

**ARTICLE 13
AMENDMENTS**

1. Amendments to Change Zoning District Boundaries: The City Council from time to time may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. A proposal for such amendment may be initiated by the Governing Body or the Planning Commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Any such amendment, if in accordance with the adopted comprehensive plan, shall be presumed to be reasonable.
2. Public Hearing: All such proposed amendments first shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.
3. Public Notice: In addition to such publication notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered. If the City proposes a zoning amendment to property located adjacent to or outside the City limits, the area of notification of the City's action shall be at least 1,000 feet in the unincorporated area. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body.

In addition to such written notice, each applicant shall place one or more signs upon the lot, tract or parcel for which the application was filed, informing the general public that a public hearing will be held at a specific date, time and place concerning proposed changes in districts and uses. Said sign shall be furnished by the Planning and Zoning Department and posted by the applicant at least 20 days prior to the public hearing. The sign shall be maintained throughout the approval process and removed by the applicant within ten (10) days after final action on the application by the Planning Commission or until withdrawal of the application. If the hearing is continued, delayed, or postponed, the sign(s) shall be replaced or amended to accurately describe the new date, time and place for the hearing. (Ord 2048)

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If the lot, tract or parcel of land has more than one abutting street, a sign shall be placed facing all streets. The applicant shall attach the sign to a wood or metal backing or frame and firmly affix the sign within five feet of the street right-of-way line, in a central position on the lot, tract or parcel of land. The bottom of the sign shall be a minimum of two feet above the ground, shall have no visual obstructions and shall be visible from the abutting streets. The status of the signs shall be checked frequently. Fallen or destroyed signs shall be immediately replaced. It shall be a public offense for any person to remove, deface or destroy any sign provided for in this subsection. (Ord 2048)

Prior to the public hearing, the applicant shall certify that the sign(s) have been posted and maintained as required. Certification forms shall be furnished by the Planning and Zoning Department. Failure to comply with these requirements may cause the public hearing to be continued to a later date. (Ord 2048)

Such notices are sufficient to permit the Planning Commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.

When five or more property owners of record owning 10 or more 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 not require written notice or posting of notice of the public hearing. (Ord 2048)

4. *Table of Lesser Zoning District Classification: The following Table of Lesser Zoning District Classification is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Zoning District Classification designates which zoning classifications are lesser changes authorized within the published zoning classifications. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of greater restriction, as determined by the Table of Lesser Zoning District Classification. (Ord 2018)*

TABLE OF LESSER ZONING DISTRICT CLASSIFICATION	
Zoning District Requested	Lesser Zoning Districts
<i>“R-A” Rural Agriculture District</i>	<i>None (Ord. 2237)</i>
<i>“R-0” Residential Suburban District</i>	<i>None</i>
<i>“R-1” Residential - Low Density District</i>	<i>None</i>
<i>“R-1A” Residential - Moderate Density District</i>	<i>“R-1”</i>
<i>“R-2” Residential - Medium Density District</i>	<i>“R-1” and “R-1A”</i>
<i>“R-3” Multifamily Dwelling District</i>	<i>“R-1”, “R-1A” and “R-2”</i>
<i>“R-H” Residential - Historic “Old Town” District</i>	<i>“R-1”, “R-1A” and “R-2”</i>
<i>“O-I” Office - Institutional District</i>	<i>None</i>
<i>“C-1” Business - Central District</i>	<i>“O-I”</i>
<i>“C-2” Business - General District</i>	<i>“C-1”* and “O-I”</i>
<i>“M-1” Industrial - Light District</i>	<i>“C-2”, “C-1”* and “O-I”</i>
<i>“M-2” Industrial - Heavy District</i>	<i>“M-1”, “C-2”, “C-1”* and “O-I”</i>
<i>“P-D” Planned Development District</i>	<i>Any zoning district permitting the requested use</i>
<i>* Only permitted if abutting an existing “C-1” district.</i>	

5. Adoption: The procedure for the consideration and adoption of a recommendation to amend zoning district boundaries shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. 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 Governing Body. 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. When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, the Governing Body may: (1) adopt such recommendation by ordinance; (2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

If the Governing Body 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 and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution.

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6. Applications: 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 Planning and Zoning Department an application, and such application shall be accompanied by such data and information as prescribed in these regulations, including a certified list, compiled by a registered land abstract agency, of property owners who are required to be notified of a public hearing as provided in these regulations.
7. 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 Planning and Zoning Department a fee in accordance with the City's Fee Resolution. Promptly upon the filing of any such application, the Planning and Zoning Department shall refer the application to the Planning Commission for study and recommendation and shall report to the Governing Body concerning the nature of the application and that said application has been referred to the Planning Commission.
8. Adoption and Amendment of Comprehensive Plan and Other Actions of the Planning Commission: An affirmative vote of a majority of the entire membership of the De Soto Planning Commission shall be required for actions of the commission, unless otherwise prescribed by state law.
9. Comprehensive Plan: Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by the Planning Commission, a certified copy of the Comprehensive Plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the Governing Body. No Comprehensive Plan, and no amendment thereto, shall be effective unless approved by the City Council of De Soto.

An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan.
10. Public Facilities and Improvements: Whenever the Planning Commission has adopted and certified the comprehensive plan for one or more major sections or functional subdivisions thereof, no public improvement, public facility or public utility of a type embraced within the recommendations of the comprehensive plan or portion thereof shall be constructed without first being submitted to and being approved by the Planning Commission as being in conformity with the plan. The Governing Body may override the plan and the recommendation of the Planning Commission. When the Planning Commission has reviewed a capital improvement program and found that specific public improvements, public facilities or utilities are consistent with the comprehensive plan, no further action is necessary.
11. Matters to be Considered: In order to recommend approval or disapproval of a proposed zoning district amendment, the Planning Commission *and Governing Body* shall determine whether the *amendment* is found to be generally compatible with surrounding development and *is in the best interest of the City*.

In making such determination, the Planning Commission and Governing Body may consider all factors they deem relevant to the questions of compatibility and the best interest of the City, including the following: (Ord 2057)

- A. *The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space. (Ord 2057)*
- B. *Consideration of rezoning applications requesting Planned Development Districts for multifamily and non-residential uses should include architectural style, building materials, height, structural mass, siting, and lot coverage. (Ord 2057)*
- C. *Compatibility of the proposed zoning and uses permitted therein with the zoning and uses of nearby properties. (Ord 2057)*
- D. *Suitability of the uses to which the property has been restricted under its existing zoning.*
- E. *Length of time property has remained vacant as zoned.*
- F. *The extent to which there is a need in the community for the uses allowed in the proposed zoning. (Ord 2057)*
- G. *The availability and adequacy of required utilities and services to serve the uses allowed in the proposed zoning. These utilities and services include, but are not limited to, sanitary and storm sewers, water, electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services. (Ord 2057)*
- H. *The extent to which the uses allowed in the proposed zoning would adversely affect the capacity or safety of that portion of the street network influenced by the uses, or present parking problems in the vicinity of the property. (Ord 2057)*
- I. *The environmental impacts that the uses allowed in the proposed zoning would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm. (Ord 2057)*
- J. *The economic impact on the community from the uses allowed in the proposed zoning. (Ord 2057)*
- K. *The extent to which the zoning amendment may detrimentally affect nearby property. (Ord 2057)*
- L. *The relative gain (if any) to the public health, safety, and welfare from a denial of the rezoning application as compared to the hardship imposed upon the rezoning applicant from such denial. (Ord 2057)*
- M. *Consistency with the Comprehensive Plan, Utilities and Facilities Plans, Capital Improvement Plan, Area Plans, ordinances, policies, and applicable City Code of the City of De Soto. (Ord 2057)*
- N. *The recommendation of professional staff.*

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12. Protest: Regardless of whether or not the Planning Commission approves or disapproves a zoning amendment, if a protest against such amendment is filed in the office of the Planning and Zoning Department within 14 days after the date of the conclusion of the public hearing pursuant to said publication notice, signed by the owners of record of 20 percent or more of any real property proposed to be rezoned or by the owners of record of 20 percent or more of the total area required to be notified of the proposed rezoning, excluding public streets and ways, located within or without the corporate limits of the City of De Soto, the ordinance adopting such amendment shall not be passed except by at least a three-fourths (3/4) vote of the members of the Governing Body. If, however, the proposed rezoning was requested by the owner of the specific property subject to the rezoning or the owner of the specific property subject to the rezoning does not oppose in writing such rezoning, such property also shall be excluded when calculation the “total real property within the area required to be notified.”

When five or more property owners of record owning 10 or more 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 not be subject to the protest petition of this subsection. (Ord 2046)

13. Publication: If the Governing Body approves an application, it shall adopt an ordinance to that effect, but said request shall not become effective until its publication in the official City newspaper.
14. Official Zoning Map: If the official zoning map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the official zoning map to be changed to reflect such amendment and shall amend the section of the ordinance incorporating the same and shall reincorporate such map as amended.