing body. Such notice is sufficient
16 to permit the planning commission to recommend amendments to zoning
17 regulations which affect only a portion of the land described in the notice
18 or which give all or any part of the land described a zoning classification
19 of lesser change than that set forth in the notice. A recommendation of a
20 zoning classification of lesser change than that set forth in the notice shall
21 not be valid without republication and, where necessary, remailing, unless
22 the planning commission has previously established a table or publication
23 available to the public which designates what zoning classifications are
24 lesser changes authorized within the published zoning classifications. At
25 any public hearing held to consider a proposed rezoning, an opportunity
26 shall be granted to interested parties to be heard. *At the public hearing, an
27 announcement shall be made that owners of property have 14 days after
28 the date of the public hearing to submit a protest petition. The petition
29 shall be signed by owners of 20% of the real property proposed to be
30 rezoned or owners of record of 20% of the real property within the area
31 required to be notified. If a protest petition is submitted, this shall require
32 the zoning amendment to be approved by a ³/₄ vote of the governing body.*

33 (c) (1) Whenever five or more property owners of record owning 10
34 or more contiguous or noncontiguous lots, tracts or parcels of the same
35 zoning classification initiate a rezoning of their property from a less
36 restrictive to a more restrictive zoning classification, ~~such~~ *the* amendment
37 shall require notice by publication and hearing in like manner as required
38 in subsection (b) ~~of this section~~. Such zoning amendment shall not require
39 written notice and shall not be subject to the protest petition provision of
40 subsection (f) ~~of this section~~.

41 (2) Whenever a city or county initiates a rezoning from a less
42 restrictive to a more restrictive zoning classification of 10 or more
43 contiguous or noncontiguous lots, tracts or parcels of the same zoning

1 classification having five or more owners of record, ~~such~~ *the* amendment
2 shall require notice by publication and hearing in like manner as that
3 required by subsection (b) ~~of this section~~. In addition, written notice shall
4 be required to be mailed to only owners of record of the properties to be
5 rezoned and only such owners shall be eligible to initiate a protest petition
6 under subsection (f) ~~of this section~~.

7 (d) Except as provided in subsection (g) and unless otherwise
8 provided by this act, the procedure for the consideration and adoption of
9 any ~~such~~ proposed amendment shall be in the same manner as that
10 required for the consideration and adoption of the original zoning
11 regulations. A majority of the members of the planning commission
12 present and voting at the hearing shall be required to recommend approval
13 or denial of the amendment to the governing body. If the planning
14 commission fails to make a recommendation on a rezoning request, the
15 planning commission shall be deemed to have made a recommendation of
16 disapproval. When the planning commission submits a recommendation of
17 approval or disapproval of such amendment and the reasons therefor, the
18 governing body may: (1) Adopt ~~such~~ *the* recommendation by ordinance in
19 a city or by resolution in a county; (2) override the planning commission's
20 recommendation by a $\frac{2}{3}$ majority vote of the membership of the governing
21 body; or (3) return ~~such~~ *the* recommendation to the planning commission
22 with a statement specifying the basis for the governing body's failure to
23 approve or disapprove. If the governing body returns the planning
24 commission's recommendation, the planning commission, after
25 considering the same, may resubmit its original recommendation giving
26 the reasons therefor or submit new and amended recommendation. Upon
27 the receipt of such recommendation, the governing body, by a simple
28 majority thereof, may adopt or may revise or amend and adopt ~~such~~ *the*
29 recommendation by the respective ordinance or resolution, or it need take
30 no further action thereon. If the planning commission fails to deliver its
31 recommendation to the governing body following the planning
32 commission's next regular meeting after receipt of the governing body's
33 report, the governing body shall consider such course of inaction on the
34 part of the planning commission as a resubmission of the original
35 recommendation and proceed accordingly. The proposed rezoning shall
36 become effective upon publication of the respective adopting ordinance or
37 resolution.

38 (e) If ~~such~~ *the* amendment affects the boundaries of any zone or
39 district, the respective ordinance or resolution shall describe the
40 boundaries as amended, or if provision is made for the fixing of the same
41 upon an official map which has been incorporated by reference, the
42 amending ordinance or resolution shall define the change or the boundary
43 as amended, shall order the official map to be changed to reflect ~~such~~ *the*

1 amendment, shall amend the section of the ordinance or resolution
2 incorporating the same and shall reincorporate ~~such the~~ map as amended.

3 (f) (1) Except as provided in subsection (g), whether or not the
4 planning commission approves or disapproves a zoning amendment, if a
5 protest petition against ~~such the~~ amendment is filed in the office of the city
6 clerk or the county clerk within 14 days after the date of the conclusion of
7 the public hearing pursuant to the publication notice, signed by the owners
8 of record of 20% or more of any real property proposed to be rezoned or
9 by the owners of record of 20% or more of the total real property within
10 the area required to be notified by this act of the proposed rezoning of a
11 specific property, excluding streets and public ways and property excluded
12 pursuant to paragraph (2) ~~of this subsection~~, the ordinance or resolution
13 adopting ~~such the~~ amendment shall not be passed except by at least a ³/₄
14 vote of all of the members of the governing body.

15 (2) For the purpose of determining the sufficiency of a protest
16 petition, if the proposed rezoning was requested by the owner of the
17 specific property subject to the rezoning or the owner of the specific
18 property subject to the rezoning does not oppose in writing ~~such the~~
19 rezoning, ~~such the~~ property also shall be excluded when calculating the
20 "total real property within the area required to be notified" as that phrase is
21 used in paragraph (1) ~~of this subsection~~.

22 (g) An ordinance or resolution adopting a zoning amendment for
23 mining operations subject to K.S.A. 49-601 et seq., and amendments
24 thereto, regardless of a protest petition or failure to recommend by the
25 planning commission shall only require a majority vote of all members of
26 the governing body.

27 (h) Zoning regulations may provide additional notice by providing for
28 the posting of signs on land which is the subject of a proposed rezoning,
29 for the purpose of providing notice of such proposed rezoning.

30 Sec. 2. K.S.A. 2019 Supp. 12-757 is hereby repealed.

31 Sec. 3. This act shall take effect and be in force from and after its
32 publication in the statute book.