

## **CHAPTER XVI: ZONING AND PLANNING**

### Article

- 1. CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS**
- 2. ZONING REGULATIONS**
- 3. RESERVED**
- 4. RESERVED**
- 5. STRATEGIC PLAN**
- 6. NEIGHBORHOOD REVITALIZATION PLAN**
- 7. AIRPORT HEIGHT AND HAZARD REGULATIONS**



## ARTICLE 1: CITY PLANNING COMMISSION/BOARD OF ZONING APPEALS

### Section

- 16-101 Purpose
- 16-102 Membership
- 16-103 Meetings
- 16-104 Officers, employees and consultants
- 16-105 Budget and finance
- 16-106 Objectives
- 16-107 Content and composition of Plan
- 16-108 Approval of recommended Comprehensive Plan by Planning Commission
- 16-109 Submission of Comprehensive Plan to governing body
- 16-110 Certification of Plan to governing body
- 16-111 Public improvements in conformity with the Plan
- 16-112 Authority of Planning Commission to adopt regulations for subdivision plats, major street plan and zoning

of the city. Two members shall reside outside the corporate limits of the city, but within three miles of the corporate boundary of such city. The members of the Planning Commission shall be appointed by the Mayor of the city, with the consent of the majority of the Council of the city. Of those persons appointed to serve on the originating Commission, one-third shall serve an original one-year term; one-third shall serve an original two-year term; and one-third shall serve an original three-year term. Upon completion of the original terms, successor appointees shall serve three-year terms. Any member of the Planning Commission may be appointed to two or more successive terms. In the event of the death of any member or resignation of such member, the Mayor shall appoint, with the consent of the majority of the City Council, a person to serve the remaining portion of such unexpired term. Members appointed to the Planning Commission shall not be entitled to compensation for service on such Commission, although they may be reimbursed for expenses for travel and attendance at seminars or educational institutes dealing with planning and zoning; provided that, such expenses are approved in advance by the governing body of the city.  
(Ord. 815, passed 3-13-1989)

### § 16-101 PURPOSE.

There is hereby created, for the purpose of coordinating a harmonious development or redevelopment of the community of Smith Center, a Planning Commission, as defined by K.S.A. 12-744 et seq., such Planning Commission to be hereinafter referred to as the "Smith Center Planning Commission" or "the Commission".  
(Ord. 815, passed 3-13-1989)

### § 16-102 MEMBERSHIP.

The membership of the Planning Commission shall consist of not less than seven, nor more than 15, electors, all of whom, except two, shall be residents

### § 16-103 MEETINGS.

The Planning Commission shall meet at such time and place as may be fixed in the Commission's bylaws; provided that, the Planning Commission meet not less than quarterly; and, further provided that, special meetings shall be called at any time by the Chairperson or, in the Chairperson's absence, by the Vice-Chairperson, in order to carry out the Planning Commission's duties and obligations under this article and the laws of the state. A majority vote of the

Commission shall constitute a quorum for the transaction of business of the Commission. A record shall be kept of all Commission proceedings.

(Ord. 815, passed 3-13-1989; Ord. 852, passed 5-27-1993)

#### **§ 16-104 OFFICERS, EMPLOYEES AND CONSULTANTS.**

The Commission shall select one of its number as Chairperson and one as Vice-Chairperson, both of whom shall serve one-year terms. The Chairperson and Vice-Chairperson shall be eligible for reappointment as Chairperson for two or more successive terms. Additionally, the Commission shall select one of its number as Secretary, who shall be responsible for maintaining a record of all Commission proceedings. The Commission may nominate and designate employees of the Commission, final approval of which shall be given by the governing body of the city.

(Ord. 815, passed 3-13-1989)

#### **§ 16-105 BUDGET AND FINANCE.**

The Commission shall prepare an annual budget, which shall establish the purpose for which funds shall be expended, the amounts to be expended and itemizing projected expenses, shall budget shall be presented to the governing body of the city on or before the first Monday in July of each year and shall be subject to final approval of the governing body, who shall retain absolute authority to approve or disapprove of budget requests. The governing body may, upon the recommendation of the Planning Commission, enter into necessary contracts and/or grants and may receive and expend funds from state or federal government sources or from any other source for the purpose of carrying out the objectives of the Planning Commission.

(Ord. 815, passed 3-13-1989)

#### **§ 16-106 OBJECTIVES.**

The objectives of the Planning Commission shall be to provide a guide for public action and to ensure

a coordinated and harmonious development or redevelopment of the community of the city, including the creation of a comprehensive plan for the development or redevelopment of the city. The Planning Commission shall be responsible for making or causing such comprehensive plan to be made and, in so doing, shall make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to specified subjects. The plan may include incorporated areas of the city and any incorporated territory lying outside the city, but within the city which, in the opinion of the Commission, forms a total community.

(Ord. 815, passed 3-13-1989)

#### **§ 16-107 CONTENT AND COMPOSITION OF PLAN.**

The Comprehensive Plan must show the Commission's recommendations for the development and/or redevelopment of the area. The Plan shall include, at minimum, the information required by K.S.A. 12-747, as amended, and may include additional information such as maps, plats, charts and other descriptive and demonstrative material.

(Ord. 815, passed 3-13-1989)

#### **§ 16-108 APPROVAL OF RECOMMENDED COMPREHENSIVE PLAN BY PLANNING COMMISSION.**

Prior to the Planning Commission's approval of any plan, a public hearing must be held on such Plan by the Planning Commission, notice of which shall be published at least once in the official city newspaper of the city at least 20 days prior to the date established for such hearing. At such hearing, the Planning Commission shall explain to those present the basic elements of the proposed comprehensive plan and shall hear and consider comments and suggestions thereon. The Planning Commission, by affirmative vote of a majority of its members, may approve the recommended Comprehensive Plan as a whole by a single resolution or may by successive resolutions approve parts of the plan, said parts corresponding with the major geographical sections of the area or

with functional subdivisions of the plan. Such resolution shall specifically identify any maps, plats, charts or other materials made a part of such plan.  
(Ord. 815, passed 3-13-1989)

#### **§ 16-109 SUBMISSION OF COMPREHENSIVE PLAN TO GOVERNING BODY.**

A certified copy of the approved plan or parts thereof must be submitted to the governing body of the city and any other governmental agencies affected thereby. The governing body of the city and any other governmental agencies shall, within 60 days after receipt thereof, consider the proposed plan or parts thereof and submit a statement of proposed recommendations, if any, to the Planning Commission, following which the Planning Commission shall reconsider the proposed plan consistent with such recommendations, following which the Planning Commission may, by resolution, adopt the plan or parts thereof as the official plan of the city. All reports and documents forming the Plan or parts thereof shall bear the signature of the Chairperson and Secretary of the Planning Commission.

(Ord. 815, passed 3-13-1989)

#### **§ 16-110 CERTIFICATION OF PLAN TO GOVERNING BODY.**

(a) An attested copy of the adopted plan shall be certified to all governmental agencies affected thereby, and such plan may be reviewed in its entirety or partially at any time. However, the Planning Commission shall annually review the plan for obsolescence and make report to the governing body on or before June 1 of each year.

(b) Further, the Planning Commission may, at any time, propose amendments, extensions or additions to the plan. However, the procedure for adopting amendments, extensions or additions to the Plan shall be identical to that procedure required for the initial implementation and adoption of such Plan.  
(Ord. 815, passed 3-13-1989)

#### **§ 16-111 PUBLIC IMPROVEMENTS IN CONFORMITY WITH THE PLAN.**

No public improvement, public facility or public utility of the type embraced in the plan shall be constructed without first being submitted to and being approved by the Planning Commission as being in conformity with the Comprehensive Plan. If the Planning Commission fails to report within 60 days, the project is deemed to have been approved. If the Commission disapproves, it must report in writing to the governing body proposing such public improvement and advising such governing body why the project does not conform. The governing body or unit proposing the project may, by three-fourths majority vote, overrule the Commission's disapproval, in which event the plan shall be amended to reflect same.

(Ord. 815, passed 3-13-1989)

#### **§ 16-112 AUTHORITY OF PLANNING COMMISSION TO ADOPT REGULATIONS FOR SUBDIVISION PLATS, MAJOR STREET PLAN AND ZONING.**

Pursuant to K.S.A. 12-744 et seq., the Planning Commission shall have the authority to propose, adopt and amend regulations governing the subdivision of land designated within an area designated by resolution of the governing body of the city, as provided by K.S.A. 12-749, and shall be further empowered to adopt a plan for streets and highways, which may include provisions prohibiting any new buildings located within such building or setback lines, as provided by K.S.A. 12-749. Additionally, the Planning Commission may propose zoning regulations pursuant to K.S.A. 12-749, the final approval of which shall be by the governing body of the city. Any zoning regulations shall be established by ordinance as provided by K.S.A. 12-749, which shall include the establishment of a Board of Zoning Appeals as provided by K.S.A. 12-714.

(Ord. 815, passed 3-13-1989)



## ARTICLE 2: ZONING REGULATIONS

### Section

16-201 Zoning regulations incorporated

### **§ 16-201 ZONING REGULATIONS INCORPORATED.**

There are hereby incorporated by reference as if set out fully herein, the zoning regulations adopted by the governing body of the city, as prepared by the city and consisting of Ord. 866 and entitled, "Zoning Ordinance of the City of Smith Center, Kansas". One copy of the zoning regulations, marked "Official Copy as Incorporated by Ord. No. 866" and to which there shall be a published copy of this section attached, shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours.

(Ord. 866, passed 8-25-1994; Ord. 873, passed 5-25-1995)





**ARTICLE 3: RESERVED**



**ARTICLE 4: RESERVED**



## ARTICLE 5: STRATEGIC PLAN

### Section

#### 16-501 Adoption of Strategic Plan

#### § 16-501 ADOPTION OF STRATEGIC PLAN.

(a) The 20-page document produced and presented at a meeting of the governing board, entitled “Strategic Plan, City of Smith Center, Kansas 2005-2020” and each and every part thereof is, in all respects, approved, authorized, confirmed and adopted by the city as the Strategic Plan for the city. A fully-executed copy of such Strategic Plan shall be filed in the office of the City Clerk and shall be available for inspection by the public at any time during regular business hours.

(b) The city shall, and the officers, agents and employees of the city are hereby authorized and directed to take, such actions and execute such other documents, certificates and instruments as may be necessary and desirable to carry out and comply with the provisions of this section and of said Plan.

(Ord. 947, passed 4-28-2005)



## ARTICLE 6: NEIGHBORHOOD REVITALIZATION PLAN

### Section

16-601 Adoption of Neighborhood  
Revitalization Plan

(d) This section is adopted pursuant to the provisions of the Kansas Neighborhood Revitalization Act, as set forth in K.S.A. 12-17,114 et seq. (Ord. 966, passed 12-13-2007)

### **§ 16-601 ADOPTION OF NEIGHBORHOOD REVITALIZATION PLAN.**

(a) The document produced and presented at a meeting of the governing board, entitled "Revitalization Plan" and each and every part thereof is, in all respects, approved, authorized, confirmed and adopted by the city as the Revitalization Plan for the city. A fully executed copy of such Revitalization Plan shall be filed in the office of the City Clerk and shall be available for inspection by the public at any time during regular business hours.

(b) The city is hereby authorized to enter into, execute and deliver an interlocal agreement with Smith County, Kansas, under which the city, county, other governmental units and all participating public agencies shall cooperate in the consideration, adoption and coordination of a Neighborhood Revitalization Plan, and the establishment of a Neighborhood Revitalization Fund, upon the terms and condition as set forth in said agreement.

(c) The city shall, and the officers, agents and employees of the city are hereby authorized and directed to take such action, spend such funds and execute such other documents, certificates and instruments as may be necessary and desirable to carry out and comply with the provision of this section and to carry out, comply with and perform the duties of the city with respect to the interlocal agreement, all as necessary to carry out and give effect to the terms of the agreement.





## ARTICLE 7: AIRPORT HEIGHT AND HAZARD REGULATIONS

### Section

<p>16-701 Short title</p> <p>16-702 Definitions</p> <p>16-703 Airport Air Space Protection Commission</p> <p>16-704 Airport zone height limitations</p> <p>16-705 Construction notice requirements</p> <p>16-706 Use restrictions</p> <p>16-707 Nonconforming uses</p> <p>16-708 Permits</p> <p>16-709 Administration and enforcement</p> <p>16-710 Appeals</p> <p>16-711 Review by the Airport Board of Appeals</p> <p>16-712 Judicial review</p> <p>16-713 Penalty</p>	<p>(2) The date of last effective use of the item;</p> <p>(3) The condition of disrepair or damage;</p> <p>(4) The last time an effort was made to repair or rehabilitate the item;</p> <p>(5) The status of registration or licensing of the item;</p> <p>(6) The age and degree of obsolescence;</p> <p>(7) The cost of rehabilitation or repair of the item when compared to its market value; or</p> <p>(8) The nature of the area and location of the item.</p>
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### § 16-701 SHORT TITLE.

This article shall be known and may be cited as the “Smith Center Municipal Airport Height and Hazard Regulations” or “this article” herein. (Ord. 991, passed - -2012)

**AIRPORT.** The Smith Center Municipal Airport.

### § 16-702 DEFINITIONS.

For the purpose of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

**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;

**AIRPORT AIRSPACE PROTECTION AREA.** (Also referred to as the **AIRPORT HAZARD AREA**.) Any area of land or water upon which an airport hazard might be established, including any which may permanently raise the published or planned approach minimums of the airport, if not prevented as provided in this article and as depicted on the “Airport Hazard 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 (VGAS) for the airport as referenced on the Kansas Department of Transportation (KDOT), “Kansas Airspace Awareness Tool”, at <http://www.ksdot.org/airspaceool>.

**AIRPORT AIRSPACE PROTECTION COMMISSION.** The Commission appointed by the City of Smith Center, comprised of the Smith Center Airport Advisory Board to function as the temporary Airport Zoning Commission.

**AIRPORT BOARD OF APPEALS.** (Also referred to as **BOARD OF APPEALS**.) The Appeals Board, appointed by the City Council, comprised of the Smith Center Advisory Board, to function as the Airport Board of Appeals.

**AIRPORT ELEVATION.** The highest point of the airport's usable landing area measured in feet above sea level (1,799.0 above mean sea level).

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

**AIRPORT HAZARD AREA MAP.** The map depicting the airspace Airport Airspace Protection Area and attached to the ordinance codified herein as Exhibit A, and made a part hereof.

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

**AIRPORT MANAGER.** (Also referred to as the **MANAGER**.) The administrative staff assigned by the City Council to manage the Smith Center Municipal Airport and administer these regulations.

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

**APPROACH SURFACE.** A surface longitudinally 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 § 16-704 of this article. In the plan, the perimeter of the **APPROACH SURFACE** coincides with the perimeter of the approach zone.

**BUILDING RESTRICTION LINE.** A line which identifies a 35-foot tall suitable building area location on or near airports.

**CITY COUNCIL.** The City Council for the City of Smith Center, Kansas.

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

**COUNTY.** Smith County, Kansas.

**FAA.** The Federal Aviation Administration.

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

**HEIGHT.** For the purpose of determining the height limits in all zones set forth in this article and shown on the Smith Center Airport Hazard Area Map, the datum shall be mean **HEIGHTS** as measured from the elevations of K82 Runways 17-35 and 14-32 unless otherwise specified.

**HORIZONTAL SURFACE.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**LARGER THAN UTILITY RUNWAY.** A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft (K82 Runways 17-35 and 14-32).

**NON-CONFORMING USE.** Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this article or an amendment thereto.

**NON-PRECISION INSTRUMENT RUNWAY.** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, K82 Runways 14-32 and 17-35 existing and ultimate.

**OBSTRUCTION.** Any structure growth, or other object, including a mobile object, which exceeds a limiting height set forth in § 16-704 of this article.

**PERSON.** 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.

**PRIMARY SURFACE.** 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. The width of the **PRIMARY SURFACE** is set forth in § 16-703 of this article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**RUNWAY.** A defined area on an airport prepared for landing and taking-off of aircraft along its length.

**SMITH CENTER AIRPORT.** (Also referred to as the **SMITH CENTER MUNICIPAL AIRPORT.**) The public-use airport owned and operated by the City of Smith Center, Kansas.

**STRUCTURE.** An object, including a mobile object, constructed or installed by humans, including, but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

**TERMINAL INSTRUMENT PROCEDURES (TERPS).** Surfaces that are constructed from the electronic signals transmitted by ground-based and satellite-based air navigation electronic equipment, which are the instrument procedures that aircraft pilots use to fly between airports and land on runways.

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

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

**VERTICALLY GUIDED APPROACH SURFACES (VGAS).** Satellite-based approach surfaces which are established to protect Instrument Approach Procedures (IAP) that provide vertical guidance and lower approach minima. Examples of landing systems protected by **VGAS** include Instrument Landing Systems (ILS) based approaches and GPS based procedures utilizing a Wide Area Augmentation System (WAAS) with Localizer Performance with Vertical Guidance (LPV); and which can improve airport capacity when ground based systems are out of service, and provide accurate, reliable access to more airports previously not served by precision approaches.

**ZONES: APPROACH, TRANSITIONAL, HORIZONTAL, CONICAL, VGAS and TERPS.** The zones that are set forth in § 16-703 of this article. (Ord. 991, passed - -2012)

**§ 16-703 AIRPORT AIR SPACE PROTECTION COMMISSION.**

(a) Prior to establishing the zones that are set forth in this article there shall be submitted to the City

Council reports and recommendations by the Airport Airspace Protection Commission (herein also referred to as the “Commission”), which Commission shall:

(1) Recommend the boundaries of the various zones that are set forth;

(2) Recommend the height and hazard regulations to be adopted therefor;

(3) Make a preliminary report which considers:

(A) The character of the flying operations currently conducted and expected to be conducted at the airport;

(B) The nature of the terrain within the airport hazard area;

(C) The character of the neighborhood in and surrounding the airport hazard area; and

(D) The uses to which the property to be regulated is put and adaptable.

(4) Hold a public hearing on the recommended regulations and submit a final report and recommendations to the City Council.

(b) The airport height and hazard regulations shall apply to the airport hazard areas as recommended by the Airspace Protection Commission and adopted by the City Council. The Airport Hazard Area, 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 Smith Center Airport divided into zones, as depicted on the Airport Hazard Area Map made a part hereof and attached to this article. The map is provided to the public as an attachment to the ordinance codified herein for illustrative purposes, only, in order to generally show where these regulations apply; and it is not to be relied upon as an administrative or regulatory tool. For administrative

purposes, when applying these regulations on a case-by-case, basis, the standard FAA procedures for determining compliance of proposed structures with height and hazard standards should be relied upon as the starting point for interpreting the applicability of these regulations.

(c) 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 Surface 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 three-fourths 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 (K82 Runways 14-32 and 17-35, 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 Hazard 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 Airspace Awareness Tool” at <http://www.ksdot.org/airspaceool>.

(3) *Terminal Instrument Procedures (TERPS) Surface Zones.* Which can extend ten nautical miles from a runway, constructed from 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.

(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 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 (NAVAID) procedures or through existing Area Navigation (RNAV) procedures.  
(Ord. 991, passed - -2012)

**§ 16-704 AIRPORT ZONE HEIGHT LIMITATIONS.**

Except as otherwise provided in this article, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this article 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.

(a) *FAR Part 77 Surfaces, Sub-Part C Civil Airport Imaginary Surfaces Zones.* The Horizontal Surface, Conical Surface, Primary, Approach Surface and Transitional Surface as designated by the FAA.

(1) *Runway larger than utility with a visibility minimum greater than three-fourths mile Non-Precision Instrument Approach Zone.* Slopes 34 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 (K82 Runways 17.35 and 14-32).

(2) *Transitional Zones.* Slope seven feet outward or 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 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 products beyond the conical zone, there are established height limits sloping seven 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.

(3) *Horizontal Zone.* Established at 150 feet above the airport elevation.

(4) *Conical Zone.* Slopes 20 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.

(b) *Runway Approach Minimum Zones.* The approach zones to the runways, minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and by the planned nonprecision or precision instrument approach minimums so indicated on an approved Airport Layout Plan or any other planning document.

(c) *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 Airspace Awareness Tool” <http://www.ksdot.org/airspacetool>.

(d) *Vertically Guided Approach Surfaces (VGAS) Zones.* The slopes established by the VGAS approach surfaces as referenced on the Kansas Department of Transportation (KDOT) “Kansas Airspace Awareness Tool” <http://www.ksdot.org/airspacetool>. (Ord. 991, passed - -2012)

#### **§ 16-705 CONSTRUCTION NOTICE REQUIREMENTS.**

In order to comply with §§ 16-703 and 16-704, 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 Smith Center Airport.

(a) 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.

(b) A notice of construction, in the form of an application, directed to the FAA 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:

(1) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the Smith Center Airport where the existing runway and future runway is greater than 3,200 feet in length; and

(2) Notice of construction or alteration for any object(s) that potentially affects the navigable airspace of the Smith Center Municipal Airport must be completed and submitted on 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 City Council. (Ord. 991, passed - -2012)

#### **§ 16-706 USE RESTRICTIONS.**

Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article 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 article that would result in permanently raising the published or planned approach minimums.

(Ord. 991, passed - -2012)

#### **§ 16-707 NONCONFORMING USES.**

The regulations prescribed in this article 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 article, or otherwise interfere with the continuance of a legal nonconforming use.

(a) *Regulations not retroactive.* Nothing contained in this article 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 article, and is diligently prosecuted.

(b) *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 shall

be installed, operated, and maintained at the expense of the Smith Center Airport and hence, the City Council. In the event of a nonconforming tree, the tree shall be topped, cropped, or trimmed at the expense of the Smith Center Airport and hence, the City Council.

(c) *Nonconforming uses abandoned or destroyed.* Whenever the Smith Center Airport Manager determines that a nonconforming tree or structure has been abandoned or more than 51% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow the reconstruction of such abandoned or destroyed nonconforming structure or tree to exceed the applicable height limit or otherwise deviate from these height and hazard regulations.  
(Ord. 991, passed - -2012)

**§ 16-708 PERMITS.**

No permit shall be granted for a use inconsistent with the provisions of this article, 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 when the application for a permit is made; unless a variance has been approved.

(a) *Permits required when.* Permit applications shall be submitted for proposed structures in the Runway Protection Zone (RPZ) and building restriction line and any structure more than 35 feet in height above the airport elevation within a runway approach surface and that is less than 4,200 feet from any runway end. Each permit application shall be submitted on forms required by the city to determine whether the resulting use, structure, or tree would conform to these regulations. If such determination is in the affirmative, the permit shall be granted.

(b) *No permit required when.* No permit shall be required for structures that do not meet the criteria in division (a) of this section provided that published airport minimums or approach procedures are not affected nor is a hazard to air navigation identified.

(c) *Permit conditioned on FAA Form 7460-1, Notice of Construction.*

(1) Any proposed construction, alteration or repair requiring a permit must have filed an FAA Form 7460-1 (FAA 77.13 Construction or Alteration Requiring Notice) with the appropriate FAA regional office. No construction, alteration or repair work may commence until the determination is received from the FAA and said determination is reviewed by the Airport Manager in consultation with the City Council.

(2) C.F.R. Title 14 Part 77.9 states that any person/organization who intends to sponsor any of the following construction or alterations must notify the Administrator of the FAA:

(A) Any construction or alteration exceeding 200 feet above ground level; or

(B) Any construction or alteration:

1. Within 20,000 feet of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with its longest runway more than 3,200 feet; or

2. Within 10,000 feet of a public use or military airport which exceeds a 50:1 surface from any point on the runway of each airport with its longest runway no more than 3,200 feet.

(d) *Permit may be conditioned on marking or lighting and tree trimming.* Any permit or variance granted may be conditioned on a requirement that the owner of the structure or tree in question install, operate, and maintain, at the owner's expense, such markings and lights or tree trimming as may be deemed reasonably necessary to effectuate the purpose of this article. If deemed proper by the City Council, this condition may be modified to require the owner to permit the City Council, at its own expense, to top, crop, or trim the tree or install, operate, and maintain the necessary markings and lights.

(Ord. 991, passed - -2012)

### § 16-709 ADMINISTRATION AND ENFORCEMENT.

It shall be the duty of the Airport Manager of the Smith Center Airport to administer the regulations prescribed herein in consultation with the City Council. Applications for permits and variances shall be made to the Airport Manager upon a form published for that purpose. Applications required by this article to be submitted to the Airport Manager 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 Airport Board of Appeals for review of the decision.

(Ord. 991, passed - -2012)

### § 16-710 APPEALS.

(a) *Who may appeal.* Any person aggrieved, or any taxpayer affected, by any decision of the Airport Manager of the Smith Center Airport, made in the administration of the article, may appeal to the Airport Board of Appeals.

(b) *Powers of the Airport Board of Appeals.*

(1) The Airport Board of Appeals shall have the following powers:

(A) To hear and decide appeals from any order, requirement, decision or determination made by the Airport Manager in the enforcement of this article;

(B) To hear and decide special exceptions to the terms of this article upon which such Airport Board of Appeals under such regulations may be required to pass; and

(C) To hear and decide specific variances.

(2) The Board may, in conformity with the provisions of this article, 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.

(c) *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 article, may apply to Airport Board of Appeals 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 article. Additionally, no application for variance to the requirements of this article may be considered by the Airport Board of Appeals unless a copy of the application has been furnished to the City Council for review and comment. If the Smith Center Airport Manager does not respond to the application for a variance within 14 days after receipt, the Airport Board of Appeals may act on its own to grant or deny said application.

(d) *Meetings of the Board of Appeals.* Meetings of the Airport Board of Appeals for the purposes of this article and the review of any decision by the Airport Manager shall be at the regularly scheduled Airport Advisory Board 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 City Clerk, and on due cause shown.

(e) *Reasonable time for rulings.* 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. The Airport Manager shall transmit to the Airport Board of Appeals all the papers constituting the record upon which the action appealed from was taken.



(f) *Appeal to stay all proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the Airport Manager 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 Airport Manager cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Airport Board of Appeals or notice to the Airport Manager and on due cause shown.  
(Ord. 991, passed - -2012)

violation continues to exist shall constitute a separate offense.  
(Ord. 991, passed - -2012)

**§ 16-711 REVIEW BY THE AIRPORT BOARD OF APPEALS.**

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 article. 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 Airport Manager or decide in favor of the applicant on any matter upon which it is required to pass under this article or to effect variation to this article. 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.  
(Ord. 991, passed - -2012)

**§ 16-712 JUDICIAL REVIEW.**

Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board of Appeals, may appeal to the Smith County District Court pursuant to state law.  
(Ord. 991, passed - -2012)

**§ 16-713 PENALTIES.**

Each violation of this article or of any regulation, order, or ruling promulgated thereunder shall constitute a misdemeanor and shall be punishable by a fine as set by the City Council; and each day a

