

ORDINANCE # 2011- 36

**AMENDMENT TO THE KENDALL COUNTY ZONING ORDINANCE SECTION**  
**10.00 "Manufacturing Districts"**

WHEREAS, Kendall County regulates development under authority of its Zoning Ordinance and related ordinances; and

WHEREAS, the Kendall County Board amends these ordinances from time to time in the public interest; and


WHEREAS, all administrative procedures for amendments have been followed including a Public Hearing held before the Kendall County Zoning Board of Appeals on October 31, 2011.

NOW, THEREFORE, BE IT ORDAINED, the Kendall County Board hereby amends Section 10.00 "Manufacturing Districts" of the Kendall County Zoning Ordinance as provided in attached Exhibit "A".

IN WITNESS OF, this Ordinance has been enacted by the Kendall County Board this 20<sup>th</sup> day of December, 2011.

Attest:

  
\_\_\_\_\_  
Kendall County Clerk  
Debbie Gillette

  
\_\_\_\_\_  
John Purcell  
Kendall County Board Chairman



SECTION 10.00 MANUFACTURING DISTRICTS

10.01 M-1 LIMITED MANUFACTURING DISTRICT

A. CONDITIONS OF USE. All permitted uses are subject to the following conditions:

1. Any production, processing, cleaning, servicing, testing, repair or storage of goods, materials or products shall conform with the performance standards set forth in section 10.01.G.
2. All business, production, servicing and processing shall take place within completely enclosed buildings, unless otherwise specified. Within one hundred and fifty feet of a Residential District, all storage shall be in completely enclosed buildings or structures; and storage located elsewhere in this district may be open to the sky but shall be enclosed by solid walls or fences (including solid doors or gates thereto) at least eight feet high, but in no case lower in height than the enclosed storage; and suitably landscaped. However, open off-street loading facilities and open off-street parking of motor vehicles under one and one-half ton capacity may be un-enclosed throughout the district, except for such screening of parking and loading facilities as may be required under the provisions of Section 11.00.
3. Uses established on the effective date of this amended ordinance and by its provisions are rendered non-conforming, shall be permitted to continue, subject to the regulations of Section 5.00.
4. Uses established after the effective date of this amended ordinance shall conform fully to the performance standards hereinafter set forth for the district.

B. PERMITTED USES. The following uses are permitted:

1. Airports and heliports including aircraft hangers, tie downs and aircraft service and repair subject to the following restrictions:
  - a. Site shall be a minimum of fifty (50) acres for a Basic Utility Stage 1 airport with a two thousand two hundred (2,200') foot runway. More area is required for larger airports. Airport size and layout shall conform to current FAA and IDOT Division of Aeronautics requirements.
  - b. There shall be a minimum three hundred (300') foot distance between airport property and the nearest residential property line.
  - c. Security fencing shall be provided sufficient to control access to runways and taxiways. The fencing shall be a minimum six (6') feet

## SECTION 10.00 MANUFACTURING DISTRICTS

in height.

- d. Other requirements as noted in Section 4.13 of this Zoning Ordinance.

### 2. Ambulance Service (Private)

### 3. Animal feed; preparation, grinding, mixing and storage.

### 4. Auction Facility

### 5. Banquet Halls are permitted subject to the following conditions:

- a. The use of this property shall be in compliance with all applicable ordinances. The banquet facility shall conform to the regulations of the Kendall County Health Department and the Kendall County Liquor Control Ordinance. (Ord. 99-34)
- b. Off-street parking, lighting and landscaping shall be provided in accordance with the provisions of Section 11 of the zoning ordinance.
- c. All signage shall comply with the provisions of Section 12 of the Kendall County Zoning Ordinance.
- d. Retail sales are permitted as long as the retail sales will be ancillary to the main operation.
- e. The noise regulations are as follows:

Day Hours: No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential land which exceeds sixty five (65) dBA when measured at any point within such receiving residential land, provided; however, that point of measurement shall be on the property line of the complainant.

Night Hours: No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential land which exceeds fifty five (55) dBA when measured at any point within such receiving residential land provided; however, that point of measurement shall be on the property line of the complainant.

**EXEMPTION:** Powered Equipment: Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.



## SECTION 10.00 MANUFACTURING DISTRICTS

6. Beverages, non-alcoholic, bottling and distributing.
7. Contractors' offices and shops.
8. Cutting of glass and glazing establishments
9. Retail and services as follows:

Automobile service station for the retail sale of gasoline and oil for motor vehicles, for minor services which may be conducted out of doors.

Automobile/Motorcycle Service Stations (includes repair, rebuild, and painting)

Banks and financial institutions

Carpet and Rug Stores

Catering Establishments as long as it conforms to the regulations of the Kendall County Health Department and the Kendall County Liquor Control Ordinance.

Contractor or construction such as: building, cement, electrical, refrigeration, masonry, building, plumbing, roofing, air-conditioning, heating and ventilating, fuel oil, with a storage of fuel oils, gas and other flammable products limited to 120,000 gallons per tank, with total storage on zoning lot not to exceed 500,000 gallons.

Plumbing, heating, and roofing supply shops

10. Production, publishing, processing, cleaning, testing, or repair, limited to the following uses and products:

Apparel and other products manufactured from textiles.

Art needle work and hand weaving.

Automobile painting, upholstering, repairing, reconditioning, and body and fender repairing when done within the confines of a structure.

Awnings, venetian blinds.

## SECTION 10.00 MANUFACTURING DISTRICTS

Bakeries.

Beverages - non-alcoholic.

Blacksmith shop.

Books - hand binding and tooling.

Bottling works.

Brushes and brooms.

Building equipment, building materials, lumber, coal, sand and gravel yards, and yards for contracting equipment of public agencies, or public utilities, or materials or equipment of similar nature.

Cameras and other photographic equipment and supplies.

Canning and preserving.

Canvas and canvas products.

Carpet and rug cleaning.

Carting, express hauling or storage yards.

Cement block manufacture.

Ceramic products - such as pottery and small glazed tile.

Cleaning and dyeing establishments when employing facilities for handling more than fifteen hundred pounds of dry goods per day.

Clothing.

Cosmetics and toiletries.

Creameries and dairies.

Dentures.

Drugs.

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Electrical appliances, such as lighting fixtures, irons, fans, toasters and electric toys.

Electrical equipment assembly, such as home radio and television receivers and home movie equipment, but not including electrical machinery.

Electrical supplies, manufacturing and assembly of - such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.

Food products, processing and combining of (except meat and fish) - baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing and pressing.

Fur goods, not including tanning and dyeing.

Glass products, from previous manufactured glass.

Hair, felt and feather products (except washing, curing and dyeing).

Hat bodies of fur and wool felt.

Hosiery.

House trailer, manufacture.

Ice, dry and natural.

Ink mixing and packaging and inked ribbons.

Jewelry.

Laboratories - medical, dental, research, experimental, and testing - provided there is no danger from fire or explosion nor of offensive noise, vibration, smoke, dust, odors, heat, glare, or other objectionable influences.

Laundries.

Leather products, including shoes and machine belting, but not including tanning and dyeing.

Luggage.

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Machine shops for tool, die and pattern making.

Meat products.

Metal finishing, plating, grinding, sharpening, polishing, cleaning, rustproofing and heat treatment.

Metal stamping and extrusion of small products, such as costume jewelry, pins and needles, razor blades, bottle caps, buttons and kitchen utensils.

Musical instruments.

Orthopedic and medical appliances, such as artificial limbs, braces, supports and stretchers.

Paper products, small, such as envelopes and stationery, bags, boxes, tubes and wallpaper printing.

Perfumes and cosmetics.

Pharmaceutical products.

Plastic products, but not including the processing of the raw materials.

Poultry and rabbits - slaughtering.

Precision instruments - such as optical, medical and drafting.

Products from finished materials - plastic, bone, cork, feathers, felt, fiber, paper, fur, glass, hair, horn, leather, precious and semi-precious stones, rubber, shell or yard.

Printing and newspaper publishing, including engraving and photoengraving.

Public utility electric substations and distribution centers, gas regulations centers and underground gas holder stations.

Reproduction/ Copying Stores & banner or sign supplies

Rubber products, small, and synthetic treated fabrics (excluding all rubber and synthetic processing), such as washers, gloves, footwear, bathing

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caps and atomizers.

Silverware, plate and sterling.

Soap and detergents, packaging only.

Soldering and welding.

Sporting and athletic equipment, such as balls, baskets, cues, gloves, bats, racquets, and rods.

Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations.

Storage of household goods.

Storage and sale of trailers, farm implements and other similar equipment on an open lot.

Storage of flammable liquids, fats or oil in tanks each of fifty thousand gallons or less capacity, but only after the locations and protective measures have been approved by local fire chief in the district in which the subject property is located.

Textiles - spinning, weaving, manufacturing, dyeing, printing, knit goods, yard goods, thread, and cordage, but not including textile bleaching.

Tool and die shops.

Tools and hardware - such as bolts, nuts, and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks nonferrous metal castings, and plumbing appliances.

Toys.

Truck, truck tractor, truck trailer, car trailer, or bus storage yard, when all equipment is in operable condition, but not including a truck or motor freight terminal, which shall be treated under sub-section 10.01-C.

Umbrellas.

Upholstering (bulk), including mattress manufacturing, rebuildings, and renovating.

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Vehicles, children's - such as bicycles, scooter, wagons and baby carriages.

Watches.

Wood products, such as furniture, boxes, crates, baskets and pencils and cooperage works.

Any other manufacturing establishment that can be operated in compliance with the performance standards of sub-section 10.01-G without creating objectionable noise, odor, dust, smoke, gas, fumes, or vapor; and that is a use compatible with the use and occupancy of adjoining properties.

11. Light manufacturing and assembly.

12. Wholesaling and warehousing

13. Business or trade school

14. Colleges or universities, including dormitories, fraternities, sororities and other accessory buildings and structures when located on the college or university grounds.

15. Offices, business and professional, including medical clinics.

16. Parking Garages for storage of private passenger automobiles and commercial vehicles.

17. Public and community service uses - as follows:

Bus terminals, bus garages, bus lots, street railway terminals, or street car houses.

Electric sub-stations.

Fire stations.

Municipal or privately owned recreation buildings or community centers.

Parks and recreation areas.

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Police stations.

Public building erected or leased by any government

Sewage treatment plants.

Telephone exchanges.

Water filtration plants.

Water pumping stations.

Water reservoirs.

### 18. Residential uses - as follows:

Dwelling units for watchmen and their families including caretakers when located on the premises where they are employed in such capacity.

### 19. Miscellaneous uses - as follows:

Accessory uses.

Signs.

Temporary buildings for construction purposes for a period not to exceed the duration of such construction.

### 20. Telecommunication Stations

## C. SPECIAL USES. The following uses may be allowed by special use permit in accordance with the provisions of Section 13.00:

1. Any use which may be allowed as a special use in the B-3 or B-4 Business Districts, but not including house trailers (mobile homes) camps, parks or fairgrounds.
2. Airport or aircraft landing fields.
3. Art Galleries and studios
4. Carwash/ Truckwash Facilities including the use of mechanical conveyers, blowers and steam cleaning.

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5. Day Care Facility.
6. Grain Storage.
7. Indoor & Outdoor Target Practice, provided that outdoor target practice meets the following conditions:
  - a. Hours and days of operation as specified in the Special Use Permit to be determined by the County Board.
  - b. No activity shall leave the boundaries of the site.
  - c. All applicable State and County rules and regulations shall be adhered to.
8. Landscaping business, provided that:
  - a. No landscape waste generated off the property can be burned on this site.
9. Motor freight terminals.
10. Packaged Liquor Store or any sale of alcoholic beverages when associated with a brewery or winery.
11. Paintball Facilities subject to the following conditions:
  - a. Minimum lot size of 20 acres;
  - b. Hours and days of operation as specified in Special Use Permit to be determined by the County Board
  - c. All safe and spectator areas must be protected by special paintball netting, and participants and spectators must wear approved paintball goggles; and
  - d. No paintball activity shall leave the boundaries of the site, including fired paintballs.
  - e. Requirement of netting to be installed around the property shall be determined by the County Board
  - f. Paintball guns shall only be powered by carbon dioxide (CO<sub>2</sub>), high pressured air (HPA) or Nitrogen (N<sub>2</sub>).
  - g. All signage shall comply with the provisions of Section 12 of the Kendal County Zoning Ordinance.
  - h. Ammo for such paintball guns shall only include paintball pellets made of non-toxic, biodegradable water soluble substances.
  - i. All applicable State and County rules and regulations pertaining to wastewater treatment and disposal, potable water supply, and food service shall be adhered to.



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12. Planned developments, industrial
13. Production and sale of sweet cider, hard cider, wine, jams, wine jams, jellies, pies, pickles, honey, sauces and similar items utilizing crops grown on the same property or in combination with crops grown off-site where such production takes place on the premises. In addition the tasting of and wholesale or retail sale of items produced on site as well as the sales of ancillary items and products related to crops and products produced on site shall be permitted provided all required licenses and permits have been secured. The total retail sales area on site within any building or combination of buildings shall not exceed one thousand (1,000) square feet. Said sales areas shall be set back at least ninety (90) feet from the center line of all adjacent roads with off-street parking for a minimum of five (5) cars. Seasonal outdoor displays on above listed items are also permitted.
14. Racetrack provided that the following minimum standards are met:
  - a. The minimum site area shall be 20 acres.
  - b. The racetrack and all building, viewing areas, seating areas, and structures for housing animals shall be located no closer than 275 feet from any public road right-of-way or property line.
  - c. If night racing is to be conducted, all parking areas and access ways shall be adequately lit; provided that such lighting, as well as lighting for the racetrack shall meet the lighting standards set forth in section 11.02.
  - d. If a vehicle racetrack is proposed a noise study shall be prepared by a trained professional addressing anticipated noise levels during races or practice sessions. This study shall also address how excessive noise will be mitigated. The County shall reserve the right to obtain an independent review of this study, and require additional noise mitigation beyond that outlined in the noise study.
  - e. If an animal racetrack is proposed all facilities for housing and maintaining other animals shall comply with the following requirements:
    - i. An approval for such facility from the Kendall County Health Department must accompany the application for a Special

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### Use Permit.

- ii. A 100 foot wide area of vegetation cover, exclusive of pasture area, shall be maintained between any corral, un-vegetated exercise area, manure pile, or application area and any surface water or well, in order to minimize runoff, prevent erosion, and promote quick nitrogen absorption.
- f. The accessory uses may be permitted as incidental to and limited to patrons of the principal use:
  - i. refreshment stands or booths
  - ii. souvenir stands or booths
  - iii. wagering facilities
  - iv. restaurants or lounges
  - v. playgrounds or day care facilities
  - vi. vehicle fuel and supplies sales limited to owners or operators of vehicles to be raced
  - vii. temporary campgrounds
  - viii. any other customary and incidental uses which are deemed appropriate by the County Board.
- 15. Regulated uses, subject to the requirements of 4.16.
- 16. Restaurants, cafes, cafeterias or other similar establishments
- 17. Stadiums, auditoriums and arenas.
- 18. Theaters, outdoor drive-in.
- 19. Transfer Stations as long as it conforms to the Solid Waste Plan and all EPA requirements.
- 20. Any use permitted in the M-2 Heavy Manufacturing District, provided the performance standard of sub-section 10.01.G can be met in their entirety.

## SECTION 10.00 MANUFACTURING DISTRICTS

21. Wind Farms, Commercial, subject to the following:
  - a. Location Guidelines - The following guidelines shall be considered in evaluating the appropriateness of proposed locations for Wind Farms and the proposed project components. The purpose of these guidelines is to assist decision-makers in uniformly analyzing the site-specific impacts of each proposed project and thereby arrive at consistent and balanced decisions.
    - i. Natural and Biological Resources - Wind Farms should not be located in areas that have a large potential for biological conflicts. Wind Farms should not be located in large impact areas such as wilderness study areas, areas of critical environmental concern, county and state parks, historic trails, and special management areas. Wind Farms should not significantly impact important wildlife habitat.
    - ii Visual Impacts - Wind Farms should avoid those visual corridors that are designated by the County as essential view sheds or scenic areas. Essential view sheds or scenic areas are those areas designated in the County's LRMP or in other locations determined by the County Board after analyzing the applicant's wind farm visual simulations and considering public hearing comments. A Wind Farm project should maintain visual unity among clusters of turbines. To promote visual uniformity, the rotors, nacelles and towers of all turbines in an array should appear similar. To avoid visual clutter, intra-project power lines having a voltage of 34,500 volts or less, should be buried unless the applicant can sufficiently demonstrate that burying the lines will violate other guidelines/standards, violate applicable law, render the project economically infeasible or be hidden from public view. To avoid cluttering the skyline, transformers and other electric equipment should be hidden from view or otherwise constructed in harmony with the surrounding landscape.
    - iii Soil Erosion & Water Quality - Wind Farms should avoid erosion. Disturbance and construction on erodible slopes should be minimized. The number of improved roads and construction staging areas should be kept to a minimum. The grading width of roads should be minimized. One-lane roadways with turn-outs are recommended. The number and size of staging areas and crane pad sites should be minimized.
    - iv. Historical, Cultural & Archeological Resources - Wind Farms should avoid sites with known sensitive historical, cultural or archeological resources.
    - v. Public Safety – Wind Farms shall be developed in a manner that utilizes sound engineering practices and considers public safety in

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regard to the potential hazards to adjacent properties, public roadways, communities, aviation, etc. that may be created.

b. Performance Standards - The following standards are to be achieved by each Wind Farm project without exception. Because they are standards, they are considered to be requirements of any Wind Farm project. The final decision on whether or not a particular standard is achieved by a Wind Farm project shall be made by the County Board after considering the recommendations of all advisory bodies.

i. Noise Management - The noise level caused by the operation of the project, measured at five (5) feet above ground level at the property line coincident with or outside the project boundary, shall not exceed 65 decibels (A-weighted) and shall not exceed 50 decibels (A-weighted) if it is determined that a pure tone noise is generated by the project. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

ii. Wind Farm Design: Wind Farms that are not designed in "accordance with proven good engineering practices" or not purchased from a national manufacturer with a proven track record shall be prohibited. Wind Farms designed with the following characteristics shall be deemed in "accordance with proven good engineering practices":

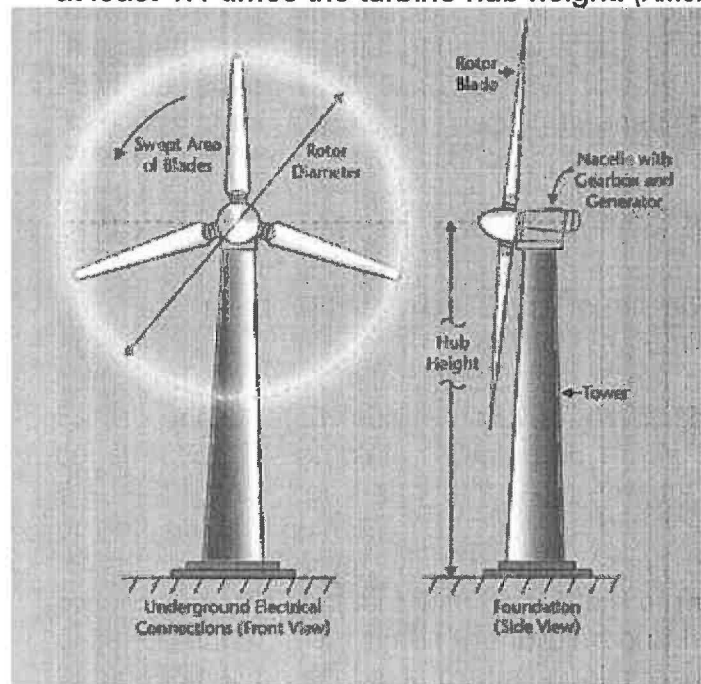
1. at least 3 blades.
2. upwind rotor.
3. no furling, where "furling" means that the wind turbine is designed to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction.
4. tapered and twisted blades.
5. a well-designed braking system.

iii. Visual Impacts - To provide visual order to a Wind Farm project, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground. Except during construction, re-construction or removal, outdoor storage is not permitted within the project boundary except at locations that are screened from view. To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine

## SECTION 10.00 MANUFACTURING DISTRICTS

tower, nacelle or structure. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers. Aircraft obstruction markings of the turbines by use of alternating red and white bands shall be prohibited. No Billboards, logos and advertising signs of any kind shall be located on the turbines.

- iv. Soil Erosion & Water Quality - Construction and maintenance shall be done in strict accordance with the erosion and sediment control plan submitted with the Building Permit so as to minimize soil erosion and damage to existing vegetation. If vegetation is damaged during construction, in areas not occupied by the Wind Farms and related facilities and roads, it shall be restored after construction is complete. Disturbed areas shall be reseeded to the land owner's or manager's requirements. Dust control on the project site is required.
- v. Setback - Individual wind turbines shall be set back from all property lines coincident with or outside of the project boundary a distance equal to 1.1 times the turbine hub height. Individual wind turbines shall be set back from all public roads a distance equal to at least 1.1 times the turbine hub height. *(Amended 2/16/2010)*



Drawing of the rotor and blades of a wind turbine, courtesy of ESN

- vi. Lighting - Individual wind turbine heights and markings shall comply with Federal Aviation Administration (FAA) regulations. Approval from the FAA stating that the turbines will not pose a

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hazard to aviation must be obtained prior to final recommendation by the Kendall County Regional Plan Commission. If lighting of turbines, or other structures, is required, "daytime white-nighttime red" shall be the only type of lighting allowed unless prohibited by law. All required lighting effects shall be in synchronization with each turbine located on the same or contiguous zoning lot and under the same ownership of a single wind energy system organization. All turbines and towers shall be a shade of white in color. *(Amended 2/16/2010)*

- c. Roads - All routes on either County or Township roads that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either ingress or egress need to be shown. The routing shall be subject to the approval of the Kendall County Highway Engineer in coordination with the Township Road Commissioner(s). The developer shall provide and complete a pre-construction baseline survey to determine existing road conditions for assessing potential future damage due to development related traffic. The developer shall provide a road repair plan to improve any and all damage, installation or replacement of roads that might be required by the developer. The developer shall provide a letter of credit or a surety bond in amount and form approved by the highway official(s).
- d. Fees - All applications for a Commercial Wind Farm shall be accompanied by a fee for a Commercial Wind Farm Special use in accordance with fee structure as established by the County Board and as amended from time to time. The County Board may, at its discretion, retain the services of attorneys and professional consultants to assist the Board and County staff in the amendment and zoning process. The application fee shall serve as an initial deposit from which any costs and expenses incurred by the county as a result of the application for amendment and the hearing process set forth herein shall be deducted. Such costs shall include, but not be limited to, the fees and costs of: County employees or staff review time, attorney's fees, expert witnesses, scientific testing, records or other investigations, data searches, notices, court reporters, transcription costs, consultants, the hearing officer, and other expenses incurred by the County in reviewing the application, the public hearing, and decision, or any issues raised at any time during any hearings up to and including the County Board decision. If the actual costs incurred by the County in conducting its review and recommendation of the requested map amendment exceed the amount of the application fee deposit, the applicant shall be billed and shall be required to pay any and all additional costs incurred by the



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County in the completion of their review and recommendation of the special use. Costs in excess of the application fee deposit are required to be paid in full by the applicant prior to scheduling the matter for action by the County Board.

- e. **Removal of Defective Wind Energy Systems:** Any wind energy system found to be unsafe by an authorized county official shall be repaired by the owner to meet federal, state and local safety standards or removed within sixty (60) days. If any wind energy system is not operated for a continuous period of 12 months, the county will notify the landowner by registered mail and provide 45 days for a response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the county deems the timetable for corrective action as unreasonable, they must notify the operator and such operator shall remove the turbine within 120 days of receipt of notice from the county.
- f. **Decommissioning Plan:** A Commercial Wind Farm shall submit a decommissioning plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment. Facility abandonment shall include the ceasing of operations for a period of not less than one (1) year. Decommissioning shall include: removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of the project life or facility abandonment. At the time of decommissioning, an Alta Survey shall be submitted to the County. The decommissioning plan shall state how the facility will be decommissioned, a professional engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the County which states:
  - i. The financial resources for decommissioning which shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to the County.
  - ii. If the Applicant chooses an escrow agreement:
    - 1. A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed; and
    - 2. The County shall have access to the escrow account funds for the express purpose of completing decommissioning if

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decommissioning is not completed by the applicant within sixty (60) days of the end of the project life or facility abandonment.

- iii. The County is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
- iv. The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the County's right to seek reimbursement from applicant or applicant's successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of excess, and to take all steps allowed to enforce said lien.

Financial provisions shall not be so onerous as to make Commercial Wind Farm projects unfeasible.

- D. Conditional Uses. The following Conditional Uses may be permitted only if specifically authorized by the Zoning Administrator:

- 1. Small Wind Energy Systems subject to the conditions of Section 4.18

D. YARD AREA.

- 1. Front yard. Every building hereafter erected or enlarged shall provide and maintain a front yard in accordance with the following requirements:
  - a. Primary thoroughfares. Fifty feet from the property line.
  - b. Collector thoroughfares. Forty feet from the property line.
  - c. All other streets. Thirty feet from the property line.
  - d. Exception. Where lots comprising fifty percent of the frontage on the same street and within the same block are developed with buildings having front yards with a variation of not more than ten feet in depth for the entire frontage, but in no case shall a front yard of more than that stipulated above for the applicable classification of a street on which the property is located be required.
- 2. Side yards. On every zoning lot a side yard shall be provided along each side lot line of not less than ten percent of the lot width, but



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need not exceed twenty feet in width.

3. Rear yard. On every zoning lot there shall be provided a rear yard of not less than forty feet.
- E. LOT COVERAGE. Not more than sixty percent of the area of the lot may be covered by buildings or structures, including accessory buildings.
- F. FLOOR AREA RATIO. Not more than 0.8.
- G. PERFORMANCE STANDARDS. Any use established in a Manufacturing District after the effective date of this comprehensive amendment shall be so operated as to comply with the performance standards set forth in the standards adopted by the Illinois Air Pollution Control Board dated April 14, 1972; and the State Water Pollution Control Board dated March 7, 1972 as amended time to time. No use lawfully established on the effective date of this comprehensive amendment shall be so altered or modified as to conflict with, or further conflict with these performance standards.

### 10.02 M-2 HEAVY INDUSTRIAL DISTRICT

- A. CONDITION OF USE. Permitted uses are subject to the following conditions:
  1. All production, processing, cleaning, servicing, testing, repair, or storage of goods, materials, or products shall conform with the performance standards set forth in subsection 10.01.G.
  2. All business, production, servicing and processing shall take place within completely enclosed buildings unless otherwise specified.

Within one hundred and fifty feet of a Residence District, all storage shall be in completely enclosed buildings or structures; and storage located elsewhere in this district may be open to the sky but shall be enclosed by solid walls or fences (including solid doors or gates thereto) at least eight feet high, but in no case lower in height than the enclosed storage; and suitably landscaped.

However, open off-street loading facilities and open off-street parking of motor vehicles under one and one-half ton capacity may be un-enclosed throughout the district, except for such screening of parking and loading facilities as may be required under the provisions of Section 11.00.

- B. PERMITTED USES. The following uses are permitted:
  1. Any use permitted in the M-1 Districts.

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2. Production, processing, cleaning, servicing, testing, and repair, including the following products:

Charcoal, lampblack and fuel briquettes.

Chemicals - including acetylene, aniline dyes, ammonia, carbide, caustic soda, cellulose, chlorine, carbon black and bone black, cleaning and polishing preparation, creosote, exterminating agents, hydrogen and oxygen, industrial alcohol, nitrating of cotton or other materials, nitrates, (manufactured and natural) of an explosive nature, potash, plastic materials and synthetic resins, pyroxylin, rayon yard, hydrochloric, picric and sulfuric acids and derivatives.

Coal, coke and tar products, including gas manufacturing.

Electric central station, power and steam-generating plants.

Fertilizers.

Film, photographic.

Flour, feed and grain - milling and processing.

Incineration or reduction of garbage, offal and dead animals.

Linoleum and oil cloth.

Magnesium foundries.

Matches.

Metal and metal ores (except precious and rare metals) - reduction, refining, smelting and alloying.

Paint, lacquer, shellac, varnishes, linseed oil and turpentine.

Petroleum products, refining - such as gasoline, kerosene, naphtha, lubricating oil and liquefied petroleum gases.

Rubber (natural or synthetic).

Soaps, including fat and oil rendering.

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Starch.

Wood, coal, and bones, distillations.

Wood pulp and fiber, reduction and processing, including paper mill operations.

Any other production, processing, cleaning, servicing, testing, and repair which conforms with the performance standards established hereinafter for the M-2 District.

3. Storage, including the following uses and materials or products:

Goods used in or produced by manufacturing activities permitted in this district.

Grain.

Manure, peat and topsoil.

Petroleum and petroleum products.

- C. SPECIAL USES. The following uses may be allowed by special use permit in accordance with the provisions of Section 13.00:

1. Any use which may be allowed as a special use in the M-1 Districts, unless already permitted under Section 10.02.B above.
2. Commercial off-premise advertising structures in accordance with section 12.11 of this Ordinance.
3. Correctional Facilities subject to the following:
  - a. The facility shall be at least 650 feet from the nearest property which is residentially zoned or used.
  - b. The facility shall not be established within 1,320 feet of a public or private school, day care or place of worship.

The County may deny the permit when the use would be detrimental to nearby properties or may add conditions or safeguards to the approval in order to protect the health and welfare of citizens.

4. Explosive, including storage, when not prohibited by other ordinance.

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5. Junk yards and automobile wrecking yards provided they are contained within completely enclosed buildings or screened by a solid wall or uniformly painted solid fence at least twelve feet high.
6. Miscellaneous uses as follows:
  - a. Railroad freight terminals, motor freight terminals, railroad switching and classification yards, repair shops and roundhouses.
7. Regulated uses. The following uses are deemed to be regulated uses:
  1. Adult Book Store.
  2. Adult Motion Picture Theater.
  3. Adult Mini-Motion Picture Theater.
  4. Adult Entertainment Facilities.
  5. Adult Use.
  6. Adult Massage Parlors or Spas.
  7. Tattoo Parlors and Permanent Body Art Establishments.
  8. Striptease Club or Gentlemen's Club.
  9. Adult Video Store

For the purposes of determining when a regulated use is allowed as a permitted or special use under this Ordinance, no regulated use shall be considered to be a retail business, service businesses, recreational or social facility, school, accessory use, or general land use.

**B. RESTRICTIONS ON LOCATION OF REGULATED USES.** No regulated use, either as a permitted use or as a special use, shall be maintained;

1. Within 1,000 feet of the property line of another;
2. 500 feet of any of the following zoning districts or provided for under this ordinance: R-1, R-2, R-3, B-1, B-2, B-3, B-4; nor
3. Within 1,000 feet of a zoned area or district lying within a municipality and zoned for any kind of residential, business or commercial office, or office-research use under an ordinance of that municipality.

In addition to the preceding requirements, Adult Entertainment Facilities shall also comply with the separation requirements as established under 55 ILCS 5/5-1097.5 from the property line of any school, day care facility, cemetery, public park, forest preserve, public housing, and place of religious worship. These requirements shall supersede any less restrictive requirements set forth in this Ordinance.

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### 10. Slaughter House

- D. Conditional Uses. The following Conditional Uses may be permitted only if specifically authorized by the Zoning Administrator:
1. Small Wind Energy Systems subject to the conditions of Section 4.18
- E. YARD AREAS. All yard areas shall be the same as required in the M-1 Limited Manufacturing Districts.
- F. LOT COVERAGE. Not more than seventy-five percent of the area of a lot may be covered by buildings or structures, including accessory buildings.
- G. FLOOR AREA RATIO. Not more than 0.85.
- H. PERFORMANCE STANDARDS. Same as in the M-1 Limited Manufacturing District, 10.01.G.

## SECTION 10.03 M-3 AGGREGATE MATERIALS EXTRACTION, PROCESSING AND SITE RECLAMATION

### INTENT

It is the purpose of this section to establish regulations and standards for surface mining operations and to provide for conservation and reclamation of lands affected by surface mining in order to restore them to optimum future productive use. Aggregate materials extraction, processing and site reclamation shall be determined and permitted in compliance with standards as set forth herein.

### A. PERMITTED USES

1. Surface and/or open pit mining, extraction and or processing of aggregate materials, e.g. sand, gravel, limestone, subject to the issuance of a permit as provided including an office in relation to business.

### B. SPECIAL USES

1. Commercial off-premise advertising structures in accordance with section 12.11 of this Ordinance.
2. Asphalt and/or concrete batch mixing plants with or without associated recycling facilities.

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### C. CONDITIONAL USES. The following Conditional Uses may be permitted only if specifically authorized by the Zoning Administrator:

1. Small Wind Energy Systems subject to the conditions of Section 4.18

### D. SETBACK REQUIREMENTS

1. Unless otherwise specifically provided in an applicable special use permit, production, processing and excavation shall not be conducted closer than two hundred (200) feet to the boundary of any zoning district where such operations are not permitted, nor closer than one hundred (100) feet from the boundaries of an adjoining property line, nor closer than one hundred fifty (150) feet to the right-of-way of any existing or platted street, road or highway, except in the following situations:
  - a. The bottom of the slope of the mined face of the excavation shall not be closer to said point above, than a distance equal to one and one-half ( $1\frac{1}{2}$ ) times the depth of the excavation (see diagram 10.03.1);
  - b. If consolidated materials occur in the mined face, the slope of the face may be steeper than  $1\frac{1}{2}$  to 1 slope per "a" above for the depth(s) of those materials, however all other mined slopes of unconsolidated materials shall be no steeper than 2:1.
2. Buildings and Structures:
  - a. Unless otherwise specified in the mining operations permit, every building and structure hereafter erected or enlarged shall provide and maintain a setback from a public or private street of not less One hundred (100) feet from a dedicated road right-of-way or one hundred and fifty (150) feet from the center line of all adjacent roads, whichever is greater.
  - b. Unless otherwise specified in the mining operations permit, every building and structure hereafter erected or enlarged shall have a side and rear yard of not less that fifty (50) feet from all property lines dividing lots held in separate ownership.

### E. AREA REQUIREMENTS

The minimum area required for each M-3 District shall be greater than ten (10) acres.

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### F. PROHIBITED ACTIVITY

1. No person, firm or corporation shall hereafter engage in the extraction of aggregate materials on any land within the unincorporated areas of the County of Kendall, without first obtaining from the County a mining operations permit in such form and in such a manner as shall hereinafter be provided. The inadvertent extraction of aggregate materials while in the process of land beautification, pond construction or such other activity unrelated to mining and processing uses are hereby excluded.

### G. FENCING

1. Where required by the County Board in granting an M-3 zoning to promote safety, a minimum 7 foot chain link fence shall be erected at the site of the operation and facilities which shall be of a nature and character to reasonably protect the general public from danger. The location of the fencing shall be depicted on the site plan submitted as part of the mining permit application.

### H. REQUEST FOR LOCATION PROTECTION

Within seven days of filing any application for M-3 zoning or M-3 Special Use, the applicant shall give notice of such filing, and at applicant's expense, sent by registered mail through the Planning Building and Zoning Office, a copy of such application as well as a copy of this complete paragraph, to each owner as set forth on the tax assessor's records of all property located within one and one half (1.5) miles of the parcel sought to be permitted. If, within fifteen days of receipt of such notice, any owner or occupant of such property files with the Planning, Building and Zoning Administrator (hereinafter referred to as "Administrator") a "Request for Location Protection," substantially in the form provided in paragraph 2 below, then the following shall occur. Provided however, if the proposed use of the property is for the surface mining of sand and gravel only (and includes no blasting or any special use), and the property is situated wholly within a township having a population in excess of 20,000, then notice shall only be sent to properties located with one thousand (1,000) feet of the parcel sought to be permitted. (Ord. #99-25 August 17, 1999)

- a. Subject to different provisions being made by the County Board as provided in subparagraph c below, any aggregate materials processing, ready-mix concrete, asphalt, and/or recycling equipment or plants on the subject property shall be located so as



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to provide maximum distance between the residence of any such owner or occupant and any such equipment or plant; if more than one owner or occupant files a "Request for Location Protection," then any such equipment or plant shall be located on the property so as to provide as much distance as possible between such residences and such equipment or plant; provided, in any event, that setbacks otherwise required by this Ordinance shall be maintained.

- b. Any owner or occupant filing for location protection, and/or his agents shall be invited to participate in County staff discussions with the applicants regarding the most effective and appropriate measures required to protect the residence site(s) from adverse impacts. The discussions shall include, but not be limited to: location of processing, ready-mix concrete, asphalt, and/or recycling equipment and plants, material storage and mining operations; size and shape of screening berms as they may interface with the residences; noise and dust abatement; site specific landscaping for both short term and long term visual effect, and data reflecting the quality of aggregate materials to be excavated. The advice of a technically trained person selected by the County Board shall be utilized at the applicant's reasonable expense to review and make recommendations concerning the most effective and appropriate measures to protect the residence site(s) from adverse impact as provided in Section G below.
- c. The County Board may approve a location for aggregate material processing, ready-mix concrete, asphalt, and/or recycling equipment and plants, other than a location at a maximum distance from the residence(s) of the owner(s) or Occupant(s) filing for location protection, if the County Board determines, that, because of berming, landscaping, and/or other protections proposed for the property sought to be rezoned, such an alternate location, when compared to the location providing maximum distance, provides the residence site(s) as much or greater protection from adverse effects of such equipment and/or plants. No such alternate location may be approved by the County Board prior to the residence owner(s)/occupant(s) having at least a sixty day period within which to review such alternative location, have it reviewed by the technically trained person provided for in subparagraph (b) above, and make recommendations to the County Board concerning it.

- 2. The form hereinabove referred to is the following:



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The undersigned, being an owner or occupant of a residence at (mailing address)\_\_\_\_\_

\_\_\_\_\_ hereby requests location protection pursuant the provisions of the Kendall County Zoning Ordinance on Earth Materials Extraction, Processing and Site Reclamation."

\_\_\_\_\_(Owner/Occupant)

### I. FEES

All applications for an M-3 zoning designation shall be accompanied by a fee for map amendments in accordance with fee structure as established by the County Board and as amended from time to time. The County Board may, at its discretion, retain the services of attorneys and professional consultants to assist the Board and County staff in the amendment and zoning process. The application fee shall serve as an initial deposit from which any costs and expenses incurred by the county as a result of the application for amendment and the hearing process set forth herein shall be deducted. Such costs shall include, but not be limited to, the fees and costs of: County employees or staff review time, legal fees, expert witnesses, scientific testing, records or other investigations, data searches, notices, court reporters, transcription costs, consultants, the hearing officer, and other expenses incurred by the County in reviewing the application, the public hearing, and decision, or any issues raised at any time during any hearings. If the actual costs incurred by the County in conducting its review and recommendation of the requested map amendment exceed the amount of the application fee deposit, the applicant shall be billed and shall be required to pay any all additional costs incurred by the County in the completion of their review and recommendation of the zoning map amendment. Costs in excess of the application fee deposit will need to be paid in full by the applicant prior to scheduling the matter for action by the County Board. *(Amended 3/21/06)*

### J. SUBMITTAL REQUIREMENTS

In order for the County to adequately determine the short and long term impact of the proposed mining operation on vegetation, wildlife, fish, land use, land values, local tax base, the economy of the County, employment opportunities, air pollution, water pollution, soil contamination, noise pollution and drainage, all applications for an M-3 zoning designation shall be accompanied by the background information as outlined below in Section 10.03-1.A.4 of this ordinance.

## SECTION 10.03-1 PERMITTING

## SECTION 10.00 MANUFACTURING DISTRICTS

### A. PERMIT FOR MINING

1. All operators extracting and/or processing aggregate materials shall apply for a permit jointly with the owner and any person who is entitled to legal possession of the property to be affected and shall comply with the operation and reclamation regulations in this Ordinance.

Application for permit shall be made upon a form furnished by the Department. Such application shall be accompanied by a fee of \$100 for every acre and fraction of an acre of land to be affected during the life of the permit.

2. An operator desiring to have his permit amended to cover additional land may file an amended application with the County with such additional fee and bond or security as may be required under the provisions of this Act. Such amendment shall comply with all requirements of this Ordinance.
3. It shall be unlawful for any owner/operator to engage in surface mining in an area where the overburden shall exceed ten (10) feet in depth or where the operation will affect more than ten (10) acres during the permit year without first obtaining from the Illinois Department of Mines and Minerals a permit to do so, pursuant to the Surface-Mined Land Conservation and Reclamation Act ILCS 715/1 et. seq. as amended.

All owner/operators shall comply with the Regulations of USEPA and all State of Illinois and Federal regulatory agencies for occupational health and safety and obtain any necessary permits prior to issuance of the mining permit. Before the onset of any operations the Enforcement Officer must be provided with copies of all necessary permits.

4. Every application, and every amendment to an application submitted under this Ordinance shall contain the following, except that the Administrator may waive the requirements of this subsection for amendments if the affected acreage is similar in nature to the acreage stated in the permit to be amended:
  - a. Ownership of land;
  - b. Aggregate materials to be mined;
  - c. Character and composition of vegetation and wildlife on land to be affected;
  - d. The proposed equipment to be used;
  - e. The current and past uses to which the lands to be affected have been put;

## SECTION 10.00 MANUFACTURING DISTRICTS

- f. The current assessed valuation of the lands to be affected and the assessed valuation shown by the two (2) quadrennial assessments next preceding the currently effective assessment;
- g. The nature, depth, and proposed disposition of the overburden;
- h. The estimated depth to which the mineral deposit will be mined;
- i. The location of the existing roads, and anticipated access and haulage roads planned to be used or constructed in conducting surface mining;
- j. The technique to be used in surface mining;
- k. Drainage on and away from the lands to be affected including directional flow of water, natural and artificial drain ways and waterways, and streams or tributaries receiving the discharge;
- l. The current location of existing buildings and utility lines and easements within the lands to be affected;
- m. Practices and methods proposed to be used to minimize noise, dust, air contaminants and vibration and to prevent pollution of surface or underground water;
- n. The recycling of water used for washing and grading;
- o. The simultaneous reclamation plan including methods of accomplishment, phasing, and timing as an area is mined out to start reclamation;
- p. A detailed map of the land drawn at a scale of one (1) inch equals (=) one hundred (100) feet showing at least the following specifics:
  - 1) Existing topographical features at two (2) foot contour intervals, up to and including seven (7) percent grade. Greater than seven (7) percent grade would require five (5) foot contours;
  - 2) Location and names of all streams, creeks, bodies of water, underground water resources (which are readily ascertainable from sources such as Illinois State Geological Survey well drillings logs) and drainage systems within the lands to be affected;
  - 3) Outline of area to be excavated;
  - 4) The proposed location of sorting, grading, crushing and similar equipment necessary to the operation and initial distribution of the excavated products;
  - 5) The proposed location of any buildings, scale house, equipment storage areas, and equipment repair sheds or areas; and
  - 6) The current location of buildings, utility lines and easements within the lands to be affected.

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- q. "Affected Lands or Affected Land" shall be defined as real property described within the application filed herein whenever said terms are used in this Ordinance.
- 5. Prior to the issuance of a permit, the applicant must obtain the approval by the County of the reclamation plan and map as provided in Section 10.03-1-B. Such plan shall be forwarded to the Zoning Board of Appeals for public hearing, review and recommendation in accordance with the procedures provided under Section 13.06 "Amendments" of the County Zoning Ordinance. The recommendation of the Zoning Board of Appeals shall be forwarded to the County Board for action. If approved, the Board will enact an ordinance establishing a date by which the permit shall expire.
- 6. All permits issued hereunder shall expire ten (10) years from the date of issuance, unless the County Board passes an ordinance extending such expiration date.
- 7. Each renewal of a Mining Permit under this section shall be for a period of time not more than ten (10) years.
  - a. A request to renew a Mining Permit that involves acreage or equipment in addition to that allowed in the Original Mining Permit, shall be treated in the same manner as the initial application.
  - b. A request to renew a Mining Permit when no additional acreage or equipment will be brought into use shall be handled in the following manner:
    - i. If an owner/operator is not able to finish mining the acreage described in the Mining Permit in the time specified, he shall apply to the County. A public hearing will be held. The maps required by this Ordinance for the initial hearing shall be revised, updated and resubmitted along with a statement of the current status of the mining reclamation. A new map describing conditions present on the site shall be furnished as described in "EXISTING CONDITIONS" of the Standards.
    - ii. The applicant shall furnish the Kendall County Planning, Building and Zoning Department with a copy of the aforesaid maps, plans and other related exhibits for review of the revised or extended reclamation plan no less than thirty (30) days before the Zoning Board of Appeals hearing.
    - iii. The Planning, Building and Zoning Department shall prepare a written report and oral statement on the revised or

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extended reclamation plan and enter it into evidence at the Zoning Board of Appeals hearing.

- iv Any application for a renewal of a Mining Permit shall be filed with the Zoning Board of Appeals prior to one hundred twenty (120) days before the expiration date of the original Mining Permit or any renewal thereof. A failure to file a request for renewal within the required time designated in this Section shall result in a required cessation of mining and sale of product upon the expiration of the Mining Permit.

### 8. Annual Inspections

An examination of the premises shall be made by the Administrator or his/her designee at least annually during the term of the permit. The Administrator shall subsequently complete a Mining Inspection Report, mailing to the operator one (1) copy by certified mail return receipt requested and retaining one (1) copy in the permanent files at the County.

- 9. A permit issued hereunder may be revoked or modified by the County Board after due hearing in the event the permittee violates any provision of 10.03-1-C. of this Ordinance.

## B. RECLAMATION

- 1. At the County Board's discretion, the advice of technically trained experts will be utilized at a reasonable cost to the owner/operator(s) to review the reclamation plan for its appropriateness on the affected land.
- 2. The County shall consider the short and long term impact of the proposed mining on vegetation, wildlife, fish, land use, land values, local tax base, the economy of the County, employment opportunities, air pollution, water pollution, soil contamination, noise pollution and drainage.
- 3. The reclamation plan map and statement of sequential operation and reclamation shall be followed to produce a finished condition that complies with the reclamation plan map and the provisions of this Section so as to provide for the return to a useful purpose of the affected land.
- 4. The Operator shall provide with the application for permit a detailed reclamation plan and map drawn at a scale of one (1) inch equals (=) one hundred (100) feet designating which parts of the land shall be reclaimed for forest, pasture, crop, horticultural, home site, recreational, industrial, or other uses including food, shelter and ground cover for wildlife. The

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reclamation plan and map shall specify progress and completion dates of the reclamation plan; provided, however, the reclamation is to be completed prior to the expiration of three (3) years after the termination of the mining operation on the land. In the event the operator and the County shall mutually determine that characteristics of the area concerned have been found to be present during the conduct of mining, changes may be made in the original reclamation plan by mutual consent of the operator and the Planning Building and Zoning Committee of the County Board, which change shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the previously unknown variables. Contours shall conform to requirements of development proposed, but not less than required for existing original topography.

5. The reclamation plan shall contain a written statement containing an explanation of the character of the site to be mined and of the surrounding territory, and an explanation of the schedule of development.
6. All reclamation provided for hereunder shall be carried to completion by the operator prior to the expiration of three (3) years after the termination of the mining operation, except that no other reclamation of any kind shall be required to be made within depressed haulage roads or final cuts or any other area where pools or lakes, capable of supporting aquatic life, may be formed by rainfall or drainage runoff from adjoining land or where the Administrator determines that a road, dry pit bottom or ditch is consistent with and necessary to the conservation and reclamation plan. All mined areas which in the reclamation plan call for vegetation, shall be covered with sufficient topsoil and other materials from the case overburden which will support acceptable plant growth as outlined in the reclamation plan. The County shall have authority to require darkened surface soil be segregated from other overburden in the stripping process so as to accomplish the requirements of this subparagraph.
7. Extension of the reclamation period may be granted by the Administrator as necessary to accomplish acceptable reclamation. Such extension shall be made at the discretion of the Department, however, the Department shall not deny a reasonable extension when the operator shows that acts of God, strikes, inability to receive ordered equipment or extended periods of unreasonable weather have made completion within the time limits impossible. When determined to be appropriate, the Administrator at his or her discretion, may refer a request for such an extension to the County Board for review and recommendation prior to taking action on such request.



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8. The County shall declare forfeiture of the surety, bond or security on such land not satisfactorily reclaimed, and shall use such funds to complete the reclamation. Any excess shall be remitted to the permittee.
9. Any reclamation plan must require that viable ground cover or similar vegetation will be placed on the site within one (1) year of final production.
10. Disposal areas shall be reclaimed within one (1) year from final production.
11. The reclamation plan shall protect persons against hazards remaining on the property.
12. A landscape plan shall be prepared by a qualified landscape professional in accordance with the reclamation plan. Said plan shall include details on phasing of the landscape plan as cells are exhausted and the anticipated time line for the sequential restoration of the subject property.

### C. MINING OPERATION REQUIREMENTS

Duties of Operator. Every operator to whom a permit is issued pursuant to the provisions of this ordinance may engage in surface mining upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

1. All land affected by surface mining except as otherwise provided in this Ordinance shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes that have no more than 15% (or 8 degrees and 32 minutes) grade, except that in the case of those lands to be reclaimed in accordance with a filed plan for forest, plantation, recreational or wildlife, the outside slope of the box cut spoil, the slopes of all perimeter berms, all unconsolidated material in the pit sidewalls, and the outside slopes of all overburden deposition areas the grade shall not exceed 30% (or 16 degrees and 42 minutes); the final cut spoil and the side slopes of haulage roads included can remain at a slope equal to the angle of repose of the material in order to retain or provide as much row crop of 15% slope land as possible, but such slopes need not be reduced to less than the original grade of the overburden of that area prior to mining; vertical highwalls can be left in competent material upon conclusion of the mining or pits formed by the aggregate mining industry.

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2. In the case that the right-of-way has not been recently surveyed by a registered land surveyor and clearly marked, the right-of-way line shall be assumed to be as follows, for the purpose of this Section:
  - a) When the adjoining roadway is classified as a local street, a minimum of seventy feet (70') of R.O.W. (35' from the centerline) shall be provided
  - b) When the adjoining roadway is classified as a local sub-collector, a minimum of eighty feet (80') of R.O.W. (40' from the centerline) shall be provided
  - c) When the adjoining roadway is classified as a minor collector, a minimum of ninety feet (90') of R.O.W. (45' from the centerline) shall be provided
  - d) When the adjoining roadway is classified as a major collector, a minimum of one hundred twenty feet (120') of R.O.W. (60' from the centerline) shall be provided.
  - e) When the adjoining roadway is classified as an arterial, a minimum of one hundred fifty feet (150') of R.O.W. (75' from the centerline) shall be provided.
3. All storm runoff water shall be detained, impounded, drained or treated in accordance with the Kendall County Stormwater Management Ordinance in effect at the time the permit is issued so as to reduce soil erosion, damage to un-mined lands, construct earth dams, where lakes may be formed, in accordance with sound engineering practices if necessary to impound water, provided the formation of lakes or ponds will not interfere with underground or other mining operations, other subsequent uses of the area approved by the County, or damage adjoining property. Such water impoundments must be approved by the County based on the expected ability of the lakes or ponds to support desirable uses such as water for livestock or wildlife; and if to be used for fish life, shall have minimum depths in accordance with standards for fish stocking in the various areas of the State recommended by the County.
4. Acid forming materials present in the exposed face of the mined aggregate material seam or seams in the final cut shall be covered at all times with not less than four (4) feet of water, or other materials which shall be placed with slopes having no more than 30% grade, capable of supporting plant and animal life. Final cuts or other depressed affected areas, no longer in use in mining operations, which accumulate toxic waters will not meet reclamation requirements.
5. Slurry must be confined in depressed or mine areas bounded by levees or



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dams constructed from material capable of supporting acceptable vegetation built in accordance with sound engineering practices.

6. All abandoned haulage roads and all mine drainage ditches must be removed and graded, except where the Administrator determines that a road or ditch is consistent with and necessary to the conservation and reclamation plan.
7. The soil shall be prepared and planted with trees, shrubs, grasses, and legumes to provide suitable vegetative cover, in accordance with the approved reclamation plan.
8. Clearing of the mine site may include the moving of existing trees and shrubs to such location as will provide screening as hereinafter provided when cost effective to do so, or as will conform to the reclamation plan for ultimate use of the property as shown on such a plan.
9. Maximum depth of excavation shall not be below existing groundwater, except in such cases where the reclamation plan indicates that a lake or lakes will be part of the final use of the land or where such plan indicates that adequate fill from overburden is to be used to refill such excavation for conformance to the approved reclamation plan.
10. Adequate planting, berming and/or fencing shall be provided along all public roads adjacent to the property involved, sufficient to screen the operation from public view, as reasonably as possible and as approved by the County Board in granting the zoning. The toe of any berm shall not be closer than ten feet (10') from the R.O.W. line.
11. No more than one (1) entrance and one (1) exit from a highway or road shall be provided to the area of operation. Such entrance shall be subject to approval by the Department of Highways having jurisdiction and shall, preferably, be located along a secondary road, and shall be located as to avoid the routing of vehicles to and from the mining operation over streets that primarily serve abutting residential development. In the event the Highway Authority having jurisdiction over the roadway that provides access to the mining operations, requires turning lanes, then said lanes shall conform to IDOT requirements for geometrics and pavement design. Furthermore, a paved road from the entrance and exit, at a distance of not less than three (300) hundred feet from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks into the public highway. Such pavement shall be in accordance with the specifications of the County Highway Department or

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at the discretion of the Highway Department having jurisdiction over the road way. A wheel wash shall be installed within the operation along that portion of the paved entrance/exit road that is furthest from the point at which it accesses the adjoining roadway so as to prevent the tracking of dirt, dust, sand, gravel and debris onto the public right-of-way. Entrances and exits shall be provided with the gates to be securely locked during hours of in-operation.

12. Trucks used in hauling materials from the site of excavation shall be loaded in such a manner as to prevent spillage onto the public roadway, including, at a minimum, a secure cover over the top of the bed of the truck carrying said material. Any spillage or tracking of material on said roadways shall be removed from said public roadways as needed to maintain a safe vehicular driving operation and a safe driving surface. At a minimum, the public roadway shall be reviewed for said spillage or tracking of material every eight (8) hours. All generally accepted industrial safety precautions shall be practiced and observed during such process of removal. Access ways and on-site roads shall be maintained in a dust-free condition using sweepers, water trucks or other appropriate methods of dust suppression.
13. The owner/operator shall, coincidental with commencement of operations, bring the adjacent roadway providing access to the site up to IDOT standards and specifications for 80,000 lb truck routes including pavement designs and geometrics from the entrance to the subject site to the nearest intersecting 80,000 lb roadway. The design shall include full-depth concrete pavement at the entrance to the site and extending in each direction to the end of the radius returns. The owner/operator shall repair any section of road damaged as a result of trucks and heavy equipment accessing or servicing the aggregate excavation operation. This provision shall not be construed to require the operator to purchase additional right-of-way.
14. Except in the areas needed for plant and equipment, stock piles, maintenance facilities, scale houses and roads, overburden shall not be removed in excess of the area to be mined within one (1) year. Development toward the final plan shall be carried on as excavation progresses. Where ground cover or other planting shall be made in areas where excavation is completed and land is not being used for material storage before further overburden is removed in order to ensure development as operations proceed.
15. Hours of arrival and departure of transport vehicles shall be from six

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o'clock (6:00) a.m. to seven o'clock (7:00) p.m. from April 1<sup>st</sup> until November 1<sup>st</sup>. The rest of the year the arrival and departure of transport vehicles shall be restricted to six o'clock (6:00) a.m. to six o'clock (6:00) p.m. Hours may be extended during a public emergency during which sand, gravel or limestone is needed and upon the order of the County Superintendent of Highways.

16. The holder of a permit hereunder shall ensure the safe and continued use of all wells on surrounding properties located within one and one half (1.5) miles of the boundaries of the parcel on which the mining operation is located and shall be required to post a bond or similar surety to guarantee the repair or replacement of any wells determined to have been adversely affected as a result of such mining operations. The amount of said bond shall be determined by multiplying the total number of wells located on those parcels for which location protection was properly filed times the average estimated cost for replacement as determined by a certified well expert or engineer's estimate of cost. No extraction operations shall be conducted in such a manner that the groundwater table of surrounding properties is harmfully lowered. Water pumped from the site for the purpose of washing of vehicles and or product produced on site shall be retained in a settling pond until the silt and clay settles prior to the water being recycled in the area affected as provided for in Section 10.03-1-A.4. of this ordinance.
17. Landscaping shall be regularly maintained to present a neat and orderly appearance and in such manner so as to discourage the encroachment of weeds and other unsightly or noxious vegetation from encroaching onto the premises or migrating off-site and onto any adjoining properties.
18. The premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged.
19. Enough topsoil must be stockpiled to meet the finished conditions in accordance with the approved reclamation plan, unless additional bonding to ensure the required quantities of topsoil has been furnished to the County.
20. Existing trees and ground cover along public road frontages shall be preserved and maintained in such a manner to preserve line of sight requirements.

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21. Upon the completion of operations, the land shall be left in a condition so that sufficient drainage is provided in order to prevent water pockets or undue erosion; all final grading and drainage ways shall exist such that natural stormwater leaves the entire property at the original and natural drainage points and without an excessive load on a particular drainage point. In the event the reclamation plan shall provide for the permanent establishment of a lake, the grading and drainage may be altered, but not in such a manner as to cause damage or inconvenience to surrounding or abutting properties.
22. Trees, shrubs, legumes, grasses, or ground cover shall be planted upon such area in order to avoid erosion, in accordance with the approved reclamation plan.
23. Within six (6) months after final production, all buildings, structures (except fences), and equipment shall be removed unless same are to be used in connection with the reclamation project.
24. Noise, Dust, and Odor
  - a. The noise level originating from a mining operation shall comply with the performance standards set forth in the standards adopted by the Illinois Pollution Control Board, as from time to time amended; provided, however, that day time hours be defined as six o'clock (6:00) a.m. to seven o'clock (7:00) p.m. from April 1<sup>st</sup> until November 1<sup>st</sup> and from six o'clock (6:00) a.m. to six (6:00) p.m. during the rest of the year. Any variation of these regulations will constitute a violation of this ordinance.
  - b. The release of particulate emissions shall also comply with the performance standards in the standards adopted by the Illinois Pollution Control Board, as from time to time amended.
  - c. Operations shall be conducted so that noise levels and air and water quality standards comply with all applicable Federal and State standards and/or regulations.
25. Blasting
  - a. Blasting operations at all permitted sites operated by the aggregate mining industry shall be conducted in accordance with existing State, and federal law and the rules promulgated by the Departments having jurisdiction over such operations with the advice of the aggregate mining industry and in accordance with the provisions as outlined in 225 ILCS 715/6.5 as may be amended

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from time to time.

### D. RECLAMATION BOND

1. In order to ensure that the approved reclamation plan is completed, the owner/operator shall provide bonding in accordance with the provisions of 225 ILCS 715/8 as may be amended from time to time. If the facility will affect less than 10 acres annually or the overburden depth is less than 10 feet, or does not require bonding with IDNR per 225 ILCS 715/8, a reclamation bond will be filed with Kendall County. An engineer's estimate of reclamation cost should be performed annually to determine the bond amount.

### E. ENFORCEMENT

The Enforcement Officer, in conjunction with other appropriate departments, shall annually review each surface mining permit. In addition to the reclamation plan/map; the owner/operator shall provide the Planning and Development Department with an annual aerial photo of his total operation, enlarged to a scale of one (1) inch equals one hundred (100) feet or other scale that would adequately display the property affected on a thirty (30) inch square format. All aerial photos shall meet the Planning and Development Department standards. The first photo shall be taken during the first year in operation and subsequent photos shall be taken in the same month of the following years. Each year's photo shall be presented at the same scale for the purpose of comparison. Photos shall be submitted prior to the issuance of the annual operating permit.

The Enforcement Officer, in conjunction with the Planning, Building and Zoning Department, shall prepare a report and submit it to the Planning, Building and Zoning Committee for their review. If it is determined that the operator is not in compliance with this Ordinance, the Bonding Requirements, the simultaneous operation and reclamation statement or the reclamation plan/map, the Enforcement Officer shall issue a stop work order on all operations other than reclamation work needed to bring the operation into compliance.

Every three (3) years, at the time of the annual review, bonding, release of bond and re-bonding shall be checked as specified in the section of Bonds. In addition, the operator shall provide the Enforcement Officer with a topographic survey with two (2) foot contours, at the same scale as the aerial photo, said topographic survey to show the status of existing conditions on the subject site.

Before release of bond, an on-site inspection of the acreage reclaimed shall be made by the Enforcement Officer in conjunction with other appropriate

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departments to check for compliance with the Reclamation Plan and any additional conditions of the Mining Permit. A random count procedure shall be used to check seeding, plantings and depth of topsoil.

### F. RULES AND REGULATIONS

1. The County may adopt and promulgate reasonable rules and regulations respecting the administration of the Ordinance and conformity therewith.
2. Any act authorized to be done by the Administrator may be performed by any employee of the Department of Planning, Building and Zoning when so designated by the Zoning Administrator.

### G. SEVERABILITY

If any Section, subdivision, clause sentence or paragraph in this Ordinance shall be held to be unconstitutional, the unconstitutionality thereof shall not affect the remaining parts of this Ordinance.

### H. EXEMPTIONS

Any mining operation legally commenced prior to the adoption of this Section shall be exempt from the requirements hereof, except that said operations shall not be exempt from the requirements hereof pertaining to the hours of operation, the operation of motor vehicles, safety and noise regulations as defined in Sections 10.03-1.C.15 and 10.03-1C.24.