RESOLUTION 2022-10

ESTABLISHING A FEE SCHEDULE FOR CHARGES OR PROCEEDINGS GOVERNED BY THE ZONING REGULATIONS OF HAMILTON COUNTY, KANSAS

WHEREAS:

- Hamilton County has adopted Zoning Regulations.
- Kansas statute K.S.A. 12-757(a) authorizes the governing body of the County to establish reasonable fees to be paid by the property owner in advance when applying for a zoning amendment.
- Kansas statute K.S.A. 12-759(a) authorizes the governing body of the County to establish a scale of reasonable fees for the Board of Zoning Appeals, to be paid in advance by the party appealing.
- Kansas statute K.S.A. 12-752(d) authorizes the governing body of the County to establish a scale of reasonable fees to be paid to the County by the Applicant for approval of each plat filed with the Planning Board.

TAKING ALL OF THESE FACTS INTO CONSIDERATION, THE BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY, KANSAS, NOW HEREBY RESOLVES:

SECTION 1. In order to wholly or partially defray administrative and enforcement costs for proceedings under the Hamilton County Zoning Regulations, the following fees are hereby established for amendments to zoning district classifications and for special use applications.

Amendment to Zoning District Classification **$200**

(Note: Fees can also be based on each classification of district requested; a general breakdown classification of residential, commercial, or industrial; or by the size of the area requested. Sometimes the fee is increased if a development plan is part of the application process.)

Special Use Application ..... * **$200**

** If an amendment to a district classification and a special use application are concurrently processed for the same zoning lot, only one fee is to be charged which would be the higher of the two fees listed.*

If an Applicant requests a deferral of the hearing on a zoning district amendment or a special use application after notices have been sent, the Applicant will be charged the direct cost of renotification.

SECTION 2. In order to wholly or partially defray costs for proceedings before the Syracuse-Hamilton County Board of Zoning Appeals, the following fees are hereby established for appeals from the determination of the Zoning Administrator, variances, and conditional uses.

Appeal **$100**

Variance **$100**

Conditional Use as an exception **$100**

If an Applicant requests a deferral of the hearing on an appeal, variance, or conditional use after notices have been sent, the Applicant will be charged the direct cost of renotification.

SECTION 3. In order to wholly or partially defray administrative and enforcement costs for proceedings under the Hamilton County Zoning Regulations, the following fees are hereby established for various permits and certificates.

Zoning Permits

Addition, Accessory Structure, Fence, Sign or Use **$25**

Principal Structure or Use **$100**

Floodplain Development Permit **$100**

Mobile Home Park, Commercial, or Industrial Addition or

Commercial Accessory Building **$200**

New Principal Structure for Mobile Home Park, Commercial, or Industrial

Use **$500**

Change in Use **$50**

If an application for a Zoning Permit is not made **prior to commencing** the construction, structural alteration, enlargement or moving of a structure, or the establishment, change to another, extension or enlargement of a use, which on the investigation would otherwise have been permitted by the Zoning Regulations, then an investigation charge in the amount of up to three times the permit fee, as determined by the Zoning Administrator, may be added to the permit fee.

SECTION 4. No part of the fees in Sections 1 through 3 will be refunded after payment is made.

SECTION 5. A written receipt must be issued by the County to the person making the payment.

Records of the fee payment must be kept in the manner prescribed by law.

SECTION 6. The fees in this Resolution become effective after publication in *The Syracuse Journal.*

Form ZA-2

APPROVED by the Governing Body of Hamilton County, Kansas, on **August 16, 2022**

Randall C. Braddock, Chairperson

Nikki Schwerdfeger, Vice-Chairperson

Keith A. Puckett, Commissioner

John R. Simon, Commissioner

Michael W. Lewis, Commissioner

(SEAL)

ATTEST:

Angie Moser, County Clerk

RESOLUTION

NO. 93-15

A RESOLUTION FOR ESTABLISHMENT, ADMINISTRATION, AMENDMENT AND ENFORCEMENT OF COMPREHENSIVE ZONING REGULATIONS FOR HAMILTON COUNTY, KANSAS

WHEREAS, the commissioners of Hamilton County, Kansas for the purpose of promoting health, safety, morals, comfort or the general welfare, and conserving and protecting property and building values throughout Hamilton County are authorized by K.S.A. 12-741 et.al to provide for the adoption of zoning regulations and to provide for their administration, enforcement and amendments; and

WHEREAS, the commissioners of Hamilton County, Kansas have required the planning commission to recommend the nature and number of districts which the planning commission deems necessary, the boundaries of districts and the appropriate regulations to be enforced in those districts; and

WHEREAS , the planning commission has caused land use studies of Hamilton County to be undertaken; and

WHEREAS, the planning commission has divided the County into districts with regulations which are uniform for each building or land use but which regulations differ among districts and which designate special uses within each district with conditions attached; and

WHEREAS, the planning commission has met regularly and has developed regulations which give reasonable consideration to the existing character of the district, its suitability for particular uses, conserving the value of buildings, existing development and encouraging the most appropriate use of land throughout Hamilton County; and

WHEREAS, the planning commission has made and developed proposed recommendations and zoning regulations; and

WHEREAS, the planning commission has, given notice of a public hearing by publication at least once in the official county newspaper at least twenty (20) days prior to the date of the public hearing; and

WHEREAS, the planning commission has fixed the time and place for such hearing and described the proposed zoning regulations and districts in general terms together with a brief statement regarding the purpose of the zoning districts; and

WHEREAS, the planning commission held a public hearing on May 11, 1993 and caused a record and written summary of the public hearing to be made; and

WHEREAS, the planning commission voted by an affirmative vote of the majority of its entire membership on May 11, 1993 to adopt the proposed zoning regulations:

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF HAMILTON COUNTY KANSAS:

SECTION 1: That the proposed zoning regulations for Hamilton County were considered as recommended for approval by a majority vote of the five members of the planning commission and approved without change.

SECTION 2: All other Resolutions or parts of Resolutions in conflict with this Resolution are repealed to the extent of such conflict.

SECTION 3: If any part or parts of this Resolution shall be held or determined to be unconstitutional, illegal, ultra vires, invalid or void, the same shall not be held or construed to change, annul or invalidate any of the remaining provisions of this Resolution.

SECTION 4: This Resolution is passed under the authority of K.S.A. 12-756. This Resolution shall be effective after its passage by the Board of County Commissioners of Hamilton County, Kansas, and its publication once in the official county newspaper.

PASSED this 7th day of June 1993, by the Board of County Commissioner of Hamilton County, Kansas.

ATTESTED;

County Clerk
Hamilton County, Kansas

BOARD OF COUNTY COMMISSIONERS,
HAMILTON COUNTY, KANSAS;

Terryl Spiker, Chairman

Robert Lampe, Member

Dennis Carter, Member

RESOLUTION

NO PC93-1

RECOMMENDATION FOR ESTABLISHMENT, ADMINISTRATION, AMENDMENT AND ENFORCEMENT OF COMPREHENSIVE ZONING REGULATIONS FOR HAMILTON COUNTY, KANSAS

WHEREAS, the commissioners of Hamilton County, Kansas for the purpose of promoting health, safety, morals, comfort or the general welfare, and conserving and protecting property and building values throughout Hamilton County are authorized by K.S.A. 12-741 et.al. to provide for the adoption of zoning regulations and to provide for their administration, enforcement and amendments; and

WHEREAS, the commissioners of Hamilton County, Kansas on March 18, 1993 by Resolution No. 93-9, established a joint planning commission with the City of Syracuse, Kansas; and

WHEREAS, the commissioners of Hamilton County, Kansas have required the planning commission to recommend the nature and number of districts which the planning commission deems necessary, the boundaries of districts and the appropriate regulations to be enforced in those districts; and

WHEREAS, the planning commission has caused land use studies of Hamilton County to be undertaken; and

WHEREAS, the planning commission has divided the County into districts with regulations which are uniform for each building or land use but which regulations differ among districts and which designate special uses within each district with conditions attached; and

WHEREAS, the planning commission has met regularly and has developed

Dated this 11th day of May, 1993.

SYRACUSE-HAMILTON COUNTY PLANNING COMMISSION

Boyd Bezona

BOYD "PETE" BEZONA, Chairman

Mike Lewis

MIKE LEWIS, Vice-Chairman

Linda Dinkel

LINDA DINKEL, Secretary

Beth Riley

BETH RILEY

John Ashmore

JOHN ASHMORE

ATTESTED:

Beverly Holdren

COUNTY CLERK
HAMILTON COUNTY, KANSAS

Hamilton County

ZONING PERMIT APPLICATION FEE SCHEDULE

To construct, erect or alter;

1. A residential addition or accessory building.....$25
2. A new residential principal building.....$50
3. A Commercial, industrial, or mobile home park addition or accessorybuilding.....$100
4. A new principal structure for commercial, industrial, or mobile home park.....$200
5. An application for a rezoning or conditional use permit.....$100
6. An appeal to the Board of Zoning Appeals.....$35

Fees shall be paid before a zoning permit can be acted upon.

UNINCORPORATED HAMILTON COUNTY, KANSAS

COUNTYWIDE ZONING RESOLUTION

ADOPTED JUNE 7, 1993

Syracuse-Hamilton County Planning Commission

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HAMILTON COUNTY ZONING RESOLUTION

SECTION

1

GENERAL PROVISIONS

Sections:

Section 1-1. Title and Scope

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

Section 1-2. Authority

1-2.01 Except as otherwise provided for herein, these zoning regulations are adopted by the Board of County Commissioners of Hamilton County under powers conferred by K.S.A. 12-741 et. seq.

Section 1-3. Purpose

1-3.01 These zoning regulations and districts as 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 Hamilton County, 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 unincorporated territory of Hamilton County, Kansas.

Section 1-4. Applicability

1-4.01 These zoning regulations shall apply to the unincorporated territory of Hamilton County, Kansas.

1-4.02 These zoning regulations shall not apply to the use of land for agricultural purposes, nor 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 telephones 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 Hamilton County Director of Public Works.

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 such 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 The Board of County Commissioners 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.

1-8.03 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 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 siding.

    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.

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.

1-8.04 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.

1-8.06 Screening and/or landscaping shall be provided on all properties developed for mobile home park, institutional, office, business or industrial 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 land and buildings requiring sanitary facilities, irrespective of the zoning district in which they are located, shall be provided with sanitary sewage facilities which meet or exceed the specifications set forth by these regulations and/or the Kansas Department of Health and Environment.

1-8.08 All land and buildings requiring water supply facilities, irrespective of the zoning district in which they are located, shall be provided with an adequate water supply and water distribution system commensurate with the intended use of such land or buildings. Such water supply and water distribution system shall meet or exceed the specifications set forth by the affected rural water district(s) and/or the Kansas Department of Health and Environment. Any private water supply systems shall also comply with these regulations.

SECTION

2

DEFINITIONS

Sections:

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.

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 incidental 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 which is customarily incidental 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 Hamilton County, Kansas, Airport.

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 area measured in feet from sea level. As shown on the current "Airspace Plan" of the Hamilton County Airport Master Plan (approved by the Board of 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 at any 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 if not prevented as provided in this Section.

AIRPORT LAYOUT PLAN: A plan showing existing and future improvements and features on the airport property.

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.

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 which provides a secondary means of access to and from streets and lots.

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

APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach overlay district height limitation slope set forth in this Section. In plan, the perimeter of the approach surface coincides with the perimeter of the approach overlay district.

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

BOARD OF COUNTY COMMISSIONERS: The Hamilton County Board of County Commissioners. (Also known as the "Governing Body").

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 which 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 does 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

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 space 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 Board of County Commissioners that, by its nature, is perceived to require special care and attention in siting 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 20 to 1 for a horizontal distance of four thousand (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 an impairment. Such terms do not include current, illegal use of or addiction 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, including salt water disposal sites.

DWELLING: Any building or portion thereof which 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 which 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.

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.

FLOODPLAIN REGULATIONS DEFINITIONS: Unless specifically defined below, words or phrases used in Article 13 (Floodplain 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 floodplain 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. Floodplain: Land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of (1) percent. Floodplain boundaries in the unincorporated territory of Hamilton County are shown as indicated as the 1965 flooded area on the Arkansas River on the map prepared by the U.S. Army Corps of Engineers. Such map shall be in effect until a "Flood Insurance Rate Map" is prepared by the Federal Emergency Management Agency.

4. Floodproofing: Any combination of structural and non-structural 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: Means 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 unincorporated area of the county subject to a one (1) percent or greater chance of flooding in any given year. This land is identified as the 1965 flood area on the Arkansas River on the map prepared by the U.S. Army Corps of Engineers.

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 and was 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 having 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 which meets the requirements as defined in K.S.A. 65-3402, as amended.

HOME OCCUPATION: Any occupation or activity which 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 elevation, the perimeter of which in plan coincides with the perimeter of the horizontal overlay district. As shown on the "Airspace Plan" incorporated by reference herein, the horizontal surface elevation of the Hamilton County Airport is 3322 feet above sea level.

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 of animals for sale.

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 described tract having its principal frontage upon a public street.

LOT AREA: The total are 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 which is described by metes and bounds, the description of 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 which is subject to the Federal Manufactured Housing Construction and Standards. All mobile homes hereafter erected in Hamilton County 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.

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

NONCONFORMING LOT: An unimproved lot which 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 which 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 nonprecision instrument approach procedure has been approved or planned.

OBSTRUCTION: Any structure, growth, or other object, including a mobile object, which exceeds 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, copartnership, 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. 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 takeoff of aircraft along its length.

SALVAGE YARD: An area of land with or without buildings, 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 fifteen (15) 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.

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 which 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.

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.

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 extending 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 extending 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:

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 eleven (11) zoning districts known as:

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

3-1.02 **Zoning District Map:** The unincorporated territory of Hamilton County, Kansas shall be divided into eleven (11) districts, aforesaid, and the boundaries of such districts shall be shown upon the Zoning District Map of the unincorporated territory of Hamilton County, Kansas, marked "official copy of Zoning District Map incorporated into zoning regulations by adoption of a resolution of the Board of County Commissioners on the 7th day of June, 1993" 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 six (6) "Overlay Zoning Districts" known as:

1. Floodplain 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)

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.

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 center lines 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:

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 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 an 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, 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 exteroir 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 or the principal residence building shall be made which changed 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 nonoccupant, 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 week-ends 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 MOBILE, MANUFACTURED, MODULAR AND SITE BUILT HOMES

Sections

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.

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 right-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) Garages sales, yard sales and estate auctions are all specifically exempt from these conditions provided they are held not more than two weekends per year.

5-3Parking Regulations

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

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 a 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.

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, 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:

No. of Anchors and Straps Per Side	Length
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.

5-6 Foundations

5-6.01 Foundation. Pier Construction as follows:

A) 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.

B) Second layer shall be two 8"x 8" x 16" concrete blocks, either solid or open cell with open sell in the vertical position.

C) Third layer shall be a single 8" x 8" x 16" concrete block with vertical open cell.

D) Fourth layer shall be a wood plate 2" x 8" x 16", parallel with the third layer.

E) Weatherproof wood shims, if needed, may be used, providing they do not occupy more than 1" of vertical space.

F) If more circumstance requires additional layers, repeat the second layer. If fewer layers are needed, omit second layer.

G) Each layer will be perpendicular to the layer beneath it; the top layer will be perpendicular to the beam.

H) 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 by 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 which my 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 sight or removed from the property.

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 resided or reroofed 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 plane 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)

SINGLE FAMILY RESIDENTIAL DISTRICT (RS)

SECTIONS:

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, playgrounds, community centers, schools, public libraries, and museums.

3. Churches and parish halls, temples, convents, and monastaries; provided the site shall not be less than five (5) acres in area.

4. Railroad right-of-ways, including and limited to a strip of land with tracks and auxiliary facilities for track operation only.

5. A business, professional 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 residence.

d. Employment of no person(s) other than the residents of the dwelling unit or more than one part-time nonoccupant, 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 1/2) 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 twenty-five (25) 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.

SECTION

7

TWO-FAMILY RESIDENTIAL DISTRICT (RD)

Sections:

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 twenty-five (25) 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 are of three thousand five hundred fifty (3500) square feet per family or seven thousand (7000) square feet per building.

SECTION

8

APARTMENT DISTRICT (RM)

Sections:

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 liveability, 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. Two-family dwellings under the regulations of District RD.

2. 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 shall 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:

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, 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 an 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:

   Barber or beauty shop.
   Curio or gift shop.
   Food store.
   Pharmacy.
   Restaurant, enclosed.
   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 shall be provided 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 wheelchair 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

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: 5,250 sq.ft.
2. Two-Family Unit: 2,800 sq.ft.
3. Multi-Family Unit: 1,500 sq.ft.

9-6.07 Minimum District Size: The minimum district size shall be 2 acres.

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.

10-4.02 Front Yard: The depth of the front yard shall be at least fifty (50) feet.

10-4.03 Side Yard: The depth of the side yard shall be at least fifteen (15) feet.

10-4.04 Rear Yard: The depth of the rear yard shall be at least twenty-five (25) 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 forty (140) feet.

10-4.06 Lot Size: The minimum lot size shall be 14,000 square feet.

SECTION

10

LIMITED COMMERCIAL

DISTRICT (LC)

Sections:

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 in 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 which prevails in the county. 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.

As proposed by zoning committee on 9/24/2003

10-2.01

General retail sales of new and used mobile and manufactured home sales.

10-2.01-3

All Operations (repair, maintenance, and refurbish) shall be conducted within a fully enclosed building or in an open yard so screened that the operations are not clearly visible within 300' feet of property line.

All storage of materials, products or equipment shall be within a fully enclosed building or an open yard so screened that the materials stored are not clearly visible within 300' feet of property line.

If using open yard, fencing must be 8 ft high uniform in height so as to hide activity and make more attractive.

Automobile Wash or Self-Service Wash
Bakery Goods Store and Bakery
Boat Sale
Department Store and Discount House
Drive-In Theater
Financial Institutions
Funeral Parlor and Mortuary
Furniture Sales and Service
General Retail Sales of motor vehicles, trailers
Grocery Store
Grocery Store Selling Gasoline
Hospital
Hotel or Motel
Key Shop
Motorcycles
Nursery or Garden Supply Store
Pharmacy, Including Medical Supplies
Public or Private Entertainment and Recreation Center
Restaurants (providing service in automobiles)
Shopping Center (commercial uses of greater than 5,000 Sq. ft. in one structure)
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.

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:

   Appliance Store.
   Automobile Sales and Supplies.
   Automobile Service Station.
   Automobile Wash or Self-Service Wash.
   Bakery Goods Store and Bakery.
   Boat Sales.
   Department Store and Discount House.
   Drive-In Theater.
   Financial Institutions.
   Funeral Parlor or Mortuary.
   Furniture Sales and Service.
   Grocery Store.
   Grocery Store Selling Gasoline.
   Hospital.
   Hotel or Motel.
   Key Shop.
   Motorcycles.
   Nursery or Garden Supply Store.
   Pharmacy, Including Medical Supplies.
   Public or Private Entertainment and Recreation Center.
   Restaurants (providing service in automobiles).
   Shopping Center (commercial uses of greater than 5,000 sq.ft. in one structure).
   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.

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 1/2) stories in height.

SECTION

11

GENERAL COMMERCIAL

DISTRICT (GC)

Sections:

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.

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.

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 two hundred fifty (250) 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.

11-4.03 Side Yard: The depth of the side yard shall be at least ten (10) feet.

11-4.04 Lot Dimensions: The minimum width of a lot shall be fifty (50) feet. The minimum depth of a lot shall be one hundred forty (140) feet.

11-4.05 Lot Size: The minimum lot size shall be 7,000 square feet.

SECTION

12

INDUSTRIAL DISTRICT (I)

Sections:

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. 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.

3. Freight, truck and rail terminals.

4. 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 (1000) 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 1/2) 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.

Hamilton County

Federal Emergency Management Agency

Region VII
2323 Grand Blvd., Suite 900
Kansas City, MO 64108-2670

where it needs to be filed

January 6, 2003

The Honorable Jamie K. Cheatum,
Chairman, Hamilton County Board of Commissioners
P.O. Box 1167
~~Syracuse, Kansas 67878~~

Dear Chairman Cheatum:

We have reviewed your community's floodplain management ordinance number 2002-14 that was adopted on December 30, 2002. Our review finds your ordinance meets the minimum standards of the National Flood Insurance Program (NFIP) and the State of Kansas.

If your community has not adopted administrative procedures for monitoring floodplain development, we recommend you do so. Administrative Procedures are an effective tool to obtain sound floodplain development and protect a community from potential liabilities. We are sending a copy of our *Administrative Procedures* model and this letter to your Floodplain Administrator. The Hamilton County Administrative Procedures should be written to suit your community's practices and needs, so please feel free to use only those parts that apply to your community.

Your community's continued NFIP participation is commended. We know the effective administration and enforcement of your adopted floodplain management regulations and administrative procedures enables your community to substantially reduce its flood losses through the wise management of its floodplain lands. If you have any questions concerning the NFIP, please contact Roger Benson, Mitigation Specialist at 816-283-7031.

Sincerely,

Phil Kirk

Phil Kirk, Chief
Hazard Identification and Risk Assessment Branch

cc: Delmar Hammond, County Superintendent (with enclosure)
Rhonda Montgomery, State NFIP Coordinator
Errol Garren, Program Specialist, IM-RC-CA

HM Cnty

KATHLEEN SEBELIUS, GOVERNOR
ADRIAN J. POLANSKY, SECRETARY
[redacted]of Agriculture
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Topeka, Kansas 66612-1280
(785) 296-3558
FAX: (785) 296-8389

STATE OF KANSAS

Division of Water Resources
David L. Pope, Chief Engineer
109 SW 9th Street, 2nd Floor
Topeka, KS 66612-1283
(785) 296-3717 FAX (785) 296-1176

KANSAS DEPARTMENT OF AGRICULTURE

April 8, 2003

Delmar Hammond
219 N. Main Box 1167
Syracuse, KS 67878

Re: Ordinance Approval

Dear Mr. Hammond:

On March 24, 2003, the floodplain zoning resolution submitted by yourself on behalf of the Hamilton County was received for review. The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, acting under terms of K.S.A. 12-766, and the administrative regulations adopted pursuant thereto (K.A.R. 5-44-1 through 6) approved the draft ordinance on April 8, 2003. An approved copy of these regulations is returned for your files.

A signed copy of the adopted regulations must also be sent to the FEMA Region VII, 2323 Grand Boulevard, Suite 900, Kansas City, Missouri 64108.

These regulations adopt by reference the Flood Hazard Boundary Map or Flood Insurance Rate Map published by the Federal Emergency Management Agency. The map and any applicable supporting materials are available in this office and will be the reference used in a technical review of any proposed changes to these approved floodplain management regulations as may be required under K.S.A. 12-766 and K.A.R. 5-44-1 through 6.

If you have any questions, please call me at (785) 296-5440.

Sincerely,

Julie L. Grauer

Julie L. Grauer
Floodplain Program Supervisor

Enclosure
pc: FEMA, letter & review.
Jamie Cheatum, letter only.

KANSAS FLOODPLAIN ORDINANCE / RESOLUTION STATUTORY REVIEW

As required in K.S.A. 12-766 (and K.A.R's 5-44-1 thru 5-44-6) this work sheet is designed for the review of Floodplain ordinances, resolutions, and regulations as they relate to land use in identified floodplains.

Submitted for review on: 3/24, 2003 90 Day ends: 6/24, 2003

Submitted for: Hamilton County

Submitted by: _____

Cover letter requesting review: _____ with X without

K.A.R. 5-44-2, purpose for review: (circle as appropriate)

(a)	Status change:	Join NFIP	Re-Join NFIP		
(b)	Map Changes:	New Map	BFE	FIS	Floodway
(c)	Annexation:	Land w/floodplains			
(d)	ETJ:	3 mile Extra Territorial Jurisdiction			
(e)	Variance Procedure:	Minimum requirements			
(f)	Needed updating.				

Minimum Standards to meet K.A.R. 5-44-1 thru 5-44-6 are found in the following sections:

Art___, Sec___, ✓ Flood Hazard Map & effective date identified.
Art___, Sec___, ✓ NFIP minimum development standards enumerated.
Art___, Sec___, ✓ Floodplain Administrator identified.
Art___, Sec___, ✓ Permit required for all development in floodplains.
Art___, Sec___, ✓ Lowest floor of ALL structures required to be elevated or floodproofed to one (1) foot above BFE
Art___, Sec___, ✓ Conveyance capacity of floodway protected.
Art___, Sec___, ✓ Variance procedures included & conditions specified.

Comments _____

Approved: ✓ Disapproved_____ Returned_____

Reviewer: Julie L. Grauer Date: 4/7/03

NATIONAL FLOOD INSURANCE PROGRAM (NFIP)
MINIMUM LAND MANAGEMENT CRITERIA
(Evaluation Sheet)

Ordinance Rcvd: 3/24/03
90 Day Deadline: 6/24/03

Community: Hamilton County State: KANSAS Date of Review: 4/7/03

Name of Reviewer: Julie L. Grauer Reviewed by: STATE

NOTE: The "Item Description" is a synopsis of the regulatory requirement and should not be construed as a complete description. Refer to the actual language contained in the National Flood Insurance Program (NFIP) Rules and Regulations [44CFR 60.3] for complete description of the required standards.

	Item Description (Section reference of NFIP Regulations follows)	Level of Regulations (a)	(b)	(c)	(d)	Applicable Ordinance Section
1.	Citation of Statutory Authorization. *Statutory Citation: 12-741 et seq, and 12-766*				✓	Art 1, Sec A, (2)
2.	Purpose section citing health, safety, and general welfare reasons for adoption.				✓	Art 1, Sec A, (2) Art 1, Sec C
3.	Adopt or reference the correct map and date. [60.3(b)] *(includes: "as amended, and any future revisions thereto.")* *Reference: 1/2/03*				✓	Art 2, Sec A
4.	Adopt or reference the correct FIS and date. [60.3(c)] *(includes: "and illustrative materials")* *Reference: 1/2/03*				✓	Art 2, Sec A
5.	Abrogation and Greater Restriction section.				✓	Art 2, Sec C
6.	Disclaimer of Liability section advising that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.				✓	Art 2, Sec E
7.	Severability section (If any section, provision, or portion of the ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.)				✓	Art 2, Sec F
8.	Framework for administering the ordinance (permit system, establish office for administering the ordinance, etc.)				✓	Art 3
9.	Require permits for all proposed construction or other development including placement of manufactured homes. [60.3(a)(1)]				✓	Art 3, Sec A
10.	Require permits for all proposed construction and other development within SFHAs on the FHBM or FIRM. [60.3(b)(1)]				✓	Art 3, Sec A Art 3, Sec D Art 4, Sec A, (1)
11.	Review permits to assure sites are reasonably safe from flooding. [60.3(a)(3)]				✓	Art 3, Sec C, (1)
12.	Assure that all other State and Federal permits are obtained. [60.3(a)(2)]				✓	Art 3, Sec C, (2)

NATIONAL FLOOD INSURANCE PROGRAM (NFIP)
MINIMUM LAND MANAGEMENT CRITERIA
(Evaluation Sheet)

13.	Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. [60.3(a)(4)]				✓	Art 3, Sec C, (3)
14.	Notify neighboring communities of watercourse alterations or relocations. [60.3(b)(6)]				✓	Art 3, Sec C, (5)
15.	Maintain carrying capacity of altered or relocated watercourse. [60.3(b)(7)]				✓	Art 3, Sec C, (6)
16.	Where BFE data are utilized, obtain and maintain records of i) the lowest floor elevation, including basement, of all new or substantially improved structures. [60.3(b)(5)(i)]				✓	Art 3, Sec C, (7)
17.	ii) the actual elevation that a new or substantially improved non-residential structure is floodproofed. [60.3(b)(5)(ii)]				✓	Art 3, Sec C, (8)
18.	Require that, for floodproofed <u>NONRESIDENTIAL</u> structures, a registered professional engineer/architect certify that the design and methods of construction meet requirements at (c)(3)(ii). [60.3(c)(4)]				✓	Art 3, Sec C, (9)
19.	In A Zones, in the absence of FIA BFE data and Floodway data, consider other available data as basis for elevating residential structures to or above base flood level, and for floodproofing or elevating nonresidential structures to or above base flood level. [60.3(b)(4)]				✓	Art 4, Sec A, (1), (2)
20.	Until a regulatory floodway is designated, no encroachments may increase the base flood level more than <u>1 foot</u>. [60.3(c)(10)]				✓	Art 4, Sec A, (3)
21.	If a proposed site is in a flood-prone area, all new construction and substantial improvements shall be: (a) Adequately anchored (including manufactured homes) to prevent flotation, collapse, or lateral movement. [60.3(a)(3)(i)]				✓	Art 4, Sec A, (4) Art 4, Sec A, (4), (a)
22.	(b) Constructed with flood-resistant materials [60.3(a)(3)(ii)]				✓	Art 4, Sec A, (4), (b)
23.	(c) Constructed by methods/practices that minimize flood damage. [60.3(a)(3)(iii)]				✓	Art 4, Sec A, (4), (c)
24.	(d) Constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located to prevent water entry or accumulation. [60.3(a)(3)(iv)]				✓	Art 4, Sec A, (4), (d)

NATIONAL FLOOD INSURANCE PROGRAM (NFIP)
MINIMUM LAND MANAGEMENT CRITERIA
(Evaluation Sheet)

25.	Require new and replacement water supply and sanitary sewer systems to be designed to minimize or eliminate infiltration and on-site waste disposal systems be designed to avoid impairment or contamination [60.3(a)(5), (a)(6)(i), and (a)(6)(ii)]				✓	Art 4, Sec A, (4), (e)
26.	If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposal shall be reviewed to assure that: (a) Such proposals minimize flood damage. [60.3(a)(4)(i)]				✓	Art 4, Sec A, (4), (f) Art 4, Sec A, (4), (f), (1)
27.	(b) Public utilities and facilities are constructed so as to minimize flood damage [603(a)(4)(ii)]				✓	Art 4, Sec A, (4), (f), (2)
28.	(c) Adequate drainage is provided. [60.3(a)(4)(iii)]				✓	Art 4, Sec A, (4), (f),(3)
29.	Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres. [60.3(b)(3)]				✓	Art 4, Sec A, (4), (f),(4)
30.	Require all new and substantially improved <u>RESIDENTIAL</u> structures within A1-30, AE, and AH Zones have their lowest floor (including basement) elevated to or above the BFE. [60.3(c)(2)] 1'				✓	Art 4, Sec B, (1), (a)
31.	Require that new and substantially improved <u>NONRESIDENTIAL</u> structures within A1-30, AE, and AH Zones have their lowest floor elevated or floodproofed to or above the base flood elevation. [60.3(c)(3)] 1'				✓	Art 4, Sec B, (1), (b)
32.	Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage have permanent openings designed to allow the entry and exit of flood waters in accordance with specifications of 60.3(c)(5). [60.3(c)(5)]				✓	Art 4, Sec B, (1), (c)
33.	Require all manufactured homes to be elevated and anchored to resist flotation, collapse, or lateral movement. [60.3(b)(8)]				✓	Art 4, Sec C, (1)

NATIONAL FLOOD INSURANCE PROGRAM (NFIP)
MINIMUM LAND MANAGEMENT CRITERIA
(Evaluation Sheet)

34.	Require that manufactured homes placed or substantially improved within A1-30, AH, and AE Zones, which meet one of the following criteria, to be elevated such that the lowest floor is at or above the BFE and be securely anchored: i. outside a manufactured home park or subdivision; ii. in a new manufactured home park or subdivision; iii. in an expansion to an existing manufactured home park or subdivision; iv. on a site in a existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(c)(6)] 1'				✓	Art 4, Sec C " (2), (a) " (2), (b) " (2), (c) " (2), (d)
35.	In A1-30, AH and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that i) the lowest floor is at or above the BFE, or 1' above ii) the chassis is supported by reinforced piers no less than 36 inches above grade and securely anchored. [60.3(c)(12)]				✓	Art 4, Sec C " (3), (a) " (3), (b)
36.	In AO Zones, require that new and substantially improved RESIDENTIAL structures have their lowest floor (including basement) at or above the highest adjacent grade at least as high as the FIRM's depth number. [60.3(c)(7)] 2'				✓	Art 4, Sec D, (1), (a)
37.	In AO Zones, require that new and substantially improved NONRESIDENTIAL structures have their lowest floor elevates or completely floodproofed above the highest adjacent grade at least as high as the FIRM's depth number. [60.3(c)(8)] 2'				✓	Art 4, Sec D, (1), (b)
38.	In Zones AO and AH, require drainage paths around structures on slopes to guide water from structures. [60.3(c)(11)]				✓	Art 4, Sec D, (1), (c) (2), (b)
39.	Designate a regulatory floodway which will not increase the base flood level more than 1 foot. [60.3(d)(2)]				✓	Art 4, Sec E
40.	In a regulatory floodway, prohibit any encroachment which would cause any increase in the base flood level unless hydrologic and hydraulic analyses prove that the proposed encroachment would not increase flood levels during the base flood discharge. [60.3(d)(3)]				✓	Art 4, Sec E, (2)
41.	In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored or be on the site for less and 180 consecutive days or be fully licensed and highway ready. [60.3(c)(14)]				✓	Art 4, Sec F

NATIONAL FLOOD INSURANCE PROGRAM (NFIP)
MINIMUM LAND MANAGEMENT CRITERIA
(Evaluation Sheet)

42.	Variance section with evaluation criteria and insurance notice. [60.6(a)] *Art. 5, Sec E, (6)* *Statutory Citation:* *Art 5, Sec C*				✓	Art 5 Sec E, (6) Sec C
43.	Adequate enforcement provisions including a violations/penalty sections specifying actions community will take to assure compliance. $ 500.00				✓	Art 6
44.	Adopt definitions of: 1) Base Flood, 2) Development, 3) Existing Manufactured Home Park or Subdivision, 4) Expansion to an Existing Manufactured Home Park or Subdivision, 5) Flood Insurance Rate Map, 6) Flood Insurance Study, 7) Floodway, 8) Historic Structure, 9) Lowest Floor, 10) Manufactured Home, 11) Manufactured Home Park or Subdivision, 12) New Construction, 13) New Manufactured Home Park or Subdivision, 14) Recreational Vehicle, 15) Special Flood Hazard Area, 16) Start of Construction, 17) Structure, 18) Substantial Damage, 19) Substantial Improvement, 20) Variance, 21) Violation, and other definitions as appropriate. [59.1]				✓	Art 8 Model (d) adopted.
45.	Ordinance effective date 12/30/02 Adoption date 12/30/02				✓	Art 9 (Draft)
46.	Signature of Appropriate Office and Certification.				✓	Art 9 (Draft)

REVIEW COMMENTS:

Art 4, Sec A, 5 Storage, Material & Equipment

Art 4, Sec A, 6 Nonconforming Use. _____months.

Art 7 Amendments.

Additional Standards Recommended and Added:

____	Art 8	Agricultural Structures Definition
____	Art 4, Sec A, ___	Agricultural Structures
____	Art 5, Sec F	Variances for Agricultural Structures
____	Art 4, Sec A, ___	Accessory Structures
____	Art 5 Sec F or G	Variances for Accessory Structures
____	Art 4, Sec A, ___	Critical Facilities
____	Art 4, Sec A, ___	Hazardous Materials
____	Art 4, Sec A, ___	Cumulative Improvement
____	Art 8	Temporary Structure Definition
____	Art 5	Variances for Temporary Structures

RESOLUTION NO. 2002-14

A RESOLUTION RELATING TO FLOOD PLAIN MANAGEMENT AND LAND USE RESTRICTIONS AND REGULATIONS

BE IT RESOLVED BY THE BOARD OF HAMILTON COUNTY COMMISSIONERS THAT THE FOLLOWING BE ADOPTED THIS 30th DAY OF DECEMBER, 2002, REGARDING THE IMPLEMENTING OF CERTAIN FLOODPLAIN MANAGEMENT MEASURES.

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

SECTION A. STATUTORY AUTHORIZATION

1. The following flood plain management Resolution 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 ~~June 20, 2002.~~ April 8, 2003.

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 Board of Hamilton County Commissioners resolves as follows:

SECTION B. FINDINGS OF FACT

1. Flood Losses Resulting from Periodic Inundation

The special flood hazard areas of Hamilton County, 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 Resolution 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 Resolution is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this Resolution. 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 overbank 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. STATEMENT OF PURPOSE

It is the purpose of this Resolution 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 county's eligibility for participation in the National Flood Insurance Program (NFIF) 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 Resolution 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 RESOLUTION APPLIES

This Resolution shall apply to all lands in Hamilton County, Kansas, excluding the incorporated areas of the incorporated cities of Coolidge and Syracuse, Kansas 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 Floodway Map (FBFM) as amended, and any future revisions thereto. In all areas covered by this Resolution, no development shall be permitted except through the issuance of a flood plain development permit, granted by Hamilton County or its duly designated representative under such safeguards and restrictions as Hamilton County, Kansas or the designate representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the County, and as specifically noted in Article 4.

SECTION B. COMPLIANCE

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

SECTION C. ABROGATION AND GREATER RESTRICTIONS

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

SECTION D. INTERPRETATION

In their interpretation and application, the provisions of this Resolution 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 Resolution 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 Resolution 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 Resolution shall not create a liability on the part of Hamilton County, Kansas, any officer or employee thereof, for any flood damages that may result from reliance on this Resolution or any administrative decision lawfully made there under.

SECTION F. SEVERABILITY

If any section; clause; provision; or portion of this Resolution is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this Resolution 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 or 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 Resolution.

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 reasonable safe from flooding and that flood plain development permit requirements of this Resolution 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 for 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; and

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;

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 on 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 Resolution. 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 county.

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 an/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 assure 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; and

4. All proposals for development, including proposals for manufactured home parks and subdivisions of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals flood elevation data.

5. Storage, Material 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 are 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 Resolution, but which is not in conformity with the provisions of this Resolution, 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 Resolution.

b. If nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the costs is more that 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

1. 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 the lowest floor used solely for parking of vehicles, building access, or storage are in areas 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 floodwaters. Designs for meeting this requirement must either by 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 are 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 devises 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, AE, 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, AE 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 and 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 zoned, on the community's FIRM, that are not subject to the provisions of Article 4, Section C(2) of this Resolution, 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 abase 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 no 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 tin feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities 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 floodwaters around and away from proposed structures.

2. AH ZONES

a. The specific standards for all areas of special food 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 floodwaters 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 are 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 as 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 communities 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 Resolution.

* 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 devises 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 Resolution.

SECTION B. RESPONSIBILITY OF APPEAL BOARD

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.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made b the Flood Plain Administrator in the enforcement or administration of this Resolution.

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 in K.S.A. 12-1579 and 12-760.

FROM HAMILTON COUNTY ZONING REGULATIONS

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 Resolution, 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, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acres, 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 local inventory of historic places upon determination, provide 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 of 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 Resolutions.

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 overage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Resolution.

ARTICLE 6. PENALTIES FOR VIOLATION

Violation of the provisions of this Resolution 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. An person who violates this Resolution 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 offence. Nothing herein contained shall prevent Hamilton County, Kansas or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 7. AMENDMENTS

The regulations, restrictions, and boundaries set forth in this Resolution 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 Resolution are in compliance with the NFIP regulations.

ARTICLE 8. DEFINITIONS

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

ARTICLE 9. CERTIFICATE OF ADOPTION

This Flood Plain Management Resolution for Hamilton County, Kansas PASSED AND ADOPTED by the Board of County Commissioners of Hamilton County, Kansas this 30 day of December, 2002.

APPROVED:

BOARD OF COUNTY COMMISSIONERS
Hamilton County, Kansas

By: Jamie K. Cheatum
Jamie K. Cheatum, Chairman

Date: 12-30-02

ATTEST:

Marcia J. Ashmore
Marcia J. Ashmore,
Hamilton County Clerk

Date: 12-30-02

Published in *The Syracuse Journal* the 8th day of January, 2003.

APPROVED
This 8th day of Apr., 2003

for David L. Pope, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

"100-year Flood" *see "base fl ."*

"Accessory Structure" means the same as *"appurtenant structure."*

"Actuarial Rates" *see "risk premium rates."*

"Administrator" means the Federal Insurance Administrator.

"Agency" means the Federal Emergency Management Agency (FEMA).

"Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

"Appurtenant Structure" means 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 principal structure.

"Area of Shallow Flooding" means 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" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the structure having its floor subgrade (below ground level) on all sides.

"Building" *see "structure."*

"Chief Engineer" means the chief engineer of the division of water resources, Kansas Department Of Agriculture.

"Chief Executive Officer" or "Chief Elected Official" means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

"Community" means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

"Development" means 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" means 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.

Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

"Existing Construction" means 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 construction"* may also be referred to as *"existing structures."*

"Existing Manufactured Home Park or Subdivision" means 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 floodplain management regulations adopted by a community.

"Expansion to an Existing Manufactured Home Park or Subdivision" means 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" means 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 Floodway Map (FBFM)" means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

"Flood Elevation Determination" means 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" means an examination, evaluation and determination of flood hazards.

"Flood Fringe" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

"Flood Hazard Boundary Map (FHBM)" means 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" means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

"Flood Insurance Rate Map (FIRM)" means 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)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source *(see "flooding")*.

"Floodplain Management" means 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 floodplain management regulations.

"Floodplain Management Regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain 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.

"Floodproofing" means 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.

"Floodway" or "Regulatory Floodway" means 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.

"Floodway Encroachment Lines" means the lines marking the limits of floodways on Federal, State and local floodplain maps.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain 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 floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means 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" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means 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" means 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 floodproofing design requirements of this ordinance.

"Manufactured Home" means 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" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
"Map" means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

"Market Value" or "Fair Market Value" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

"Mean Sea Level" means, 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" means, 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 floodplain management purposes, *"new construction"* means structures for which the *"start of construction"* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

"New Manufactured Home Park or Subdivision" means 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 floodplain management regulations adopted by the community.

"(NFIP)" means the National Flood Insurance Program (NFIP).

"Participating Community" also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

"Permit" means a signed document from a designated community official authorizing development in a floodplain, 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" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

"Recreational Vehicle" means 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" means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

"Risk Premium Rates" means 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" means 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" means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or 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" means, for floodplain 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" means 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" means 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" means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain 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" means 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 floodplain.

KANSAS FLOODPLAIN DEVELOPMENT PERMIT/APPLICATION

Community Name:_____ Date:_____ Application #:_____

O THE ADMINISTRATOR: The undersigned hereby makes application for a permit to develop in a floodplain. The work to be performed, including flood protection works, is as described below and in attachments hereto. The undersigned agrees that all such work shall be done in accordance with the requirements of the Floodplain Management Ordinance and applicable county/city ordinances and the State of Kansas requirements as contained in K.S.A.12-766, and K.A.R. 5-44-1 through 5-44-6.

Owner or Developer	Date	Builder or Contractor	Date
Address		Address	
Phone		Phone	

SITE DATA

1. Location:_____ ¼_____ ¼_____ Section_____ Range_____ Township_____
   Street Address_____
2. Type of Development (✓): New Construction**_____ Substantial Improvement**_____ Minimum Improvement_____
   Filling _____ Grading _____ Excavation_____ Other_____
   **Notice: FEMA Elevation Certificate must be attached to permit.
3. Description of Development:_____
4. Structure: New Structure sq ft_____. Existing Structure sq ft_____ + Improvement sq ft_____ = Total sq ft_____
   Principal use_____ Accessory uses (storage, parking, etc.)_____
5. Value of Improvement (fair market): $_____ Pre-Improvement/Assessed value of structure $_____
6. Development Located in a Designated(✓): FLOODWAY? Yes_____ No_____ FLOODWAY FRINGE? Yes_____ No_____
   IF LOCATED IN FLOODWAY, NO-RISE CERTIFICATION MUST BE PROVIDED PRIOR TO THE ISSUANCE OF A PERMIT TO DEVELOP THAT STATES THE PROPOSED DEVELOPMENT WILL RESULT IN NO INCREASE IN THE BASE FLOOD (100-YEAR) ELEVATON. .
7. FEMA Flood Map Panel Number:_____ Effective Map Date:_____

ELEVATIONS(✓): NGVD _____ NAVD _____

8. Elevation of 100-Year Flood / Base Flood Elevation (BFE) at development site:....._____Feet
9. Elevation of development site:....._____Feet
10. Elevation of lowest floor of residential development (minimum one foot above BFE):....._____Feet
11. Elevation of floodproofing for non-residential development (minimum one foot above BFE):_____Feet
12. Other floodplain elevation information (identify and describe source):_____ (attach to permit)
13. Other Permits required(✓)? (attach copies to permit)
    a. United States Army Corps of Engineers Section 404 Permit: Yes_____ No_____
    b. Kansas Department of Agriculture Division of Water Resources: Yes_____ No_____
    c. Other Permits_____
14. This permit is in compliance with all provisions of Floodplain Management Ordinance #_____

NOTICE: Read Carefully. This permit is issued with the condition that the lowest floor (including basement) of any new o substantially-improved (over 50% current market value) residential structure will be elevated at least one (1) foot above the base flooc elevation. If the proposed development is a non-residential structure, this permit is issued with the condition that the lowest floo. (including basement) of any new or substantially-improved non-residential structure will be elevated or floodproofed at least one (1 foot above the Base Flood Elevation. This permit is issued with the condition that the developer/owner will provide a FEM- Elevation Certificate completed by a registered engineer, architect, or land surveyor certifying the "as-built" lowest floor elevation c any new or substantially-improved structure covered by this permit.

Permit Decision: ☐ Approved ☐ Denied (attach explanation) this _____ day of _____, 20___

Print Name and Title of Owner or Developer	Print Name and Title of Authorizing Community Official

Draft: For approval by the Chief Engineer of the Division of Water Resources

HM-Co

RESOLUTION/ORDINANCE NO. 96-8

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of Kansas (state) has in K S A 12-766 (section of statutes) delegated the responsibility to local governmental units to adopt regulations designed to protect the health, safety and general welfare. Therefore, the Board of Commissioners (governing body) of Hamilton County (local unit) Kansas (state) ordains as follows.

1.2 FINDINGS OF FACT

1.21 Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Hamilton County (local unit), Kansas (state) 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.

1.22 General Causes of the Flood Losses

These flood losses are caused by; (1) The cumulative effect of obstructions in floodways causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance/resolution to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by applying the provisions of this ordinance/resolution to:

1.31 Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

1.32 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

1.33 Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

1.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

WHEREAS, the Hamilton County (community), wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3(a) of the Federal Insurance Administration regulations.

NOW, THEREFORE, in order to determine which developments would increase the flood hazard, the following measures shall be required within the jurisdictional limits of this community.

SECTION 2 PERMIT REQUIREMENTS

No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person.

No 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, shall be commenced until a separate permit, for each change, has been obtained from the designated responsible person.

No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each manufactured home from the designated responsible person.

SECTION 3 APPLICATION

To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the designated responsible person with a fee of $ * _____ before the issuance of a permit will be considered.
*See fee schedule attached

SECTION 4 REVIEW OF APPLICATIONS

The Zoning Administrator (enforcement official) hereinafter referred to as the responsible person, is appointed as the "person" responsible for receiving applications and examining the plans and specifications for the proposed construction or development.

After reviewing the application, the responsible person shall require any additional measures which are necessary to meet the minimum requirements of this resolution/ordinance.

SECTION 5 The responsible person shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution

Control Act Amendments of 1972, 33 U.S.C. 1334.

SECTION 6 The responsible person shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall: (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

SECTION 7 The responsible person shall review subdivision proposals and other proposed new development including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the flood prone area, (ii) all public utilities and facilities, such as sewer, gas, electric, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards.

SECTION 8 The responsible person shall require within flood prone areas that new and replacement water supply systems be designed to minimize or eliminate infiltration of flood waters into the systems.

SECTION 9 The responsible person shall require that within flood prone areas (i) new and replacement 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 (ii) on-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.

SECTION 10 VARIANCE PROCEDURES

10.1 The Board of Zoning Appeals as established by Hamilton County shall hear and decide appeals and requests for variances from the requirements of this ordinance.

10.2 The Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator (local administrator) in the enforcement or administration of this ordinance/resolution.

10.3 Any person aggrieved by the decision of the Board of Zoning Appeals (appeal board) or any taxpayer may appeal such decision to the District Court (name of appropriate appeal board) as provided in KSA 12-760 (statute).

10.4 In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance/ resolution, and:

10.41 the danger that materials may be swept onto other lands to the injury of others;

10.42 the danger to life and property due to flooding or erosion damage;

10.43 the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

10.44 the importance of the services provided by the proposed facility to the community;

10.45 the necessity to the facility of a waterfront location, where applicable;

10.46 the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

10.47 the compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;

10.48 the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

10.491 the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

10.492 the 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 water systems, and streets and bridges.

10.5 Conditions for Variances

10.51 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, providing items (8.52-8.56 below) have been fully considered. As the lot size increases beyond

the one-half acre, the technical justification required for issuing the variance increases.

10.52 Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

10.53 Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

10.54 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

10.55 Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a 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/resolutions.

10.56 Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 11.0 NONCONFORMING USE

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

11.11 If such use is discontinued for 6 consecutive months, any future use of the building premises shall conform to this ordinance/resolution. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 6 months.

11.12 Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

11.2 If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is

more than 50 per cent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance/resolution. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 12 ABROGATION AND GREATER RESTRICTIONS

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

SECTION 13 INTERPRETATION

In their interpretation and application, the provisions of this ordinance/resolution shall be held to be minimum requirements and 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 state statutes.

SECTION 14 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance/resolution 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 height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance/resolution does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance/resolution shall not create liability on the part of Hamilton County (name of local unit) or any officer or employee thereof for any flood damages that may result from reliance on this ordinance/resolution or any administrative decision lawfully made thereunder.

SECTION 15 SEVERABILITY

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

SECTION 16 APPEAL

Where a request for a permit to develop or a variance is denied by the

Zoning Administrator (official) the applicant may apply for such permit or variance directly to the Board of Appeals.

SECTION 17 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance/resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance/resolution or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500, 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 County (local unit) or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 18 DEFINITIONS Unless specifically defined below, words or phrases used in this resolution/ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this resolution/ordinance its most reasonable application.

"Development" means 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 or storage of equipment or materials.

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

"Floodplain" or "flood prone area" means any land area susceptible to being inundated by water from any source (see definition of "flood").

"Floodproofing" means 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.

"Historic Structure" means 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 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.

"Manufactured home" means a structure, transportable in one or more sections, which 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 "recreational vehicle".

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Recreational vehicle" means a vehicle which is : (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanetly towable 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.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was 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 slab or footings, the installation of piles, the construction of columns, or 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; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, 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.

"Structure" means, for floodplain 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.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before

damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, 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 the "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 which 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" means a grant of relief by a community from the terms of a floodplain management regulation.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance/resolution is presumed to be in violation until such time as that documentation is provided.

ADOPTED AND PASSED by the Governing Body of the Hamilton County Commissioners

this 25 day of June, 1996.

(Seal)

Earl Willis Jr

Chairman Hamilton County Board of Commissioners

ATTEST: Beverly Holcomb
COUNTY CLERK

APPROVED
This 4th day of June, 1996
David L. Pope, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

Hamilton County

ZONING PERMIT APPLICATION FEE SCHEDULE

To construct, erect or alter;

1. A residential addition or accessory building.....$25
2. A new residential principal building.....$50
3. A Commercial, industrial, or mobile home park addition or accessorybuilding.....$100
4. A new principal structure for commercial, industrial, or mobile home park.....$200
5. An application for a rezoning or conditional use permit.....$100
6. An appeal to the Board of Zoning Appeals.....$35

Fees shall be paid before a zoning permit can be acted upon.

HM Co

STATE OF KANSAS

BILL GRAVES, GOVERNOR
Alice A. Devine, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David L. Pope, Chief Engineer-Director
901 South Kansas Avenue, 2nd Floor
Topeka, Kansas 66612-1283
(913) 296-3717 FAX (913) 296-1176

KANSAS DEPARTMENT OF AGRICULTURE

June 5, 1996

EARLE WILLIS VICE CHAIR
HAMILTON COUNTY BOARD OF COMMISSIONERS
PO BOX 1167
SYRACUSE KS 67878

Dear Chairman Willis:

On June 4, 1996, the Chief Engineer, Division of Water Resources, Kansas Dept. of Agriculture, acting under terms of K.S.A. 12-766, and the administrative regulations adopted pursuant thereto (K.A.R. 5-44-1 through 6) has approved the floodplain zoning regulations submitted by Mr. Jim Baker, County Administrator, on behalf of Hamilton County, Kansas. An approved copy of these regulations is returned for your files and one copy is retained in files of this agency.

When these regulations are formally adopted by the governing body of your community, please supply this office with a signed copy indicating the date of adoption and the ordinance or resolution number. A signed copy of the adopted regulations must also be sent to the Regional Office of the Federal Emergency Management Agency (FEMA).

Please also be advised that more specific standards and regulations will need to be submitted for approval by this office and subsequently adopted when the flood hazard areas in Hamilton County are mapped by FEMA. The map and any applicable supporting materials will be available in this office at a later date and will be the reference used in a technical review of any proposed changes to these approved floodplain management regulations as may be required under K.S.A. 12-766 and K.A.R. 5-44-1 through 6.

If this raises questions, please feel free to write or call.

Sincerely,

George A. Austin

George A. Austin, P.E., L.S.
Water Structures Section Head

GAA:DFK:fb
Enclosure
pc: Kay Carder, FEMA
Jim Baker, Hamilton County Administrator

FLOODPLAIN ORDINANCE/RESOLUTION
REVIEW WORKSHEET

This work sheet is for use in the review of all resolutions, ordinances and regulations relating to floodplains as required in K.S.A. 12-766.

These regulations were submitted on (date) March 4, 1996 by Jim Baker, Co. Adm. on behalf of Hamilton County, KS.

The reason(s) for submittal under K.A.R. 5-44-2 (Circle as appropriate):

(a) Status.

(b) New map, BFE, FIS, or floodway.

(c) Annexation.

(d) ETJ.

(e) Variance procedure.

The ordinance/resolution was submitted with/without (circle one) a complete cover letter.

The minimum standards of K.A.R. 5-44-1 through -6 are met in the following section(s):

a) flood hazard map and effective date identified. No map yet published

b) NFIP minimum development standards enumerated. Sec 6-9

c) floodplain administrator identified. Sec 4

d) permit required for all developments in floodplain. Sec 2

e) lowest floor of all structures required to be elevated or floodproofed to one (1) foot above base flood elevation. N/A, See Sec's 1.2, 1.3 + Sec 4

f) conveyance capacity of floodway protected. N/A; see Sec 5

g) variance procedures included and conditions specified. Sec 10

Comments: Hamilton County has not been mapped for flood hazard areas. Like Linn County it wants to enter the NFIP w/o a FEMA map, and like Linn Co. it has completed a FEMA model ordinance/resolution

Recommended action: Approve, with reminder that more restrictive regulations will be needed when flood hazard has been mapped.

Reviewer: Don Kostecki Date: 6/3/96

HM Co

STATE OF KANSAS

BILL GRAVES, GOVERNOR
Alice A. Devine, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David L. Pope, Chief Engineer-Director
901 South Kansas Avenue, 2nd Floor
Topeka, Kansas 66612-1283
(913) 296-3717 FAX (913) 296-1176

KANSAS DEPARTMENT OF AGRICULTURE

March 8, 1996

THE HONORABLE EARLE WILLIS VICE CHAIR
HAMILTON COUNTY BOARD OF COMMISSIONERS
PO BOX 1167
SYRACUSE KS 67878

Dear Vice Chairman Willis:

On March 4, 1996, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, acting under terms of K.S.A. 12-766 and K.A.R. 5-44-3 has received for review and approval/disapproval the floodplain zoning regulations submitted by Mr. Jim Baker, County Administrator, on behalf of Hamilton County. In accordance with the requirements of paragraph (b) of K.A.R. 5-44-3, the 90-day statutory time period for review commences on March 4, 1996 and ends on June 4, 1996.

The floodplain management regulations received will be reviewed in accordance with K.A.R. 5-44-1 through 6. Your community will be advised of the approval/disapproval of the Chief Engineer on or before June 4, 1996.

If this raises any questions, please feel free to write or call.

Very truly yours,

George A. Austin, P.E., L.S.
Water Structures Section Head

GAA:DFK:fb

pc: Mr. Jim Baker, County Administrator

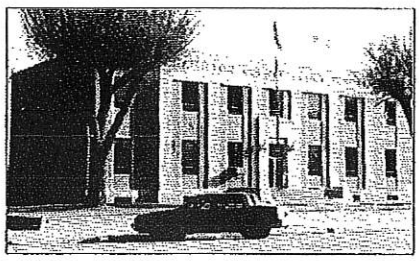
Commissioners 384-5629
Box Y

County Clerk 384-5629
Box Y

Treasurer 384-5522
Box P

Register of Deeds 384-6925
Box I

Appraiser 384-5451
Box Y



HAMILTON COUNTY
ESTABLISHED 1886
Located in a Progressive Western Area
Syracuse, KS 67878
FAX NO. (316) 384-5853

Sheriff 384-5616
Box 764

Attorney 384-5112
Box 870

Noxious Weed 384-7808
Box 325

Road 384-5135
Box CC

Health Nurse 384-7875
Box 203

February 27, 1996

Mr. David L. Pope
Chief Engineer
Division of Water Resources
901 South Kansas Avenue 2nd Floor
Topeka Kansas 66612-1283

Dear Mr. Pope

It is the intent of Hamilton County to participate in the National Flood Insurance Program (NFIP).

The Hamilton County Board of Commissioners have adopted resolution 96-6 which conveys a commitment to assist the NFIP Administrator and to establish and maintain the program.

Attached in draft form is a resolution which we feel establishes standards that must be met by any development within flood prone areas. It is our understanding that this document must be approved by your agency before it is adopted by the commission and submitted to the FEMA Regional Office.

Should you require any additional information please contact me at (316)384-7519.

Sincerely

Jim Baker
Hamilton County Administrator

Enclosure

Draft: For approval by the Chief Engineer of the Division of Water Resources

RESOLUTION/ORDINANCE NO. _____

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of Kansas (state) has in K S A 12-766 (section of statutes) delegated the responsibility to local governmental units to adopt regulations designed to protect the health, safety and general welfare. Therefore, the Board of Commissioners (governing body) of Hamilton County (local unit) Kansas (state) ordains as follows.

1.2 FINDINGS OF FACT

1.21 Flood Losses Resulting from Periodic Inundation

The flood hazard areas of Hamilton County (local unit), Kansas (state) 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.

1.22 General Causes of the Flood Losses

These flood losses are caused by; (1) The cumulative effect of obstructions in floodways causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance/resolution to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by applying the provisions of this ordinance/resolution to:

1.31 Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

1.32 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

1.33 Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

1.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

WHEREAS, the Hamilton County (community), wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3(a) of the Federal Insurance Administration regulations.

NOW, THEREFORE, in order to determine which developments would increase the flood hazard, the following measures shall be required within the jurisdictional limits of this community.

SECTION 2 PERMIT REQUIREMENTS

No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person.

No 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, shall be commenced until a separate permit, for each change, has been obtained from the designated responsible person.

No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each manufactured home from the designated responsible person.

SECTION 3 APPLICATION

To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the designated responsible person with a fee of $ * _____ before the issuance of a permit will be considered.

*See fee schedule attached

SECTION 4 REVIEW OF APPLICATIONS

The Zoning Administrator (enforcement official) hereinafter referred to as the responsible person, is appointed as the "person" responsible for receiving applications and examining the plans and specifications for the proposed construction or development.

After reviewing the application, the responsible person shall require any additional measures which are necessary to meet the minimum requirements of this resolution/ordinance.

SECTION 5 The responsible person shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution

Control Act Amendments of 1972, 33 U.S.C. 1334.

SECTION 6 The responsible person shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall: (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

SECTION 7 The responsible person shall review subdivision proposals and other proposed new development including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the flood prone area, (ii) all public utilities and facilities, such as sewer, gas, electric, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards.

SECTION 8 The responsible person shall require within flood prone areas that new and replacement water supply systems be designed to minimize or eliminate infiltration of flood waters into the systems.

SECTION 9 The responsible person shall require that within flood prone areas (i) new and replacement 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 (ii) on-site waste disposal systems be located to avoid impairment to them or contamination from them during flooding.

SECTION 10 VARIANCE PROCEDURES

10.1 The Board of Zoning Appeals as established by Hamilton County shall hear and decide appeals and requests for variances from the requirements of this ordinance.

10.2 The Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator (local administrator) in the enforcement or administration of this ordinance/resolution.

10.3 Any person aggrieved by the decision of the Board of Zoning Appeals (appeal board) or any taxpayer may appeal such decision to the District Court (name of appropriate appeal board) as provided in KSA 12-760 (statute).

10.4 In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance/ resolution, and:

10.41 the danger that materials may be swept onto other lands to the injury of others;

10.42 the danger to life and property due to flooding or erosion damage;

10.43 the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

10.44 the importance of the services provided by the proposed facility to the community;

10.45 the necessity to the facility of a waterfront location, where applicable;

10.46 the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

10.47 the compatibility of the proposed use to the comprehensive plan and floodplain management program for that area;

10.48 the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

10.491 the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

10.492 the 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 water systems, and streets and bridges.

10.5 Conditions for Variances

10.51 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, providing items (8.52-8.56 below) have been fully considered. As the lot size increases beyond

the one-half acre, the technical justification required for issuing the variance increases.

10.52 Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

10.53 Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

10.54 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

10.55 Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a 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/resolutions.

10.56 Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 11.0 NONCONFORMING USE

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

11.11 If such use is discontinued for 6 consecutive months, any future use of the building premises shall conform to this ordinance/resolution. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 6 months.

11.12 Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

11.2 If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is

more than 50 per cent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance/resolution. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 12 ABROGATION AND GREATER RESTRICTIONS

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

SECTION 13 INTERPRETATION

In their interpretation and application, the provisions of this ordinance/resolution shall be held to be minimum requirements and 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 state statutes.

SECTION 14 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance/resolution 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 height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance/resolution does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance/resolution shall not create liability on the part of Hamilton County (name of local unit) or any officer or employee thereof for any flood damages that may result from reliance on this ordinance/resolution or any administrative decision lawfully made thereunder.

SECTION 15 SEVERABILITY

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

SECTION 16 APPEAL

Where a request for a permit to develop or a variance is denied by the

Zoning Administrator (official) the applicant may apply for such permit or variance directly to the Board of Appeals.

SECTION 17 PENALTIES FOR VIOLATION

Violation of the provisions of this ordinance/resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance/resolution or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500, 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 County (local unit) or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 18 DEFINITIONS Unless specifically defined below, words or phrases used in this resolution/ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this resolution/ordinance its most reasonable application.

"Development" means 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 or storage of equipment or materials.

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

"Floodplain" or "flood prone area" means any land area susceptible to being inundated by water from any source (see definition of "flood").

"Floodproofing" means 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.

"Historic Structure" means 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 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.

"Manufactured home" means a structure, transportable in one or more sections, which 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 "recreational vehicle".

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Recreational vehicle" means a vehicle which is : (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanetly towable 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.

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was 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 slab or footings, the installation of piles, the construction of columns, or 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; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, 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.

"Structure" means, for floodplain 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.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before

damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, 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 the "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 which 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" means a grant of relief by a community from the terms of a floodplain management regulation.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance/resolution is presumed to be in violation until such time as that documentation is provided.

ADOPTED AND PASSED by the Governing Body of the _____

this _____ day of _____, 19____.

(Seal)

_____

Chairman Hamilton County Board of Commissioners

ATTEST: _____

COUNTY CLERK

APPROVED

This 4th day of June, 1996

David L. Pope, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

Hamilton County

ZONING PERMIT APPLICATION FEE SCHEDULE

To construct, erect or alter;

1. A residential addition or accessory building.....$25
2. A new residential principal building.....$50
3. A Commercial, industrial, or mobile home park addition or accessorybuilding.....$100
4. A new principal structure for commercial, industrial, or mobile home park.....$200
5. An application for a rezoning or conditional use permit.....$100
6. An appeal to the Board of Zoning Appeals.....$35

Fees shall be paid before a zoning permit can be acted upon.

SECTION

13

FLOODPLAIN OVERLAY DISTRICT (FP)

Sections:

Section 13-1. Statement of Purpose

13-1.01 The floodplain regulations set forth in this section, or set forth elsewhere in these regulations, when referred to in this section, are the regulations in the Floodplain Overlay District (FP). The purpose of this district is to protect individuals and property from flood hazards or flooding by providing for the orderly and safe development of special flood hazard areas for the most advantageous uses which are consistent with the health, safety, and welfare of the general public.

Section 13-2. Applicability, Enforcement, Interpretation and Conflict

13-2.01 Land to Which This Section Applies: This section shall apply to all areas of special flood hazards within unincorporated Hamilton County, Kansas.

13-2.02 Basis for Establishing Areas of Special Flood Hazard: The Board of County Commissioners hereby designates the current "Flood Hazard Boundary Maps Unincorporated Area," dated _____, 19____, and amendments, as the official maps to be used in determining those areas of special flood hazard in the unincorporated territory of Hamilton County, Kansas. Said maps are incorporated herein by reference as part of these zoning regulations.

13-2.03 Enforcement: The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this section.

13-2.04 Rules for Interpretation of District Boundary: The boundary of the Floodplain Overlay District shall be determined by reviewing the "Flood Hazard Boundary Maps". Where interpretation is needed as to the exact location of the boundaries of the district, the Zoning Administrator shall make the necessary interpretation based upon data available. The Zoning Administrator shall maintain the "Flood Hazard Boundary Maps" and other engineering studies relating to flood data. Appeals shall resolve the dispute as provided by law. The owner of the property of which the regulatory flood elevation is in question shall be given a reasonable opportunity to present his case to the Board of Zoning Appeals and to submit his own technical evidence, if he so desires.

13-2.05 Conflict: In the event of conflict between any floodplain zoning regulations in this section and any other zoning regulations applicable to the same area, whether the conflict be with respect to the use of land or any other matter, the more stringent limitation or requirement as to flood hazards shall govern and prevail.

Section 13-3. Warning and Disclaimer of Liability

13-3.01 The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of Hamilton County, Kansas or by any officer or employee thereof for any flood damages that result from reliance on these floodplain regulations or any administrative decision lawfully made thereunder.

Section 13-4. Floodplain Overlay District

13-4.01 The floodplain overlay district shall include only those areas of special flood hazard as designated by the Federal Insurance Administration's "Flood Hazard Boundary Map," dated _____, 19_____, and any revisions thereto. The floodplain overlay district created for this section is FP (Floodplain Overlay District).

Section 13-5. Zoning Permits Required

13-5.01 No person, firm or corporation shall erect, construct,

enlarge or improve any building or structure within an area of special flood hazard without first obtaining a separate Zoning Permit for each building or structure, including the placement of manufactured homes or mobile homes. Said Zoning Permits shall be in addition to any required building permits, if applicable.

13-5.02 To obtain a Zoning Permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose by the Zoning Administrator. Within Zone A on the official Flood Hazard Boundary Map, every such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitively locate the proposed building or work.

3. Indicate the use or occupancy for which the proposed work is intended.

4. Be accompanied by plans and specifications for proposed construction.

5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

6. Be accompanied by elevations (in relation to a mean sea level) of the lowest floor (including basement) or in the case of floodproofed nonresidential structures, the elevation to which it has been floodproofed. Documentation or certification of such elevations shall be maintained by the Zoning Administrator.

7. Give such other information as reasonably may be required by the Zoning Administrator.

13-5.03 The Zoning Administrator shall review all Zoning Permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal, State or local law.

13-5.04 The Zoning Administrator, in reviewing all Zoning Permit applications within special flood hazard areas, shall obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, State or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within areas designated as Zone A on the official Flood Hazard

Boundary Map that performance standards presented in Section 17-6 of this section are met.

Section 13-6. Development Standards

13-6.01 Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator.

Elevation Certificates

13-6.02 Nonresidential Construction: New construction or substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level is watertight with walls substantially impermeable to the passage of water and with structure 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. Such certification shall be provided to the Zoning Administrator.

13-6.03 Manufactured and Mobile Homes: In addition to the above standards, those presented elsewhere in these zoning regulations, and any applicable state regulations, all temporary manufactured homes and mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes and mobile homes must be anchored in accordance with State laws, these zoning regulations, and Federal Emergency Management Agency (FEMA) guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

1. Over-the-top ties be provided at each of the four (4) corners of the manufactured home or mobile home, with two (2) additional ties per side at intermediate locations; and manufactured homes or mobile homes less than fifty (50) feet long requiring one (1) additional tie per side.

2. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points; and manufactured homes or mobile homes less than fifty (50) feet long requiring four (4) additional ties per side.

3. All components of the anchoring system be capable of

carrying a force of 4,800 pounds as determined by a registered professional engineer.

4. Any additions to manufactured homes or mobile homes be similarly anchored.

13-6.04 General Standards: In all areas of special flood hazards the following provisions are required:

1. Fully enclosed areas for all new construction and substantial improvements that are below the lowest floor subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

   (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

   (b) The bottom of all openings shall be no higher than one (1) foot above grade.

   (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. The use of construction materials that are resistant to flood damage.

3. The use of construction methods and practices that will minimize flood damage.

4. New structures shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

5. New structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

6. The Board of County Commissioners shall insure that

the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The County will notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency (FEMA). Moreover, the County will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973.

Section 13-7. New Water and Sewer Systems

13-7.01 New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems shall be designed to avoid impairment or contamination during flooding. A registered professional engineer shall certify that the standards of this section are satisfied. Such certification shall be provided to the Zoning Administrator.

Section 13-8. Nonconforming Uses and Structures

13-8.01 All nonconforming uses and structures within the Floodplain Overlay District (FP) shall be subject to the following requirements:

1. A structure or use of a structure or premise which was lawful before the passage of these floodplain regulations but which is not in conformity with the provisions of said regulations may be continued subject to the following conditions:

   (a) No such use or substantial improvement of that use shall be expanded, changed, enlarged or altered in any way which increases its nonconformity.

   (b) If such use is discontinued for six (6) consecutive months or more, any future use of the building premises shall conform to the provisions established in this section.

2. If any 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 its fair market valuation before the damage occurred unless it is reconstructed in conformity with the provisions established in this section. This limitation does not include the cost of any alteration

to comply with existing state or local health, sanitary, building or safety codes or regulations or the costs of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 13-9. Changes and Amendments

13-9.01 These floodplain regulations shall take precedence over conflicting regulations or parts of regulations. The Board of County Commissioners may, from time to time, amend this section to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, that such amendments shall be in compliance with the requirements of these zoning regulations and with the requirements of K.S.A. 12-766. These floodplain regulations are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations.

Section 13-10. Variances

13-10.01 Variances and Variance Procedures: The Board of Zoning Appeals shall hear and decide all variances from the requirements of this section and shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this section.

13-10.02 Variances for Historic Places: Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

13-10.03 Additional Conditions for Variances: The Board of Zoning Appeals, in passing upon variance applications in the Floodplain Overlay District (FP), shall consider all technical evaluations, all relevant factors, standards specified in this section, and the following:

1. The danger that materials may be swept onto other land to the injury of others.

2. The danger to life and property due to flooding or erosion damage.

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

4. The importance of the services provided by the proposed facility to the community.

5. The necessity to the facility of a waterfront location, where applicable.

6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

7. The safety of access to the property in times of flood for ordinary and emergency vehicles.

8. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at this site.

9. The 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 water systems, and streets and bridges.

10. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

11. Variances shall only be issued upon: 1) a showing of good and sufficient cause, and 2) a 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, regulations, or ordinances.

12. Upon consideration of the factors listed above and the purposes of this section, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

Section 13-11. Floodplain Regulations Not Effective Until State Approval

13-11.01 Per the requirements of K.S.A. 12-766, these floodplain regulations shall not be effective until approved by the chief engineer, division of water resources, Kansas State Board of Agriculture.

SYRACUSE-HAMILTON COUNTY AIRPORT
HEIGHT AND HAZARD REGULATIONS
RESOLUTION NO. 2021-6

A RESOLUTION REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY IN THE VICINITY OF THE SYRACUSE-HAMILTON COUNTY AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE SYRACUSE-HAMILTON COUNTY AIRPORT AIRSPACE PROTECTION MAP WHICH IS INCORPORATED IN AND MADE PART OF THIS RESOLUTION; PROVIDING FOR ENFORCEMENT; ESTABLISHING A SYRACUSE- HAMILTON COUNTY AIRPORT AIRSPACE PROTECTION COMMISSION, AND APPEALS PROCEDURES; AND IMPOSING PENALTIES.

This Resolution is adopted pursuant to the authority conferred by K.S.A. Chapter 3, Article 701, *et. seq.* It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Syracuse-Hamilton County Airport (hereinafter also referred to as "the Airport"), and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Syracuse-Hamilton County Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Syracuse-Hamilton County Airport and the public investment therein. Accordingly, it is declared that:

1. creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Syracuse-Hamilton County Airport;

2. prevention of obstructions that are a hazard to air navigation-and including any which may permanently raise the published or planned approach minimums of the airport-is necessary in the interest of the public health, public safety, and general welfare; and

3. prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

IT IS DECLARED that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

WHEREAS, the Syracuse-Hamilton County Zoning and Planning Commission held a Public Hearing on November 12th, 2020 to consider new airport Height and Hazard Regulations affecting the airspace protection area surrounding the Syracuse-Hamilton County Airport located within the corporate limits of the City of Syracuse and in portions of unincorporated Hamilton County, Kansas. Said meeting occurring in the Hamilton County Courthouse, with notice thereof duly published in the local news outlet of record and pursuant to Kansas Revised Statute 3-705; and

WHEREAS, the County, receiving no opposition to the adoption of said Resolution or the recommendations of said commission, elects to proceed with the adoption of said Resolution.

IT IS HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR HAMILTON COUNTY, KANSAS AND THE SYRACUSE CITY COUNCIL FOR THE CITY OF SYRACUSE, KANSAS AS FOLLOWS:

SECTION 1: SHORT TITLE

This Resolution shall be known and may be cited as the Syracuse-Hamilton County Airport Height and Hazard Regulations.

SECTION 2: DEFINITIONS

As used in this Resolution, unless the context otherwise requires:

1. 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 the 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.

2. AIRPORT - means the Syracuse-Hamilton County Airport

3. AIRPORT AIRSPACE PROTECTION COMMISSION - means the Airport Commission appointed by the County, comprised of members of the Syracuse-Hamilton County Airport Commission, to draft and recommend to the County and City an amended Airport Height & Hazard Regulation for the newly drawn and locally designated airport hazard area of the Syracuse-Hamilton County Airport.

4. AIRPORT BOARD OF APPEALS - means the Boards of County Commissioners.

5. AIRPORT HAZARD - means 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.

6. AIRPORT HAZARD AREA - means 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 this Resolution 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 Aviation Portal" at http://ksaviationportal.ksdot.org/aviationportal/cesium.html.

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

8. AIRPORT LAYOUT PLAN (ALP) - means 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.

9. APPROACH MINIMUMS - means 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.

10. AIRPORT RUNWAY ELEVATIONS - means the highest point of the airport's usable landing area measured in feet above mean sea level. (K3K3 runways 13-31 and 18-36 are 3316.0 feet and 3326.1 feet, respectively, above mean sea level.)

11. APPROACH SURFACE - means a surface longitudinally centered 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 Section IV of this Resolution. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

12. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - means the zones that are set forth in Section III of this Resolution.

13. CITY ("the city") – means the City of Syracuse, Kansas.

14. CONICAL SURFACE - means 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.

15. COUNTY ("the County") - means Hamilton County, Kansas.

16. FAA - means the Federal Aviation Administration.

17. HAZARD TO AIR NAVIGATION - means an obstruction determined to have an adverse effect on the safe and efficient utilization of the navigable airspace.

18. HEIGHT - means, for the purpose of determining the height limits in all zones set forth in this Resolution and shown on the Syracuse-Hamilton County Airport Airspace Protection Area Map, as measured in feet above the mean sea level of Airport Runway Elevations of 3K3 runways 13-31 and 18-36, unless otherwise specified.

19. HEIGHT AND HAZARD ADMINISTRATOR ("the Administrator") - means the manager of the Syracuse-Hamilton County Airport, appointed as administrative staff for the Airport Height and Hazard Regulations.

20. HORIZONTAL SURFACE - means a horizontal plane 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.

21. LARGER THAN UTILITY RUNWAY - means 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 (3K3 Runway 18-36).

22. MANAGER - means the Manager of the Syracuse-Hamilton County Airport

23. NON-CONFORMING USE - means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Resolution or an amendment thereto.

24. NON-PRECISION INSTRUMENT RUNWAY - means 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. (3K3 Runway 18-36, existing and ultimate)

25. OBSTRUCTION - means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of this Resolution.

26. PERSON - means an individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

27. PRIMARY SURFACE - means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; 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.

28. RUNWAY - means a defined area on an airport prepared for landing and taking-off of aircraft along its length (3K3 Runway 13-31 & 18-36).

29. STRUCTURE - means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

30. TRANSITIONAL SURFACES - means these 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.

31. TREE - means any object of natural growth.

32. SYRACUSE-HAMILTON COUNTY AIRPORT (the "Airport") - means the public-use airport operated by the Syracuse-Hamilton County Airport Commission, Syracuse, Kansas.

33. WIND TURBINE – means large commercial or industrial sized wind turbine capable of feeding an electrical cooperative transmission system or grid.

SECTION 3: AIRPORT ZONES

The airport Height and Hazard Regulations shall apply to the Airport Hazard Area as recommended by the Airport Airspace Protection Commission and adopted by the County and the City. The Airport Hazard Areas, wherein the Height and Hazard Regulations apply, include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, conical surfaces and any other territory surrounding the Syracuse- Hamilton County Airport divided into zones, as depicted on the *Airport Airspace Protection Area Map* for the Syracuse-Hamilton County Airport made a part of this Resolution and attached hereto. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. FAR Part 77 Surfaces, sub-Part C Civil Airport Imaginary Surfaces Zones -the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, and Transitional Surface as designated by the FAA:

   a) Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (3K3 Runway 18-36, existing and ultimate)

   b) Transitional Zone - The transitional zones are the areas beneath the transitional surfaces.

   c) Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

   d) Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

2. Runway Approach Minimum Zones - The approach zones to the runways, the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and the planned non-precision or precision instrument approach minimums so indicated on the approved Airport Layout Plan {ALP) or the *Airport Airspace Protection Area Map,* which depicts 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 Aviation Portal" at http://ksaviationportal.ksdot.org/aviationportal/cesium.html.

3. Terminal Instrument Procedures (TERPS) Surface Zones which can extend 10 nautical miles from a runway, constructed from the electronic signals transmitted by ground and space based air navigation electronic equipment. These are the instrument procedures that aircraft pilots use to fly between airports and land on runways.

4. Vertically Guided Approach Surfaces {VGAS) Zones - which provide lower minima for approach procedures that do not rely on ground based navigational systems, including

Instrument Landing System {ILS), to improve airport capacity when ground based systems are out of service-for better access to runways with terrain or airspace constraints using curved RNAV legs and narrower protected surfaces; and for improved safety by eliminating circling maneuvers and providing laterally and vertically guided approaches not available through conventional ground-based Navigational Aid (NAVAJO) procedures or through existing Area Navigation (RNAV) procedures.

5. Wind Turbine Prohibited Zone – the zone prohibits any wind turbine within a 5 statute mile radius of the published airport reference point (Latitude: 37° 59' 54.8990" N; Longitude: 101° 44' 51.3880" W).

SECTION 4: AIRPORT ZONE HEIGHT LIMITATIONS

Except as otherwise provided in this Resolution, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Resolution to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. FAR Part 77 Surfaces, sub-Part C Civil Airport Imaginary Surfaces Zones - the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, and Transitional Surface as designated by the FAA:

   a. Runway Larger Than Utility With A Visibility Minimum Greater Than 3/4 Mile Non-precision Instrument Approach Zone - Slopes thirty-four feet outward for each foot upward (34:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended centerlines of each runway (3K3 Runway 18-36).

   b. Transitional Zones - Slope seven feet outward for each foot upward (7:1) beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the elevations each runway. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface of each runway, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

   c. Horizontal Zone - Established at 150 feet above the airport elevations (3K3 Runway 18-36).

   d. Conical Zone - Slopes twenty feet outward for each foot upward (20:1) beginning at the periphery of the horizontal zone and at 150 feet above the airport elevations and extending to a height of 350 feet above the airport elevations.

2. Runway Approach Minimum Zones - The slopes established by the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and by the planned non-precision or precision instrument approach minimums so indicated on an approved Airport Layout Plan or any other planning document.

3. Terminal Instrument Procedures (TERPS) Surface Zones - The slopes established by the electronic signals transmitted by ground and space based air navigation electronic equipment, which instrument procedures aircraft pilots use to fly between airports and land on runways, and as referenced on the Kansas Department of Transportation (KDOT) "Kansas Aviation Portal" http://ksaviationportal.ksdot.org/aviationportal/cesium.html.

4. Vertically Guided Approach Surfaces (VGAS) Zones - The slopes established by the VGAS approach surfaces as referenced on the Kansas Department of Transportation (KDOT) "Kansas Aviation Portal" http://ksaviationportal.ksdot.org/aviationportal/cesium.html.

5. Wind Turbine Prohibited Zone – the zone prohibits any wind turbine within a 5 statute mile radius of the published airport reference point (Latitude: 37° 59' 54.8990" N; Longitude: 101° 44' 51.3880" W).

SECTION 5: CONSTRUCTION NOTICE REQUIREMENTS

In order to comply with Section 111, *Airport Zones* and Section IV, *Airport Zone Height Limitations,* in accordance with this Resolution, as well as Federal Aviation Regulation (FAR) Part 77, *Objects Affecting Navigable Airspace,* this Section is established to require notice of construction or alteration to any object(s) that potentially affects the navigable airspace of the Syracuse-Hamilton County Airport.

1. The contents of this section are based upon FAR Part 77, Subpart B- *Notice of Construction or Alteration,* Section 77.13 (a) (2) - *Construction or Alteration Requiring Notice.*

a. A notice, in the form of an application or permit, directed to the Airport Board is required for any proposed construction or alteration that would be of greater height than an imaginary surface extending outward and upward at the following slope:

i) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the Syracuse-Hamilton County Airport where the existing runway and future runway is greater than 3,200 feet in length.

ii) Notice of construction or alteration for any object(s) that potentially affects the navigable airspace of the Syracuse-Hamilton County Airport must be supplemented by a completed and submitted Federal Aviation Administration (FAA) Form 7460-1 (2-99), *Notice of Proposed Construction or Alteration* as part of the application or permit directed to the Airport Board.

SECTION 6: USE RESTRICTIONS

Notwithstanding any other provisions of this Resolution, no use may be made of land or water within any zone established by this Resolution in such a manner as to create electrical interference with navigational signals or radio communication between the 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. Furthermore, no use may be made of the land or water within any zone established by this Resolution that would result in permanently raising the published or planned approach minimums.

SECTION 7: NONCONFORMING USES

1. Regulations Not Retroactive - The regulations prescribed in this Resolution shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Resolution, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Resolution, and is diligently prosecuted.

2. Marking and Lighting and Tree Trimming - 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 Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights, if deemed necessary and installed by the Syracuse-Hamilton County Airport, have to be installed, operated, and maintained at the expense of the Syracuse-Hamilton County Airport. In the event of a nonconforming tree, the tree may be topped, cropped, or trimmed at the expense of the Syracuse-Hamilton County Airport.

3. Nonconforming Uses Abandoned or Destroyed - Whenever the Syracuse-Hamilton County Airport Manager determines that a nonconforming tree or structure has been abandoned or more than 51 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the Height and Hazard Regulations.

SECTION 8: PERMITS

1. Future Uses - Except as specifically provided in a, b, c, d and e hereunder, no structure greater than 75 feet in height shall be erected or otherwise established, and no tree greater than 25 feet in height shall be planted in the horizontal or conical zones or within 10,200 horizontal feet of the end of the primary surface of the runway in the approach or transitional zones, unless a permit therefore shall have been applied for and granted. 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 herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Resolution shall be granted, or for a use that would allow the establishment or creation of an airport hazard or permit a nonconforming structure to be made or 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; unless a variance has been approved in accordance with Section VIII, 4.

a. In the area lying within the limits of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five 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 zones.

b. In areas lying within the limits of the approach zones 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 structure less than seventy-five feet of vertical height above the ground, except when such tree

or structure would extend above the height limit prescribed for such approach zones.

c. In areas beyond the horizontal zone or a horizontal distance of not less than 10,200 feet from each end of the primary surface of the runway in the approach and transitional zones, no permit is required.

d. No permit shall be required for any tree or structure less than thirty feet of vertical height above the ground in any of the zones hereby created.

e. Within any zone, FAA Form 7460-1 must be filed with the appropriate FAA Regional Office for any construction, alteration or repair for which FAA notice is required (FAA 77.13 Construction or alteration requiring notice). No construction, alteration or repair work may commence until the determination is received from the FAA and said determination is reviewed by the Airport Board as well as the Manager of the Syracuse- Hamilton County Airport. 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 Resolution.

2. Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Resolution or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Nonconforming Uses Abandoned or Destroyed - No permit shall be granted that would allow a nonconforming structure to be reconstructed in any way that exceeds the applicable height limit or otherwise deviates from the Height and Hazard Regulations once it has been determined that the nonconforming structure has been abandoned or more than 51 percent torn down, physically deteriorated, or decayed.

4. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use of property, not in accordance with the regulations prescribed in this Resolution, may apply to the County for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the published or planned approach minimums, operation of air navigation facilities, and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in necessary hardship and relief granted, will 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 Resolution. Additionally, no application for variance to the requirements of this Resolution may be considered by the Syracuse-Hamilton County Airport Board unless a copy of the application has been furnished to the Administrator for advice as to the aeronautical effects of the variance. If the Administrator does not respond to the application within 14 days after receipt, the Syracuse-Hamilton County Airport Board may act on its own to grant or deny said application

5. Obstruction Marking And Lighting, and Tree Trimming - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Resolution 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 or tree trimming as may be necessary. If deemed proper by the Syracuse-Hamilton County Airport Board, this condition may be modified to require the owner to permit the Airport Board, at its own expense, to top, crop, or trim the tree or install, operate, and maintain the

necessary markings and lights.

SECTION 9: ADMINISTRATION AND ENFORCEMENT

It shall be the duty of the Height and Hazard Administrator of the Syracuse-Hamilton County Airport to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Administrator upon a form published for that purpose. Applications required by this Resolution to be submitted to the Administrator shall be promptly granted or denied. In the event the applying party receives what they determine to be an adverse decision, the party shall have the right to apply to the Airport Commission for review of the decision.

SECTION 10: APPEALS

1. Any person aggrieved, or any taxpayer affected, by any decision of the Administrator of these regulations may appeal to the County Commission, acting as the Airport Board of Appeals.

2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Airport Board of Appeals, by filing with the Administrator a notice of appeal specifying the grounds thereof. The Administrator shall transmit to the Airport Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrator certifies to the Airport Board of Appeals, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Manager of the Syracuse-Hamilton County Airport cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Airport Board of Appeals and on due cause shown.

4. The Airport Board of Appeals shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

5. The Airport Board of Appeals may, in conformity with the provisions of this Resolution, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

SECTION 11: REVIEW BY THE AIRPORT BOARD OF APPEALS

1. The Airport Board of Appeals, shall have the following powers: (1) to hear and decide appeals from any order, requirement, decision or determination made by the Administrator in the enforcement of this Resolution, (2) to hear and decide special exceptions to the terms of this Resolution upon which such Airport Board of Appeals under such regulations may be required to pass; and (3) to hear and decide specific variances.

2. All members of the Airport Board of Appeals shall serve to review the decisions of the Administrator. Meetings of the Airport Board of Appeals for the purposes of this Resolution and the review of any decision by the Administrator shall be at the regularly scheduled Airport Board

of Appeals meeting time, unless a special meeting is called. The Airport Board of Appeals shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the County Clerk of Hamilton County, Kansas, and on due cause shown.

3. The Airport Board of Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this Resolution.

4. The concurring vote of a majority of the members of the Airport Board of Appeals shall be sufficient to reverse any order, requirement, decision or determination of the Administrator or decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect variation to this Resolution.

5. Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board of Appeals shall be entitled to a judicial review of said decision as set forth below.

SECTION 12: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board of Appeals, may appeal to the District Court of Hamilton County, Kansas, pursuant to Kansas law.

SECTION 13: PENALTIES

Each violation of this Resolution or of any regulation, order, or ruling promulgated thereunder shall constitute a misdemeanor and shall be punishable by a fine as set by the County; and each day a violation continues to exist shall constitute a separate offense.

SECTION 14: CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Resolution and any other regulations applicable to the same area, whether the conflict exists with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

SECTION 15: SEVERABILITY

If any of the provisions of this Resolution or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application, and to this end, the provisions of this Resolution are declared to be severable.

SECTION 16: EFFECTIVE DATE

WHEREAS, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public health, public safety, and general welfare;

BE IT RESOLVED that, an emergency is hereby declared to exist, and this Resolution shall be in full force and effect from and after its passage by the County, City, publication and posting as required by law.

Passed by the Board of County Commissioners for Hamilton County, Kansas, this 20th day of April 2021.

Commissioner

Commissioner

Nikki Schwerdfeger
Commissioner

Michael W. Serati
Commissioner

Kirk A. Puckett
Commissioner

ATTEST:

Angie Miller
County Clerk

SECTION

14

AIRPORT ZONING (AP)

Sections:

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 hazards are 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 <u>Authority</u>: 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 <u>Reasonableness</u>: 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 <u>Notice and Hearing by Board of County Commissioners</u>: 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 therefor. 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 <u>Airport Overlay Districts Established and Defined</u>: 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 nonprecision 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 arcs. 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 therefrom 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 a height of 150 feet above the airport elevation which is _____ 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 _____ 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 <u>Use Restrictions Generally</u>: Not withstanding 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 <u>Use Restrictions in Airport Approach Zone Overlay Districts</u>: 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 <u>Regulations Not Retroactive</u>: 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:** Not withstanding 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 therefor 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 District:** 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 or 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 other wise 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 by 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:

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 Board of County Commissioners 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 one thousand (1,000) feet of the boundaries of the property proposed for a Conditional Use Permit is filed in the office of the County Clerk, the Conditional Use shall not be approved except by unanimous vote of the Board of County Commissioners. If the proposed Conditional Use Permit is located on property adjacent to the property located in an incorporated municipality, the area of notification will extend two hundred (200) feet into the incorporated area from the boundaries of the area proposed for the Conditional Use Permit.

15-1.04 The Board of County Commissioners 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 County, 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 Board of County Commissioners 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 20-7.0 of these regulations.

Section 15-2. Conditional Uses Enumerated

15-2.01 The following conditional uses may be approved by the Board of County Commissioners 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 nonconforming uses.

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 Board of County Commissioners 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 Board of County Commissioners 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 Board of County Commissioners. 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 non-residential 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 homes 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 flytight, watertight, rodentproof 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 which 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 which 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 Board of County Commissioners.

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 Board of County Commissioners 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.

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 Board of County Commissioners 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 Board of County Commissioners 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. Commercially operated 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, swimming pools, tennis courts, racquetball courts, riding stables, shooting ranges, ice and roller skating rinks, race tracks for horses and dogs, bowling alleys, and fee fishing lakes.

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 Board of County Commissioners 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 County 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 Board of County Commissioners 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 Board of County Commissioners, or its designate, on or before July 1st of every third (3rd) 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 Board of County Commissioners, 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 Board of County Commissioners. 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 Board of County Commissioners 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 (150) 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. Junk yards or salvage yards, provided:

a. The junk yard 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 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.

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 Board of County Commissioners finds that particular use ceases 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.

RESOLUTION NO. 2008-8

A RESOLUTION AMENDING SECTION 15 "CONDITIONAL USES" TO PROVIDE FOR A CONDITIONAL USE PERMIT FOR WIND ENERGY CONVERSION SYSTEMS

WHEREAS, Hamilton County, Kansas (the "County") is vested with the authority under K.S.A. 19-101a, et seq. to exercise the powers of home rule and under K.S.A. 12-741 to provide for zoning regulations to determine the local affairs of the County and to perform all powers of local legislation and administration as it deems appropriate to protect and preserve the interests of the citizens of the County; and

WHEREAS, the Hamilton County Board of Commissioners, on June 7, 1993, adopted a Countywide Zoning Regulation for Hamilton County; and

WHEREAS, no zoning regulations are presently in effect regulating Wind Energy Conversion Systems (WECS) in the County; and

WHEREAS, the County, through this Resolution, intends to amend its zoning regulations to define Wind Energy Conversion Systems (WECS) and authorize WECS to be permitted as an allowed conditional use under the County's zoning regulations; and

WHEREAS, by providing for Conditional Use Permits for Wind Energy Conversion Systems to support and authorize the orderly development, construction, operation, maintenance and decommissioning of such systems; and

WHEREAS, the Planning Commission of Hamilton County has conducted public hearings and has recommended the passage and approval of this Resolution; and

WHEREAS, the Board of Hamilton County Commissioners have determined after due and careful consideration, that Wind Energy Conversion Systems will enhance the reliability and power quality of the power grid, reduce peak hour demand, and help diversify the State's energy supply portfolio and will otherwise be in the best interest of the health, safety, and welfare of the citizens of the County; and

WHEREAS, all public hearings have been held regarding this amendment to the Zoning Regulations of the County including the amendment to Section 15 "Conditional Use;" and

WHEREAS, all other legally required actions have been taken to effectuate the passage of this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF HAMILTON COUNTY COMMISSIONERS, in the exercise of their home rule powers and the power and authority to pass zoning resolutions, as follows:

That Sections 2-1 Definitions 2-1.01 and 15-2 "Conditional Uses Enumerated" of the Countywide Zoning Resolution adopted June 7, 1993, is amended to read as follows:

In SECTION 2-1-Definitions

Section 2-1. Definitions 2-1.01 of the Zoning Regulation will be amended as follows in alphabetical order:

(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.

In SECTION 15-2--Conditional Uses Enumerated:

Section 15-2 of Chapter 15 "Conditional Uses" of the Zoning Regulations be amended by adding Wind Energy Conversion Systems as a listed conditional use in a new Section 15-2.01 (23) to provide as follows:

23. Wind Energy Conversion Systems

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) 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:

1. Name of the Project;
2. Name and address of the applicant and a statement from the applicant providing relevant information regarding:
   (a) An overview of the applicant;
   (b) Qualifications and experience of the applicant in commercial wind energy development; and
   (c) Financial information regarding the applicant's ability to develop, construct, operate and maintain the Project.
3. Summary Project information including:
   (a) Project description;
   (b) Project schedule; and
   (c) Phases of development and possibilities for future expansion.
4. The applicant shall submit a site plan with the following specifications:

   a. Scale of 1" = 2000';
   b. Scale and north point (up);
   c. Boundaries of Project site by legal description;
   d. Adjoining public roads;
   e. Houses within 1000' of the Project site boundaries;
   f. Approximate acreage of Project site; Schematic of zones suitable for the installation of turbine, electric collector and transmission lines, electrical equipment, substations, maintenance roads and other associated facilities; and
   g. 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.

The specific terms and conditions of this Resolution shall prevail against other existing resolutions of the County to the extent that there may be any conflict.

This Resolution shall be in full force and effect from and after its approval.

PASSED this 10th day of June, 2008.

AYES: 5

NAYS: 0

ABSENT: 0

APPROVED this 10th day of June, 2008.

BOARD OF HAMILTON COUNTY COMMISSIONERS

Randall Braddock, Chairman

Keith Puckett, Vice-Chairman

Dave Schwieterman, Commissioner

Gano Schmidt, Commissioner

Nikki Schwerdfeger, Commissioner

ATTEST:

Marcia J. Ashmore, County Clerk

SECTION

16

USES PROHIBITED

Sections:

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 six (6) months, except by special permission of the Board of County Commissioners 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 six (6) months.

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:

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 which 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 Floodplain Overlay District (F-P) are presented in Section 13 of these zoning regulations.

Section 17-3. Nonconforming Uses Within Floodplain Overlay Zoning District

17-3.01 Additional regulations regarding nonconforming uses

within the airport overlay zoning districts are presented in Section 14 of these zoning regulations.

NOTE: Section 17-4 adopted on November 1, 1993 as an amendment to the original zoning regulations.

SECTION 17-4. EXISTING NONCONFORMING MOBILE HOME PARKS

17-4.01 Recognizing that mobile home parking spaces may be vacant for periods of time, and therefore not easily identified as an existing residential land use, this section is added to the existing zoning regulations to clarify their status as an existing nonconforming use.

17-4.02 Definition of EXISTING NONCONFORMING MOBILE HOME PARK: A tract or plot of ground of any size equal to or greater than 10,000 square feet which meets the following conditions:

1. Improvements (ie. utility hookups & parking pads) are clearly visible, providing for parking at least 3 mobile homes for use as residences.
2. At least one of those spaces has been occupied by a mobile home used as a residence, for at least 2 months 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 & intended as a separate parking space as evidenced by utility hookups with an improved parking pad of at least sand-gravel material.

17-4.03 The zoning administrator shall determine the number of qualifying spaces for each nonconforming mobile home park which meets the conditions above. Should the landowner not agree with the zoning administrators determination, he may appeal said determination to the Board of Zoning Appeals.

SECTION

18

ADDITIONAL PARKING

REGULATIONS

Sections:

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 which 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 the 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: 1 parking space per 3 seats.

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 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

18-3.01 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.

18-3.02 All parking spaces shall be constructed, at a minimum, with an all-weather, gravel-surfaced area.

18-3.03 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.

18-3.04 All off-street parking areas and access drives which serve such uses shall be planned and engineered to assure proper drainage of surface water.

18-3.05 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.

18-3.06 Any lights used to illuminate the parking area shall be arranged, located or screened to direct light away from adjoining

or abutting residential district.

18-3.07 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.

18-3.08 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.

18-3.09 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:

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 therefor, 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 constriuction 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 Zoning Administrator's Authority: The Zoning Administrator shall be empowered to act within the provisions of these regulations upon all applications for zoning permits, and the same shall be approved or denied not later than the third business day succeeding the day the complete application is received.

19-1.06 Appeals: 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 the law. Provided, however, that appeals shall only be permitted after payment of filing fees as outlined in Section 21 below.

19-1.08 Filing Fees: Fees for zoning permits shall be set by resolution of the Board of County Commissioners.

19-1.09 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 or her agent, contractor or duly authorized representative to secure such permit as required by these regulations and pay the prescribed fee therefor, 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 or her agent, contractor or fully authorized representative secures such permit as required by

these regulations and pays the prescribed fee therefor.

19-1.10 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 Zoning 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. Floodplain Overlay Zoning District Zoning Permits

19-3.01 Zoning permit procedures for developments within the Floodplain Overlay District (F-P) are outlined in Section 13 of these zoning regulations.

SECTION

20

AMENDMENT PROCEDURES

Sections:

Section 20-1. General Authority and Procedure

20-1.01 The Board of County Commissioners may, from time to time, amend, supplement, or change, by resolution, the boundaries of the districts or the regulations herein established. The resolution shall become effective upon publication thereof in the official County paper.

20-1.02 A proposal for an amendment or change in zoning may be initiated by the Board of County Commissioners, 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. Such application shall be made at least forty-five (45) days prior to a regularly scheduled Planning Commission meeting.

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 Rezonings

20-2.01 A fee, in the amount adopted by resolution of the Board of County Commissioners, 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 Board of County Commissioners. No fee shall be required if the Planning Commission or Board of County Commissioners 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, and off-street parking areas; off-street loading areas; means of ingress and 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 non-residential uses). Elevations shall be marked on such contours based on the existing datum plane established by the U.S. Coast and Geodetic Survey. Bench mark 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 Board of County Commissioners 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 Applications

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, 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 County 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 resolution 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 resolution 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 one thousand (1,000) feet in an unincorporated area of the area affected. For the purposes of this section, notice shall extend two hundred (200) feet in those areas where the notification area extends within the corporate limits of a city. 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 County 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
ER	Estate Residential 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 Board of County Commissioners

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 Board of County Commissioners 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 Board of County Commissioners may adopt such recommendation by resolution, override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Board of County Commissioners, or return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commission's failure

to approve or diaapprove.

20-6.04 If the Board of County Commissioners 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 Board of County Commissioners, 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 Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioners' report, the Board of County Commissioners 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 resolution of the Board of County Commissioners 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 resolution 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 County Clerk, the amendment shall not be passed except by unanimous vote of the Board of County Commissioners.

20-6.08 Conditions Attached to Rezonings: The Planning Commission may recommend and the Board of County Commissioners 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 Board of County Commissioners may instigate procedures to nullify that rezoning. Said action shall not be taken without notification of

the applicant by the County 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 Board of County Commissioners 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 Floodplain Zoning Regulations

20-10.01 In addition to the requirements of this section, the procedure for amending Floodplain Overlay District F-P 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:

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 approved by the County and 1 member shall be appointed by the City. Some or all may be members of the Planning Commission, but they need not be.

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. 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 resolution 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 shall be kept in the Office of the Hamilton County 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 hereinafter 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 County 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 therefor.

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 Board of County Commissioners, 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 will not be opposed to the general spirit and intent of these zoning regulations.

21-6.03 Variance from the Floodplain Regulations: As specified in Section 13 of these zoning regulations (Floodplain Overlay District F-P), the Board of Zoning Appeals shall have the authority to grant variances from said floodplain 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 Floodplain Overlay District (F-P), shall consider those evaluations, factors, standards, and criteria specified Section 13 of these zoning regulations.

121-6.04 Variance from the Airport Zoning Regulations: As specified in Section 14 of these zoning regulations (Airport Zoning Regulations) 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:

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 Board of County Commissioners 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 Board of County Commissioners, 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 floodplain 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 Resolution No. 93-15 of the Board of County Commissioners and amended, shall become and are in full force and effect as of June, 7,1993.