

(Published on the City of Augusta website, www.augustaks.org
on the 16th day of November 2021)

THE CITY OF AUGUSTA, KANSAS

ORDINANCE No. 2182

AN ORDINANCE AMENDING THE ZONING REGULATIONS OF THE CITY OF AUGUSTA, KANSAS, 2020, BY AMENDING ARTICLE 03, ARTICLE 04, ARTICLE 05, ARTICLE 06, ARTICLE 10, ARTICLE 14, ARTICLE 15, ARTICLE 16, AND THE OFFICIAL ZONING MAP AND REPEALING ANY PROVISIONS OF SUCH ZONING REGULATIONS OR OTHER ORDINANCES OF SAID CITY IN CONFLICT WITH AMENDED SECTIONS.

WHEREAS the Augusta City Council adopted the Augusta Action Zoning Regulations on October 24, 2020.

WHEREAS the Augusta Planning Commission authorized Planning and Zoning Staff to pursue text amendments to the adopted zoning code on February 22, 2021 as part of the annual review process.

WHEREAS the Augusta Planning Commission conducted a series of workshops in March and April 2021 and authorized a map amendment in April 2021.

WHEREAS the Augusta Planning Commission conducted a public hearing on April 26, 2021 to take input on the proposed zoning amendments pursuant to K.S.A. 12-747, where the Augusta Planning Commission voted to recommend approval to the Augusta City Council.

WHEREAS the Augusta City Council reviewed the Augusta Planning Commission's recommendation to approve certain text and map amendments on August 2, 2021 and voted to return the proposed amendments to the Augusta Planning Commission for reconsideration; and

WHEREAS the Augusta Planning Commission reconsidered certain proposed amendments on September 27, 2021 and October 11, 2021, returning a revised recommendation to the City Council for final approval.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF AUGUSTA, KANSAS:

SECTION 1: Amendments. The following sections of the zoning regulations shall be amended as follows:

Article 03 (Definitions), Section 03.03 (Definitions of Words and Terms) shall be amended to add the following definition:

Wind Energy Conversion Systems: Equipment that converts and transfers energy from the wind into usable forms of electrical energy.

Article 04 (General Provisions), Section 04.06 (General Provisions) shall be amended to add “Wind Energy Conversion Systems” to Freestanding Vertical Structures:

M. Height Exemptions

The following structures are exempted from zoning district maximum height restrictions, except for such structures located within City of Augusta street rights-of-way, subject to applicable height provisions of Article 9, Article 10, or as regulated by state or federal law.

- 1. Freestanding Vertical Structures*
 - a. Electric Transmission Towers*
 - b. Flagpoles*
 - c. Grain Silos & Elevators*
 - d. Water Towers/Tanks*
 - e. Wind Energy Conversion Systems*
- 2. Freestanding Communication Structures*
 - a. Broadcast Towers*
 - b. Collocated Wireless Facilities*
 - c. Radio Antennas*
 - d. Wireless Communication Towers*
- 3. Integrated & Attached Structures (including screening/housings)*
 - a. Bell Towers & Carillons*
 - b. Chimneys & Flues*
 - c. Cupolas & Steeples*
 - d. Electric Service Components*
 - e. Elevator/Stair Enclosures*
 - f. Fire Escapes*
 - g. HVAC & Ventilation Components*
 - h. Skylights*

Article 05 (Land Uses), Section 05.04 (Secondary Land Uses) shall be amended to add the following definitions:

On-site Wind Energy Conversion System: Equipment having a turbine or rotor that converts wind into usable electric energy distributed non-commercially to structures within the same lot or subdivision.

Wind Energy Conversion System: Equipment that converts and transfers energy from the wind into usable forms of electrical energy.

Article 05 (Land Uses), Section 05.05 (Table of Secondary Uses & Structures by Zoning District) shall be amended to add the following:

On-site Wind Energy Conversion System shall be permitted by conditional use and shall be restricted to the Planning Area only. Specific use standards on page 109.

Article 06 (Zoning District Regulations), Section 06.03 (“R-R” Single-Family Rural Residential District) shall be amended as follows:

06.03 “R-R” Single-Family Rural Residential District

It is the intent of this district to protect existing farmsteads while preserving opportunities for low-density single-family residential land uses within the unincorporated Planning Area.

A. Primary Land Uses: As allowed by-right and permitted by conditional use per Section 05.03.

B. Secondary Uses & Structures: As allowed by-right and permitted by conditional use per Section 05.05.

C. Lot Size Requirements

1. Lot Area

a. Within City Limits: Lots shall be at least one (1) acre, but less than ten (10) acres).

b. Within Planning Area: Lots shall be at least one (1) acre, but less than twenty (20) acres

2. Minimum Lot Frontage

a. Within City Limits: One Hundred Twenty-Five (125) feet

b. Within Planning Area:

i. Unplatted tracts of land subdivided after October 24, 2020: One Hundred Fifty (150) feet

ii. Lots subdivided before October 24, 2020: One Hundred Twenty-Five (125) feet

3. Minimum Lot Depth

a. Within City Limits: One Hundred Seventy-Five (175) feet

- b. *Within Planning Area:*
 - i. *Unplatted tracts of land subdivided after October 24, 2020: Three Hundred (300) feet*
 - ii. *Lots subdivided before October 24, 2020: One Hundred Twenty-Five (125) feet*

D. *Setback Requirements*

1. *Minimum Front Setback*

- a. *Within City Limits: Thirty (30) feet*
- b. *Within Planning Area:*
 - i. *Unplatted tracts of land subdivided after October 24, 2020: Seventy-Five (75) feet*
 - ii. *Lots subdivided before October 24, 2020: Thirty (30) feet*

2. *Minimum Side Setback*

- a. *Within City Limits: Twenty-Five (25) feet*
- b. *Within Planning Area:*
 - i. *Unplatted tracts of land subdivided after October 24, 2020: Fifty (50) feet*
 - ii. *Lots subdivided before October 24, 2020: Twenty-Five (25) feet*

3. *Minimum Rear Setback*

- a. *Within City Limits: Twenty-Five (25) feet*
- b. *Within Planning Area:*
 - i. *Unplatted tracts of land subdivided after October 24, 2020: Fifty (50) feet*
 - ii. *Lots subdivided before October 24, 2020: Thirty (30) feet*

E. *Maximum Lot Coverage: Thirty percent (30%)*

F. *Maximum Structure Height: Thirty-Five (35) feet, except as these regulations allow for taller structures by exemption, conditional use, or specific use standard per Article 10.*

G. *Use Limitation: No outdoor storage shall be allowed, except as provided in these regulations for agricultural uses.*

H. *Supplemental Provisions*

- 1. *R-6A, R-6B, and R-6C zoning districts existing prior to the adoption of these regulations shall be designated R-R districts upon the effective date of these regulations.*
- 2. *No new R-R districts shall be created within City Limits after the effective date of these regulations.*
- 3. *Existing lots zoned R-R may be altered in size and configuration, subject to the provisions of these regulations.*
- 4. *Within the Planning Area, driveways shall have a minimum spacing of Two Hundred (200) feet.*

Article 06 (Zoning District Regulations), Section 06.10 (“C-2” Central Commercial District) shall be amended as follows:

06.10 “C-2” Local Commercial District

It is the intent of this district to preserve opportunities for commercial uses having a localized market area.

- A. Primary Land Uses: As allowed by-right and permitted by conditional use per Section 05.03.*
- B. Secondary Uses & Structures: As allowed by-right and permitted by conditional use per Section 05.05.*
- C. Lot Size Requirements*
 - 1. Minimum Lot Area: 10,000 square feet*
 - 2. Minimum Lot Width: One Hundred (100) feet*
 - 3. Minimum Lot Depth: One Hundred (100) feet*
- D. Setback Requirements*
 - 1. Minimum Front Setback: Twenty-Five (25) feet*
 - 2. Minimum Side Setback: Five (5) feet*
 - 3. Minimum Rear Setback: Fifteen (15) feet*
- E. Maximum Lot Coverage: One Hundred percent (100%), minus applicable yard and off-street parking requirements.*
- F. Maximum Structure Height: Thirty-Five (35) feet, except as these regulations allow for taller structures by exemption, conditional use adjustment, or specific use standard per Article 10.*
- G. Use Limitations: All business activities, displays, and storage shall occur within fully enclosed structures or screened areas, except as otherwise allowed or approved in accordance with these regulations.*

Article 06 (Zoning District Regulations), Section 06.11 (“C-3” General Commercial District) shall be amended as follows:

06.11 “C-3” General Commercial District

It is the intent of this district to provide ample opportunities for moderate-to-heavy intensity commercial land uses and businesses having a regional market area. This is applicable to properties along the Seventh Avenue corridor and the Walnut Street corridor in the city limits, as well as properties in the Planning Area with addresses or frontage along US Hwy 54/400 and US Hwy 77.

- A. Primary Land Uses: As allowed by-right and permitted by conditional use per Section 05.03.*
- B. Secondary Uses & Structures: As allowed by-right and permitted by conditional use per Section 05.05.*
- C. Lot Size Requirements*

1. *Minimum Lot Area: 10,000 square feet*
 2. *Minimum Lot Width: One Hundred (100) feet*
 3. *Minimum Lot Depth: One Hundred (100) feet*
- D. *Setback Requirements*
1. *Minimum Front Setback*
 - a. *Within City Limits: Twenty-Five (25) feet*
 - b. *Within Planning Area: per Article 16*
 2. *Minimum Side Setback*
 - a. *Within City Limits: Five (5) feet*
 - b. *Within Planning Area: Per Article 16*
 3. *Minimum Rear Setback*
 - a. *Within City Limits: Fifteen (15) feet*
 - b. *Within Planning Area: Per Article 16*
- E. *Maximum Lot Coverage: Forty percent (40%)*
- F. *Maximum Structure Height: Forty (40) feet, except as these regulations allow for taller structures by exemption, conditional use adjustment, or specific use standard per Article 10.*
- G. *Use Limitations: All business activities, displays, and storage shall occur within fully enclosed structures or screened areas, except as otherwise allowed or approved in accordance with these regulations.*
- H. *Supplemental Provisions*
1. *CC Central Commercial zoning districts existing prior to the adoption of these regulations shall be designated C-3 districts upon the adoption of Ordinance No. 2181.*
 2. *The boundaries of the C-3 district shall be limited to lots within the city limits having street frontage on Seventh Avenue or on Walnut Street; or immediately adjacent to such a lot and addressed to either street.*

Article 06 (Zoning District Regulations), Section 06.15 (Dissolution & Redesignation of Previous Zoning Districts) shall be amended as follows:

06.15 Dissolution & Resignation of Previous Zoning Districts

In addition to the redesignation of properties and zoning districts as specified in Section 06.02 – Section 06.12, all Public and Private Recreational (PR) zoning districts and Assembly (A) zoning districts existing prior to the adoption of these regulations are hereby dissolved and on the effective date of these regulations shall be redesignated as follows:

- A. *Public and Private Recreational PR-1, PR-2 and PR-3 zoning districts within the Planning Area shall be redesignated as A-1 zoning districts.*
- B. *Public and Private Recreational PR-1, PR-2 and PR-3 zoning districts within City Limits shall be redesignated as R-1 zoning districts.*

C. *Assembly A zoning districts shall be redesignated based on location as follows:*

1. *Those within the area encompassed by the boundaries below shall be redesignated as C-1 zoning districts.*

North Boundary: Old railroad right-of-way south of U.S. Hwy 54/400

South Boundary: Third Avenue

West Boundary: North-south alley between Walnut Street and State Street

East Boundary: School Street

2. *Those within the city limits having street frontage on Seventh Avenue or on Walnut Street and in the Planning Area with addresses of frontage along US Hwy 54/400 and US Hwy 77 shall be redesignated as the C-3 zoning district.*

3. *Those in all other locations shall be redesignated as R-1 zoning district.*

Article 10 (Specific Use Standards), Section 10.08 (Bar or Tavern; Brewpub) shall be amended as follows:

10.08 Bar or Tavern; Brewpub

A. *Shall not be located within two hundred fifty (250) feet, as measured between the closest points on any property line, of religious meeting places; elementary or secondary schools; day care centers or institutional day cares; residential land uses or zoning districts (R-R, R-1, R-2, R-3, or R-4).*

B. *Outdoor seating areas shall be allowed as an accessory use when located in commercial districts (M-1, C-1, C-2, or C-3), subject to the following:*

1. *Shall have a fence or barrier, which measures at least four (4) feet in height around the entire perimeter, the purpose of which is to delineate the area. Such barriers shall not be subject to screening design provisions of these regulations but shall be required to meet all applicable provisions of any other federal, state, and local regulations.*

2. *Lighting in such areas shall be "fully shielded" or "full cutoff" light fixtures equipped with shut off controls to turn off lights during non-operational hours.*

Article 10 (Specific Use Standards), Section 10.46 (On-site Wind Energy Conversion Systems (WECS)) shall be added as follows:

10.46 On-site Wind Energy Conversion System (WECS)

On-site Wind Energy Conversion Systems (WECS) shall be allowed only by conditional use and shall be restricted to the Planning Area only. Under no circumstances shall WECS be allowed within the city limits.

A. *Freestanding WECS*

1. *Only non-commercial WECS with monopole support structures shall be allowed.*
 2. *WECS shall not be allowed within any required yard setback.*
 3. *The lowest point of turbine blades shall be no less than twenty (20) feet above the ground.*
 4. *All applicable compatibility buffer provisions of Article 09 shall apply.*
 - a. *Visual buffer requirement shall apply only to developed areas occupied by WECS structures, outdoor storage, and related off-street parking. Such areas shall be:*
 - i. *Located in a contiguous grouping, to the extent practical and either platted as a separate lot or lots, or specifically designated on Site Plans.*
 - ii. *Enclosed within a screening fence/wall installed only around the perimeter of such facilities and meeting applicable design standards.*
 - b. *For the purpose of calculating height compatibility requirements, height shall be measured from the adjacent finished ground elevation to the highest point of turbine blades at the top of rotation.*
 5. *Outdoor lighting installations shall be allowed only within perimeter enclosures; shall be the minimum lighting necessary for reasonable site security. In addition:*
 - a. *Lighting fixtures shall be installed at a height no greater than twelve (12) feet.*
 - b. *Only "fully shielded" or "full cutoff" light fixtures may be installed.*
 - c. *Fixtures shall be equipped with motion detector shut off controls.*
 6. *All support structures shall be unclimbable by design or protected with devices, such as fences at least six (6) feet with locking gates, or anti-climbing devices at least twelve (12) vertical feet from base of pole.*
 7. *Noise level shall not exceed fifty-five (55) decibels as measured at the nearest lot line.*
 8. *Signs shall be prohibited except for manufacturer's identification on the wind turbine cowling and appropriate warning signs and placards. This shall include a "High Voltage" warning sign on the support structure base, with sign lettering at least six (6) inches tall having a minimum stroke width of three-quarters (3/4) of an inch.*
- B. Roof-mounted WECS**
1. *Shall only be mounted on the structure that is provided power from the unit.*

2. *Shall meet the maximum height requirements of the applicable zoning district, as measured from the nearest adjacent finished ground elevation to the highest point of turbine blades at the top of rotation.*
3. *Shall not have lighting or emit noise that is detectable beyond the nearest lot line.*

C. Standards applicable to all WECS

1. *All WECS shall be equipped with manual and automatic overspeed controls to limit blade rotation to a speed below the designated limits.*
2. *All electrical components, storage facilities, wire conduit, electrical connections, structural components, and mounting components shall conform to applicable building and trade codes adopted by the City of Augusta.*
3. *No experimental or prototype WECS shall be allowed.*
4. *All WECS shall be non-reflective and non-obtrusive in color.*
5. *Shall not generate electromagnetic interference or cause interference with any activity carried on beyond the nearest lot line.*
6. *Any WECS that has reached the end of its useful life or has been abandoned shall be physically removed within one hundred eight (180) days after the date of discontinued operations.*

D. Conditional Use application submittals shall include:

1. *Administrative Site Plan per Section 13.03 showing the proposed location of the WECS.*
2. *Specifications for the proposed support structures, rotors, and turbines.*
3. *As applicable, any pertinent permitting information or correspondence from state and federal agencies.*

Article 10 (Specific Use Standards), Section 10.47 (Wind Energy Generation Structures) shall be added as follows:

10.47 Wind Energy Generation Structures

- A. *Wind Energy Generation Structures shall not exceed 45 feet in height, provided that such structure shall not be located in any required setback nor be located closer to any adjacent property than the height of the wind energy generation structure.*
- B. *Wind Energy Generation Structures shall be allowed only by conditional use and shall be restricted to the Planning area only. Under no circumstances shall wind energy generation structures be allowed within the city limits.*

Article 14 (Processes & Procedures), Section 14.02.B.5.e (Amendments; Conditional & Temporary Uses) shall be amended as follows:

- e. *An Administrative Site Plan per Section 13.03, including all required information and graphic depictions, except for text and regulation revisions.*

Article 14 (Processes & Procedures), Section 14.02 (Amendments; Conditional & Temporary Uses) shall be amended to delete 14.02.B.5.f in its entirety.

Article 14 (Processes & Procedures), Section 14.03.A.3.e (Public Notification & Conduct of Hearings) shall be amended as follows:

A certified list of such property owners of record, including names and mailing addresses, shall be obtained by the City of Augusta. Failure of any property owner to receive such notice after it has been properly addressed and mailed shall not invalidate any action of the Planning Commission or City Council.

Article 15 (Board of Zoning Appeals), Section 15.04.A.1 (Appeals of Zoning Administrator Determinations) shall be amended as follows:

A. Applications for Appeal

- 1. *Applications of appeal shall be filed with the Chairperson within thirty (30) days of the date the subject determination was made by the Zoning Administrator. Such applications shall be accompanied by the appropriate filing fee and the following:*
 - a. *A written description of the grounds for appeal.*
 - b. *The legal description of the subject property.*
 - c. *Any additional information as may be required by the rules of the Board.*

Article 16 (Planning Area Regulations), Section 16.03.D.1 (Residential Infrastructure Requirements) shall be amended as follows:

D. Building Setback Line

- 1. *To allow for appropriate distance to mitigate highway noise and air pollution impacts, the following building setback lines are hereby established for properties with frontage on U.S. Highway 54/400.*
 - a. *One Hundred Fifty (150) feet from the highway centerline between Hunter Road and Diamond Road or the setback requirement as defined in Article 06, whichever is more restrictive.*
 - b. *One Hundred (100) feet from the highway centerline between Diamond Road and Indianola Road or the setback requirements as defined in Article 06, whichever is more restrictive.*

SECTION 2: Amendments. The Official Zoning Map shall be amended to reflect changes authorized to the boundaries of the C-2 Local Commercial and C-3 General Commercial zoning districts.

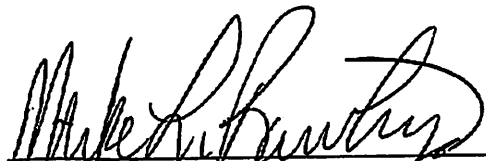
SECTION 3: Repeal. All provisions of the zoning regulations and other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 4: Effective Date. This Ordinance shall be in full force and effect from and after its publication in the official City newspaper.

Passed by the City Council this 15th day of November 2021.

Approved by the Mayor this 15th day of November 2021.




MIKE L. RAWLINGS, MAYOR

ATTEST:


ERICA L. JONES, CITY CLERK