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

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2019 Supp. 12-757 is hereby amended to read as follows: 12-757. (a) (1) The governing body, 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 the 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 land use plan or the land use element of a comprehensive plan, shall be presumed to be reasonable. The governing body shall establish in its zoning regulations the matters to be considered when approving or disapproving a rezoning request. The governing body may establish reasonable fees to be paid in advance by the owner of any property at the time of making application for a zoning amendment.

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

(b) 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 provided in K.S.A. 12-756, and amendments thereto. 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 the 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. In addition to such publication notice, written notice of such the proposed amendment shall be mailed at least 20 days before the hearing to
all owners of record of real property within the area to be altered and to all
owners of record of real property located within at least 200 feet of the
area proposed to be altered for regulations of a city and to all owners of
record of real property located within at least 1,000 feet of the area
proposed to be altered for regulations of a county. If a city proposes a
zoning amendment to property located adjacent to or outside the city's
limits, the area of notification of the city's action shall be extended to at
least 1,000 feet in the unincorporated area. Notice of a county's action
shall extend 200 feet in those areas where the notification area extends
within the corporate limits of a city. All notices shall include a statement
that a complete legal description is available for public inspection and
shall indicate where such the information is available. When the notice has
been properly addressed and deposited in the mail, failure of a party to
receive such the notice shall not invalidate any subsequent action taken by
the planning commission or the governing body. Such notice is 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. A recommendation of a
zoning classification of lesser change than that set forth in the notice shall
not be valid without republication and, where necessary, remailing, unless
the planning commission has previously established a table or publication
available to the public which designates what zoning classifications are
lesser changes authorized within the published zoning classifications. At
any public hearing held to consider a proposed rezoning, an opportunity
shall be granted to interested parties to be heard. At the public hearing, an
announcement shall be made that owners of property have 14 days after
the date of the public hearing to submit a protest petition. The petition
shall be signed by owners of 20% of the real property proposed to be
rezoned or owners of record of 20% of the real property within the area
required to be notified. If a protest petition is submitted, this shall require
the zoning amendment to be approved by a $3/4$ vote of the governing body.

(c) (1) 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, such the amendment
shall require notice by publication and hearing in like manner as required
in subsection (b) of this section. Such zoning amendment shall not require
written notice and shall not be subject to the protest petition provision of
subsection (f) of this section.

(2) Whenever a city or county 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, such the amendment shall require notice by publication and hearing in like manner as that required by subsection (b) of this section. In addition, written notice shall be required to be mailed to only owners of record of the properties to be rezoned and only such owners shall be eligible to initiate a protest petition under subsection (f) of this section.

(d) Except as provided in subsection (g) and unless otherwise provided by this act, the procedure for the consideration and adoption of any such proposed amendment 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 therefor, the governing body may: (1) Adopt such the recommendation by ordinance in a city or by resolution in a county; (2) override the planning commission's recommendation by a $2/3$ majority vote of the membership of the governing body; or (3) return such the 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 therefor or submit 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 the recommendation by the respective ordinance or resolution, 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.

(e) If such the amendment affects the boundaries of any zone or district, the respective ordinance or resolution shall describe the boundaries as amended, or if provision is made for the fixing of the same upon an official map which has been incorporated by reference, the amending ordinance or resolution shall define the change or the boundary as amended, shall order the official map to be changed to reflect such the
amendment, shall amend the section of the ordinance or resolution incorporating the same and shall reincorporate such the map as amended.

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

(2) For the purpose of determining the sufficiency of a protest petition, if 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 the rezoning, such the property also shall be excluded when calculating the "total real property within the area required to be notified" as that phrase is used in paragraph (1) of this subsection.

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

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

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

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