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**SYRACUSE CITY ZONING REGULATIONS**

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## SECTION 1

### GENERAL PROVISIONS

#### Sections:

- 1-1 Title and Scope
- 1-2 Authority
- 1-3 Purpose
- 1-4 Applicability
- 1-5 Administration
- 1-6 Rules of Interpretation
- 1-7 Activities Governed by these Regulations
- 1-8 Miscellaneous Requirements

#### Section 1-1. Title and Scope

- 1-1.01 These zoning regulations and the maps depicting zoning district boundaries shall be known as the Syracuse Zoning Regulations.

#### Section 1-2. Authority

- 1-2.01 Except as otherwise provided for herein, these zoning regulations are adopted by the City Council of Syracuse under powers conferred by K.S.A. 12-741 et. Seq.

#### Section 1-3. Purpose

- 1-3.01 These zoning regulations and districts are herein established have been made in accordance with a land use study to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of Syracuse, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, and for adequate public utilities and facilities by regulating the location and use of buildings, structures, and land for trade, industry, and residence, by regulating and limiting or determining the height and bulk of buildings and structures, and area of yards and other open spaces, and the density of use. These regulations have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the incorporated territory of Syracuse, Kansas.

#### Section 1-4. Applicability

- 1-4.01 These zoning regulations shall apply to the incorporated territory of Syracuse, Kansas.
- 1-4.02 These zoning regulations shall not apply to the use of land for agricultural purposes, or for the erection or maintenance of buildings so long as such land and buildings are used for agricultural purposes and not otherwise.

1-4.03 These zoning regulations shall not apply to poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas or water, or the collection of sewage, solid waste or surface water, but not including utility substations located on or above the surface of the ground.

1-4.04 These zoning regulations shall not apply to railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way and maintenance and repair work on such facilities and equipment.

#### Section 1-5. Administration

1-5.01 Except as otherwise provided for herein, these zoning regulations shall be administered by the City Zoning Administrator who shall be appointed by and serve at the pleasure of the City Council.

#### Section 1-6. Rules of Interpretation

1-6.01 Where the conditions imposed by the provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

1-6.02 The provisions of these regulations are not intended to abrogate any easement, deed restriction, covenant or other private agreement or legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern.

1-6.03 No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.

1-6.04 Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.

#### Section 1-7. Activities Governed by these Regulations

1-7.01 All structures built hereafter shall comply with all of the provisions of these regulations. Any structure hereafter moved from one site to another site shall be considered to be a structure built hereafter. Any structure rebuilt or restored after damage or destruction by fire or other casualty shall be considered to be structure built hereafter, unless these regulations otherwise permits structures to be rebuilt or restored.

1-7.02 If a use of any structure is hereafter changed to another, then the new use must comply with the use regulations of these regulations unless otherwise permitted by these provisions. The mere establishment of the new use does not require the existing structure to conform to the lot size requirements or the bulk regulations.

- 1-7.03 If any structure is hereafter structurally altered as defined in these regulations:
1. The entire structure as altered shall comply with the use regulations of these regulations.
  2. Any alterations of, enlargements of or additions to the structure shall comply with the bulk regulations of these regulations, except as permitted by these regulations for nonconforming structures.
  3. The off-street parking facilities shall not be reduced below or, if already less than, shall not be further reduced below the requirements applicable to a similar new structure or use.

Section 1-8. Miscellaneous Requirements

- 1-8.01 No more than one principal structure and use may be located upon one lot.
- 1-8.02 All land that may hereafter be annexed to the city shall be placed in the least restrictive zoning district currently in effect in the city's zoning ordinance at the time of the annexation.
- 1-8.03 The City Council after receiving a recommendation from the planning commission, may require the dedication of additional street rights-of-way and/or easements for utilities as a condition related to a change in zoning by either requiring that the land be platted or replatted according to any subdivision regulations of the city or, in lieu of platting, by a legal document making such required dedications.
- 1-8.04 Location or Replacement of Manufactured Homes:
1. A residential-design manufactured home, as defined by these regulations and meeting the following architectural aesthetic design standards, shall be considered a single-family detached dwelling:
    - a. The roof shall be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles, or fiberglass, but excluding corrugated aluminum, corrugated fiberglass, or metal roof. The roof shall have a minimum eave projection and roof overhang of 10 inches, which may include a gutter.
    - b. Exterior siding shall be of a material customarily used on site-built dwellings, which does not have a high gloss finish, such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding materials shall extend below the top of the exterior of the foundation or curtain wall or the joint between sidings.
    - c. At the main entrance door there shall be a landing that is a minimum of three feet by three feet.
    - d. All manufactured home running gear, tongues, axles, and wheels must be removed at the time of installation of the home on the lot.
    - e. The finished floor of the residential-design manufactured home shall be a maximum of 24 inches above the exterior finish grade of the lot on which it is located, as measured at the main entrance into the dwelling.

Notwithstanding other provisions of these regulations, whenever a manufactured home is moved from a lot within a district in which it is a permitted use, another manufactured home meeting all requirements of the district may be moved onto the lot at any time. In the case of a nonconforming manufactured home use, such a move must take place within six months from the date that the previous manufactured home was moved off the lot, otherwise such use shall not thereafter be reestablished or resumed and, when so moved in, shall be skirted or placed on a foundation within 60 days. In reestablishing such a nonconforming manufactured home use, any existing nonconforming lot size requirements or bulk regulations shall not be increased in nonconformity.



2. Notwithstanding other provisions of these regulations, whenever a manufactured home is moved from a lot within a district in which it is a permitted use, another manufactured home meeting all requirements of the district may be moved onto the lot at any time. In the case of a nonconforming manufactured home use, such a move must take place within six months from the date that the previous manufactured home was moved off the lot, otherwise such use shall not thereafter be reestablished or resumed and, when so moved in, shall be skirted or placed on a foundation within 60 days. In reestablishing such a nonconforming manufactured home use, any existing nonconforming lot size requirements or bulk regulations shall not be increased in nonconformity.

1-8.05 On all corner lots in all districts, no use of land shall commence or no structure shall hereafter be constructed, structurally altered, extended, enlarged or moved after the effect date of these regulations unless it also conforms to the requirements of the vision triangle as defined by these regulations. In all residentially zoned districts, the two sides forming the lot line intersection shall be a minimum distance of 30 feet and in all other zoning districts such distance shall be 20 feet (except that there shall be no vision triangle requirements in the Central Business District).

1-8.06 Screening and/or landscaping shall be provided on all properties developed for mobile home park, institutional, office, business or individual uses when such uses are established on property within or adjacent to any single-family residential district in accordance with standards developed by the Zoning Administrator.

1-8.07 All principal structures built hereafter within the city limits shall be served by and connected to public sewer and water systems, if such facilities can feasibly be connected as may be determined by the City Council.

## SECTION 2

### DEFINITIONS

Sections:

2-1 Definitions

Section 2-1. Definitions

2-1.01 Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations their most reasonable application.

**ABANDONMENT:** Any item which has ceased to be used for its designed and intended purpose. The factors used in determining whether or not an item has been abandoned, include but are not limited to the following:

1. Present operability and functional utility of an item;
2. The date of last effective use of the item;
3. The condition of disrepair or damage;
4. The last time an effort was made to repair or rehabilitate the item;
5. The status of registration or licensing of the item;
6. The age and degree of obsolescence;
7. The cost of rehabilitation or repair of the item when compared to its market value; or
8. The nature of the area and location of the item.

**ACCESS:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.

**ACCESSORY BUILDING:** A detached building which is customarily incident to or subordinate to the main building located on the same tract or incidental or subordinate to the use of the land on which it is located.

**ACCESSORY USE:** The use of a building that is customarily incident to and located on the same lot or premises as the main use of the premises.

**AGRICULTURE:** Land in excess of three (3) acres which is devoted to the production of plants, animals or horticultural products, including but not limited to: forages, grain and feed crops, dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products, fruits, nuts and berries; vegetables; or nursery, floral ornamental and greenhouse products. Land devoted to agricultural use shall not include those lands which are used for recreational purposes, suburban residential acreages, rural home sites or farm home sites and yard plots whose primary function is for residential or recreational purpose even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition. Agricultural uses shall not include the following:

1. The operation or maintenance of greenhouses, nurseries, or hydroponic farms operated as retail.
2. Wholesale or retail sales as an accessory use unless the same are permitted by these regulations.
3. The operation or maintenance of a commercial feedlot.
4. The feeding of garbage to animals.

Farm residences are to be used as single-family dwellings.

**AIRPORT:** The Syracuse-Hamilton County, Kansas Airport.

**AIRPORT AIRSPACE PROTECTION AREA MAP:** The map depicting the airspace Airport Hazard Area for the Airport, attached to this Resolution and made a part hereof.

**AIRPORT DISTRICT STRUCTURE:** An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

**AIRPORT ELEVATION:** The highest point of an airport's usable landing is measured in feet from sea level. As shown on the current "*Airspace Plan*" of the Hamilton County Commissioners, the Airport's elevation is 3322 feet above sea level.

**AIRPORT HAZARD:** Any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off or permanently raises the published or planned approach minimums at the airport or is otherwise hazardous to such landing or taking-off of aircraft.

**AIRPORT HAZARD AREA:** Any area of land or water upon which an airport hazard might be established including any which may permanently raise the published or planned approach minimums of the airport – if not prevented as provided in these Regulations and as depicted on the "Airport Airspace Protection Area Map" adopted by and made a part of this Resolution; and including the FAA Part 77 Civil Airport Imaginary Surfaces, which consist of the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, and Transitional Surface, and the Terminal Instrument Procedures (TERPS) surfaces and the Vertically Guided Approach Surfaces (VGAS) for the airport as referenced on the Kansas Department of Transportation (KDOT) "Kansas Airspace Awareness Tool" at <http://www.ksdot.org/airspaceool>.

**AIRPORT LAYOUT PLAN:** A plan adopted by the County that depicts existing airport facilities and proposed developments as determined from the airport planners' review of the aviation activity forecasts, facility requirements, and alternatives analysis.

**AIRPORT MANAGER:** Means the Airport Manager of the Syracuse-Hamilton County Airport.

**AIRPORT OVERLAY HEIGHT:** For the purpose of determining the height limits in all airport overlay districts in this section and shown on the "*Airspace Plan*" incorporated herein by reference, the datum shall be mean sea level elevation unless otherwise specified.

**AIRPORT RUNWAY ELEVATIONS:** The highest point of the airport's usable landing area measured in feet above mean sea level. (K3K3 runways 13-31 are 3312.2 feet and 3303.0 feet, respectively, above mean sea level.)

**AIRSPACE PLAN:** The plan map in the Hamilton County Airport Master Plan that identifies height limitation areas. Said map is incorporated by reference and made a part of these zoning regulations.

**ALLEY:** A dedicated public right-of-way that provides a secondary means of access to and from streets and lots.

**ANIMAL HOSPITAL OR CLINIC:** An establishment where a Doctor of Veterinary Medicine admits animals principally for examination, treatment, board or care. This includes kennels that are totally enclosed within the establishment which have no outdoor facilities.

**APPROACH MINIMUMS:** The minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure. It also means planned non-precision or precision instrument approach minimums so indicated on an approved Airport Layout Plan or any other planning document.

**APPROACH SURFACE:** A surface longitudinally center on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in these Regulations. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

**APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES:** Means the zones that are set forth in Section 14 of these Regulations.

**BASEMENT:** That portion of a building that is partly or wholly below grade.

**BOARD OF COUNTY COMMISSIONERS:** The Hamilton County Board of County Commissioners.

**BOARD OF ZONING APPEALS:** The Syracuse-Hamilton County Board of Zoning Appeals, as detailed in Chapter 21.

**BUILDING:** A structure having a roof supported by columns or walls whether or not completely enclosed and when separated by party walls without openings, it shall be deemed a separate building.

**BUILDING HEIGHT:** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point on a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable or hip roof. Chimneys, antennae, and other similar extensions above any of the above roof types shall not be considered part of a building height.

**CAMPGROUNDS:** Any parcel of ground that provides space for transient occupancy and is used or intended to be used for the parking of one or more camping trailers, tents or similar recreational vehicles. The term campgrounds do not include sales lots on which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection or sale.

**CAMPING TRAILER:** Any vehicular portable dwelling unit designed especially for short-term occupancy such as: travel trailers, tent trailer, truck or auto-mounted camping units, converted buses and trucks, and all other similar units whether self-propelled, pulled, or hauled, and designed primarily for highway travel without the necessity of a special permit.

**CHILD CARE FACILITIES:** Standards and requirements for facilities which provide care for children are established by State law and promulgated by regulations of the Kansas Department of Health and Environment. They are not to be construed as Group Homes.

**CITY:** Syracuse, Kansas.

CITY COUNCIL: The Syracuse City Council. Also known as the "*Governing Body*."

CITY ZONING ADMINISTRATOR: A person appointed by the City Council who shall administer the provisions of this zoning ordinance and regulations, who shall serve at the pleasure of the City Council.

COMMERCIAL OPERATIONS. WECS shall be in "Commercial Operation" initially at the time at which it first produces electrical energy for commercial sale safely and in accordance with this the Conditional Use Permit and all applicable laws, regulations, manufacturer's specifications and industry standards, excluding electrical energy produced and sold during commissioning and startup testing activities; thereafter, a WECS shall be deemed in Commercial Operation if such WECS is producing electrical energy for commercial sale safely and in accordance with the Conditional Use Permit and all applicable laws, regulations, manufacturer's specifications and industry standards. The initial WECS of the Project shall be declared as having achieved Commercial Operation by the applicant and the applicant shall provide written notice thereof to the County within five days after the initial WECS of the Project have achieved Commercial Operation.

COMMERCIAL WECS. A WECS of greater than 150 kW in total nameplate generating capacity and/or is greater than 120 feet in total height and includes offsite transmission lines. Lattice type wind turbine towers or meteorological towers and guyed towers/poles are permitted on Commercial WECS in the County.

COMMON OPEN SPACE: A parcel of land or an area of water, or combination of both land and water, and designed and intended for the use and enjoyment of the residents of the development. Common open space does not include streets, alleys, parks, off-street parking or loading areas, publicly owned open spaces or other facilities dedicated by the developer for public use. Common open space must be substantially free of structures.

CONDITIONAL USE: A use of any building, structure or parcel of land by the City Council that, by its nature, is perceived to require special care and attention in citing so as to assure compatibility with surrounding properties and uses. Conditional uses may have special conditions and safeguards attached to assure that the public interest is served. Conditional uses shall not be considered exceptions, which may be granted by the Board of Zoning Appeals as provided for in these zoning regulations.

CONDOMINIUM: A building containing three or more dwelling units, which dwelling units are separated by a party wall and which dwelling units are designed and intended to be separately owned in fee under the condominium statutes of the State of Kansas.

CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty feet horizontally to each foot vertically (20:1) for a horizontal distance of 4,000 feet.

COUNTY: Hamilton County, Kansas.

DEVELOPER: The owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these regulations for the purpose of rezoning or seeking a conditional use on land.

DIRECTOR OF PUBLIC WORKS: The Director of the Hamilton County, Kansas Public Works Department.

**DISABILITY:** A condition, with respect to a person, which means:

1. A physical or mental impairment which substantially limits one or more of such person's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such impairment. Such terms do not include current, illegal use of or addition to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

**DRIVE-IN ESTABLISHMENT:** An enterprise which accommodates the patrons' automobiles and from which the occupants of the automobiles may make purchases, transact business or view motion pictures or other entertainment.

**DUMP:** A lot or land or part thereof used primarily for the disposal, abandonment, dumping, burial, burning, or storage of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

**DWELLING:** Any building or portion thereof that is designed and used exclusively for residential purposes. For the purposes of these zoning regulations, residential-designed manufactured homes, modular homes, and group homes shall be considered single-family dwellings; mobile homes shall not be considered single-family dwellings.

**DWELLING, ATTACHED:** A residential building which is joined to another dwelling at one or more sides by all or a substantial portion of a party wall or walls including walls of an attached garage.

**DWELLING, DETACHED:** A residential building that is entirely surrounded by open space on the same lot.

**DWELLING, FARM:** Any building or portion thereof which is designed and used exclusively for residential purposes and which is located on land used exclusively for agricultural purposes. A farm dwelling shall be considered use of the land for agricultural purposes.

**DWELLING, MULTI-FAMILY:** A building designed for or occupied exclusively by three (3) or more families living independently of each other.

**DWELLING, SINGLE-FAMILY:** A detached dwelling, designed for or occupied by one single family.

**DWELLING, TWO-FAMILY:** A building designed for or occupied by two families living independently of each other.

**FAA:** Federal Aviation Administration.

**FALL DISTANCE:** A distance equal to the maximum height of the Turbine Tower.

**FAMILY:** One (1) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.

FEEDLOT, COMMERCIAL: Any tract of land or structure, pen or corral wherein cattle, horses, sheep, goats or swine not raised on the tract of land and/or not owned by the owner of the land, structure, pen or corral are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

FLOOD PLAIN REGULATIONS DEFINITIONS: Unless specifically defined below, words or phrases used in Article 13 (Flood Plain Overlay District) of these zoning regulations shall be interpreted so as to give them the same meaning as they have in common usage and so as to give said flood plain regulations their most reasonable application.

1. DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
2. FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source.
3. FLOOD PLAIN: Land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of (1) percent. Flood Plain boundaries in the incorporated territory of Syracuse are shown as Zone A, Zone AE, Zone AH or Zone AO on the Federal Emergency Management Agency's "Flood Insurance Rate Map" for Syracuse, Kansas, dated October 17, 1986.
4. FLOOD-PROOFING: Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
5. LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Article 13 of these zoning regulations.
6. REGULATORY FLOOD ELEVATION: The water surface elevation of the 100-year flood.
7. SPECIAL FLOOD HAZARD AREA: The land within the city subject to a one (1) percent or greater chance of flooding in any given year. This land is identified as Zone A, Zone AE, Zone AH, or Zone AO on the official Flood Hazard Boundary Map.
8. STRUCTURE: A walled and roofed building that is principally above ground, as well as a manufactured home or mobile home, and a gas or liquid storage tank that is principally above ground.
9. SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged or is being restored before the damage occurred. For the purposes of this definition "*Substantial Improvement*" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations as well as structures listed in National or State Registers of Historic Places.
10. 100-YEAR FLOOD: The condition of flooding have a one (1) percent chance of annual occurrence. Also known as the 100-year frequency flood.

FLOOR AREA: The square foot area of all space within the outside line of a wall including the total area of all floor levels, but excluding porches, garages, or unfinished space in a basement or cellar.

**FRONTAGE:** That part of a lot or tract of land which borders along any given access to a public street or public right-of-way with a dead-end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead-end street. Such public street or right-of-way shall not include an alley or access to the rear of such lot or tract.

**GROUP HOME:** Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state.

**HAMILTON COUNTY AIRPORT MASTER PLAN:** The current airport master plan approved by the Board of County Commissioners.

**HAZARD TO AIR NAVIGATION:** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility that meets the requirements as defined in K.S.A. 65-3402, as amended.

**HEIGHT AND HAZARD ADMINISTRATOR ("THE ADMINISTRATOR"):** The Airport Manager, appointed as administrative staff for the Airport Height and Hazard Regulations.

**HOME OCCUPATION:** Any occupation or activity that is clearly incidental and secondary to use of the premises for dwelling.

**HORIZONTAL SURFACE:** A horizontal plane one hundred fifty (150) feet above the established airport runway elevations of K3K3 elevations the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, iron, steel, and other old or scrap ferrous or nonferrous material.

**JUNK YARD:** Premises or building which is maintained, operated, or used for storing, keeping, buying, or selling junk, and the term shall include garbage dumps.

**KENNEL:** A commercial operation that (a) provides food, shelter, and care for more than five (5) dogs of six (6) months of age or older for purposes not related to medical care, or (b) regularly engages in the breeding or animals for sale.

**LARGER THAN UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft (K3K3 Runway 13-31).

**LOT:** A parcel of land occupied or intended for occupancy by one main building or a complex of buildings together with the accessory structures and including the open spaces and parking required by these regulations, which may include more than one (1) lot of record or metes and bounds describes tract having its principal frontage upon a public street.

**LOT AREA:** The total area within the property lines of a lot or tract.



**LOT, DEPTH OF:** The mean (average) horizontal distance between the front and rear lot lines.

**LOT LINES:** The boundary lines of a lot.

**LOT OF RECORD:** A lot that is described by metes and bounds, or legal description, which has been recorded in the office of the Hamilton County Register of Deeds.

**LOT, WIDTH OF:** The horizontal distance between the side lot lines as measured at the front building line.

**MANUFACTURED HOME:** A structure which is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. 5403. For the purposes of these regulations, a mobile home is not a manufactured home.

**MANUFACTURED HOME, RESIDENTIAL DESIGN:** A manufactured home on a permanent foundation which has (a) minimum dimensions of 22 body feet width, (b) a pitched roof, and (c) siding and roofing materials which are customarily used on site-built homes.

**MOBILE HOME:** A structure, transportable in one or more sections, which has a body width of 8 feet or more and a body length of 36 feet or more and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, and air-conditioning and electrical systems contained therein. The definition "*Mobile Home*" does not include any structure that is subject to the Federal Manufactured Housing Construction and Standards. All mobile homes hereafter erected in Syracuse shall comply with the Uniform Standards Code for Mobile Homes and Recreational Vehicles (K.S.A. 75-1211 et. Seq.). For purposes of these zoning regulations, a mobile home is not considered a single-family dwelling.

**MOBILE HOME PARK:** Any plot of ground five (5) acres or larger upon which two or more mobile homes and/or manufactured homes not placed on a permanent foundation, occupied as a dwelling and residence, are located, regardless of whether or not a charge is made for such accommodation.

**MODULAR HOME:** A dwelling structure located on a permanent foundation and connected to public utilities, consisting of pre-selected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location; and also in contradistinction to a manufactured home, either single-width, double-width or multi-width, located on a permanent foundation. In general, such modular homes shall have exterior building materials and somewhat similar appearance to custom-built single-family dwellings.

**NON-COMMERCIAL WECS:** A WECS of 150 kW or less in total nameplate generating capacity and/or is 120 feet in total height or less. Lattice type turbine towers and meteorological towers and guyed towers/poles are permitted on Non-Commercial WECS in the County.

**NONCONFORMING AIRPORT USE:** Any pre-existing structure, object of natural growth, or use of land that is inconsistent with the provisions of these airport zoning regulations or an amendment thereto.

**NONCONFORMING LOT:** An unimproved lot that does not comply with the lot requirements for any permitted use in the zoning district in which it is located.

**NONCONFORMING USE:** Any land occupied by a use at the time of the effective date of these zoning regulations that does not conform with the provisions of the same.

**NONPRECISION INSTRUMENT RUNWAY:** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. (K3K3 Runway 13-31, existing and ultimate)

**OBSTRUCTION:** Any structure, growth, or other object, including a mobile object, which exceed a limiting height set forth in these airport zoning regulations.

**OVERLAY ZONING DISTRICT:** A zoning district that is described in the zoning regulations text, mapped, and imposed in addition to those in the underlying zoning district. Developments within an overlay zoning district must conform to the requirements of both zoning districts.

**PERSON:** Any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

**PRIMARY SURFACE:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Resolution. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**RUNWAY:** A defined area on an airport prepared for landing and taking-off of aircraft along its length. (K3K3 Runway 13-31).

**SALVAGE YARD:** An area of land with or without building, used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials such as wastepaper, rags or scrap material; or used building materials, house furnishings, machinery, motor vehicles or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same. A salvage yard shall also include the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two (2) or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power or from which parts have been or are to be removed for reuse or sale shall be considered to be a salvage yard.

**STORAGE SHED:** A building that is not bigger than 12 feet by 14 feet and not more than one story high. It does not require a permanent location on the ground or is not attached to something that requires a permanent location. Storage sheds are intended to be used as storage space for boxes, yard equipment, bicycles, etc. They require a zoning permit but all fees will be waived unless a variance is requested. Sheds must be placed at least 2 feet from the side property line, at least 3 feet from the rear property line, not less than 25 feet from the front property line and may not interfere with the vision triangle on a corner lot.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something have a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.

**STRUCTURAL ALTERATIONS:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of these regulations, the following shall not be considered a structural alteration:

1. Attachment of a new front where structural supports are not changed.
2. Addition of fire escapes where structural supports are not changed.
3. New windows where lintels and support walls are not materially changed.
4. Repair or replacement on non-structural members.

**TRAILER:** The term "*Trailer*" shall include a separate vehicle not driven or propelled by its own power, drawn by some independent power. For purposes of these regulations, the term "*Trailer*" shall not include mobile, manufactured, or modular homes.

**TRAILER CAMP:** Any piece, parcel, tract, or plot of ground that provides space for transient occupancy and is used or intended to be used for the parking of one or more camping trailers. The term "*Trailer Camp*" does not include sales lots on which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection, or sale.

**TRANSITIONAL SURFACES:** Surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

**TREE:** Any object of natural growth.

**USE:** The specific purpose for which land or a building is used.

**UTILITY:** Any governmental utility, nonprofit organization, corporation, or any entity defined as a utility for any purpose by Kansas state law engaged in the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals.

**VISION TRIANGLE:** A triangular area at a street intersection in which nothing shall be erected, placed (including automobiles, trucks and other large vehicles or trailers), planted, or allowed to grow in such a manner as to materially impede vision and, therefore, the safety of vehicles and pedestrians, between the height of 33 inches and eight feet above the grades of the bottom of the curb of the intersecting streets. Such area on a corner lot shall have two sides, which are measured from the center of the lot line intersection, and a third side across the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection.

**WIND ENERGY CONVERSION SYSTEM (WECS):** An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, underground cabling, substations, roads, support buildings, meteorological towers, foundations, turbine towers and wind turbines that operate by converting the kinetic energy of the wind into electrical energy. The energy may be used on-site or distributed into the electrical grid. "WECS" includes the applicants transmission lines and appurtenances that run from the WECS or accessory facilities to the point of interconnection with the electric power grid of an electric utility or regional transmission organization, including any such transmission lines or appurtenances that traverse property outside the boundaries of the Conditionally Permitted Zone, provided such transmission lines and appurtenances are located within County road right-of-ways or within any other real property for which licenses, easements, rights-of-way or similar land rights have been obtained.

**YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the ground upward; provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**YARD, FRONT:** A yard extended across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line and the front building line.

**YARD, REAR:** A yard extended across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear building line.

**YARD, SIDE:** A yard between the side building line and the side lot line and extending from the front yard to the rear yard and being the least distance between the side lot line and the side building line.

## SECTION 3

### DISTRICTS AND DISTRICT MAP

Sections:

3-1 Zoning Districts and Zoning District Map Established

Section 3-1. Zoning Districts and Zoning District Map Established

3-1.01 Zoning Districts: In order to regulate and restrict the location of trades, callings, industries, commercial enterprises, and the location of buildings in designated "*Zoning Districts*", there shall be ten (10) zoning districts known as:

1. Agriculture District (A)
2. Single-Family Residential District (RS)
3. Two-Family Residential District (RD)
4. Apartment District (RM)
5. Elderly Housing (RE)
6. Limited Commercial District (LC)
7. General Commercial District (GC)
8. Industrial District (I)
9. Flood Plain Overlay District (FP)
10. Airport Zone (AP)

3-1.02 Zoning District Map: The incorporated territory of Syracuse, Kansas, shall be divided into ten (10) districts, aforesaid, and the boundaries of such districts shall be shown upon the Zoning District Map of the incorporated territory of Syracuse, Kansas, marked "official copy of Zoning District Map incorporated into zoning regulations by adoption of the ordinance by the governing body of the city on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_" and incorporated herein by reference as authorized by K.S.A. 12-753.

3-1.03 Overlay Zoning Districts: In addition to the aforesaid zoning districts, there shall be seven (7) "*Overlay Zoning Districts*" known as:

1. Flood Plain Overlay District (FP)
2. Airport Approach Zone Overlay District 1 (AP-A1)
3. Airport Approach Zone Overlay District 2 (AP-A2)
4. Airport Transitional Zone Overlay District (AP-T)
5. Airport Horizontal Zone Overlay District (AP-H)
6. Airport Conical Zone Overlay District (AP-C)
7. Central Business District Overlay District (CBD)

The boundaries of the FP District are shown on the "*Flood Hazard Boundary Maps*" incorporated by reference in these regulations. The boundaries of the AP-A1, AP-A2, AP-T, AP-H, and AP-C Districts are shown on the "*Approach Plan*" map of the Hamilton County Airport Master Plan which is incorporated by reference in these zoning regulations. The boundaries of the Central Business District (CBD) are contained on the Zoning District Map adopted as part of these regulations.

3-1.04

Boundaries: In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the zoning map(s), the following rules shall apply:

1. The district boundaries are the centerlines of streets or alleys, unless otherwise indicated.
2. Where the district boundaries do not coincide with the location of streets or alleys, but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.
3. Where the district boundaries do not coincide with the location of streets, alleys or lot lines, the district boundaries shall be determined by the use of the scale shown on the zoning map unless an exact distance is shown.
4. When a lot held in one ownership on the effective date of these regulations is divided by a district boundary line, the entire lot shall continue to be within both districts until the Zoning Administrator notifies the property owner to declare in which zoning district the lot is located. If such declaration is not filed within 90 days after receipt of the notification, the planning commission may rezone any or all of the lot in accordance with these regulations.

## SECTION 4

### AGRICULTURE DISTRICT (A)

#### Sections:

- 4-1 Application
- 4-2 Use Regulations
- 4-3 Lot Area Regulations

#### Section 4-1. Application

- 4-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations; when referred to in this section, are the regulations in the Agriculture District (A). The purpose of this district is to provide for agricultural and related uses; and to preserve and protect agricultural resources.

#### Section 4-2. Use Regulations

- 4-2.01 In an Agriculture District, no building, land, or premises shall be used and no building or structure shall be hereafter be erected or altered unless otherwise provided for in these regulations, except for the following uses:
1. Single-family dwellings. Up to a maximum of 3 separate single-family dwelling structures may be located on one lot or parcel of at least 3 acres, provided that either the 3 families are related by blood or marriage or the structures are used by hired agricultural workers as residences.
  2. Farming, dairy farming, livestock, poultry raising, game birds, pasturing of livestock, and all uses commonly classed as agricultural, with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses and with no restrictions as to the sale or marketing of products raised on the premises, provided that any building, structure or yard for the raising, feeding, pasturing, housing or sale of livestock or poultry shall be located at least 100 feet from any residential district designated by a R in the title; and further provided that there shall be no feeding or disposal of garbage, rubbish or offal, other than regular removal, within 300 feet of any residential district designated by an R in the title.
  3. Fish hatcheries, apiaries, and aviaries.
  4. Fishing lakes and picnic groves; provided no concession or retail sales shall be permitted.
  5. Forests and wildlife reservations, or similar facilities.
  6. Fur farming for the raising of fur bearing animals, excluding skunks and civet cats.
  7. Mushroom barns and caves.
  8. Nurseries, greenhouses and truck gardens.
  9. Public parks, playgrounds, community centers, schools, public libraries and museums.
  10. Churches and parish halls, temples, convents and monasteries.
  11. Railroad rights-of-way, including and limited to a strip of land with tracks and auxiliary facilities for track operation only.
  12. Accessory uses, including repair shops, sheds, garages, barns, silos, irrigation wells and pumps, bunk houses, incidental dwellings, buildings and structures customarily required for any of the above uses.

13. A business, profession or trade conducted as a home occupation, may be operated from a residence, provided it meets the following conditions:
  - a. The home occupation shall not occupy more than 40% of the total floor area of such dwelling unit or in an accessory building, not larger than 1000 square feet of floor area.
  - b. No exterior displays, or a display of goods or chattels visible from the outside, or exhibit greater than two square feet in size on the premises by any method or device or any manner which would indicate from the exterior that the dwelling unit, or accessory building is being utilized in whole or part as a home occupation.
  - c. No alteration of the principal residential building shall be made which changes the character thereof as a residence.
  - d. Employment of no person(s) other than the residents of the dwelling unit or more than one part-time non-occupant, in the conduct of any home business.
  - e. Garage sales, yard sales and estate auctions are all specifically exempt from these conditions, provided they are held not more than two weekends per year.

#### Section 4-3. Lot Area Regulations

- 4-3.01 Lot area per family: Every new dwelling or residence established shall provide a minimum lot area of 130,620 square feet or three acres per family. See the exception under Section 4-2.01, paragraph 1.



## SECTION 5

### SINGLE-FAMILY RESIDENTIAL (RS-M) MOBILE, MANUFACTURED, MODULAR AND SITE BUILT HOMES

#### Sections:

- 5-1 Application
- 5-2 Use Regulations
- 5-3 Parking Regulations
- 5-4 Height, Area and Yard Regulations
- 5-5 Anchorage, Skirting and Exit Landing Regulations
- 5-6 Foundation, Removal of Axles, etc.
- 5-7 Storage, Maintenance and Other Regulations

#### Section 5-1. Application

- 5-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section are the regulations in the single-family residential; mobile, manufactured, modular and site built home district (RS-M). The purpose of this district is to provide for single-family residential homes, including single and double wide mobile homes, manufactured homes, modular homes and site built homes, in spacious character, together with such other uses as may be necessary or are typically compatible with residential surroundings. This district is designed to integrate manufactured homes with modular and site built homes with out detracting from the appearance or value of the residential area.

#### Section 5-2. Use Regulations

- 5-2.01 In Single-Family Mobile Home, Manufactured Home District, no building, land, or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:
1. Single-Family dwellings. This includes mobile homes, manufactured homes, modular homes and site built homes, provided that they follow other regulations in this district.
  2. Public parks, playground, community centers, schools, public libraries and museums.
  3. Churches and parish halls, temples, convents and monasteries.
  4. Railroad rights-of-way, including and limited to a strip of land with tracks and auxiliary facilities for operation only.
  5. A business, profession or trade conducted as a home occupation, may be operated from a residence provided it meets the following conditions:
    - a. The home occupation shall not occupy more than 40% of the total area of such dwelling unit or in an accessory building, no larger than 1000 square feet of the floor area.
    - b. No exterior displays, or a display of Chattels visible from the outside, or exhibit greater than two square feet in size on the premise by any method or device or any manner which would indicate from the exterior that the dwelling unit, or accessory building is being utilized in whole or part as home occupation.
    - c. Employment of no person(s) other than the residents of the dwelling unit or more than one full-time equivalent non-occupant, in the conduct of any home business.
    - d. Garage sales, yard sales and estate auctions are all specifically exempt from these conditions provided they are held not more than two weekends per year.

Section 5-3. Parking Regulations

5-3.01 Two (2) off-street parking spaces shall be provided for each dwelling.

Section 5-4. Height, Area and Yard Regulations

5-4.01 Height: Buildings or structures shall not exceed thirty-five feet (35) and/or two and one-half (2 ½) stories in height.

5-4.02 Front Yard: The depth of the front yard shall be at least twenty-five (25) feet.

5-4.03 Side Yard: There shall be a side yard of at least ten (10) feet on each side of a dwelling. All accessory buildings shall provide a minimum side yard of ten (10) feet.

5-4.04 Rear Yard: The depth of the rear yard shall be at least twenty-five (25) feet. All accessory buildings shall provide a minimum side yard of ten (10) feet.

5-4.05 Lot Dimensions: The minimum width of a lot shall be fifty (50) feet. The minimum depth of a lot shall be one hundred (100) feet. Lots fronting a cul-de-sac with a fifty (50) radius may have a width at the front lot line of not less than thirty-five (35) feet.

5-4.06 Lot Area per Family: Every dwelling or residence established must provide a minimum of seven thousand (7000) square feet per family.

Section 5-5. Anchorage, Skirting and Exit Landing Regulations

5-5.01 Anchorage. Every manufactured home shall be anchored to the ground as required by K.S.A. 75-1211 et. Seq. All homes shall be properly secured against high wind velocities with over the top straps being preferred method. As an alternative anchors may be secured at the frame, providing that the anchors are installed so the pull on the anchor is in line with, and not at right angle to, the shaft of the anchor. Anchors shall be placed as close to each end as practicable. The number of anchors along each side shall be as nearly equal as possible. The number of anchors is determined by the length of the home as follows:

<u>Number of Anchors and Straps Per Side</u>	<u>Length</u>
3	36'-50'
4	50'-70'
5	70'-80'

5-5.02 Skirting. Skirting of durable type of material and construction shall be installed on each manufactured home to enclose the open space between the bottom of the manufactured home floor and grade level of the home site. Such skirting shall be constructed of noncombustible material and maintained in uniform material, color, and design for the entire home. Said skirting must be installed within thirty (30) days after the manufactured home has been placed.

5-5.03 Exit Landing. A platform measuring three (3) by three (3) feet with steps from the ground level to the platform level in conformance with the Uniform Building Code. Construction materials used shall be concrete, pressure treated lumber, redwood, or cedar.

Section 5-6. Foundation, Removal of Axles, etc.

5-6.01 Foundation. Pier Construction as follows:

1. Bottom layer of poured concrete pad 16" x 16" x 6" deep or two 8" x 16' patio blocks or two 8" x 16" x 4" solid blocks placed on undisturbed soil.
2. Second layer shall be two 8" x 8" x 16" concrete blocks, either solid or open cell with open cell in the vertical position.
3. Third layer shall be a single 8" x 8" x 16" concrete block with vertical open cell.
4. Fourth layer shall be a wood plate 2" x 8" x 16", parallel with the third layer.
5. Weatherproof wood shims, if needed, may be used, providing they do not occupy more than 1" of vertical space.
6. If more circumstance requires additional layers, repeat the second layer. If fewer layers are needed, omit second layer.
7. Each layer will be perpendicular to the layer beneath it; the top layer will be perpendicular to the beam.
8. Piers will not be more than 10 feet apart center.

A permanent foundation can be used consisting of concrete pads measuring 2' x 2' x 2' with two vertical and two horizontal rebar. Pads are to be poured directly under the manufactured home beams spaced at a maximum of ten feet on center. The center of the pads at each end of the manufactured home must be no more than eighteen inches from the end of the manufactured home. The top of the pad must be at or about grade level.

5-6.02 Mobile homes and manufactured homes may be placed on a continuous masonry foundation or masonry curtain wall unpierced except required ventilation and access that may include basements and garages, installed under the perimeter of the home.

5-6.03 All running gear, tongues, axles, and wheels must be removed at the time of installation of the home on the lot. These will be stored out of sight or removed from the property.

Section 5-7. Storage, Maintenance and Other Regulations

5-7.01 A storage shed, storage unit, or a designated storage area at least eight feet by ten feet will be available to or on each lot that has a singlewide manufactured home, doublewide manufactured home, modular or site built on it. It may be furnished by the lot owner or rented from the developer.

5-7.02 Maintenance. Property will be mowed and maintained in such manner as to convey a pleasing appearance and enhance the area.

5-7.03 Maintenance of residence. Homes may be re-sided or re-roofed with like or upgraded material.

5-7.04 All mobile homes and manufactured homes will be ten (10) years old or less at the time of placement on the lot and at least 528 square feet of living space.

5-7.05 All dwellings and accessory buildings will have zoning permits at the time they are placed on the lots. They will comply with flood plain regulations, if applicable.

5-7.06 Every residence will have their own meters for Water, Gas and Electricity.

## SECTION 6

### SINGLE-FAMILY RESIDENTIAL DISTRICT (RS)

#### Sections:

- 6-1 Application
- 6-2 Use Regulations
- 6-3 Parking Regulations
- 6-4 Height, Area and Yard Regulations

#### Section 6-1. Application

- 6-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Single-Family Residential District (RS). The purpose of this district is to provide for single-family residential development of relatively more spacious character, together with such other uses as may be necessary or are typically compatible with residential surroundings. This district is also designed to protect and preserve existing development of a similar character.

#### Section 6-2. Use Regulations

- 6-2.01 In a Single-Family Residential District, no building, land, or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:
1. Single-family dwellings. All single-family dwellings shall have a permanent foundation.
  2. Public parks, playground, community centers, schools, public libraries and museums.
  3. Churches and parish halls, temples, convents and monasteries.
  4. Railroad rights-of-way, including and limited to a strip of land with tracks and auxiliary facilities for operation only.
  5. A business, profession or trade conducted as a home occupation, may be operated for a residence, provided it meets the following conditions:
    - a. The home occupation shall not occupy more than 40% of the total floor area of such dwelling unit or in an accessory building, no larger than 1000 square feet of floor area.
    - b. No exterior displays, or a display of chattels visible from the outside, or exhibit greater than two square feet in size on the premises by any method or device or any manner which would indicate from the exterior building that the dwelling unit, or accessory building is being utilized in whole or part as a home occupation.
    - c. No alteration of the principal residential building shall be made which changes the character thereof as a residence.
    - d. Employment of no person(s) other than the residents of the dwelling unit or more than one full-time equivalent non-occupant, in the conduct of any home business.
    - e. Garage sales, yard sales and estate auctions are all specifically exempt from these conditions provided they are held not more than two weekends per year.

#### Section 6-3. Parking Regulations

- 6-3.01 Two (2) off-street parking spaces shall be provided for each dwelling unit.

## Section 6-4. Height, Area and Yard Regulations

- 6-4.01 Height: Buildings or structures shall not exceed thirty-five (35) feet and/or two and one-half (2-½) stories in height.
- 6-4.02 Front Yard: The depth of the front yard shall be at least twenty-five (25) feet.
- 6-4.03 Side Yard: There shall be a side yard of at least ten (10) feet on each side of a dwelling. All detached accessory buildings shall provide a minimum side yard of ten (10) feet.
- 6-4.04 Rear Yard: The depth of the rear yard shall be at least twenty-five (25) feet. All detached accessory buildings shall provide a minimum rear yard of ten (10) feet.
- 6-4.05 Lot Dimensions: The minimum width of a lot shall be fifty (50) feet. The minimum depth of a lot shall be one hundred (100) feet. Lots fronting a cul-de-sac with a fifty (50) foot radius may have a width at the front lot line of not less than thirty-five (35) feet.
- 6-4.06 Lot Area per Family: Every dwelling or residence established shall provide a minimum lot area of seven thousand (7000) square feet per family.

## 6-5 Keeping of Poultry and Miniature Horses

- 6-5.01 Keeping of poultry for the consumption of eggs by homeowner, provided:
- No more than 10 birds are allowed
  - Birds must be housed in a coop with a roof and fenced yard that confines the poultry.
  - The structure and the yard for the confinement must have an area of at least 10 square feet per bird and occupy no more than 2% of the area of the property.
  - All bird coops and yards shall be screened around such areas or at the property line to prevent the coops, yards and birds from view outside of the property.
  - All bird coops and yards shall be regularly cleaned and adequate measures to prevent odor, dust, noise or drainage from becoming offensive or objectionable to uses on other properties.
  - All bird coops and yards must be located at least 15 feet from all of the property boundary lines.
  - No male poultry are permitted.
  - Peacocks, emus, ostriches and turkeys are not allowed.

## 6-6

- 6-6.01 Keeping of miniature horses by homeowner, provided:
- No more than 2 miniature horses are allowed per residence. Miniature Horses being less than 34" tall at the end of the main.
  - At least 1/2 acre dedicated to each miniature horse (21780 square feet).
  - All pens and barns shall be regularly cleaned and adequate measures taken to prevent odor, dust, noise or drainage from becoming offensive or objectionable.
  - All pens and barns must be located at least 15 feet from all of the property boundary lines, and following any setbacks for the designated zone.
  - All miniature horses must be current on vaccinations for Rabies, Equine Encephalomyelitis, Tetanus and West Nile Virus.



## SECTION 7

### TWO-FAMILY RESIDENTIAL DISTRICT (RD)

#### Sections:

- 7-1 Application
- 7-2 Use Regulations
- 7-3 Parking Regulations
- 7-4 Height, Area and Yard Regulations

#### Section 7-1. Application

- 7-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Two-Family Residential District (RD). The purpose of this district is to maintain a generally spacious residential environment of single-family character, but at the same time permit two-family dwellings. Population density is low enough to be compatible with neighboring single-family development.

#### Section 7-2. Use Regulations

- 7-2.01 In a Two-Family Residential District, no building, land, or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:
1. Any use permitted in the Single-Family Residential District (RS).
  2. Two-family dwellings, commonly referred to as duplexes.

#### Section 7-3. Parking Regulations

- 7-3.01 Two (2) off-street parking spaces shall be provided for each family dwelling unit.

#### Section 7-4. Height, Area and Yard Regulations

- 7-4.01 Height: Buildings or structures shall not exceed thirty-five (35) feet and/or two and one-half (2 1-2) stories in height.
- 7-4.02 Front Yard: The depth of the front yard shall be at least twenty-five (25) feet.
- 7-4.03 Side Yard: There shall be a side yard of at least ten (10) feet on each side of a dwelling and/or building. All detached accessory buildings shall provide a minimum side yard of ten (10) feet.
- 7-4.04 Rear Yard: The depth of the rear yard shall be at least twenty-five (25) feet. All detached accessory buildings shall provide a minimum rear yard of ten (10) feet.
- 7-4.05 Lot Dimensions: The minimum width of a lot shall be fifty (50) feet. The minimum depth of a lot shall be one hundred (100) feet. Lots fronting a cul-de-sac with a fifty (50) foot radius may have a width at the front lot line of not less than thirty-five (35) feet.
- 7-4.06 Lot Area per Family: Every single-family dwelling or residence established shall provide a minimum lot area of seven thousand (7000) square feet per family. Every two-family dwelling or residence established shall provide a minimum lot area of three thousand five hundred fifty (3550) square feet per family or seven thousand (7000) square feet per building.

## SECTION 8

### APARTMENT DISTRICT (RM)

#### Sections:

- 8-1 Application
- 8-2 Use Regulations
- 8-3 Parking Regulations
- 8-4 Height, Area and Yard Regulations

#### Section 8-1. Application

- 8-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Apartment District (RM). The purpose of this district is to provide quality apartment development in a higher density setting, while ensuring that livability, property values, open spaces, safety, and the general welfare will be sustained.

#### Section 8-2. Use Regulations

- 8-2.01 In an Apartment District, no building, land, or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:
1. Any use permitted in "RS"
  2. Any use permitted in "RD"
  3. Multi-family buildings

#### Section 8-3. Parking Regulations

- 8-3.01 Two (2) off-street parking spaces shall be provided for each apartment dwelling unit.

#### Section 8-4. Height, Area and Yard Regulations

- 8-4.01 Height: Buildings or structures shall not exceed three (3) stories in height.
- 8-4.02 Front Yard: The depth of the front yard shall be at least thirty-five (35) feet.
- 8-4.03 Side Yard: There shall be a side yard of at least twenty (20) feet on each side of a building. All detached accessory buildings shall provide a minimum side yard of twenty (20) feet.
- 8-4.04 Rear Yard: The depth of the rear yard shall be at least twenty (20) feet. All detached accessory buildings shall provide a minimum rear yard of twenty (20) feet.
- 8-4.05 Lot Area per Family: The minimum lot area for apartment units shall be two thousand (2000) square feet per family or six thousand (6000) square feet per building.



## SECTION 9

### ELDERLY HOUSING RESIDENTIAL DISTRICT (RE)

#### Sections:

- 9-1 Application
- 9-2 Eligibility
- 9-3 Use Regulations
- 9-4 Minimum Safety Standards
- 9-5 Parking Standards
- 9-6 Height, Area and Yard Regulations
- 9-7 Other Regulations

#### Section 9-1. Application

- 9-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Elderly Housing Residential District (RE). This residential district is intended to provide appropriate sites for the development of elderly housing opportunities and related facilities in locations convenient to public facilities, shops and other needs of its senior citizens. The densities allowed in the district should provide for adequate light, air, privacy and open space for passive recreation and landscaped amenities. In addition, such developments in this zone should contain ample-sized meeting rooms and recreational facilities for the comfort and convenience of the occupants. This zone is designed to provide for the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons. The principal use of land may be for one or several building types ranging from elderly housing, congregate living facilities, residential retirement developments, and life care facilities for elderly people and nursing homes.

#### Section 9-2. Eligibility

- 9-2.01 Housing which qualifies for inclusion in this zone is a development providing living units specifically designed for the needs of elderly persons. To qualify as elderly housing, the total number of units located in the Elderly Housing Residential District must meet one of the following conditions:
1. The units are intended for and solely occupied by persons 62 years of age or older per unit; or
  2. At least 80 percent of the units are intended for, and occupied by, at least one person 55 years of age or older per unit; or
  3. A unit is occupied by the surviving member(s) of a household, regardless of age, if at least one person in the household met the age requirements of either 9-2.01.1 or 9-2.01.2, provided that person was a resident of the district at the time of that person's death; or
  4. A unit is occupied by the owner or management personnel, including a family, which has demonstrated intent to provide housing for persons 55 years of age or older.

### Section 9-3. Use Regulations

- 9-3.01 In an Elderly Residential Housing District, no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:
1. Single-family dwellings.
  2. Two-family dwellings.
  3. Townhouses not exceeding eight units per building.
  4. Multiple family dwelling units.
  5. Nursing homes.
  6. Accessory buildings and uses, which are customarily incidental to providing on-site services for residents and guests of the developments in the Elderly Housing Residential District, including without limitation:
    - a. Barber or beauty shop.
    - b. Curio or gift shop.
    - c. Food store.
    - d. Pharmacy.
    - e. Restaurant, enclosed.
    - f. Self-service laundry or dry cleaning.

### Section 9-4. Minimum Safety Standards

- 9-4.01 All structures shall be constructed to the following minimum safety standards, where appropriate;
1. An accessible route into and through the dwelling.
  2. All doors shall be of sufficient width to accommodate wheel chairs.
  3. All areas of public use shall have doors of sufficient width to accommodate wheel chairs.
  4. Wherever steps are located, ramps or elevators shall be provided in addition.
  5. Cooking units shall have no open flame.
  6. Emergency signal facilities shall be provided in each residential unit and shall register a signal at a central location.
  7. Electric outlets shall be located at least 24 inches above floor level; in general light switches, electrical outlets, thermostats and other environmental controls shall be located in accessible locations.
  8. Grab bars shall be located around all tubs and showers.
  9. Toilet areas shall be adaptable for the installation of grab bars; in general, the structure shall have reinforcements in bathroom walls to allow later installation of grab bars.
  10. All floor surfaces shall be nonskid.
  11. Central heating and air conditioning units shall be individually adjustable for each residential unit.
  12. Usable kitchens and bathrooms shall be constructed such that an individual in a wheel chair can maneuver about the space.
- 9-4.02 Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of this section, unless a more specific standard applies.

## Section 9-5. Parking Standards

- 9-5.01 One parking space per separate dwelling unit;
- 9-5.02 One parking space per six dwelling units for guest parking;
- 9-5.03 One parking space per three non-resident employees on the maximum working shift;
- 9-5.04 One parking space for each 50 square feet of floor area used for assembly or recreation in the building;
- 9-5.05 One parking space for each 100 square feet of gross floor area in the building used for a restaurant exclusive of the area used for utilities and building service;
- 9-5.06 One parking space for each 150 square feet of floor space in the building used for retail trade, or used by the public, whichever is greater.

## Section 9-6. Height, Area and Yard Requirements

- 9-6.01 Height: Buildings or structures shall not exceed forty-five (45) feet and/or three (3) stories in height.
- 9-6.02 Front Yard: The depth of the front yard shall be at least twenty-five (25) feet.
- 9-6.03 Side Yard: There shall be a side yard of at least ten (10) feet on each side of a dwelling. All detached accessory buildings shall provide a minimum side yard of at least ten (10) feet.
- 9-6.04 Rear Yard: The depth of the rear yard shall be at least thirty (30) feet. All detached accessory buildings shall provide a minimum rear yard of at least thirty (30) feet.
- 9-6.05 Lot Dimensions: The minimum width of a lot shall be sixty (60) feet. The minimum depth of a lot shall be one hundred (100) feet.
- 9-6.06 Lot Area per Dwelling Unit:
  - 1. Single Family Unit: 5,250 square feet
  - 2. Two-Family Unit: 2,800 square feet
  - 3. Multi-Family Unit: 1,500 square feet
- 9-6.07 Minimum District Size: The minimum district size shall be 2 acres.

## Section 9-7. Other Regulations

- 9-7.01 Additional standards to be utilized in the conceptual plan approval process include:
  - 1. All development of structures shall occur in conformance with an approved plan of development showing the phases of construction.
  - 2. All width, depth and yard requirements for each structure shall be shown on the site plan.
  - 3. All minimum land area per dwelling unit requirements shall be shown on the site plan.

## SECTION 10

### LIMITED COMMERCIAL DISTRICT (LC)

#### Sections:

- 10-1 Application
- 10-2 Use Regulations
- 10-3 Parking Regulations
- 10-4 Height, Area and Yard Regulations

#### Section 10-1. Application

- 10-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Limited Commercial District (LC). This commercial district is designed to accommodate commercial activities that draw business from, provide services to and would benefit from a location easily accessible to a highway or arterial street. The zoning of commercial property to this district shall be for the purpose of encouraging and requiring appropriate business development and redevelopment on a quality level generally equal to or exceeding that that prevails in the city. Normally all commercial development will occur in property zoned for the General Commercial District (GC). However, the zoning of land into this district, which ordinarily will occur only upon application of the landowner, is intended to encourage efficient use of small tracts, innovative and imaginative planning, conservation of natural resources and minimum waste of land. Commercial areas are to be planned and developed so as to result in attractive, viable and safe centers and clusters. Control of vehicular access, circulation, landscaping and signs should soften the impact on any nearby residential neighborhoods and to assure minimum adverse effects on the street system and other public services.

#### Section 10-2. Use Regulations

- 10-2.01 In a Limited Commercial District, no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:
1. The following retail stores and services:
    - a. Appliance Store.
    - b. Automobile Sales and Supplies.
    - c. Automobile Service Station.
    - d. Automobile Wash or Self-Service Wash.
    - e. Bakery Goods Store and Bakery.
    - f. Boat Sales.
    - g. Department Store and Discount House.
    - h. Drive-In Theater.
    - i. Financial Institutions.
    - j. Funeral Parlor or Mortuary.
    - k. Furniture Sales and Service.
    - l. Grocery Store.
    - m. Grocery Store Selling Gasoline.
    - n. Hospital.
    - o. Hotel or Motel.
    - p. Key Shop.
    - q. Motorcycles.

- r. Nursery or Garden Supply Store.
  - s. Pharmacy, Including Medical Supplies.
  - t. Public or Private Entertainment and Recreation Center.
  - u. Restaurants (Providing Service in Automobiles).
  - v. Shopping Center (Commercial Uses of Greater than 5,000 square feet in one structure).
  - w. Tavern.
2. Accessory buildings and uses customarily incidental to the above uses if they are constructed in a style and manner similar and sympathetic to a principal building or use.
  3. Any use allowed in "RS", "RD", "RM" or "RE" districts.

### Section 10-3. Parking Regulations

- 10-3.01 One (1) off-street parking space shall be provided for each two hundred fifty (250) square feet of floor area.

### Section 10-4. Height, Area and Yard Regulations

- 10-4.01 Height: Buildings or structures shall not exceed thirty-five (35) feet and/or two and one-half (2-½) stories in height.
- 10-4.02 Front Yard: The depth of the front yard shall be at least thirty (30) feet.
- 10-4.03 Side Yard: The depth of the side yard shall be at least ten (10) feet.
- 10-4.04 Rear Yard: The depth of the rear yard shall be at least ten (10) feet.
- 10-4.05 Lot Dimensions: The minimum width of a lot shall be one hundred (100) feet. The minimum depth of a lot shall be one hundred and forty (140) feet.
- 10-4.06 Lot Size: The minimum lot size shall be 14,000 square feet.

## SECTION 11

### GENERAL COMMERCIAL DISTRICT (GC)

#### Sections:

- 11-1 Application
- 11-2 Use Regulations
- 11-3 Parking Regulations
- 11-4 Height, Area and Yard Regulations
- 11-5 Animal Restrictions

#### Section 11-1. Application

- 11-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the General Commercial District (GC). This commercial district is intended to provide a location for miscellaneous retail, wholesale and businesses serving the consumer public, business and agriculture. The district also includes the commercial uses in the central business district that provide the major focus of retail, governmental, business services and entertainment facilities for the entire community. The land uses in the central business district are also subject to special area requirements.

#### Section 11-2. Use Regulations

- 11-2.01 In a General Commercial District, no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these zoning regulations, except for the following uses:
1. Any use permitted in the (LC) Limited Commercial District excluding dwellings located on ground floor.
  2. Accessory buildings and uses customarily incidental to the above uses, provided there shall be no manufacture, processing or compounding of products other than such are customarily incidental and essential to retail establishments. Accessory buildings and uses shall be constructed in a style and manner similar and sympathetic to a principal building or use.

#### Section 11-3. Parking Regulations

- 11-3.01 One (1) off-street parking space shall be provided for each one thousand (1,000) square feet.

#### Section 11-4. Height, Area and Yard Regulations

- 11-4.01 Height: Buildings or structures shall not exceed forty-five (45) feet or three (3) stories in height.
- 11-4.02 Front Yard: The depth of the front yard shall be at least twenty (20) feet except in a built up area, it may be equal to any existing buildings which have a lesser set back.
- 11-4.03 Side Yard: None required.
- 11-4.04 Lot Dimensions: The minimum width of a lot shall be twenty-five (25) feet. The minimum depth of a lot shall be one hundred and forty (140) feet.
- 11-4.05 Lot Size: The minimum lot size shall be thirty-five hundred (3500) square feet.

11-5 Animal Restrictions

11-5.01 There shall be no chickens or poultry housed in the general commercial district

11-5.02 There shall be no miniature horses housed in the general commercial district.

**INDUSTRIAL DISTRICT (I)**

## Sections:

- 12-1 Application
- 12-2 Use Regulations
- 12-3 Performance Standards
- 12-4 Parking Regulations
- 12-5 Height, Area and Yard Regulations

## Section 12-1. Application

- 12-1.01 The regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Industrial District (I). The Industrial District is intended primarily for production, processing and assembly plants that are operated so that noise, odor, dust and glare of such operations are completely confined within an enclosed building. The Industrial District is also intended for the development of office/warehouse uses.

## Section 12-2. Use Regulations

- 12-2.01 In an Industrial District, no building, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these regulations, except for the following uses:
1. Manufacturing, processing, fabrication or assembling of commodity including activity requiring railroad siding or frequent pick up and delivery by motor truck except junk or salvage.
  2. All uses allowed in LC Limited Commercial and GC General Commercial.
  3. Warehousing, wholesaling, and storage of any commodity including all types of merchandise requiring railroad siding or frequent pick up and delivery by motor truck, except junk or salvage.
  4. Freight, truck and rail terminals.
  5. Offices, office/warehouses and laboratories.

## Section 12-3. Performance Standards

- 12-3.01 The following standards shall apply to this district:
1. All operations shall be conducted within a fully enclosed building.
  2. The use cannot be noxious or offensive by reason of vibration or noise beyond the confines of any building or emission of dust, fumes, gas, odor or smoke.
  3. All storage of materials, products, or equipment shall be within a fully enclosed building or in an open yard so screened that the materials stored are not clearly visible within one thousand (1,000) feet of the property line. Where topographic conditions make effective screening impractical so as to create an unnecessary hardship, the Board of Zoning Appeals may make such variances as it deems necessary.



## Section 12-4. Parking Regulations

- 12-4.01 Each structure used for manufacturing or industrial purposes shall provide two (2) off-street parking spaces for each one thousand (1,000) square feet of floor area, plus an additional space to be determined by the Planning Commission for storage of trucks or other vehicles used in connection with such industry.
- 12-4.02 Administrative offices associated with another permitted use shall provide two and a half (2 ½) off-street parking spaces for each one thousand (1,000) square feet of floor area.
- 12-4.03 Offices, office/warehouses and laboratories shall provide four (4) off-street parking spaces for each one thousand (1,000) square feet of floor area.

## Section 12-5. Height, Area and Yard Regulations

- 12-5.01 Height: Buildings or structures shall not exceed thirty (30) feet and/or two (2) stories in height.
- 12-5.02 Front Yard: The depth of the front yard shall be at least thirty-five (35) feet.
- 12-5.03 Side Yard: There shall be a side yard on each side of a building; no side yard shall be less than fifteen (15) feet.
- 12-5.04 Rear Yard: The depth of the rear yard shall be at least twenty-five (25) feet.

## SECTION 13

### FLOOD PLAIN OVERLAY DISTRICT (FP)

ORDINANCE NO. 645

#### AN ORDINANCE RELATING TO FLOOD PLAIN MANAGEMENT AND LAND USE RESTRICTIONS AND REGULATIONS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SYRACUSE, KANSAS:

#### **ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE STATEMENT**

##### Section A. Statutory Authorization

1. The following flood plain management ordinance regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on December 11, 2002.
2. The Legislature of the State of Kansas has in K.S.A. 12-741 et. Seq., and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt flood plain management regulations designed to protect the health, safety, and general welfare. Therefore, the governing body of the City of Syracuse, Kansas, ordains as follows:

##### Section B. Findings of Fact

1. Flood Losses Resulting from Periodic Inundation  
The special flood hazard areas of Syracuse, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
2. General Causes of the Flood Losses  
These flood losses are caused by (1) the cumulative effect of development in any delineated flood plain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.
3. Methods Used to Analyze Flood Hazards  
The Flood Insurance Study (FIS) that is the basis of this ordinance uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.
  - a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated January 2, 2003 as amended, and any future revisions thereto.
  - b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and over bank areas to convey the regulatory flood.

- c. Computation of a flood way required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of flood way encroachment lines within which no development is permitted that would cause any increase in flood height.
- e. Delineation of flood way fringe; i.e., that area outside the flood way encroachment lines, but still subject to inundation by the base flood.

Section C. Purpose Statement

It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B (1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22 (a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this ordinance to:

- 1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- 2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
- 3. Protect individuals from buying lands that are unsuitable for the intended development purposes due to the flood hazard.

**ARTICLE 2. GENERAL PROVISIONS**

Section A. Lands to Which Ordinance Applies

This ordinance shall apply to all lands within the City limits of the City of Syracuse, Kansas, identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map dated January 2, 2003 of the Flood Insurance Rate map (FIRM) and Index Map dated January 2, 2003 of the Flood Boundary and Flood Way map (FBFM) as amended, and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a flood plain development permit, granted by the City of Syracuse, Kansas or a duly designated representative under such safeguards and restrictions as the City of Syracuse, Kansas or the designate representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

Section B. Compliance

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

Section C. Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

Section D. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

Section E. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the flood way and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of the City of Syracuse, Kansas, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

Section F. Sever Ability

If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

**ARTICLE 3. ADMINISTRATION**

Section A. Flood Plain Development Permit

A flood plain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development of substantial improvement or cause the same to be done without first obtaining a separate flood plain development permit for each structure or other development.

Section B. Designation of Flood Plain Administrator

The Mayor of the City of Syracuse, Kansas, or his designee is hereby appointed to administer and implement the provisions of this ordinance.

Section C. Duties and Responsibilities of Flood Plain Administrator

Duties of the Flood Plain Administrator shall include, but not be limited to:

1. Review of all applications for flood plain development permits to assure that sites are reasonably safe from flooding and that flood plain development permit requirements of this ordinance have been satisfied;
2. Review of all applications for flood plain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions to determine whether such proposals will be reasonably safe from flooding;
4. Issue flood plain development permits from all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse;
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;

8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been flood-proofed; and
9. When flood-proofing techniques are utilized for a particular non-residential structure, the flood plain administrator shall require certification from a registered professional engineer or architect.

Section D. Application for Flood Plain Development Permit

To obtain a flood plain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every flood plain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the flood plain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or flood way;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the flood plain administrator;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

#### **ARTICLE 4. PROVISIONS FOR FLOOD HAZARD REDUCTION**

Section A. General Standards

1. No permit for flood plain development shall be granted for new construction, substantial improvement, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones of the FIRM are subject to inundation of the 100 year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this ordinance. If Flood Insurance Study data is not available, the community shall obtain, review and reasonably utilize any base flood elevation or flood way data currently available from Federal, State, or other sources.
3. Until a flood way is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
4. All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
  - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. Construction with material resistant to flood damage;

- c. Utilization of methods and practices that minimize flood damages;
- d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
- f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assume that:
  - 1. All such proposals are consistent with the need to minimize flood damage;
  - 2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
  - 3. Adequate drainage is provided so as to reduce exposure to flood hazards;
  - 4. All proposals for development, including proposals for manufactured home parks and subdivisions of five (5) acres of fifty (50) lots, whichever is lesser, include within such proposals flood elevation data.
  - 5. Storage, Materials and Equipment
    - a. The storage or processing of materials within the special flood hazard are that in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited;
    - b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.
  - 6. Nonconforming Use
 

A structure, or the use of structure or premises that was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

    - a. If such structure, use or utility service is discontinued for 12 consecutive months, any future use of the building shall conform to this ordinance.
    - b. If nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

Section B. Specific Standards

In all areas identified as numbered and unnumbered A zones, AE and AH zones, where base flood elevation data have been provided, as set forth in Article 4, Section A (2), the following provisions are required:

a. Residential Construction

New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. **A licensed land surveyor shall certify the elevation of the lowest floor.**

- b. Non-Residential Construction
 

New construction or substantial improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood elevation of the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **A licensed land surveyor shall certify the elevation of the lowest floor.** Such certification shall be provided to the flood plain administrator as set forth in Article 3, Section C (7)(8)(9).
- c. Require, for all new construction and substantial improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage are in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - 1. A minimum of two (2) openings having a total new area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
  - 2. The bottom of all openings shall be no higher than one (1) foot above grade. Opening may be equipped with screen, louver, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Section C. Manufactured Homes

- 1. All manufactured homes to be placed within all unnumbered and numbered A zones, E, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors.
- 2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, E, and AH zones on the community's FIRM on sites:
  - a. Outside of a manufactured home park or subdivision;
  - b. In a new manufactured home park or subdivision;
  - c. In an expansion to an existing manufactured home park or subdivision; or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **A licensed land surveyor shall certify the elevation of the lowest floor.**
- 3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, E, and AH zones on the community's FIRM, that are not subject to the provisions of Article 4, Section C (2) of this ordinance, be elevated so that either:
  - a. The lowest floor of the manufactured home is minimum of one (1) foot above the base flood level; or

- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **A licensed land surveyor shall certify the elevation of the lowest floor.**

Section D. Areas of Shallow Flooding (AO and AH Zones)

Located within the areas of special flood hazard as described in Article 2, Section A are areas designated as AL zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

1. AO Zones
  - a. All new construction and substantial improvements of residential structures, including manufactured homes, shall have the lowest floor including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if depth number is specified).
  - b. All new construction and substantial improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities to be completely flood-proofed so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c. Adequate drainage paths shall be required around structures on slopes, in order to guide flood waters around and away from proposed structures.
2. AH Zones
  - a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 4, Section B.
  - b. Adequate drainage paths shall be required around structures on slopes, in order to guide flood waters around and away from proposed structures.

Section E. Flood Way

Located within areas of special flood hazard established in Article 2, Section A, are areas designated as flood ways. Since the flood way is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory flood way based on the principle that the area chosen for the regulatory flood way must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory flood way unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. If Article 4, Section E (2), is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4.



4. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or flood way data currently available from Federal, State, or other sources set forth in Article 4, Section A (2).

Section F. Recreational Vehicles

Require that recreational vehicles placed on sites within all unnumbered and numbered A zones, AE, AH, and AO zones on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days, or
2. Be fully licensed and ready for highway use\*, or
3. Meet the permitting, elevation and anchoring requirement for manufactured homes of this ordinance.

\*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

## **ARTICLE 5. FLOOD PLAIN MANAGEMENT VARIANCE PROCEDURES**

Section A. Establishment of Appeal Board

The Syracuse-Hamilton County Board of Zoning Appeals as established by the City of Syracuse, Kansas shall hear and decide appeals and request for variances from the flood plain management requirements of this ordinance.

Section B. Responsibility of Appeal Board

1. Where an application for a flood plain development permit is denied by the Flood Plain Administrator, the applicant may apply for such flood plain development permit directly to the Appeal Board, as defined in Article 5, Section A.
2. The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Flood Plain Administrator in the enforcement or administration of this ordinance.

Section C. Further Appeals

Any person aggrieved by the decision of the Appeal Board or any taxpayer, may appeal such decision to the District Court as provided by K.S.A. 12-1579 and 12-760.

Section D. Flood Plain Management Variance Criteria

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and

11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and the water systems; streets; bridges.

Section E. Conditions for Approving Flood Plain Management Variances

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided items two (2) through six (6) below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or the Local Inventory of Historic Places upon determination, provided the proposed activity will not preclude the structure's continued historic designation.
3. Variances shall not be issued within any designated flood way if any significant increase in flood discharge would result.
4. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon: (a) showing a good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. A Community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases the risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

**ARTICLE 6. PENALTIES FOR VIOLATION**

Section A. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent the City of Syracuse, Kansas or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

## **ARTICLE 7. AMENDMENTS**

### Section A. Amendments

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the Syracuse Journal, a newspaper of general circulation in the City of Syracuse, Kansas. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this ordinance are in compliance with the NFIP regulations.

## **ARTICLE 8. DEFINITIONS**

### Section A. Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

100-YEAR FLOOD: See "*Base Flood.*"

ACCESSORY STRUCTURE: The same as "*Appurtenant Structure.*"

ACTUARIAL RATES: See "*Risk Premium Rates.*"

ADMINISTRATOR: The Federal Insurance Administrator.

AGENCY: The Federal Emergency Management Agency (FEMA).

APPEAL: A request for review of the Flood Plain Administrator's interpretation of any provision of this ordinance or a request for a variance.

APPURTENANT STRUCTURE: A structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principle structure.

AREA of SHALLOW FLOODING: A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA of SPECIAL FLOOD HAZARD: The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: Any area of the structure having its floor sub-grade (below ground level) on all sides.

**BUILDING:** See "*Structure.*"

**CHIEF ENGINEER:** The chief engineer of the division of water resources, Kansas Department of Agriculture.

**CHIEF EXECUTIVE OFFICER or CHIEF ELECTED OFFICIAL:** The official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

**COMMUNITY:** Any State or area or political subdivision thereof, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**ELEVATED BUILDING:** For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**ELIGIBLE COMMUNITY or PARTICIPATING COMMUNITY:** A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**EXISTING CONSTRUCTION or EXISTING STRUCTURES:** For the purposes of determining rates, structures for which the "*Start of Construction*" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date.

**EXISTING MANUFACTURED HOME PARK or SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by a community.

**EXPANSION to an EXISTING MANUFACTURED HOME PARK or SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD or FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

**FLOOD BOUNDARY and FLOOD WAY MAP (FBFM):** An official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory flood way.

**FLOOD ELEVATION DETERMINATION:** A determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**FLOOD ELEVATION STUDY:** An examination, evaluation and determination of flood hazards.

**FLOOD FRINGE:** The area outside the flood way encroachment lines, but still subject to inundation by the regulatory flood.

**FLOOD HAZARD BOUNDARY MAP (FHBM):** An official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

**FLOOD HAZARD MAP:** The document adopted by the governing body showing the limits of: (1) the flood plain; (2) the flood way; (3) streets; (4) stream channel; and (5) other geographic features.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS):** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**FLOOD PLAIN or FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from any source. See "*Flooding*."

**FLOOD PLAIN MANAGEMENT:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

**FLOOD PLAIN MANAGEMENT REGULATIONS:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as flood plain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

**FLOOD-PROOFING:** Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**FLOOD WAY or REGULATORY FLOOD WAY:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**FLOOD WAY ENCROACHMENT LINES:** The lines marking the limits of flood ways on Federal, State and local flood plain maps.

**FREEBOARD:** A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "*Freeboard*" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and flood way conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

**FUNCTIONALLY DEPENDENT USE:** A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE:** Any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable flood-proofing design requirements of this ordinance.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "*Manufactured Home*" **does not include** a "*Recreational Vehicle*."

**MANUFACTURED HOME PARK or SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MAP:** The Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Flood Way Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

**MARKET VALUE or FAIR MARKET VALUE:** An estimate of what is fair, economic, just and equitable value under normal local market conditions.

**MEAN SEA LEVEL:** For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

**NEW CONSTRUCTION:** For the purposes of determining insurance rates, structures for which the "*Start of Construction*" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, "*New Construction*" means structures for which the "*Start of Construction*" commenced on or after the effective date of the flood plain management regulations adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK or SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by the community.

**(NFIP):** The National Flood Insurance Program.

**PARTICIPATING COMMUNITY or ELIGIBLE COMMUNITY:** A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**PERMIT:** A signed document from a designated community official authorizing development in a flood plain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

**PERSON:** Any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**PRINCIPALLY ABOVE GROUND:** At least 51 percent of the actual cash value of the structure, less land value is above ground.

**RECREATIONAL VEHICLE:** A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**REMEDY a VIOLATION:** To bring the structure or other development into compliance with Federal, State, or local flood plain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**RISK PREMIUM RATES:** Those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "*Risk Premium Rates*" include provisions for operating costs and allowances.

**SPECIAL FLOOD HAZARD AREA:** See "*Area of Special Flood Hazard.*"

**SPECIAL HAZARD AREA:** An area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

**START of CONSTRUCTION:** Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The ***actual start*** means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the ***actual start of construction*** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STATE COORDINATING AGENCY:** The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state of by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

**STRUCTURE:** For flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. "*Structure*" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "*Start of Construction*" of the improvement. This term includes structures, which have incurred "*Substantial Damage*," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "*Historic Structure*," provided that the alteration will not preclude the structure's continued designation as a "*Historic Structure*."

**VARIANCE:** A grant of relief by the community from the terms of a flood plain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.



**VIOLATION:** The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION:** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the flood plain.

## SAMPLE FORMS

It is recommended that the following forms be used in implementing the attached ordinance:

1. Flood Plain Development Permit/Application (Copy Attached).  
This form should be issued to all applicants whose proposed development meets the definition of development in the community's flood plain management ordinance. Copies of flood plain development permit must be maintained by the community.
2. Elevation and Flood Proofing Certificates  
These FEMA forms should be used to validate that the techniques used to elevate or flood proof the structure correctly meet the community standards. Use of these particular FEMA forms is encouraged both to ensure compliance with local regulations and to provide adequate information for insurance rating purposes. When these forms are used, the community should maintain a copy in the file attached to the flood plain development permit. Copies of the current forms may be obtained without cost by calling the NFIP toll free Flood Map Service Center at 800-358-9616.
  - a. The **Elevation Certificate** is O.M.B. No. 3067-0077, expires July 31, 2002. The FEMA form number is 81-31, JUL 00. Replaces all previous editions.
  - b. The **Flood Proofing Certificate** is O.M.B. No. 3067-0077, expires July 31, 2002. The FEMA form number is 81-65, AUG 99. Replaces all previous editions.

## SECTION 14

### AIRPORT ZONING (AP)

#### Sections:

- 14-1 Statement of Purpose
- 14-2 Authority and Reasonableness
- 14-3 Conflict
- 14-4 Establishment of Airport Zoning Commission
- 14-5 Procedure for Adoption of or Amendment to Airport Zoning Regulations
- 14-6 Airport Overlay Zoning Districts
- 14-7 Airport Overlay District Height Limitations
- 14-8 Airport Overlay District Use Restrictions
- 14-9 Nonconforming Uses
- 14-10 Permits
- 14-11 Variances
- 14-12 Obstruction Marking and Lighting
- 14-13 Administration and Enforcement

#### Section 14-1. Statement of Purpose

- 14-1.01 It is hereby found that an airport hazard endangers the lives and property of users of the Hamilton County Airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment or interest therein. Accordingly, it is hereby declared:
1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the Hamilton County Airport;
  2. That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which the Board of County Commissioners may raise and expend public funds and acquire land or property purposes therein, as provided in K.S.A. 3-702.

#### Section 14-2. Authority and Reasonableness

- 14-2.01 Authority: In order to prevent the creation or establishment of airport hazards, these airport zoning regulations are adopted by the Board of County Commissioners of Hamilton County, Kansas under powers conferred by K.S.A. 3-703. Further, these airport zoning regulations are incorporated in and made a part of these county zoning regulations as authorized by K.S.A. 3-704(1).
- 14-2.02 Reasonableness: These airport zoning regulations impose reasonable requirements and restrictions that are necessary to effectuate the purposes of this Section. In determining these regulations and airport zoning district boundaries, the following were considered from the Hamilton County Airport Master Plan:
1. The character of the flying operations expected to be conducted at the Hamilton County Airport;

2. The nature of the terrain within the airport hazard area;
3. The character of the surrounding neighborhood; and
4. The uses to which the property to be zoned is put and adaptable.

#### Section 14-3. Conflict

- 14-3.01 In the event of conflict between any airport zoning regulations in this Section and any other zoning regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement as to airport hazards shall govern and prevail.

#### Section 14-4. Establishment of Airport Zoning Commission

- 14-4.01 The Syracuse-Hamilton County Planning Commission is hereby appointed as the Hamilton County Airport Zoning Commission, as provided for in K.S.A. 3-705(2).

#### Section 14-5. Procedure for Adoption of or Amendment to Airport Zoning Regulations

- 14-5.01 Notice and Hearing by Board of County Commissioners: These airport zoning regulations may be adopted, amended, or changed by action of the Board of County Commissioners. Prior to such action, said board shall hold at least one public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least twenty (20) days' notice of the hearing shall be published in the official paper, or a paper of general circulation, of Hamilton County, Kansas.

- 14-5.02 Recommendation and Hearing by the Planning Commission: Prior to the initial zoning of the airport hazard area, the Syracuse-Hamilton County Planning Commission shall, in its authority as the Airport Zoning Commission, recommend the boundaries of the various zoning districts to be established and the regulations to be adopted therefore. The Planning Commission shall make a preliminary report and hold one or more public hearings thereon before submitting its final report. The Board of County Commissioners shall not adopt these airport zoning regulations until the final report of the Planning Commission is received. All proposed amendments to this section shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made by the Board of County Commissioners without a hearing before the Planning Commission.

#### Section 14-6. Airport Overlay Zoning Districts

- 14-6.01 Applicability: In order to carry out the provisions of this Section, there are hereby created and established certain airport overlay districts which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Hamilton County Airport.

- 14-6.02 Land to Which this Section Applies: The aforementioned airport overlay districts and the land lying beneath each are shown on the "*Airspace Plan*" of the Hamilton County Airport Master Plan which was prepared by Muller, Sirhall and Associates, dated and checked \_\_\_\_\_. The Board of County Commissioners hereby designates said approach plan as the official map to be used in determining those areas that require special airport height regulations and use restrictions. Said airspace plan is incorporated herein by reference and made a part of these zoning regulations.

14-6.03 Rules for Interpretation of Airport Overlay District Boundaries: The boundaries of the airport overlay districts shall be determined by reviewing the Airspace Plan map incorporated by reference herein. Where interpretation is needed as to the exact location of the boundaries of the airport overlay districts, the Hamilton County Director of Public Works shall make the necessary interpretation based upon data available. The Hamilton County Director of Public Works will maintain said official Airspace Plan map. In such cases where the interpretation of airport overlay district boundaries is contested, the Planning Commission shall resolve the dispute. An area located in more than one of the following airport overlay districts shall be considered to be only in the airport overlay district with the more restrictive height limitation.

14-6.04 Airport Overlay Districts Established and Defined: The various airport overlay districts are hereby established and defined as follows:

1. **Airport Approach Zone Overlay District 1 (AP-A1):** The inner edge of this approach overlay district (the utility runway visual approach zone) coincides with the width of the primary surface and is 250 feet wide. This approach overlay district expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. **Airport Approach Zone Overlay District 2 (AP-A2):** The inner edge of this approach overlay district (the utility runway non-precision instrument approach zone) coincides with the width of the primary surface and is 500 feet wide. This approach overlay district expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. **Airport Transitional Zone Overlay District (AP-T):** This overlay district (or the transitional zone) includes areas beneath the transitional surfaces.
4. **Airport Horizontal Zone Overlay District (AP-H):** This overlay district (or the horizontal zone) is established by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those areas. The Airport Horizontal Zone Overlay District does not include the approach and transitional districts.
5. **Airport Conical Zone Overlay District (AP-C):** This overlay district (or the conical zone) is established as the area that commences at the periphery of the Airport Horizontal Zone Overlay District and extends outward there from a horizontal distance of four thousand (4,000) feet.

#### Section 14-7. Airport Overlay District Height Limitations

14-7.01 Except as otherwise provided in this Section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any overlay district created by this section to a height in excess of the applicable height limit herein established for such overlay district. Such applicable height limitations are hereby established for each of the overlay districts in question as follows:

1. **Airport Approach Zone Overlay District 1 (AP-A1):** Slopes twenty (20) feet outward for each one (1) foot upward beginning at the end of, and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. **Airport Approach Zone Overlay District 2 (AP-A2):** Slopes twenty (20) feet outward for each one (1) foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

3. **Airport Transitional Zone Overlay District (AP-T):** Slope seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to the height of 150 feet above the airport elevation which is 3470 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each one (1) foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
4. **Airport Horizontal Zone Overlay District (AP-H):** Established at 150 feet above the airport elevation or at a height of 3470 feet above mean sea level.
5. **Airport Conical Zone Overlay District (AP-C):** Slopes twenty (20) feet outward for each one (1) foot upward beginning at the periphery of the horizontal overlay district and at 150 feet above the Hamilton County Airport elevation and extending to a height of 350 feet above said airport's elevation.

Section 14-8. Airport Overlay District Use Restrictions

14-8.01 Use Restrictions Generally: Notwithstanding any other provisions of this Section, no use may be made of land or water within any airport overlay zone established by said Section in such a manner as to create electrical interference with navigational signals or radio communication between the Hamilton County Airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

14-8.02 Use Restrictions in Airport Approach Zone Overlay Districts: Only nonresidential uses shall be permitted within the Airport Approach Zone Overlay Districts (AP-A1 and AP-A2). Permitted uses shall meet the height limitation standards established in this Section. The following uses are permitted in districts AP-A1 and AP-A2:

1. Agricultural uses
2. Public and private recreational uses such as golf courses, parks, and wildlife and nature preserves
3. Any use permitted in the Industrial District

Section 14-9. Nonconforming Uses

14-9.01 All nonconforming uses within the airport overlay districts established in this Section shall be subject to the regulations of this section in addition to the provisions of these zoning regulations dealing with nonconforming uses.

14-9.02 Regulations Not Retroactive: Nothing in this Section shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to these airport zoning regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in Section 14-9.03 hereunder: Provided, however, that the Board of County Commissioners may require, upon thirty (30) days notice in writing, that any person, firm, association, owning and maintaining any nonconforming pole or pole line upon the roads and highways immediately adjoining the airport to remove, lower, change, or alter said nonconforming pole or pole line, upon prior payment by the Board of County Commissioners to said person, firm, association, or corporation of the reasonable and necessary expense of removing, lowering, changing, or altering such pole or pole lines. Reasonable and necessary expense of removing, lowering, changing, or altering said pole or pole lines shall include, among other items of expense, the actual cost of:

1. Constructing underground conduits and the construction of such wires and equipment in such conduits; and
2. Rerouting wires together with the poles, cross arms and other equipment connected thereto, together with the cost, if any, of new right-of-way made necessary by such rerouting.

14-9.03 Marking and Lighting: Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Hamilton County Director of Public Works to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Hamilton County Public Works Department.

#### Section 14-10. Permits

14-10.01 Permits Required: Except as specifically provided in Section 14-10.02 hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any airport overlay district hereby created unless a permit therefore shall have been applied for and granted by the Hamilton County Director of Public Works. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations prescribed in this Section. If such determination is in the affirmative, the permit shall be granted by the Hamilton County Director of Public Works, except as provided herein. Said permit shall be in addition to any required building permit, if applicable.

14-10.02 Permits Not Required: The following uses do not require permits in the airport zoning districts established in this Section:

1. **AP-H and AP-C Overlay Districts**: In the area lying within the limits of the Airport Horizontal Zone Overlay District (AP-H) and the Airport Conical Zone Overlay District (AP-C), no permits shall be required for any tree or permitted structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such districts.
2. **AP-A1 and AP-A2 Overlay Districts**: In areas lying within the limits of the Airport Approach Zone Overlay District 1 (AP-A1) and the Airport Approach Zone Overlay District 2 (AP-A2), but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or permitted structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such districts.
3. **AP-T Overlay Districts**: In the areas lying within the limits of the Airport Transitional Zone Overlay District (AP-T) beyond the perimeter of the Airport Horizontal Zone Overlay District (AP-H), no permit shall be required for any tree or permitted structure less than seventy-five (75) feet above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such AP-T District.
4. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this section except as set forth in subsection H of this section.

- 14-10.03 Permits for Nonconforming Uses: No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made to become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.
- 14-10.04 Permits for Nonconforming Uses Abandoned or Destroyed: Whenever the Hamilton County Director of Public Works determines that a nonconforming use has been abandoned, torn down, or damaged more than fifty (50) percent of its fair market valuation by fire, explosion, act of God, or the public enemy, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from these zoning regulations.

#### Section 14-11. Variances

- 14-11.01 Application for Variance: As authorized by K.S.A. 3-707(2), any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his or her property in violation of the airport zoning regulations established in this Section, may apply to the Board of County Commissioners for a variance from the zoning regulation in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Section. Provided, however, that any variance may be allowed subject to any reasonable conditions that the Board of County Commissioners may deem necessary to effectuate the purposes of this Section.
- 14-11.02 Determination of Federal Aviation Administration: An application for variance to the requirements of this Section shall be accompanied by a determination from the Federal Aviation Administration (FAA) as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.
- 14-11.03 Recommendation of Hamilton County Director of Public Works: No application for variance to the requirements of this Section shall be considered by the Board of County Commissioners unless a copy of the application has been furnished to the Hamilton County Director of Public Works for advice as to the aeronautical effects of the variance. If the Hamilton County Director of Public Works does not respond to the application for variance within fifteen (15) days after receipt of same, the Board of County Commissioners may act on its own to grant or deny said application.

#### Section 14-12. Obstruction Marking and Lighting

- 14-12.01 Any permit or variance granted under the authority of this Section may, if such action is deemed advisable to effectuate the purpose of this Section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights that may be necessary. If deemed proper by the Board of County Commissioners, this condition may be modified to require the owner to permit the Hamilton County Director of Public Works, at the County's expense, to install, operate, and maintain the necessary markings and lights.



## Section 14-13. Administration and Enforcement

- 14-13.01 It shall be the duty of the Hamilton County Director of Public Works to administer and enforce the regulations prescribed in this section. Applications for permits and variances shall be made to the Hamilton County Director of Public Works upon a form furnished for that purpose. Applications required by this section to be submitted to the Hamilton County Director of Public Works shall be promptly considered and granted or denied. Application for variance by the Board of County Commissioners shall be forthwith transmitted by the Hamilton County Director of Public Works.

## SECTION 15

### CONDITIONAL USES

#### Sections:

- 15-1 Application of Conditional Uses
- 15-2 Conditional Uses Enumerated
- 15-3 Continuance of a Conditional Use
- 15-4 Parking Regulations
- 15-5 Height, Area and Yard Regulations

#### Section 15-1. Application of Conditional Uses

- 15-1.01 Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses listed herein, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted by Conditional Use Permit, except as otherwise specified, in any district from which they are prohibited.
- 15-1.02 Before the location or establishment of, or before any changes in a Conditional Use Permit, the application procedures, conceptual plan requirements, public hearing requirements, Planning Commission actions, and City Council actions as outlined in Section 20 of these regulations shall be followed.
- 15-1.03 If within fourteen (14) days after the date of the conclusion of the Planning Commission public hearing, a petition signed by the owners of twenty (20) percent or more of any property proposed for a Conditional Use Permit, or by the owners of twenty (20) percent of the total area, except public streets and ways located within two hundred (200) feet of the boundaries of the property proposed for a Conditional Use Permit is filed in the office of the City Clerk, the Conditional Use shall not be approved except by three-fourths vote of the entire membership of City Council. If the proposed Conditional Use Permit is located on property adjacent to the City limits, the area of notification will extend one thousand (1,000) feet into the unincorporated area from the boundaries of the area proposed for the Conditional Use Permit.
- 15-1.04 The City Council may, within the specifications herein provided, permit such buildings, structures, or uses where requested. In considering any application for a conditional use permit, the Planning Commission and governing body shall give consideration to the health, safety, morals, comfort and general welfare of the inhabitants of the City, including but not limited to the following factors:
- a. The stability and integrity of the various zoning districts;
  - b. Conservation of property values;
  - c. Protection against fire and casualties;
  - d. Observation of general police regulations;
  - e. Prevention of traffic congestion;
  - f. Promotion of traffic safety and the orderly parking of motor vehicles;
  - g. Promotion of the safety of individuals and property;
  - h. Provision for adequate light and air;
  - i. Prevention of overcrowding and excessive intensity of land uses;
  - j. Provision for public utilities and schools;
  - k. Invasion by inappropriate uses;
  - l. Value, type and character of existing or authorized improvements and land uses;
  - m. Encouragement of improvements and land uses in keeping with overall planning; and
  - n. Provision for orderly and proper renewal, development and growth.

In this regard the City Council may impose reasonable conditions on the approval of a Conditional Use Permit.

15-1.05 Upon approval of a Conditional Use Permit, the Zoning District Map shall be changed in the manner outlined in Section 20-7.07 of these regulations.

## Section 15-2. Conditional Uses Enumerated

15-2.01 The following conditional uses may be approved by the City Council as provided in this article:

1. Public or private airports and/or landing fields.
2. Athletic fields and baseball fields.
3. Cemeteries established after the effective date of these zoning regulations. Cemeteries established prior to the effective date of these zoning regulations shall be considered to be a nonconforming use.
4. Commercial feedlots.
5. Contractors' shop and/or yard, including construction equipment and/or materials storage area.
6. Exposition centers and/or buildings and fairgrounds.
7. Fire stations.
8. Funeral homes and mortuaries.
9. Hospitals and special care facilities for humans.
10. Mobile home parks and trailer camps, permanent or temporary; provided:
  - a. The tract to be used for a mobile home park shall not be less than five (5) acres. The applicant shall designate the maximum area desired for the Conditional Use Permit. The tract to be used for a trailer camp shall not be less than three (3) acres unless otherwise specified. The provisions applicable to mobile home parks shall apply to trailer parks.
  - b. The applicant for the mobile home park must satisfy the City Council that the applicant is financially able to carry out the proposed plan and shall prepare and submit a schedule of construction, which construction shall commence within a period of one (1) year following approval by the City Council and shall be completed within a period of two (2) years, as to the original five-acre or larger tract for a mobile home park or the original three-acre or larger tract for a trailer park.
  - c. The applicant for a mobile home park shall prepare or cause to be prepared a development plan and shall present ten (10) copies of said plan for review by the Planning Commission and the City Council. This plan shall show the proposed development which shall conform with the following requirements:
    1. Mobile home parks hereafter approved shall have a maximum density that does not exceed the lot area per family requirements of the residential zoning district in which they are located; provided, however, that the maximum density of any mobile home park, rather located in a residential or nonresidential zoning district, shall not exceed seven (7) units per gross acre and space shall be provided for each mobile home or manufactured home consisting of a maximum of 4,500 square feet. Trailer camp parks hereafter approved shall have a maximum density of twelve (12) camping trailers per gross acre.
    2. Each mobile home space shall be at least forty-five (45) feet wide and clearly defined. Each camping trailer space shall be at least thirty (30) feet wide and clearly defined.

3. Mobile homes or manufactured home shall be so located on each space that there shall be at least a twenty (20) foot clearance between mobile homes or manufactured homes; provided, however, that with respect to mobile homes or manufactured homes parked end to end, the end to end clearance shall not be less than fifteen (15) feet. No mobile home or manufactured home shall be located closer than twenty-five (25) feet from any building within the park or from any property line bounding the park. Camping trailers shall be located on each space so that there shall be at least a five (5) foot clearance between camping trailers.
4. All mobile home spaces shall front upon a private roadway of not less than forty (40) feet in paved width, which shall have unobstructed access to a public street, alley or highway. Internal roadways and walkways shall be durable and well drained under normal use and weather conditions, and adequately lighted at night. All internal streets shall be owned and maintained by the mobile home park owner. No mobile home space shall be designed for or allow direct access to a public road outside the boundaries of the mobile home park.
5. Laundry facilities shall be provided in a service building.
6. At least one (1) electrical outlet supplying at least 220 volts shall be provided for each mobile home space.
7. Off roadway parking shall be provided at the rate of two (2) parking spaces for each mobile home space. In addition, on-roadway parking shall be maintained for guests in the amount of at least one (1) parking space for every three (3) mobile home spaces. No off roadway parking areas need be provided for trailer camp parks.
8. A recreational area of not less than one (1) acre shall be provided at a central location in said park area.
9. Skirting of a durable type of material and construction shall be installed on each mobile home floor and the grade level of the mobile home pad. Such skirting shall be constructed of non-combustible material consistent with the exterior surface of the mobile home and maintained in a manner to enhance the appearance of the mobile home park. No skirting shall be required for travel trailers.
10. The mobile home park shall be surrounded by a landscaped strip of open space fifty (50) feet wide along any street or road frontage and twenty-five (25) feet wide along all other lot lines or street or road frontages. A solid or semi-solid fence or wall a minimum of six (6) feet and a maximum of eight (8) feet high, shall be provided between the mobile home park and any adjoining property or property immediately across the street which is zoned or used for residential purposes. In lieu of said fence or wall, a landscaped screen may be provided. Said landscaped screen shall be planted with coniferous and deciduous plant material so as to provide proper screening for the park. When the landscaped screen is used in lieu of the fence or wall, the landscaped screen shall not be included as any part of the required area for a mobile home space. The fence, wall, or landscaped screen shall be properly policed and maintained by the Owner.
11. The area of the mobile home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home or manufactured home, thereby securing the super-structure against uplift, sliding, rotation and overturning. Such tie-down connections shall conform to the requirements of the Mobile Home and Recreational Vehicle Code (K.S.A. 75-1211 et. Seq.), as well as the requirements of all other state laws and any applicable administrative regulations. No travel trailers need be tied down.

12. Each mobile home space within the mobile home park shall be numbered in an orderly fashion and in a manner secure and consistent throughout the mobile home park. The lot number shall be displayed on the lot and be visible at all times. Travel trailer spaces need not be numbered.
  13. No mobile home park shall be located within two hundred fifty (250) feet of an established residence.
  14. Permanent foundations are not required for manufactured homes or mobile homes located in a mobile home park or for travel trailers.
  15. A storm shelter shall be provided in a central location and shall have the capability of sheltering two (2) persons for each established mobile home park or trailer space.
- d. Proper provisions shall be made for adequate water supply, fire protection, refuse collection, and laundry.
    1. Application for a Conditional Use Permit for a mobile home park shall include engineering plans and specifications of the water supply and distribution system approved by the water supplier and/or the Kansas Department of Health and Environment.
    2. Application for a Conditional Use Permit for a mobile home park shall include engineering plans and specifications of sewage disposal facilities and sewer lines approved by the County Sanitarian and/or the Kansas Department of Health and Environment.
    3. All refuse shall be stored in fly-tight, watertight, rodent-proof containers, which shall be located not more than one hundred fifty (150) feet from any mobile home lot.
    4. Where disposal service is not available, the mobile home park operator shall dispose of the refuse by transporting it to a disposal site approved by any authority having jurisdiction over such disposal areas.
  - e. The proposed mobile home park shall comply with all provisions of this section and state and local laws and regulations.
  - f. All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.
  - g. No owner or person in charge of any dog, cat, or other pet or animal shall permit it to run at large or commit any nuisance within the limits of any mobile home park.
  - h. All mobile home parks shall have an area or areas set aside for the storage of boats, boat trailers, hauling trailers, automobiles and other equipment for seasonal or periodic use. Such area shall be provided without the imposition of any monetary charge and for the exclusive use of residents of the mobile home park. Such equipment shall not be stored upon a mobile home space nor upon the streets within the mobile home park. Such storage area shall be screened from the remainder of the mobile home park by a combination of a solid or semi-solid fence of minimum of six (6) feet high.
  - i. No private signs shall be allowed except those that identify the Mobile Home Park by name; identify the administrative areas within the park; and identify the roadways and individual lots.
  - j. A responsible attendant shall be in charge of the park at all times. Such attendant shall supervise the park, and, together with the holder of the Conditional Use Permit, shall be responsible for any violation of the provisions of this section that may occur in the operation of such mobile home park.

- k. It shall be unlawful for any person to maintain or operate a mobile home park or travel trailer park unless such person shall first obtain a Conditional Use Permit or unless the mobile home park or travel trailer park is a legal nonconforming use as provided for in these regulations.
  - l. A Conditional Use Permit for a mobile home park or travel trailer park is not transferable except with the written approval of the City Council.
  - m. At any time after the issuance of a Conditional Use Permit for a mobile home park the Zoning Administrator shall have the authority to inspect said mobile home park, and if it shall be found that the holder of said permit has made any false or misleading statements in the application or has not complied with the provisions of the application in the establishment of such mobile home park, or that said holder of said permit has violated or caused to be violated any of the above provisions of this section or the laws and regulations of the State of Kansas governing the same, the City Council shall have the power to revoke said permit.
  - n. A storm shelter facility shall be provided for each mobile home space and shall have the capability of sheltering four (4) persons.
11. Reserved for future use.
  12. Radio or television towers and stations, microwave transmitting and/or receiving towers and/or stations, provided such towers must be set back from all adjacent property lines and streets and highways a distance equal to not less than its height plus ten (10) feet. Provided, however, that before a Conditional Use Permit is issued for any such building or structure, satisfactory proof must be presented to the City Council that the proposed location for such use is reasonably necessary and that the design and appearance of such a structure is in keeping with the surroundings. Notwithstanding any other provision of these zoning regulations, none of these uses shall be required to comply fully with the lot size and height regulations of the zoning district in which they are located except as may be recommended by the Planning Commission and approved by the City Council to meet the standards of this section.
  13. Sanitary landfills not otherwise prohibited by law.
  14. Manufactured homes or mobile homes when used as a temporary office or other nonresidential structure on the site of a construction project, provided such structure is removed upon completion or abandonment of the project, or upon the expiration of a period of one (1) year from the time of erection of such temporary structure, whichever is sooner.
  15. Recreational or sports-related activity or facility, whether operated by a public or private entity, unless otherwise allowed by these regulations. This shall include, but not be limited to, such uses as: recreational lakes, camps, golf courses, country clubs, golf driving ranges, miniature golf courses.
  16. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations established after the effective date of these zoning regulations. Public utility stations, buildings, structures or premises established prior to the effective date of these zoning regulations shall be considered to be a nonconforming use.
  17. Quarrying, mining or removal of sand, gravel or stone and the processing of the same, including asphalt and concrete plants, provided:
    - a. All quarries and mining operations and asphalt and concrete plants shall be screened by a method approved by the City Council when the same are visible from any public road.
    - b. The applicant shall provide an approvable method for dust abatement on all unpaved interior roads.
    - c. Where applicable, a maintenance agreement between the applicant and the City shall be required to maintain the roads that provide the ingress/egress to the operation.

- d. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the proposed use of the site in a general plan of the proposed use. The reclamation plan submitted shall be binding only to the extent that said plan shows the intent of the applicant for reclamation. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however, the amended plan must be approved by the City Council before reclamation work may begin. Said approval shall require a public hearing under the same procedures as the original Conditional Use Permit.
  - e. All area quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of one hundred (100) horizontal feet from any road right-of-way and thirty (30) horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface.
  - f. No building, equipment, quarry products or other materials shall be erected or stored within one hundred (100) feet of any property or right-of-way line.
  - g. The applicant's operation shall be inspected by the City Council, or its designate, on or before July 1<sup>st</sup> of every third (3<sup>rd</sup>) year following approval of the Conditional Use Permit for compliance with the above listed requirements and if found to be in violation shall have the permit removed if the non-compliance is not corrected within sixty (60) days of written notice from the City Council, or its designate, itemizing the violations and corrective measures necessary for compliance.
  - h. A copy of the annual survey of mining operation, as required to be filed by State law with the State, shall also be filed with the City Council. Said annual survey applies only to underground mining activities, not to open pit quarries.
18. Water treatment facilities, water towers or storage facilities, electric utility substations or any other like facility; but not sewage treatment facilities. Notwithstanding any other provision of these zoning regulations, none of these uses shall be required to comply fully with the lot size and height regulations of the zoning district in which they are located except as may be recommended by the Planning Commission and approved by the City Council to meet the standards of this section.
19. Veterinary and small animal hospitals.
20. Kennels, provided:
- a. The kennel occupies a minimum lot size of five (5) acres.
  - b. No kennel building or runs shall be located nearer than one hundred and fifty (50) feet to any property line.
  - c. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the animals.
  - d. The kennel shall have adequate measures to prevent odor, dust, noise or drainage from becoming objectionable to uses on other properties. No incineration of animal refuse shall be permitted.
  - e. All state licensing and operation requirements are met.
21. Auction facilities.
22. Junkyards or salvage yards, provided:
- a. The junkyard or salvage yard occupies a minimum lot size of ten (10) acres.
  - b. All such uses shall be located at least three hundred (300) feet from a boundary line.

- c. All such uses shall be completely surrounded on all sides by a fence or wall at least eight (8) feet high. The fence or wall shall be of uniform height, uniform texture and color, and shall be so maintained as to insure maximum safety to the public, obscure the junk or salvage from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other salvaged materials within the yard. No scrap, junk or other salvaged materials may be piled so as to exceed the height of this enclosing fence or wall.
  - d. No materials shall be loaded, unloaded, or otherwise placed either temporarily or permanently outside the fence or wall.
23. Wind Energy Conversion Systems (WECS)
- a. Definitions
    - 1. WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, underground cabling, substations, roads, support buildings, meteorological towers, foundations, turbine towers and wind turbines that operate by converting the kinetic energy of the wind into electrical energy. The energy may be used on-site or distributed into the electrical grid. "WECS" includes the applicants transmission lines and appurtenances that run from the WECS or accessory facilities to the point of interconnection with the electric power grid of an electric utility or regional transmission organization, including any such transmission lines or appurtenances that traverse property outside the boundaries of the Conditionally Permitted Zone, provided such transmission lines and appurtenances are located within County road right-of-ways or within any other real property for which licenses, easements, rights-of-way or similar land rights have been obtained.
    - 2. COMMERCIAL WECS. A WECS of greater than 150 kW in total nameplate generating capacity and/or is greater than 120 feet in total height and includes offsite transmission lines. Lattice type wind turbine towers or meteorological towers and guyed towers/poles are permitted on Commercial WECS in the County.
    - 3. NON-COMMERCIAL WECS. A WECS of 150 kW or less in total nameplate generating capacity and/or is 120 feet in total height or less. Lattice type turbine towers and meteorological towers and guyed towers/poles are permitted on Non-Commercial WECS in the County.
    - 4. COMMERCIAL OPERATIONS. WECS shall be in "Commercial Operation" initially at the time at which it first produces electrical energy for commercial sale safely and in accordance with this the Conditional Use Permit and all applicable laws, regulations, manufacturer's specifications and industry standards, excluding electrical energy produced and sold during commissioning and startup testing activities; thereafter, a WECS shall be deemed in Commercial Operation if such WECS is producing electrical energy for commercial sale safely and in accordance with the Conditional Use Permit and all applicable laws, regulations, manufacturer's specifications and industry standards. The initial WECS of the Project shall be declared as having achieved Commercial Operation by the applicant and the applicant shall provide written notice thereof to the County within five days after the initial WECS of the Project have achieved Commercial Operation.
    - 5. FALL DISTANCE. A distance equal to the maximum height of the Turbine Tower.
    - 6. TURBINE TOWER. The steel tower supporting a wind turbine, excluding the foundation but including the nacelle and blades.



b. Requirements

1. The applicant will provide a road maintenance agreement between the applicant and Hamilton County and/or the City of Syracuse for the roads that provide ingress/egress to the operation.
2. The applicant will provide a development agreement between the applicant and Hamilton County and/or the City of Syracuse.
3. The minimum setback distance between each Turbine Tower and all overhead utility or transmission lines, other Turbine Towers, electrical substations, meteorological towers, maintained public roads, and other structures or permitted structures (existing at the time the Conditional Use Permit is granted) shall be no closer than a distance calculated by multiplying the Fall Distance by a factor of 1.10.
4. No Turbine Tower for the Project shall be located closer than 1,000 feet from an existing or permitted (at the time the Conditional Use Permit is granted) residential building unless such residence owner provides written permission allowing for a lesser distance. Further, no Turbine Tower shall be located closer than a distance calculated by multiplying the Fall Distance by a factor of 1.10 from an existing or permitted (at the time the Conditional Use Permit is granted) outbuilding with poured concrete foundation of a depth of at least 6 inches, unless such outbuilding owner provides written permission allowing for a lesser distance measured from the center point of the base of the turbine.
5. (5) Audible noise due to WECS operations shall not exceed 60 dB (A-weighted decibels) for any such period of time, when measured at any residential, school, hospital, church or public library building or permitted (existing on the date that the Project's Conditional Use Permit is granted). A-weighted decibels (dB(A)) are decibels measured with the sound pressure scale adjusted to conform with the frequency response of the human ear. A-weighted decibels shall be measured with a sound meter that has electronic circuitry that enables the meter to have similar sensitivity to sound at different frequencies as the average human ear. In the event that the WECS operations result in noise levels exceeding 60dB(A), then notwithstanding anything herein to the contrary, any owner of fee title to property on which any affected residential, school, hospital, church or public library building is located may waive the requirements of this Section (23.b.5) with respect to the affected building by delivering a written notice of such waiver to the applicant and the County.
6. Applicant will provide a Conceptual/Development Plan that includes the following:
  - a. Name of the Project;
  - b. Name and address of the applicant and a statement from the applicant providing relevant information regarding:
    1. An overview of the applicant;
    2. Qualifications and experience of the applicant in commercial wind energy development; and
    3. (c) Financial information regarding the applicant's ability to develop, construct, operate and maintain the Project.
  - c. Summary Project information including:
    1. Project description;
    2. Project schedule; and
    3. Phases of development and possibilities for future expansion.

- d. The applicant shall submit a site plan with the following specifications:
  1. Scale of 1" = 2000';
  2. Scale and north point (up);
  3. Boundaries of Project site by legal description;
  4. Adjoining public roads;
  5. Houses within 1000' of the Project site boundaries;
  6. Approximate acreage of Project site;
  7. Schematic of zones suitable for the installation of turbine, electric collector and transmission lines, electrical equipment, substations, maintenance roads and other associated facilities; and
  8. Schematic of proposed locations of transmission lines and any underground pipeline and other utility easements required in connection with the Project.
7. Within eighteen (18) months of termination of Commercial Operation of the Project, applicant shall remove all turbines and equipment from the Project site and shall remove the turbines' foundations to a depth of five (5) feet below the ground surface. Access roads shall be removed if required by the owners of the land upon which the Project is located and the ground shall be restored as close to its original condition as is commercially practicable. The requirement to remove access roads shall not apply to roads in existence before the Project construction commenced. The owner of any portion of the Project site upon which an access road has been located may elect to have access roads left intact and in such event, applicant shall have no obligation to remove such roads as part of the decommissioning plan or maintain such roads upon the completion of decommissioning.

On every second (2nd) anniversary of the commencement of Commercial Operation of the Project, applicant shall provide the County with an estimate of the projected salvage value of the turbines and other equipment to be removed from the Project site and the projected cost to applicant of decommissioning upon the termination of Commercial Operation of the Project as determined by an independent engineer (the "IE") mutually agreeable to the County and applicant. It is accepted that the sale of salvage materials will finance the cost of decommissioning activities. If, however, the projected costs of decommissioning exceed the projected salvage value as determined by the IE, a credit support ("Decommissioning Security") in the form of either (i) a corporate guarantee by the parent company of applicant or (ii) a letter of credit or bond from an institution with at least an "A-" Standard and Poor's or "A3" Moody's financial rating or better for the benefit of the County shall be provided in an amount equal to the difference between the projected salvage value and the projected decommissioning costs. If the financial rating of the institution issuing the letter of credit or bond falls below the required rating, applicant will replace such letter of credit or bond with an equivalent instrument from another institution which has the required rating. Such Decommissioning Security shall remain in place until such time as applicant's decommissioning obligations hereunder have been performed. Upon the earlier of the completion of the decommissioning of the Project by the applicant, or the termination of the development agreement (other than for a default by applicant in the performance of its decommissioning obligations pursuant to this Section (23.b.7) such Decommissioning Security shall terminate and applicant shall have no further rights or obligations to the County.

8. SUCCESSORS AND ASSIGNS. Conditions of any Conditional Use Permit granted for a WECS shall be binding upon and inure to the benefit of the successors, assigns, trustees and/or receivers of the applicant.

#### Section 15-3. Continuance of a Conditional Use

- 15-3.01 A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of its authorization, as long as all conditions placed on it are met; however, if after a public hearing the City Council finds that particular use cease to exist for a period of six (6) months, it will forfeit its Conditional Use Permit and will not be allowed to exist again unless a new application is made, a public hearing held as provided for in these regulations, and a new Conditional Use Permit approved.

#### Section 15-4. Parking Regulations

- 15-4.01 Unless specified in this section and/or Section 22 of these regulations, parking requirements for Conditional uses shall be recommended by the Planning Commission and approved by the City Council. The following shall be taken into consideration when reviewing and approving parking requirements.
  1. The use of the facility.
  2. The square footage of the building.
  3. The surrounding land uses and zoning districts.
- 15-4.02 Where appropriate, the parking regulations of the underlying zoning district or the most analogous zoning district shall be followed.
- 15-4.03 Additional parking requirements are contained in Section 22 of these regulations.

#### Section 15-5. Height, Area and Yard Regulations

- 15-5.01 All Conditional Uses shall comply with the height, area, and yard regulations of the zoning district in which they may be located, unless otherwise specifically granted in this section.

## SECTION 16

### USES PROHIBITED

Sections:

16-1 Designated

Section 16-1. Designated

- 16-1.01 No temporary or outwardly incomplete structure or building, no open excavation for a basement or foundation and no building or structure so damaged as to become unfit for use or habitation shall be permitted, maintained or remain in such condition for a period of more than sixty (60) days, except by special permission of the City Council upon recommendation by the Planning Commission.
- 16-1.02 No building material, construction, equipment, machinery or refuse shall be stored, maintained or kept in the open upon any lot, tract or parcel within a residential district, other than during actual construction operations upon said premises or related premises. Provided, the Board of Zoning Appeals may grant an exception to said requirement in unusual cases for a limited time.
- 16-1.03 No owner or resident of any land shall permit the storage on premises of any abandoned automobile unless the automobile so abandoned shall be housed in a building and not open to view to the general public. For these purposes an automobile shall be deemed to be abandoned if it is legally unlicensed for the current year, and has been on such premises for a minimum of sixty (60) days.
- 16-1.04 No building or premises now located within the territory of zoning jurisdiction nor any building hereafter erected therein, shall be used or occupied for any of the following purposes:
1. Dump or dumping ground.
  2. Sanitary landfill, unless established by Conditional Use Permit.
  3. Hazardous or toxic waste incineration, landfill or disposal facility.

## SECTION 17

### NONCONFORMING USES

#### Sections:

- 17-1 Application
- 17-2 Nonconforming Uses Within Airport Overlay Zoning Districts
- 17-3 Nonconforming Uses Within Flood Plain Overlay Zoning District
- 17-4 Existing Nonconforming Mobile Home Parks or Trailer Camps

#### Section 17-1. Application

- 17-1.01 The provisions of these regulations shall not apply to the existing use of any buildings or land and shall not prevent the restoration of a building damaged not more than fifty percent (50%) of its fair market value by fire, explosion, act of God, or the public enemy, or prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage, but shall apply to any alteration of a building to provide for a change in such use of any building or land after the effective date of these regulations.
- 17-1.02 No such nonconforming use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
- 17-1.03 Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
- 17-1.04 A lawful nonconforming use of a building, structure or land that has been voluntarily discontinued for a period of six (6) consecutive calendar months shall not thereafter be resumed.

#### Section 17-2. Nonconforming Uses Within Airport Overlay Zoning Districts

- 17-2.01 Additional regulations regarding nonconforming uses within the Airport Overlay Zoning Districts are presented in Section 14 of these zoning regulations.

#### Section 17-3. Nonconforming Uses Within Flood Plain Overlay Zoning District

- 17-3.01 Additional regulations regarding nonconforming uses within the Flood Plain Overlay District (FP) are presented in Section 13 of these zoning regulations.

#### Section 17-4. Existing Nonconforming Mobile Home Parks or Trailer Camps

- 17-4.01 Recognizing that trailer camps and manufactured or mobile home parking spaces may be vacant for periods of time and therefore not easily identified as an existing nonconforming use.
- 17-4.02 Definition of Existing Conforming Mobile or Manufactured Home Park or Trailer Camps: Tract or plot of ground of any size equal to or greater than 10,000 square feet which meets the following conditions:
  1. Surface improvements and utility hookups are clearly visible and provide parking space for at least three (3) manufactured, mobile homes, or trailers for use as permanent or temporary residences.
  2. At least one of those parking spaces has been occupied by a mobile home, manufactured home, or trailer used as a residence, for at least one (1) week during the period from January 1993 to the present.

3. Each space to be counted as an existing space shall show clear evidence that it was improved and intended as a separate parking space as evidenced by utility hookups and an improved parking pad.

17-4.03

The Zoning Administrator shall determine the number of qualifying spaces for each nonconforming mobile or manufactured home park or trailer camp which meets the conditions above. Should the landowner not agree with the Zoning Administrator's determination, the landowner may appeal said determination to the Board of Zoning Agents.

## SECTION 18

### ADDITIONAL PARKING REGULATIONS

#### Sections:

- 18-1 Application
- 18-2 Additional Parking Requirements
- 18-3 Parking Area Standards

#### Section 18-1. Application

- 18-1.01 These additional parking regulations, as well as the parking regulations of each zoning district, are intended to ensure that all uses of land have a parking space component requiring adequate off-street parking for such use. Such parking spaces shall be located entirely on private property with no portion except the necessary drives extending into any street or other public way. Parking shall be provided in quantities stated in the various zoning district regulations, except that certain occupancies that may have unusual parking needs are listed below. The issuance of building permits shall require compliance with the following standards and the parking requirements of these zoning regulations are a minimum even though a conceptual plan may have been approved previously which included fewer parking spaces due to the unknown or changing status of occupants.

#### Section 18-2. Additional Parking Requirements

- 18-2.01 Except as otherwise provided in these regulations, when any building or structure is hereafter erected or structurally altered to the extent of increasing floor area by fifty (50) percent or more, or any building or structure hereafter erected is converted for the uses listed below, accessory off-street parking spaces shall be provided as required in this section.
1. Churches, temples, theaters, athletic fields and other seating facilities: determined by the Planning Commission.
  2. Libraries: 1 parking space per 2 employees, plus 1 parking space per 200 square feet of service floor area.
  3. Hotels and motels: 1 parking space per 2 employees, plus 1 parking space per guest room.
  4. Hospitals, sanitariums or homes for convalescent or aged: 1 parking space per 3 beds, plus 1 parking space per staff and visiting doctor.
  5. Restaurants and cafeterias: 1 parking space per three seats.
  6. Armories and assembly halls: 1 parking space per 3 seats.
  7. Mortuaries and funeral homes: 1 parking space per 2 employees, plus 1 parking space per 3 seats.
  8. Taverns or clubs serving alcoholic or cereal malt beverages: 1 parking space per employee, plus 1 parking space per each 2 seats of building capacity.
  9. Golf courses, miniature golf courses, driving ranges: determined by the Planning Commission.
- 18-2.02 Any use not included in the parking requirements of this section shall be determined by the Planning Commission.

### Section 18-3. Parking Area Standards

- 18-3.1 Each parking space stall shall be a minimum of nine (9) feet by eighteen (18) feet plus the necessary space for maneuvering into and out of the space.
- 18-3.2 All parking spaces shall be constructed, at a minimum, with an all-weather, gravel-surfaced area.
- 18-3.3 The Planning Commission, in its discretion, may require the landowner to provide fencing or landscaping to be used and maintained as screening for the protection of neighboring uses.
- 18-3.4 All off-street parking areas and access drives which serve such uses shall be planned and engineered to assure proper drainage of surface water.
- 18-3.5 The Planning Commission may require plans to be prepared and approved to assure proper design and construction of any off-street parking spaces and access drives if conditions of the site are such that compliance with these requirements may be difficult or may pose a potential problem with adjacent properties.
- 18-3.6 Any lights used to illuminate the parking area shall be arranged, located or screened to direct light away from adjoining or abutting residential district.
- 18-3.7 When a determination of the number of off-street parking spaces results in a requirement of a fractional space, the fraction of one-half or less may be disregarded and a fraction in excess of one-half shall be counted as one parking space.
- 18-3.8 Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so furnished is not less than the sum of the separate requirements for each use and a Conditional Use Permit is obtained under Section 19.
- 18-3.9 All parking spaces required to serve structures or uses shall be located on the same zoning lot as the structure or use served unless a Conditional Use Permit is obtained under Section 19.



## SECTION 19

### PERMITS

#### Sections:

- 19-1 Zoning Permits
- 19-2 Airport Overlay Districts Zoning Permits
- 19-3 Flood Plain Overlay District Zoning Permits

#### Section 19-1. Zoning Permits

- 19-1.01 Authority: No building or structure shall be constructed, erected, altered, or remodeled nor shall any such work be commenced upon any lands zoned under these regulations unless the owner, contractor or the duly authorized agent of either shall have first applied for and received from the Zoning Administrator a zoning permit therefore, as herein provided. For purposes of this section, the terms altered or remodeled shall refer to an increase in the size of a structure and not to the alteration or remodeling limited to the interior. Clarification: A zoning permit is not required for construction of a new structure or altering an existing structure that are used for allowable uses in the Agricultural (A) zone, except where said land also lays within the flood plain overlay zone or airport overlay zone.
- 19-1.02 Conformance with Zoning Regulations: No zoning permit shall be issued for any building or structure unless the same be in conformity in every respect with all the provisions of these regulations unless otherwise set out.
- 19-1.03 Filing Procedure: Applications for zoning permits shall be filed with the Zoning Administrator upon forms prescribed, setting forth the legal description of the lot, tract or parcel of land, together with a general description of the building or structure to be constructed, erected or altered thereon, including the size and shape, square foot area, principal material of construction, location of the building or structure upon the lot, tract or parcel and the intended use. The application shall also contain a description of the use of land surrounding the applicant's property including the location of buildings within two hundred fifty (250) feet of the boundary of the applicant's property. In addition, the applicant shall pay any fees required by the governing body. Each application for a nonresidential zoning permit or multi-family zoning permit shall be accompanied by a conceptual plan meeting the requirements of Section 20, unless a conceptual plan has already been filed for the use in support of an application for rezoning.
- 19-1.04 Staff Administrative Evaluations: Upon delivery of the completed application and the required payments, the Zoning Administrator shall evaluate the application. After such evaluation, a zoning permit may be issued, provided all requirements of these regulations are met.
- 19-1.05 City Vested Rights: No building or zoning permit lawfully issued prior to the effective date of these regulations, or of any change or amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of these regulations, or any such change or amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions and in effect at the time of the issuance of said permit; provided that all such permits shall expire not later than sixty (60) days from the effective date of these regulations, unless actual construction shall have theretofore begun and continued pursuant to the terms of said permit.
- 19-1.06 Appeal: In the event of refusal to issue a zoning permit upon application, as herein provided, the applicant shall have the right to a hearing by the Board of Zoning Appeals, as provided by law. Provided, however, that appeals shall only be permitted after payment of filing fees as outlined in Section 21 below.

- 19-1.07 Filing Fees: Fees for zoning permits shall be set by resolution of the City Council.
- 19-1.08 Enforcement: In addition to any other method of enforcement of these regulations, the following enforcement procedures may be invoked:
1. A permit may be revoked and/or a “stop construction” order posted on the building or structure by the Zoning Administrator at any time prior to the completion of a building or structure for which the same was issued, when it shall appear to the Zoning Administrator that the same was procured by false representation, or that any of the provisions of these regulations are being violated. Provided, however, twenty-four (24) hours written notice of such revocation shall be served upon the owner, his agent or contractor, or upon any person employed upon the building or structure for which such permit was issued, and thereafter no such construction shall proceed.
  2. Upon the failure, refusal or neglect of any owner, his agent, contractor or duly authorized representative to secure such permit as required by these regulations and pay the prescribed fee therefore, as herein provided, the Zoning Administrator shall post a “stop construction” order on any and all buildings or structures involved. Further, no construction shall proceed until and unless said owner, his agent, contractor or fully authorized representative secures such permit as required by these regulations and pays the prescribed fee therefore.
- 19-1.09 Zoning Permit Validity: For a zoning permit to remain valid, substantial construction shall be started within six (6) months of issuance of said permit. If within that period of time substantial construction has not been started, then the zoning permit issued for that construction shall be null and void.

#### Section 19-2. Airport Overlay Districts Zoning Permits

- 19-2.01 Zoning Permit procedures for developments within the airport overlay zoning districts are outlined in Section 14 of these zoning regulations.

#### Section 19-3. Flood Plain Overlay District Zoning Permits

- Zoning Permit procedures for developments within the Flood Plain Overlay District (FP) are outlined in Section 13 of these zoning regulations.

## SECTION 20

### AMENDMENT PROCEDURES

#### Sections:

- 20.1 General Authority and Procedures
- 20.2 Fees for Rezoning
- 20.3 Conceptual Plans
- 20.4 Receipt of Rezoning Application
- 20.5 Public Hearing Before Planning Commission
- 20.6 Action by Planning Commission and City Council
- 20.7 Conditional Use Permits
- 20.8 Limitations on Reapplications for Amendments
- 20.9 Limitation on Land Use
- 20.10 Procedure for Amendment of Flood Plain Zoning Regulations
- 20.11 Procedure for Amendment of Airport Zoning Regulations

#### Section 20-1. General Authority and Procedures

- 20-1.01 The City Council may, from time to time, amend, supplement, or change, by ordinance, the boundaries of the districts or the regulations herein established. The ordinance shall become effective upon publication thereof in the official City newspaper.
- 20-1.02 A proposal for an amendment or change in zoning may be initiated by the City Council, 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 a duly authorized agent.
- 20-1.03 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 Zoning Administrator.
- 20-1.04 All proposed amendments to the zoning regulations or zoning changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a public hearing before the Planning Commission.

#### Section 20-2. Fees for Rezoning

- 20-2.01 A fee, in the amount adopted by ordinance of the City Council, shall accompany an application for rezoning, and in addition thereto, the applicant shall pay the cost of publication notice.
- 20-2.02 No fee shall be required if the zoning change is requested by the Planning Commission or the City Council. No fee shall be required if the Planning Commission or City Council instigates an amendment to the zoning regulations that will not affect specific property.

#### Section 20-3. Conceptual Plans

- 20-3.01 A conceptual plan must be submitted with any application for rezoning which is filed by any property owner. A conceptual plan must be submitted for any zoning permit for a nonresidential building or multi-family dwelling unit unless a conceptual plan for the same property has already been filed as a part of rezoning. The scale of the conceptual plan is optional but shall not be smaller than 200 feet to one inch. The application must include ten (10) copies of a conceptual plan which includes:

1. A composite site development plan showing the major details of the proposed development consisting of the following: conceptual drainage plans; approximate location of buildings; structures; off-street parking areas; off-street loading areas; means of ingress or egress; conceptual landscaping or screening proposals; location and the conceptual design of signs; open space areas and pedestrian areas.
2. The proposed name of the development and the names of abutting developments and landowners.
3. The names and addresses of the owner and/or registered engineer, architect, surveyor, or landscape architect responsible for the engineering, survey, and design.
4. The location of boundary lines and their relation to established section lines or fractional section lines, township, and range lines.
5. The approximate location and width of existing and proposed streets, roads, lots (approximate dimensions), building lines, utility easements, drainage easements, parks and other open spaces, other similar features, and proposed improvement of perimeter streets.
6. The Planning Commission, in its discretion, may require a survey showing the physical features of the property, including contours at vertical intervals of not more than five (5) feet where the slope is greater than ten (10) percent and not more than two (2) feet where the slope is less than ten (10) percent (ten-foot intervals for the nonresidential uses). Elevations shall be marked on such contours based on the existing datum plane established by the U.S. Coast and Geodetic Survey. Benchmark elevations used shall be described on the plan.
7. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, if any.
8. Date, north point, and scale.
9. Designation of proposed uses of land within the development, whether for residential, commercial, industrial, or public use, such as parks, churches, etc., including the density of proposed residential use and the character of proposed commercial, industrial, and other use.
10. An attached statement from the appropriate local official and/or the Kansas Department of Health and Environment that the proposed development is to be adequately served by sanitary sewer facilities.
11. An attached statement from the appropriate local official and/or any affected water districts and/or the Kansas Department of Health and Environment that the proposed development is to be served by an adequate water supply and an adequate water distribution system.
12. This plan, when approved by the Planning Commission and the City Council as part of a rezoning, shall be binding upon the land. Prior to issuing a zoning permit for each phase or all of the development, the Zoning Administrator shall review the approved conceptual plan. If the property is not to be developed as indicated by the plan, or any approved amendments thereto, the Zoning Administrator shall refuse to issue any zoning permits. The applicant, in case of denial of a zoning permit, may appeal the Zoning Administrator's action to the Board of Zoning Appeals as provided by the law.

#### Section 20-4. Receipt of Rezoning Application

- 20-4.01 Immediately upon receipt of such rezoning application, the Zoning Administrator shall note thereon the date filing, and make a permanent record thereof.

20-4.02 The Zoning Administrator shall have the authority to certify a rezoning application as complete or incomplete. If a rezoning application is certified as complete, then the Zoning Administrator shall place said application on the Planning Commission's agenda for consideration. If a rezoning application is certified as incomplete, then the Zoning Administrator shall return the application to the applicant with a written explanation of his determination. The applicant may reapply and pay another filing fee, unless waived by the Zoning Administrator, or may appeal the Zoning Administrator's determination to the Board of Zoning Appeals as provided for in Section 21 of these zoning regulations.

#### Section 20-5. Public Hearing Before Planning Commission

20-5.01 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.

20-5.02 Public notice of such hearing shall be published by the applicant not less than twenty (20) days prior to the date of said hearing in the official City newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place for 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 ordinance 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.

20-5.03 In addition to the publication notice, if the proposed amendment is not a general revision of an existing zoning ordinance and will affect specific property, the applicant shall be responsible for mailing written notice of such proposed change within twenty (20) days to all owners of property which is located within two hundred (200) feet in an incorporated area of the area affected. For the purpose of this section, notice shall extend one thousand (1,000) feet in those areas where the notification area extends in unincorporated areas. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in letter form stating the time and place of the hearing, a general description of the proposal, the legal description of the property subject to the proposed change, and a statement explaining that the public may be heard at the public hearing and that within fourteen (14) days after the conclusion of the public hearing property owners within the area of notification of the property proposed for change shall have the opportunity to submit a protest petition, in conformance with the law, to be filed in the Office of the City Clerk. Newspaper clippings of the publication notice shall not be used for the mailed notice. Further, the mailed notices shall be addressed to the owners of the land and not to mere occupants of the land. Prior to the public hearing, the applicant must file with the Secretary of the Planning Commission the returned receipts from the certified mailings and an affidavit stating the names and addresses of the persons within the area of notification to whom notice was mailed. After the applicant has complied in good faith with this section, failure to receive such notice shall not invalidate any subsequent action taken.

20-5.04 All such rezoning applications shall be set down for hearing not later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the Planning Commission, 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 including any changed conditions;
3. The suitability of the subject property to its present and proposed 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 as well as nearby vacant land;
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. The recommendations of permanent or professional staff;
8. Change in district classification being consistent with the purposes of these regulations and the proposed district; and
9. Adequacy of streets and utilities.

20-5.05 At the public hearing, an opportunity shall be granted to interested parties to be heard.

20-5.06 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.

A	Agriculture District
RS	Single-Family Residential District
RD	Two-Family Residential District
RM	Apartment District
RE	Elderly Housing Residential District
LC	Limited Commercial District
GC	General Commercial District
I	Industrial District

#### Section 20-6. Action by Planning Commission and City Council

20-6.01 Planning Board Actions: A majority of the members of the Planning Commission 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.

20-6.02 Governing Body Actions: Before acting upon any recommendation of the Planning Commission concerning a revision, modification, or amendment of these zoning regulations, the City Council shall set a time and place for a hearing thereon and notify the applicant, the Planning Commission and such other parties as the governing body shall deem appropriate.

20-6.03 Recommendation of Approval or Disapproval: When the Planning Commission submits a "recommendation of approval" or a "recommendation of disapproval" of such amendment and the reasons therefore, the City Council may adopt such recommendation by resolution, override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the City Council, or return such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.

20-6.04 If the City Council 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 City Council, by a simple majority, may adopt or may revise or amend and adopt such recommendation by resolution, or it may take no further action thereon.

- 20-6.05 If the Planning Commission fails to deliver a recommendation to the City Council following the Planning Commission's next regular meeting after receipt of the City Council's report, the City Council shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- 20-6.06 Zoning Amendment to be Reflected on Zoning District Map: If the zoning amendment shall affect the boundaries of any zoning district, the amending ordinance of the City Council shall define the change or boundary as amended, shall order the Zoning District Map to be changed to reflect the amendment and shall amend the section of the ordinance incorporating said map and shall reincorporate the map as amended.
- 20-6.07 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 (20) percent or more of any property proposed to be rezoned, or by owners of twenty (20) percent or more of the total area required to be notified by this Section of the proposed rezoning of a specific property, excluding streets and public ways, is filed in the Office of the City Clerk, the amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the City Council.
- 20-6.08 Conditions Attached to Rezoning: The Planning Commission may recommend and the City Council may adopt a zoning amendment with conditions attached. These conditions may include, among others, the following:
1. That a zoning permit shall be issued within one (1) year from the date of rezoning approval. If a zoning permit has not been issued within that time, the Planning Commission or City Council may instigate procedures to nullify that rezoning. Said action shall not be taken without notification of the applicant by the City and a public hearing.

#### Section 20-7. Conditional Use Permits

- 20-7.01 The application, conceptual plan, notice, public hearing, and action procedures set forth in this section shall be applicable to applications for Conditional Use Permits unless specified in Section 19 of these zoning regulations.
- 20-7.02 Upon approval of a Conditional Use Permit, the Zoning District map shall be changed in the manner outlined in this Section.

#### Section 20-8. Limitations on Reapplication for Amendments

- 20-8.01 Whenever an application has been made under this section and the application has been denied by the governing body, such application, or one substantially similar shall not be reconsidered for the same property sooner than one (1) year after the previous denial.

#### Section 20-9. Limitation on Land Use

- 20-9.01 The Planning Commission and the City Council may in the process of rezoning land, with the consent of the applicant, limit the use of the land to one specific use permitted in the district to which the land is rezoned.

#### Section 20-10. Procedure for Amendment of Flood Plain Zoning Regulations

- 20-10.01 In addition to the requirements of this section, the procedure for amending Flood Plain Overlay District (FP) is presented in Section 13 of these zoning regulations.

## Section 20-11. Procedure for Amendment of Airport Zoning Regulations

20-11.01 In addition to the requirements of this section, the procedure for amending Airport Zoning Regulations is presented in Section 14 of these zoning regulations.



## SECTION 21

### BOARD OF ZONING APPEALS

#### Sections:

- 21.1 Organization
- 21.2 Powers
- 21.3 Hearings
- 21.4 Appeals
- 21.5 Exceptions
- 21.6 Variances
- 21.7 Determination of Board of Zoning Appeals

#### Section 21-1. Organization

- 21-1.01 The Syracuse-Hamilton County Board of Zoning Appeals is created and established in accordance with the provisions of K.S.A. 12-741 et. Seq. and amendments thereof.
- 21-1.02 Membership: The Board of Zoning Appeals shall consist of 3 members of which 2 shall be appointed by the County and 1 member shall be appointed by the City. Not more than 1 member may be a member of the Planning Commission.
- 21-1.03 Term: Of the members first appointed by the County, one shall serve for one (1) year, one shall serve for three (3) years, and the one appointed by the City shall serve for two (2) years, initially. Thereafter, members shall serve for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term.
- 21-1.04 Compensation: All members of the Board of Zoning Appeals shall serve without compensation.
- 21-1.05 Officers: The Board of Zoning Appeals shall annually elect one (1) of its members as chairman, one (1) of its members as vice-chairman, and appoint a secretary who need not be a member of the Board.
- 21-1.06 Rules of Procedure: The Board of Zoning Appeals shall adopt rules in accordance with the provisions of the ordinance creating and establishing such board.
- 21-1.07 Meetings: Meetings of the Board of Zoning Appeals shall be held at the call of the chairman and at such other times as said board may determine. The Board of Zoning Appeals shall keep minutes of its proceedings, showing evidence presented, findings of fact, decisions of said board, and the vote upon each question.
- 21-1.08 Records: Records of all official actions of the Board of Zoning Appeals affecting property within the City, shall be kept in the Office of the City Clerk and shall be open to public inspection during reasonable office hours.

#### Section 21-2. Powers

- 21-2.01 The Board of Zoning Appeals shall have the following powers:
1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of these zoning regulations.
  2. To grant exceptions to these zoning regulations on the basis and in the manner hereinafter provided.
  3. To grant variances to these zoning regulations on the basis and in the manner herein provided.

### Section 21-3. Hearings

- 21-3.01 The Board of Zoning Appeals shall hear an appeal or any other matter referred to it within the time period as provided by the rules of the Board.
- 21-3.02 Notice of the time, place and subject of such hearing shall be published once in the official City newspaper at least twenty (20) days prior to the date fixed for hearing.
- 21-3.03 A copy of said notice shall be mailed by the Secretary of the Board of Zoning Appeals to each party in interest.

### Section 21.4. Appeals

- 21-4.01 Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the City or County or any governmental agency or body affected by any decision of the officer administering the provisions of these zoning regulations.
- 21-4.02 Such appeal shall be taken within the time as provided by the rules of the Board of Zoning Appeals, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore.
- 21-4.03 The officer from whom the appeal is taken, when notified by the Board of Zoning Appeals or its agent, shall forthwith transmit to said board all the papers constituting a record upon which the action appealed from was taken.

### Section 21-5. Exceptions

- 21-5.01 The Board of Zoning Appeals may grant exceptions to the provisions of these zoning regulations in those instances where said board is specifically authorized to grant such exceptions and only under the terms of such regulations.
- 21-5.02 In no event shall exceptions to the provisions of these zoning regulations be granted where the use or exception contemplated is not specifically listed as an exception in such regulations. Further, under no conditions shall the Board of Zoning Appeals have the power to grant an exception where conditions of this exception, as established in these zoning regulations by the City Council, are not found to be present.

### Section 21-6. Variances

- 21-6.01 In specific cases, the Board of Zoning Appeals may grant a variance from the specific terms of these zoning regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the same will, in an individual case, result in unnecessary hardship, and provided that the spirit of these zoning regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance, however, shall not permit any use not permitted by these zoning regulations in such district.
- 21-6.02 A request for a variance may be granted in such case, upon a finding of the Board of Zoning Appeals that all of the following conditions have been met:
1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district; and is not created by an action or actions of the property owner or the applicant;
  2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
  3. That the strict application of the provisions of these zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That granting the variance desired would not be opposed to the general spirit and intent of these zoning regulations.

21-6.03 Variance from the Flood Plain Regulations: As specified in Section 13 of these zoning regulations (Flood Plain Overlay District FP), the Board of Zoning Appeals shall have the authority to grant variances from said flood plain regulations; provided, however, that in addition to the conditions established in this section, the Board of Zoning Appeals, in passing upon variance applications in the Flood Plain Overlay District (FP), shall consider those evaluations, factors, standards, and criteria specified in Section 13 of these zoning regulations.

21-6.04 Variance from the Airport Zoning Regulations: As specified in Section 14 of these zoning regulations (Airport Zoning Regulations AP) and as authorized by K.S.A. 3-707(2), the authority to grant variances from the Airport Zoning Regulations herein lies with the Hamilton County Board of County Commissioners.

#### Section 21-7. Determination of Board of Zoning Appeals

21.7.01 In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this section may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

21.7.02 Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the District Court to determine the reasonableness of any such order or determination. Such appeal shall be filed within thirty (30) days of the final decision of the board.

## SECTION 22

### MISCELLANEOUS

#### Sections:

- 22.1 Interpretation and Conflict
- 22.2 Validity
- 22.3 Penalties for Violations, Actions for Enforcement
- 22.4 Effective Date

#### Section 22-1. Interpretation and Conflict

- 22-1.01 In interpreting and applying the provisions of these zoning regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these zoning regulations to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties; provided, however, that where these zoning regulations impose a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other rules, regulations, or by easements, covenants, or agreements, the provision of these zoning regulations shall govern.

#### Section 22-2. Validity

- 22-2.01 Should any section, clause or provision of these regulations be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of these regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

#### Section 22-3. Penalties for Violations, Actions for Enforcement

- 22-3.01 Any violation of any provision of these zoning regulations shall be deemed to be a misdemeanor and punishable by a fine of not to exceed two hundred dollars (\$200.00) for each offense, and each day's violation shall constitute a separate offense.
- 22-3.02 The Syracuse City Council or any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these zoning regulations, and to abate nuisances maintained in violation thereof.
- 22-3.03 Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulations, the Syracuse City Council, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such building or land.
- 22-3.04 Any person, company, corporation, institution, municipality or agency of the state who violates any provision of any regulation relating to flood plain zoning effective under Section 17 shall be subject to the penalties and remedies provided for in this Section.

Section 22-4. Effective Date

22-4.01 These zoning regulations as originally adopted by Ordinance No. 617 of the Syracuse City Council and amended, shall become and are in full force and effective as of November 17, 1993.