



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 13, 1976

ATTORNEY GENERAL OPINION NO. 76- 12

Mr. Thomas H. Conroy
City Attorney
City Hall
117-123 North Hersey Avenue
Beloit, Kansas

Re: Zoning--Protest--Petition

Synopsis: A petition protesting a zoning amendment is sufficient under K.S.A. 12-708 if 1) it is signed and acknowledged by owners of twenty percent or more of the real property proposed to be rezoned; or 2) if it is signed and acknowledged by the owners of twenty percent or more of the total area located within two hundred feet of the area proposed to be rezoned, whether located within or without the corporate boundaries of the city, excluding public streets and ways.

* * *

Dear Mr. Conroy:

The last paragraph of K.S.A. 12-708 sets forth the procedure to be followed to approve a proposed zoning amendment which is opposed by protest. Approval by a three-fourths vote of the members of the city council or board of city commissioners is required

"if a protest against such amendment be filed in the office of the city clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more of

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any real property proposed to be rezoned *or*
by the owners of twenty percent (20%) of
the total area, excepting public streets and
ways, located within or without the corporate
limits of the city and located within two
hundred (200) feet of the boundaries of the
property proposed to be rezoned"
[Emphasis supplied.]

This provision sets forth two separate and independent criteria for determining the sufficiency of a protest. If it is signed and acknowledged by owners of twenty percent or more of the real property proposed to be rezoned, it is sufficient. Alternatively, it is sufficient if it is signed and acknowledged by the owners of twenty percent of the total area located within 200 feet of the boundaries of the property proposed to be rezoned. Public streets and ways are to be excluded in making the determination under this criterion, but all property within the 200 feet perimeter area is to be included in determining the sufficiency of the petition, whether located within or without the corporate limits of the city.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj