

ZONING ORDINANCE
FOR THE
CITY OF ELLINWOOD, KANSAS

PREPARED AT THE DIRECTION OF THE
ELLINWOOD CITY PLANNING COMMISSION

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TABLE OF CONTENTS

	PAGE NO.
ARTICLE I: TITLE	6
Section 1.....	6
ARTICLE II: PURPOSE AND INTENT	7
Section 1.....	7
ARTICLE III: AUTHORITY AND JURISDICTION	8
Section 1. Authority	8
Section 2. Jurisdiction	8
Section 3. Notice to County	8
Section 4. Agricultural Exclusion.....	8
ARTICLE IV: INTERPRETATION AND CONSTRUCTION	9
Section 1. Rules of interpretation	9
Section 2. Rules of Construction	10
Section 3. Zoning Procedure	10
ARTICLE V: DEFINITIONS	11
Section 1. Definitions	11
Section 2. Words or Terms.....	26
ARTICLE VI DISTRICTS AND BOUNDARIES	27
Section 1. District Classifications.....	27
Section 2. Zoning District Map	27
Section 3. Annexation Rule.....	27
ARTICLE VII “F-P” FLOODPLAIN DISTRICT	28
Section 1. Intent and Purpose of District.....	28
Section 2. District Regulations	28
Section 3. Special Use Regulations	28
Section 4. Intensity of Use Regulations	29
Section 5. Height Regulations	29
Section 6. Yard Regulations.....	29
Section 7. Sign Regulations.....	29
Section 8. Parking and Loading Regulations.....	29
ARTICLE VIII “A-L” AGRICULTURAL DISTRICT	30
Section 1. Intent and Purpose of District.....	30
Section 2. District Regulations	30
Section 3. Use Regulations.....	30
Section 4. Intensity of Use Regulations	33
Section 5. Height Regulations	33
Section 6. Yard Regulations.....	33
Section 7. Sign Regulations.....	34
Section 8. Parking and Loading Regulations.....	34

ARTICLE IX	“R-1” SINGLE-FAMILY DWELLING DISTRICT	35
	Section 1. Intent and Purpose of District.....	35
	Section 2. District Regulations	35
	Section 3. Use Regulations.....	35
	Section 4. Intensity of Use Regulations	37
	Section 5. Lot Coverage	37
	Section 6. Height Regulations	37
	Section 7. Yard Regulations.....	37
	Section 8. Sign Regulations.....	37
	Section 9. Parking and Loading Regulations.....	38
ARTICLE X	“R-2” TWO-FAMILY DWELLING DISTRICT	39
	Section 1. Intent and Purpose of District.....	39
	Section 2. District Regulations	39
	Section 3. Use Regulations.....	39
	Section 4. Intensity of Use Regulations	40
	Section 5. Lot Coverage	40
	Section 6. Height Regulations	40
	Section 7. Yard Regulations.....	41
	Section 8. Sign Regulations.....	41
	Section 9. Parking and Loading Regulations.....	41
ARTICLE XI	“R-3” MULTIPLE-FAMILY DWELLING DISTRICT	42
	Section 1. Intent and Purpose of District.....	42
	Section 2. District Regulations	42
	Section 3. Use Regulations.....	42
	Section 4. Intensity of Use Regulations	43
	Section 5. Lot Coverage	43
	Section 6. Height Regulations	43
	Section 7. Yard Regulations.....	43
	Section 8. Sign Regulations.....	44
	Section 9. Parking and Loading Regulations.....	44
ARTICLE XII	“M-P” MANUFACTURED HOME PARK DISTRICT	45
	Section 1. Intent and Purpose of District.....	45
	Section 2. District Regulations	45
	Section 3. Use Regulations.....	45
	Section 4. Park Requirements.....	46
	Section 5. Application Procedure	49
ARTICLE XIII	C-1” LIGHT COMMERCIAL BUSINESS DISTRICT	51
	Section 1. Intent and Purpose of District.....	51
	Section 2. District Regulations	51
	Section 3. Use Regulations.....	51
	Section 4. Intensity of Use Regulations	54
	Section 5. Height Regulations	54
	Section 6. Yard Regulations.....	54
	Section 7. Sign Regulations.....	54
	Section 8. Parking and Loading Regulations.....	54
	Section 9. Landscape Regulations.....	55
ARTICLE XIV	“C-2’ HEAVY COMMERCIAL DISTRICT	56
	Section 1. Intent and Purpose of District.....	56
	Section 2. District Regulations	56
	Section 3. Use Regulations.....	56
	Section 4. Intensity of Use Regulations	56
	Section 5. Height Regulations	57

	Section 6. Yard Regulation	57
	Section 7. Sign Regulations.....	57
	Section 8. Parking and Loading Regulations.....	57
	Section 9. Landscape Regulations.....	57
ARTICLE XV	“I-1” INDUSTRIAL DISTRICT.....	58
	Section 1. Intent and Purpose of District.....	58
	Section 2. District Regulations.....	58
	Section 3. Use Regulations.....	58
	Section 4. Intensity of Use Regulations	59
	Section 5. Height Regulations	59
	Section 6. Yard Regulations.....	59
	Section 7. Sign Regulations.....	59
	Section 8. Parking and Loading Regulations.....	60
	Section 9. Landscape Regulations.....	60
ARTICLE XVI	SIGN REGULATIONS.....	61
	Section 1. General Requirements	61
	Section 2. Specific Requirements.....	61
	Section 3. Permits and Fees Required	65
	Section 4. Non-conforming Signs	65
	Section 5. Removal of Signs from Vacant Buildings	66
ARTICLE XVII	PARKING AND LOADING REGULATIONS	67
	Section 1. Requirements.....	67
	Schedule of Minimum Off-Street Parking & Loading Requirements	67
	Section 2. General Requirements	69
	Section 3. Maintenance	71
	Section 4. Performance.....	71
	Section 5. Application	71
ARTICLE XIII	LANDSCAPE REQUIREMENTS.....	72
	Section 1. Minimum Landscape Requirements.....	72
ARTICLE XIX	BUILDINGS AND USES AFFECTED.....	73
	Section 1. Minimum Building Requirements	73
	Section 2. Building and Structures Moved In.....	74
	Section 3. Elevation.....	74
ARTICLE XX	CONDITIONAL USES	75
	Section 1. Requirements.....	75
ARTICLE XXI	ADDITIONAL HEIGHT, AREA, AND USE REGULATIONS	77
	Section 1. Qualifications and Supplementations to District Regulations	77
	Section 2. Fences.....	80
	Section 3. Lots of Record	82
	Section 4. Canopy and Marquee.....	82
	Section 5. Temporary Uses Permitted	82
	Section 6. Wind Energy Conversion System (WECS)	83
	Section 7. Joint Driveways and Garages	83
	Section 8. Protection of Sewer and Other Utility Lines	83
	Section 9. Mining and Extraction of Minerals	83
	Section 10. Vacated Streets and Alleys	83
	Section 11. Sanitary Sewerage Requirements	83
	Section 12. Wireless Communications Towers.....	83
	Section 13. Home Occupations	84

ARTICLE XXII	NON-CONFORMING USES	86
	Section 1. Non-conforming Uses Which May Be Continued.....	86
	Section 2. Non-conforming Uses Which May Not Be Continued.....	86
ARTICLE XXIII	ENFORCEMENT, VIOLATION AND PENALTY	88
	Section 1. Enforcement	88
	Section 2. Certificate of Occupancy	88
	Section 3. Plans	88
	Section 4. Violation and Penalty	88
ARTICLE XXIV	BOARD OF ZONING APPEALS	89
	Section 1. Board of Zoning Appeals Established	89
	Section 2. Election of Officers	89
	Section 3. Rules of Procedure	89
	Section 4. Meetings	89
	Section 5. Records.....	89
	Section 6. Filing Fee.....	89
	Section 7. Public Hearing and Notice.....	89
	Section 8. Powers and Jurisdiction	89
	Section 9. Procedure.....	90
	Section 10. Variances to this Zoning Ordinance	90
	Section 11. Exceptions to this Zoning Ordinance	91
	Section 12. Performance.....	93
ARTICLE XXV	AMENDMENTS	94
	Section 1. Amendments.....	94
	Section 2. Applications.....	94
	Section 3. Filing Fee.....	95
	Section 4. Public Hearing and Notice.....	95
	Section 5. Zoning Classifications of Lesser Change	95
	Section 6. Zoning Amendment Considerations	96
	Section 7. Protest.....	97
ARTICLE XXVI	VALIDITY	99
	Section 1.....	99
ARTICLE XXVII	CERTIFICATE OF APPROVAL	100
	Section 1.....	100
	Section 2.....	100
	Section 3.....	100

ZONING ORDINANCE

CITY OF ELLINWOOD, KANSAS

A COMPREHENSIVE ZONING ORDINANCE REGULATING AND RESTRICTING THE USE AND LOCATION OF BUILDINGS AND STRUCTURES; REGULATING AND RESTRICTING THE HEIGHT AND BULK OF BUILDINGS AND STRUCTURES AND DETERMINING THE AREA OF YARDS, COURTS, AND OTHER PLACES SURROUNDING THEM; REGULATING AND RESTRICTING THE DENSITY OF POPULATION; DIVIDING THE CITY OF ELLINWOOD, KANSAS, ZONING JURISDICTION INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING A ZONING DISTRICT MAP OF THE CITY OF ELLINWOOD, KANSAS, ZONING JURISDICTION SHOWING BOUNDARIES AND THE CLASSIFICATION OF SUCH DISTRICTS; DEFINING CERTAIN OF THE TERMS USED IN SAID ORDINANCE; ESTABLISHING A BOARD OF ZONING APPEALS; PROVIDING FOR CHANGES AND AMENDMENTS TO THE SAID ORDINANCE; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AND AMENDING CHAPTER XVI OF THE ELLINWOOD CITY CODE, AND AMENDMENTS THERETO; AND REPEALING ALL CONFLICTING ORDINANCES.

BE IT ORDAINED BY THE GOVERNING BODY THAT:

ARTICLE I

TITLE

SECTION 1. This Ordinance shall be known and may be cited as the Zoning Ordinance for the City of Ellinwood, Kansas, and shall repeal and replace ARTICLES ___ through _____ of Chapter **(XVI)** of the Ellinwood City Code and all amendments thereto.

ARTICLE II

PURPOSE AND INTENT

SECTION 1. These provisions of these Regulations are adopted for the purposes and intent of providing for the health and welfare of the citizens of the Ellinwood Zoning Jurisdiction through promotion of appropriate patterns and practices of urban development. Within this general purpose, the Zoning Regulations are intended to:

1. Incorporate the Comprehensive Plan for the City of Ellinwood as the formal guide for continued community development decisions with respect to current and future zoning patterns.
2. Implement the goals, policies, and proposals of the comprehensive plan for the zoning jurisdiction.
3. Promote the health and general welfare of the citizens.
4. Provide for adequate light, air and acceptable noise levels.
5. Encourage the most productive use of urban land resources through promotion of compatible land use patterns.
6. Prevent the overcrowding of land and undue concentration of population.
7. Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.
8. Protect property values and conserve energy resources.
9. Regulate and restrict the location and use of buildings and the uses of land within each district for residential, commercial, industrial, and other purposes.
10. Regulate and restrict the height, number of stories, and size of buildings; the percentage of the lot that may be occupied by buildings and other structures; and the size of yards and other open spaces.
11. Guard against loss of life and damage to property due to flooding through protection of natural drainage features.
12. Preserve features of historical significance and the conservation of natural resources.

ARTICLE III

AUTHORITY AND JURISDICTION

SECTION 1. AUTHORITY: The Regulations set forth herein are adopted under authority of state statutes.

SECTION 2. JURISDICTION: These Regulations shall apply to all structures and land within the incorporated area of the City of Ellinwood, Kansas, plus such unincorporated areas as may be added to the zoning jurisdiction by ordinance.

SECTION 3. NOTICE TO THE COUNTY: Whenever amendments to the text of these Regulations or to the Zoning District Map are proposed which will affect property located outside the corporate boundary of the City of Ellinwood, written notice of such proposed action shall be given to the Governing Body of the county at least 20 days prior to the proposed action.

SECTION 4. AGRICULTURAL EXCLUSION: Except for feedlots and development in areas designated as a floodplain district, the regulations contained in this Ordinance shall not apply to land and buildings under one ownership which is used exclusively for agricultural purposes, so long as such land and buildings are used for agricultural purposes and not otherwise.

ARTICLE IV

INTERPRETATION AND CONSTRUCTION

SECTION 1. RULES OF INTERPRETATION: When interpreting the provisions of these Regulations, the following shall govern:

1. *Minimum Requirements.* In their interpretation and application, the provisions of these Regulations shall be held to be the **minimum** requirements for the promotion of the public health, safety, morals, and welfare of the citizens of the City of Ellinwood.
2. *Overlapping or Contradictory Regulations.* Where the conditions imposed by the provisions of these Regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
3. *Private Agreements.* The provisions of these Regulations are not intended to abrogate any easement, covenant, or other private agreement provided that where the requirements of these Regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement the requirements of these Regulations shall govern.
4. *District Boundary Lines.* Interpretation of zoning district boundary line locations shall be governed by the following:
 - a. Where district boundary lines are indicated as approximately following streets and alleys, highways, or railroads, such boundaries shall be construed as following the centerlines thereof.
 - b. Where district boundary lines are indicated as approximately following lot lines or section lines, such lines shall be construed as the said boundaries.
 - c. Where a boundary of a district appears to follow a stream, lake, or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the governing body, unless otherwise indicated.
 - d. Where a district boundary line divides a lot or un-subdivided property, and the dimensions are not shown on the map, the location of such boundary shall be indicated by using the scale appearing on the Zoning Map.

SECTION 2. RULES OF CONSTRUCTION: Except where clearly required to be otherwise by the context, rules of construction shall include:

1. Words or numbers used singularly or plurals shall include both singular and plural interpretation.
2. The word “may” is permissive; the word “shall” is mandatory.
3. The present tense includes the past and future tenses and the future the present.
4. The phrase “used for” shall include the phrases “arranged for,” “designed for,” “intended for,” “maintained for,” and “occupied for.”
5. The word “person” includes individuals, firms, corporations, associations, governmental bodies, and other legal entities.
6. The words “use,” “used,” “occupy,” or “occupied,” as applied to any land or building, shall be construed to include the words “intended,” “arranged,” or “designed” to be used or occupied.
7. Unless otherwise specified, all distances shall be measured horizontally.

SECTION 3. ZONING PROCEDURE: The requirements of this Zoning Ordinance permit only those uses listed in each district under USE REGULATIONS. Any owner of property desiring to use his property for some use other than the listed uses may proceed as follows:

1. When the proposed use intensity varies slightly from regulation, the property owner may file an application with the Building Official for a hearing with the Board of Zoning Appeals for one (1) of the following:
 - a. Variance (height, area and yard).
 - b. Exception (special use permits as outlined in the district regulations).
 - c. Appeals from Building Official’s decisions.
2. When the proposed use requires a change of Zoning Ordinance and/or change in District Zoning Map, the property owner may file an application for zoning changes and proceed as set out in Article **XXV**.
3. Any person intending to perform construction of any sort other than for agricultural structures shall provide certification of proof of compliance with Zoning Requirements to the Building Official.

ARTICLE V

DEFINITIONS

SECTION 1. DEFINITIONS: For the purpose of interpreting the provisions of these Regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

1. *Accessory Building.* A subordinate building or a detached portion of the main building, the use of which customarily is incidental to that of the main building or to the main use of the premises. For the purposes of this Ordinance, the term accessory building shall include garages, tool sheds, carports, and similar structures. An accessory building shall be considered an accessory building even if it is located on a separate but adjoining lot from the main building or the main use of the premises.
2. *Accessory Use.* A use of land customarily incidental and subordinate to the use of the principal building on the same or adjoining lot or tract.
3. *Adult.* Any person aged 18 years or older.
4. *Adult Book and/or Video Store.* An establishment which offers for sale or rental books, magazines, photographs, films, videos, or other visual representations, and other materials oriented toward representation of sexual activity of any kind.
5. *Adult Entertainment Establishment.* Any premises which provides adult sexually oriented entertainment whether live or by motion pictures, videos, photographic reproductions, or other means.
6. *Adult Novelty Store.* A commercial establishment offering for sale visual materials, printed matter, instruments, devices and other paraphernalia designed and intended for use in connection with sexual activities.
7. *Agriculture.* The use of a tract of land, where the principal activity is to produce income from the growing of crops, horticulture, nurseries, truck farms, or the raising of fish, poultry, and cattle or other livestock, including commercial feedlots. Such definition includes the structures necessary for carrying on farming operations and, as accessory uses, the dwelling(s) of those owning and/or operating the premises, including singlewide manufactured homes. The retail sale of items produced as part of the farming operation is permitted including the operation of commercial greenhouses and hydroponic farming.
8. *Alley.* A strip of land along the side of or in the rear of lots intended to provide a secondary means of access to and from streets and such lots.
9. *Alley Line.* The line of division between the public travel way comprising the alley and the private lot.

10. *Alteration.* Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or the moving from one location or position to another, shall be considered an alteration.
11. *Animal Hospital or Clinic.* An establishment where animals are admitted principally for examination and treatment by a Doctor of Veterinary Medicine. Boarding of animals shall be limited to that necessary for the treatment of the sick animals. This does not include open kennels or runs.
12. *Apartment.* A room or suite of rooms in an apartment house or other building intended, designed, used, or suitable for use by one or more persons as a place of residence with culinary accommodations.
13. *Apartment House.* A building or portion thereof intended, designed, used, or suitable for use as a residence for three (3) or more families living in separate apartments.
14. *Approved Public Sanitary Sewer System.* A sewage disposal plant, main sanitary sewer lines and other lines approved by the governing body of the City of Ellinwood, Kansas and the Kansas State Department of Health.
15. *Approved Public Water System.* Water treatment facilities and service lines approved by the governing body of the City of Ellinwood, Kansas and the Kansas State Department of Health.
16. *Attached Accessory Building.* A building which has approximately 25% of any wall in common with a wall or portion of a principal building or is built as an integral part of the principal building.
17. *Automobile Service Station.* A structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and/or for accessory uses, such as the sale of lubricants, accessories, or supplies; the incidental washing of motor vehicles, and the performing of minor repairs; but not including tire recapping, body repairs, major overhaul, or open sales lots.
18. *Basement.* A story of a building having more than one-half (1/2) of its height below grade and which serves as substructure or foundation for the remainder of the building.
19. *Bed and Breakfast Inn.* A residential structure other than a hotel or boarding house, where for compensation and by pre-arrangement for definite short-term periods, sleeping rooms and meals are provided for one or more persons, provided that when the inn is located in a residential district, the number of such sleeping rooms shall not exceed a maximum of five (5) sleeping rooms.

20. *Block.* A series of lots entirely surrounded by public rights-of-way, railroad rights-of-way, park, green strips, open land, or waterways.
21. *Board of Zoning Appeals.* Referred to herein as the “Board” which has been appointed by the Governing Body and which has the statutory authority to hear and determine appeals, special uses, exceptions, and variances to these zoning regulations. The Board of Zoning Appeals may be comprised of the same members as the Planning Commission.
22. *Boarding Home for Children.* A residential facility where children not related to the family by blood, marriage, or adoption are cared for twenty-four (24) hours a day by adult supervision which is licensed by the Kansas Department of Health and Environment.
23. *Boarding or Lodging House.* A building or place, other than a hotel, where by pre-arrangement and for compensation, lodging and meals for a definite period are provided for three (3) or more persons, but not exceeding six (6) adults and four children for a maximum of ten (10) persons, and such accommodations are not furnished to transient or overnight customers. Individual cooking facilities shall not be provided.
24. *Buildable Area.* That area of a parcel or lot within which a structure can be constructed without conflicting with any requirements established by these regulations.
25. *Building.* A structure having a roof supported by columns or walls intended, designed, used, or suitable for use for the support, enclosure, shelter, or protection of persons, animals, or property; and when separated by fire walls each portion of such structure so separated shall be deemed a separate building.
26. *Building Height.* The vertical distance measured from the average elevation of the finished lot grade to the highest point of a coping or a flat roof, or to the deck line of a mansard roof, or to the mean height between eaves and ridge of gable, hip, curved, or gambrel roof.
27. *Building – Main.* A building in which is conducted the principal use of the lot or parcel upon which it is situated. Every dwelling in a residential district is a main building.
28. *Building Official.* The person or persons so designated by the City of Ellinwood, whether such person or persons be entitled Building Inspector, Administrative Official, City Engineer, City Administrator, City Clerk, or such other designation as may be made by the City.
29. *Building Permit.* A building permit is the authorization from the City of Ellinwood that allows a person or entity to proceed with work on property governing by this Zoning Ordinance and for which a permit is required. Applications for a building permit are available at the city office.
30. *Building Site.* The land area, consisting of one or more lots or parcels of land under common ownership or control, considered as the unit of land occupied or to be occupied by a main building or buildings and accessory building, or by a principal use or uses accessory thereto, together with such parking and loading spaces, yards, and open spaces as are required by these regulations.
31. *Bulk Regulation:* Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include

regulations controlling: (1) maximum height, (2) maximum lot coverage, and (3) minimum size of yard and setbacks.

32. *Business and Professional Office.* The office of an architect, engineer, dentist, doctor, attorney, real estate or insurance agent, or other similar professional person, and any office used primarily for accounting, correspondence, research, editing, or administration.
33. *Campgrounds.* Any parcel of ground which provides space for transient occupancy and is used or intended to be used for the parking of one (1) or more camping trailers, tents, or similar recreational vehicles. No camper shall occupy a campground for a period exceeding thirty (30) days on a temporary basis. The term campgrounds does not include sales lots of which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection, or sale.
34. *Canopy.* Any structure, movable or stationary, attached to and deriving its support from framework or posts or other means independent of a connected structure for the purpose of shielding a platform, stoop, or sidewalk from the elements, or a roof-like structure of a permanent nature which projects from the wall of a structure and overhangs the public way.
35. *Carports.* A shelter designed for vehicles with one or more open sides. A mobile or enclosed carport is generally constructed from tubular steel with metal, vinyl, or canvas siding or roof materials.
36. *Car Wash.* An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
37. *Cellar.* A room having more than one-half (1/2) of its height below grade.
38. *Child Care.* The process of caring for unrelated minor children as a service with or without financial arrangements. Childcare shall include the term “baby-sitting” but shall not include preschools.
39. *Child Care Center.* A day nursery providing care for children for part or all of a day or night away from the home of the parent or legal guardian; and including full day group care, nursery schools, play groups, head start centers giving emphasis to special programming for children, kindergartens not operated by the public schools, and other establishments offering care to groups of children. Such centers shall meet all requirements of the Kansas Department of Health and Environment for licensing.
40. *Clinic.* An establishment where patients who are normally not lodged overnight are admitted for examination and treatment. This definition does not include Animal Hospitals or Animal Clinics.
41. *Club or Lodge – Private.* A nonprofit association or organization formed for either fraternal, social, educational, philanthropic, or other similar purpose, including professional organizations, unions, and other similar organizations.
42. *Common Open Space.* An area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities, such

as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

43. *Comprehensive Plan.* The duly adopted comprehensive plan for the development of the City of Ellinwood, Kansas.
44. *Conditional Use Permit.* The documentary evidence of authority granted by the Governing Body in accordance with these regulations which allows location of a Conditional Use at a particular location.
45. *Condominium.* A multiple-family dwelling structure wherein the separate dwelling units are individually owned as opposed to rental units in an apartment or units with lots in a townhouse.
46. *Convenience Store.* A retail establishment offering food, drink, fuel and other convenience goods where fuel sales are incidental to sales of convenience merchandise.
47. *Density.* Restrictions on the number of dwelling units that may be constructed per acre or per square foot of a zoning lot area.
48. *Developer.* The legal or beneficial owner or owners of all of the land proposed to be included in a planned development or the duly authorized agent thereof. The holder of an option or contract of purchase, a lessee having a remaining term of not less than forty (40) years, or other person having an enforceable proprietary interest in such land, shall be deemed to be a developer for the purpose of these regulations.
49. *District or Zone.* A section or sections of the City specifically declared within which the regulations governing the use of buildings and premises are uniform.
50. *Dog.* Any canine species over 6 months of age.
51. *Drive-In Service.* A type of retail sales establishment which encourages, recognizes, or permits patrons or customers to call for service by remote communicator, flashing of lights or by parking of motor vehicles at a particular place, intended to result in a cash sale and delivery outside of the places of business to such patrons or customers of food or beverage ready and intended for immediate human consumption without cooking or further preparation.
52. *Dump.* A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.
53. *Dwelling.* Any building or portion thereof which is designed and used primarily for residential purposes.
54. *Dwelling, Attached.* A residential building which is joined to another dwelling at one or more sides by a party wall or walls.
55. *Dwelling, Detached.* A residential building, which is entirely surrounded by open space on the same lot.

56. *Dwelling, Multiple-Family.* A building or portion thereof designed with accommodations for or occupied by three (3) or more families living independently of each other who may or may not have joint services or facilities or both. The term includes dormitories and lodging and rooming houses but does not include hotels, motels, tourist Inns or Bed and Breakfast Establishments.
57. *Dwelling, Seasonal.* A residence intended for occasional occupancy.
58. *Dwelling, Single-Family.* A detached building or portion thereof designed for or occupied exclusively by one (1) family.
59. *Dwelling, Two-Family.* A building or semi-detached building or portion thereof designed or occupied exclusively by two (2) families living independently of each other.
60. *Dwelling Unit.* One or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use by one (1) family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.
61. *Employees.* All persons, including proprietors, working on the premises during the largest shift at peak season.
62. *Escort Agency.* A business which furnishes a person to act as a companion, guide or date for another person and/or who agrees or offers to privately model lingerie or to privately perform a striptease for another person. An escort agency is not allowed in the Zoning territory of the City of Ellinwood.
63. *Exception.* An exception shall mean the allowance of a use within a given district by the Board of Zoning Appeals. Exceptions shall be limited to only those specifically authorized and listed in this Zoning Ordinance.
64. *Family.* Either (a) an individual or two (2) or more persons related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit; or (b) a group of not more than four (4) persons who need not be related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit; plus in either case, domestic servants.
65. *Fence.* A freestanding structure of metal, masonry, glass, or wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used for confinement, screening, or partition purposes.
66. *Fence, Sign Obscuring.* A fence or evergreen planting arranged in such a way as to obstruct vision.
67. *Filling Station.* Any building or premises used for dispensing and sale at retail, of any automobile fuels or oils, when the dispensing and sale are incidental to the conduct of a public garage. Where fuel sales are incidental to convenience merchandise, the premises are classified as a convenience store.
68. *Floodplain.* Land area subject to inundation from surplus storm water as defined by a Housing and Urban Development (HUD) flood insurance study and as depicted on a flood insurance rate map.

69. *Floor Area.* Floor area shall mean the gross floor area of all floors in the building including:
- a. Stairwells, elevator shafts, and mechanical equipment enclosures, except roof-mounted mechanical equipment.
 - b. Penthouses.
 - c. One-half (1/2) the basement floor area.
 - d. Interior balconies and mezzanines.
 - e. Enclosed porches.
 - f. Floor area devoted to accessory uses.
 - g. Interior and exterior walls, except where adjoining units share a common wall. In such case, measurement shall be from the center of the common wall.
70. *Foster Home.* A residence or building in which more than twelve (12) hour care is provided to no more than five (5) children, two or more of which are unrelated to the foster parents. Foster homes shall be permitted in all residential structures, the same as would a family.
71. *Fraternal and/or Service Clubs.* An association formally organized for either fraternal, social, educational, philanthropic, or other similar purposes, including union and professional organizations, and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals, and beverages may be served on such premises provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county, and local laws.
72. *Frontage.* The length of the property abutting on one side of a street measured along the dividing line between the property and the street right-of-way.
73. *Garage, Private.* Any accessory building designed or used only for the housing, storage, and similar uses of automobiles having no provisions for the commercial repair or equipping of such vehicles.
74. *Garage, Public.* Any building, portion of a building, or premises designed, operated, or used for commercial purposes in the storage, sale, hiring, care, or repair of motor vehicles.
75. *Garage, Storage.* A building, or portion thereof, designed or used exclusively for housing four (4) or more motor-driven vehicles.
76. *Gasoline Service Station.* A service station shall consist of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced, self-service pumps without buildings shall also be included. Such service shall not include tire recapping, body repairs, or major overhaul. (Also see "Filling Station")

77. *Governing Body – (Legislative Body)*. Unless otherwise specified, Governing Body shall mean the City Council of the City of Ellinwood, Kansas.
78. *Grade*:
- a. For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be the grade.
 - b. For buildings having walls facing more than one street, the grade shall be the average of the grades (as defined in “a” above) of all walls facing each street.
 - c. For buildings having no wall facing a street or a sidewalk on the property, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be the grade.
 - d. Any wall approximately parallel to a street line is considered as facing the street.
79. *Group Homes*. Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability, who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state.
80. *Home Occupation*. Any lawful activity conducted within the principal building (dwelling) or accessory buildings by members of the immediate family residing on the premises for the purpose of earning income, except as expressly prohibited below, which requires personal appearances by customers or delivery of their personal property at the dwelling for the purpose of providing goods and/or services. Also see ARTICLE IX, SECTION 3, Paragraph 12 and 13 for specific requirements.
81. *Hospital*. An establishment used primarily for inpatient care and to provide health, medical, mental, and surgical care of the sick or injured, excluding animal hospitals.
82. *Hotel or Motel*. A commercial building used as a temporary abiding place for persons who are being lodged for compensation with or without meals.
83. *Institution of Higher Learning*. A building used primarily by a public or non-profit institution authorized by the State of Kansas to provide education beyond secondary education and designed to result in degree, certification, or similar designation upon successful completion of the program.
84. *Institution (Nonprofit)*. A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
85. *Kennel*. Any place, area, building, structure, or enclosure where more than two domesticated animals, commonly considered to be household pets, more than three months old, are boarded, cared for, housed, fed, trained, or bred for commercial purposes. Commercial kennels shall not be allowed in the Zoning territory of the City of Ellinwood, Kansas.
86. *Laboratory, Medical*. An establishment, which provides bacteriological, biological, medical, X-ray, pathological, and other similar analytical or diagnostic services.

87. *Landscaping.* The improvement of a lot, parcel, or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, and ornamental objects such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.
88. *Laundry (Self-Service or coin).* An establishment equipped with individual coin-operated washing, drying, or dry-cleaning machines.
89. *Laundry.* An establishment where commercial laundry and dry-cleaning work is undertaken.
90. *Lot.* A parcel of land shown as a unit on a recorded subdivision plat.
91. *Lot Area.* The total horizontal area within the lot lines of a lot.
92. *Lot, Corner or External.* A lot abutting upon two (2) or more streets at their intersection and shall be deemed to front on both streets.
93. *Lot Coverage.* The total area of building expressed as a percentage of the total lot, plot, or tract. (Includes both principal and accessory buildings.)
94. *Lot, Depth Of.* A mean horizontal distance between the front and rear lot lines, measured in the general direction of the sidelines of the lot.
95. *Lot, Double Frontage.* An internal lot having a frontage on two (2) streets.
96. *Lot, Interior.* Any lot which does not constitute a corner lot.
97. *Lot Line, Front.* A boundary line of a lot, which coincides, with a street boundary lines. The word "street" as used in this definition shall not include alley.
98. *Lot Line, Rear (Internal).* A boundary line of a lot, which does not coincide with a street boundary line but may coincide with an alley line.
99. *Lot Line, Side (Internal).* A boundary line of a lot, which does not coincide, with a street boundary line. The word "street" as used in this definition does not include alley.
100. *Lot of Record.* A lot which is a part of a subdivision, the map of which has been recorded in the office of the register of deeds, or a lot described by metes and bounds, the description of which was recorded in the office of the register of deeds prior to the adoption of these regulations.
101. *Lot, Reversed Corner.* A corner lot, the rear lot line of which either abuts upon or is directly across an alley from the side lot line of another lot or parcel.

102. *Lot Width.* The mean horizontal distance between the side lot lines, measured at right angles to the lot depth. Where side lot lines are not parallel, the minimum width of a lot shall be measured at the front yard setback line, but in no case shall the front lot line be less than thirty-five (35) feet in width.
103. *Lot Zoning.* A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.
104. *Manufactured Home.* A factory-built structure or structures equipped with the necessary utility service connections and made so as to be transportable as a unit or units on its or their own running gear and designed to be used as a dwelling unit irrespective of how affixed to the land. The transportation system is designed so that the manufactured home may be moved from time to time. The term shall include two (2) or more separately towed units which, when bolted or otherwise fastened together, form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly, and lights. Removal of any or all of these component parts does not change the definition. Except for manufactured homes in a designated manufactured home park, all manufactured homes shall be placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas, and the city ordinances of the City of Ellinwood, Kansas pertaining to manufactured homes, shall be anchored to the ground. All manufactured homes intended for new installation in the zoning jurisdiction of the City of Ellinwood after the effective date of this ordinance shall bear a certification plate pursuant to the “National Manufactured Housing Construction and Safety Standards Act of 1974”, 42 U.S.C. 5401 et seq., as amended. All manufactured homes to be placed in the zoning jurisdiction of the City of Ellinwood, Kansas, shall be subject to any ordinances adopted by the City of Ellinwood, Kansas, as those ordinances apply to manufactured homes.
105. *Manufactured Home, Dependent.* A manufactured home, which does not have a flush toilet and bath or shower.
106. *Manufactured Home, Independent.* A manufactured home, which has a flush toilet and a bath or shower.
107. *Manufactured Home Park.* Any area, parcel, or tract of ground equipped as required for support of manufactured homes and used or intended to be used by two (2) or more occupied manufactured homes. Such manufactured home park shall be under one ownership and control, but under no circumstances shall the manufactured home spaces be sold or offered for sale individually. The term does not include a sales area on which unoccupied manufactured homes, whether new or used, are parked for the purposes of storage, inspection, or sale. A manufactured home may, however, remain on a space for purposes of sale by the resident owner or the manufactured home park owner. No more than fifteen (15) percent of the manufactured homes may be for rent at any one time. All manufactured homes in a manufactured home park shall be skirted or shall be placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas, shall be anchored to the ground.
108. *Manufactured Home, Residential Design.* A manufactured home on permanent foundation which has (a) minimum dimensions of twenty-two (22) body feet in width, (b) a pitched roof, and (c) siding and roofing materials which are customarily used on site-built homes.

109. *Medical, Dental, or Health Clinic.* Any building designed for use by one or more persons lawfully engaged in the diagnosis, care, and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, psychiatrists, and podiatrists; and in which no patients are lodged overnight.
110. *Modular Home.* A dwelling structure located on a permanent foundation with permanently connected utilities, consisting of pre-selected, prefabricated units, or modules designed to meet the requirements of the building code, and transported to and/or assembled on the site of its permanent foundation; as opposed to a dwelling structure which is custom built on the site of its permanent location; and also as opposed to a manufactured home, either single-wide, double-wide, or of multiple width.
111. *Motel.* A group of buildings including either separate cabins or a row of connected cabins or rooms which contain individual sleeping accommodations for transient occupancy, and which have individual entrances.
112. *Motor Vehicle Repair Shop.* A building or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles.
113. *Nonconforming Lot of Record.* A platted lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
114. *Nonconforming Structure or Use.* A lawfully existing structure or use at the time these Regulations or any amendments thereto became effective, which does not conform to the requirements of the zone in which it is located.
115. *Nursing Homes or Convalescent Homes.* An institution or agency licensed by the State for the reception, board, care, or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism or narcotics.
116. *Parcel.* All contiguous lands (including lots and parts of lots) held in one (1) ownership.
117. *Parking Area, Public or Customer.* An area other than a private parking area, street, or alley, used for parking of automobiles and available for public or semi-public use.
118. *Parking Space.* A surfaced area of not less than two hundred (200) square feet on private or public property, either within or outside a building, suitable in size and location to store one standard automobile.
119. *Paved Parking.* A vehicular parking area, which has been, surfaced with an applied material, such as concrete or asphalt, which shall be of sufficient quality and consistency to provide a dust-free, all-weather condition.
120. *Permanent Foundation.* A foundation of formed and poured-in-place concrete or masonry units laid up with such reinforcing materials as may be required for quality construction.
121. *Person.* Any natural individual, firm, trust, partnership, association, or corporation.
122. *Place or Court.* An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

123. *Planned Development.* A tract of land meeting specified minimum site size whereon all elements of development may be designed as inter-related aspects of an overall improvement concept in accordance with the provisions of these regulations.
124. *Planning Commission.* The City Planning Commission of Ellinwood, Kansas unless otherwise specified.
125. *Plat.* A layout of a subdivision indicating the location and boundaries of individual properties.
126. *Platting.* Whenever the terms platting, platted, or subdivided are used in the Zoning Ordinance, it shall refer to the process established by the duly adopted subdivision regulations of the City of Ellinwood.
127. *Preschool.* A public or privately-owned facility with defined curriculum, which offers preparatory education for minor children aged 5 years and younger. The term does not include kindergarten.
128. *Premises.* A parcel together with all buildings and structures thereon.
129. *Principal Structure.* The main use of land or structures as distinguished from a subordinate or accessory use.
130. *Private Club.* An association, other than fraternal or service club, organized and operated either for or not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals, and beverages may be served on such premises provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests provided that such sale or service is in compliance with all applicable federal, state, county, and local laws.
131. *Professional Office.* Any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering, or other occupation customarily considered as a profession.
132. *Public Utility.* Any business which furnishes the general public telephone service, electricity, cable television, natural gas, or water and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.
133. *Recycling Facility.* Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to scrap metals, paper, rags, tires, bottles and other such materials.
134. *Restaurant.* A public eating establishment, including, but not limited to, the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants, and soda fountains, but not a drive-in establishment, unless specified.

135. *Restaurant, Drive-In.* An eating establishment where, for compensation, food is prepared and dispensed having only incidental consumption within the principal building on the premises.
136. *Rooming House.* A building or portion thereof other than a hotel, motel or bed and breakfast establishment where lodging of three (3) or more persons is provided for compensation.
137. *Salvage Yard.* Any land or building used for the collection, storage or sale of wastepaper, trash, rags, fibrous material, scrap metal, or other discarded material; or for the collecting, dismantling, storage or salvaging of machinery or vehicles not in running condition, or for the sale of parts thereof, or materials from the demolition of buildings or structures. In the agricultural and residential districts, no more than two (2) licensed or unlicensed motor vehicles which are in the process of restoration to operating condition may be stored; provided, however, such vehicles are stored inside a structure or screened from public view.
138. *Sanitary Landfill.* A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial, or burning of garbage, sewage, trash, refuse, junk, discarded machinery, or motor vehicles or parts thereof or other waste and which is in conformance with the requirements of the Kansas Department of Health and Environment.
139. *School.* A public elementary or secondary educational facility which is under direction and control of the State Board of Education and the State Superintendent of Public Instruction and/or a Parochial elementary or secondary educational facility which offers the same general curriculum as that provided by a comparable public educational facility.
140. *Service Station.* An establishment consisting of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced; such service shall not include tire recapping, body repairs, or major overhaul. (Also see "Filling Station")
141. *Setback.* The distance between the lot line and building line.
142. *Sign.* Any words, numerals, figures, devices, designs, or trademarks by which anything is made known, such as are used to designate an individual firm, profession, business, or a commodity and which are visible from any public street or air. For various types of signs see ARTICLE XVI.
143. *Site.* See "Parcel."
144. *Site Triangle.* An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two-and-one-half (2½) feet and ten (10) feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, ninety (75) feet in each direction along the centerline of the streets.
145. *Story.* That portion of a building including the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of the building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above the basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

146. *Story, Half.* A space under a sloping roof which has the line of intersection of the roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use. A half-story containing independent apartment or living quarters shall be counted as a full story.
147. *Street.* The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms “road”, “highway”, “place”, “alley”, or other similar designations.
148. *Street Line.* A dividing line between a lot, tract, or parcel of land and the contiguous street.
149. *Street Network.*
- a. Arterial Street. A street which provides for through traffic movement between and around areas and across the city with direct access to abutting property; subject to necessary control of entrances, exits, and curb uses.
 - b. Collector Street. A street, which provides for traffic movement between arterial and local streets with direct access to abutting property.
 - c. Local Street. A street, which provides direct access to abutting land and for local traffic movement, whether in business, industrial, or residential areas.
150. *Structure.* Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences, driveways, hard surfaced walk and terraces, or public items, such as utility poles, street light fixtures, and street signs.
151. *Structural Alterations.* Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of these regulations, the following shall not be considered structural alterations.
- a. Attachment of a new front where structural supports are not changed.
 - b. Addition of fire escapes where structural supports are not changed.
 - c. New windows where lintels and support walls are not materially changed.
 - d. Repair or replacement of non-structural members.
 - e. Alterations for the safety of the building and normal repairs and maintenance.
152. *Subdivision.* The division of a tract of land into one or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term subdivision includes re-subdivision, and the term "re-subdivision," as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided for sale, use, or other purpose, which varies from the latest, approved subdivision of the same. See the land Subdivision Regulations.

153. *Subdivision Plat.* A plan or map prepared in accordance with the provisions of the duly adopted Subdivision Regulations and recorded with the Register of Deeds.
154. *Tavern.* An establishment in which the primary function is the public sale and serving of cereal malt beverages.
155. *Theater, Moving Picture.* A building or part of a building devoted to the showing of moving pictures on a paid admission basis.
156. *Theater, Outdoor Drive-In.* An open lot or part thereof with its appurtenant facilities devoted primarily to the showing of moving pictures or theatrical productions on a paid admission basis to patrons seated in automobiles or on outdoor seats.
157. *These Regulations.* The document duly approved and adopted by the Planning Commission and the City Council of Ellinwood, Kansas, which establishes zoning requirements.
158. *Tourist Home.* A dwelling in which overnight accommodations are provided or offered for transient guests for compensation. (Also see Bed and Breakfast Inn)
159. *Townhouse.* A multiple-family dwelling unit, which is individually owned along with a lot or other tract of land, as opposed to a condominium.
160. *Tract.* A plot or parcel of land other than a lot in a subdivision, which is recorded in the office of the Register of Deeds.
161. *Use.* Any purpose, for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also, any activity, occupation, business, or operation carried on, or intended to be carried on, in a structure or on a tract of land.
162. *Use Regulations.* The provisions of these Regulations, which identify permitted, special and conditional uses, impose use limitations, and regulate accessory and temporary uses and home occupations.
163. *Variance.* A modification or variation of the provisions of these Regulations, as applied to a specific parcel of property, as distinct from rezoning.
164. *Way.* A street, an alley or other thoroughfare or easement permanently established for passage of persons or vehicles.
165. *Yard.* An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard, the depth of the front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.
166. *Yard, Front.* A yard extending along a full length of a front lot line and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the required front yard. On a corner lot, each yard that abuts a street shall be considered a front yard.
167. *Yard, Rear.* A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear yard.

168. *Yard, Side.* A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of a required minimum side yard, but excluding any area encompassed within a front yard or rear yard.
169. *Zone or District.* A portion, area, or section of the Ellinwood, Kansas zoning jurisdiction for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open spaces about buildings are herein established.
170. *Zoning Administrator.* The person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these Zoning Regulations.
171. *Zoning Area.* The area to be zoned as set out on the Official Zoning Map filed of record.
172. *Zoning Regulations.* The term zoning regulations or this or these regulations shall mean the requirements stipulated in the regulations herewith attached.

SECTION 2. Words or terms not herein defined shall have their ordinary meaning in relation to the context.

ARTICLE VI

DISTRICTS AND BOUNDARIES

SECTION 1. DISTRICT CLASSIFICATIONS: In order to classify, regulate, and restrict the location of trades, industries, residential uses, and other uses; the location of buildings designed for specified uses; to regulate and limit the height and bulk of buildings; to regulate and limit the intensity of the use of lots; to regulate and determine the area of yards and other open spaces surrounding buildings; and to regulate and restrict the density of population, the Ellinwood Zoning Jurisdiction is divided into districts designated as follows:

“F – P”	Floodplain District
“A – L”	Agriculture District
“R – 1”	Single-Family Dwelling District
“R – 2”	Two-Family Dwelling District
“R – 3”	Multiple-Family Dwelling District
“M– P”	Manufactured Home Park District
“C – 1”	Central Business District
“C – 2”	General Commercial District
“I – 1”	Industrial District

SECTION 2: ZONING DISTRICT MAP: The boundaries of the zoning districts are shown on the map and/or sections thereof attached hereto and made a part of this Ordinance, which map is designated as the “Zoning Map,” City of Ellinwood, Kansas. The Zoning Map and all the notations, references, and other information shown thereon are a part of this Ordinance and have the same force and effect as if said map and all the notations, references, and other information shown thereon were all fully set forth or described herein. Copies of the Zoning Map are properly attested and are on file with the City Clerk of Ellinwood, Kansas.

SECTION 3: ANNEXATION RULE: All territory which may hereafter be annexed to the city shall be annexed as “R – 1” Single-Family Dwelling District until or unless otherwise established by ordinance.

ARTICLE VII

“F-P” FLOODPLAIN DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: The “F-P” Floodplain District is intended for application in those areas of the community which are subject to inundation from surplus stormwater as defined by the City of Ellinwood Flood Insurance Study and accompanying Flood Insurance Rate Map, Panel Number _____, effective _____, 2010, and any subsequent additions or amendments thereto, prepared for the City of Ellinwood by the Federal Insurance Administration. This zone is intended for application throughout the zoning jurisdiction in locations where an official floodplain delineation has been established. The regulations are intended to minimize the extent of floods and reduce the height and violence thereof; to minimize the hazard of loss of lives and property caused by floods; and to secure safety from floods through the confinement of floods, within reasonable limits by regulating and restricting areas of development along or in natural water courses and drain ways.

SECTION 2. DISTRICT REGULATIONS: In the “F-P” District, no building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged or designed for other than one of the permitted uses in the parent district, to which this district is made a part, provided that such uses and structures meet the minimum requirements of SECTION 3 of these Zoning Regulations.

SECTION 3. SPECIAL USE REGULATIONS: Notwithstanding the requirements of the parent district, the other requirements of this Zoning Ordinance, and the detailed regulations present in the Ellinwood City Code and any amendments thereto, the following regulations shall supplement the regulations of the parent district, of which this district is made a part. These regulations shall supersede those of the parent district where there is a conflict among regulations.

1. Where by reason of flooding potential, and where the special flood studies and map indicate the possibility of detrimental or limiting conditions for development, no person, firm or corporation shall initiate any development or substantial improvement, or cause the same to be done, without first obtaining a separate permit for development for each such building or structure in accordance with the detailed requirements of the Ellinwood City Code and any amendments thereto. The application for a development permit shall be prepared in writing upon forms furnished for that purpose and shall be filed in the office of the City Clerk. The application shall be accompanied by explanatory background information as required of the Ellinwood City Code and any amendments thereto, which shall include as a minimum:
 - a. Identification and description of the work to be covered by the permit.
 - b. Description of the land on which the proposed work is to be done by lot, block, tract and house and street address or similar description that will readily identify and definitely locate the proposed building or work.

- c. Indication of the use or occupancy for which the proposed work is intended.
- d. Provisions of plans and specifications for proposed construction.
- e. Evidence of compliance with the requirements of the Ellinwood City Code.
- f. Signature of the permitted or his authorized agent who may be required to submit evidence to indicate such authority.
- g. Provision of other information as may be required by the Building Inspector.

In areas within the Ellinwood Zoning Jurisdiction which are designated as “F-P” Floodplain, all developed uses of land and buildings shall meet the minimum standards and requirements for development within flood hazard areas as outlined and defined the Ellinwood City Code and any amendments thereto.

SECTION 4. INTENSITY OF USE REGULATIONS: The lot coverage and intensity of use of the parent district, of which this district is made a part, shall be maximum allowable.

SECTION 5. HEIGHT REGULATIONS: The height requirements of the parent district, of which this district is made a part, shall be the maximum height requirements subject to additional requirements as prescribed by this Ordinance.

SECTION 6. YARD REGULATIONS: The yard requirements of the parent district, of which this district is made a part, shall be the minimum yard requirements subject to additional requirements as prescribed by this Ordinance.

SECTION 7. SIGN REGULATIONS: The sign regulations of the parent district, of which this district is made a part, shall be the minimum requirements for sign regulations.

SECTION 8. PARKING AND LOADING REGULATIONS: The parking and loading regulations of the parent district, of which this district is made a part, shall be the minimum requirements subject to additional requirements as prescribed by this Ordinance.

ARTICLE VIII

“A – L” AGRICULTURAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: This district is intended to provide a location for land situated on the fringe of the urban area to be used for agricultural purposes, but which will be undergoing urbanization in the foreseeable future. Therefore, the agricultural uses and activities should not be detrimental to urban land uses. It is not intended that this district provide a location for a lower standard of residential, commercial, or industrial development than is authorized in other districts. The types of uses and intensity of use of land authorized in this district is designed to encourage and protect agricultural uses until urbanization is warranted and the appropriate changes in district classification are made.

SECTION 2. DISTRICT REGULATIONS: In the “A – L” District, no building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged or designed for other than one of the uses listed in SECTION 3 below.

SECTION 3. USE REGULATIONS:

1. General farm operations. This shall not include or permit:
 - a. The spreading, accumulation, feeding, or use of garbage in any manner on the open surface of the land.
 - b. A use or activity engaged in within three hundred (300) feet of a residential or retail business structure, if such use or activity results in continuous odor, dust, or noise.
 - c. The construction of agricultural buildings or structures closer than ninety (90) feet to the centerline of a principal public way.
2. Single-family dwelling units on a minimum of two (2) acres for exclusive use by the farm family or employees. (Site size subject to utility service requirements.)
3. Residential design manufactured homes.
4. Group homes, foster homes and boarding homes for children.
5. Churches and similar places of worship and parish houses.

6. Farms and ranches.
7. Golf courses and other open land recreational uses, except miniature golf courses, driving tees, or other intensive commercial uses, such as automobile racetrack or amusement park.
8. Greenhouses, nurseries, and garden centers.
9. Institutions of higher learning, including dormitory accommodations when located on the same tract as the educational buildings.
10. Privately-owned parks, playgrounds, golf courses, or other outdoor recreational areas, such as campgrounds, youth camps, gun clubs, and archery, trap, and skeet ranges.
11. Public and semi-public parks, playgrounds, campgrounds, fishing preserves, or other recreational areas and community buildings owned and operated by a public agency or non-profit organization.
12. Public or parochial elementary, junior high, high schools and private schools with equivalent curriculum.
13. Licensed childcare centers.
14. Stands for sale of agricultural products or commodities raised or prepared on the premises.
15. Customary accessory uses, and structures located on the same tract with the principal use, including barns, sheds, tennis courts, swimming pools, private garages, garden houses, barbecue ovens, fireplaces, and similar uses.
16. Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed.
17. Utility lines and facilities necessary for public service and including refuse disposal area conducted under a landfill or sanitary fill method, public and semi-public storage and repair facilities, sewage disposal, water supply and treatment facilities, dams, and power plants, subject to applicable Kansas Department of Health and Environment regulations.
18. The following uses may be allowed by Conditional Use Permit when submitted, reviewed, and approved by the Planning Commission and Governing Body and subject to conditions as they may impose.
 - a. Any public building erected or land used by any department of the City, County, State, or Federal Government.

- b. Airport or heliport.
- c. Cemetery, crematory or mausoleum.
- d. Electronic communications towers, provided that towers within one hundred fifty (150) feet of a dwelling district zone may have a height of no more than eighty (80) feet; and customary accessory uses incidental to electronic communications towers, such as parking areas, electronics, and generator buildings (not to include broadcast studios). Also see ARTICLE XXI, Section 12 – Wireless Communications Towers.
- e. Home occupations.
- f. Hospitals, isolation homes, penal institutions, sanitariums or asylums for the treatment of mental illness, alcoholism or narcotics addiction on a tract of land five (5) acres or larger.
- g. Preschools.
- h. Oil and gas exploration and extraction.
- i. Water Retention Areas
- j. Racetrack, animal or vehicular
- k. Development of natural resources and extraction of raw materials such as rock, gravel, sand, etc.
- l. Licensed Nursing and Care Homes on a tract 5 acres or larger, subject to inspection and license requirements of the State.
- m. Seasonal or temporary uses such as recreation camp or similar enterprises.
- n. Telephone exchange, electric substations or similar public utilities.
- o. Agricultural product storage (elevators and grain bins) when no other business is in combination with said storage.
- p. Animal feed lots shall not be allowed in the zoning jurisdiction of the City of Ellinwood, Kansas
- q. Radio or television transmitters.
- r. Private clubs (as defined in these regulations).
- s. Kennels-Breeder and Boarding shall not be allowed in the zoning jurisdiction of the City of Ellinwood, Kansas.

- t. Privately-owned parks, playgrounds, golf courses or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.
- u. Riding stables and academies providing no structure housing horses shall be located nearer than 600 feet to the boundary of any residential district.
- v. Raising of Fur Bearing Animals.

SECTION 4. INTENSITY OF USE REGULATION: Tracts in this district and which are outside the city limits of the City of Ellinwood, Kansas, shall be subject to the following minimum size requirements:

- 1. Tracts served by private water wells and septic systems shall be governed by the rules and regulations adopted by Barton County, Kansas.
- 2. Tracts served by a public water system and a private septic system shall be governed by the rules and regulations adopted by Barton County, Kansas. .
- 3. Tracts served by a public water system and public sewer system shall be governed by the rules and regulations adopted by Barton County, Kansas.

SECTION 5. HEIGHT REGULATIONS: Except as otherwise provided in the height, area, bulk, and dimensional requirements of this Ordinance, no building or structure shall exceed the following height restrictions:

- 1. When a building or structure, including signs, is within one hundred fifty (150) feet of a dwelling district zone, said building or structure shall not exceed forty (40) feet in height.
- 2. When a building or structure is more than one hundred fifty (150) feet from a dwelling district zone, said building or structure used for non-agricultural purposes shall not exceed forty-five (45) feet in height.

SECTION 6. YARD REGULATIONS

- 1. *Front Yard.*
 - a. There shall be a front yard having a depth of not less than forty (40) feet except as required for arterial and collector streets or roads. Said forty (40) feet consists of a twenty-five (25) foot setback from the property line plus fifteen (15) foot of public right of way. (See Additional Height, Area, and Use Regulations)
 - b. Where a lot or tract has double frontage, the required front yard shall be provided on both streets or roads.
 - c. Where a lot or tract is located at the intersections of two (2) or more streets or roads, there shall be a front yard on each street or roadside of said lot or tract. No accessory building shall project beyond the front yard line on either street or road.
- 2. *Side Yard.* There shall be a side yard on each side of every building; structure or zoning lot, which said yard, shall not be less than fifteen (15) feet.

3. *Rear Yard.* Except as hereinafter provided in the additional height, area, and use regulations of this Ordinance, there shall be a rear yard having a depth of not less than forty (40) feet.

SECTION 7. SIGN REGULATIONS: See ARTICLE XVI

SECTION 8. PARKING AND LOADING REGULATIONS: See ARTICLE XVII

ARTICLE IX

“R – 1” SINGLE-FAMILY DWELLING DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: The “R – 1” Single-Family Dwelling District is established for the purpose of low density, single-family dwelling use and to allow certain public facilities. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order, or general welfare of persons residing in the district. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes.

SECTION 2. DISTRICT REGULATIONS: In the “R – 1” District, no building or structure shall be used and no building or structure shall be erected, altered or enlarged which is arranged, intended, or designed for other than one of the uses listed in SECTION 3 below.

SECTION 3. USE REGULATIONS:

1. Single-family dwellings.
2. Residential design manufactured housing shall comply with all ordinances of the City of Ellinwood, Kansas.
3. Group homes, foster homes and boarding homes for children.
4. Churches, including accessory building associated with church usage, and similar places of worship and parish houses.
5. Golf courses, except miniature golf courses and driving tees operated for commercial purposes.
6. Hospitals for people only on a lot, plot, or tract of land five (5) acres or larger.
7. Nursing or convalescent homes on a lot, plot, or tract of land five (5) acres or larger.
8. Public parks, playgrounds, recreational areas.
9. Schools – public or parochial, pre-school and licensed childcare centers, elementary, junior high, high schools, and private schools with equivalent curriculum.
10. Customary accessory uses, and structures located on the same lot with the principal use including tennis courts, swimming pools, private garages, garden houses, barbecue ovens, and fireplaces, but which do not include uses unrelated to the principal use or any activity commonly conducted for gain.
11. Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed.
12. Metal shipping containers and portable storage containers shall not be allowed in R-1, R-2, or R-3 districts.

13. Building permits are required for all carports. In addition to other pertinent provisions of this Ordinance, carports shall be subject to the following.
 - The roof of carports must be made of metal or other standard roofing material.
 - Canvas or vinyl roof/tops are not allowed.
 - Carports cannot have siding on the sidewalls or entrance.
 - Carports must be anchored to concrete footings.
 - Entrances to carports and floors of carports must consist of concrete, asphalt, rock, or gravel.
 - Carports must be a part of the structure of the of the residence.
 - Free standing carports cannot be attached to the residence.
 - Carports must be no less than ten (10) feet from the residence.

14. The following home occupations shall be allowed without the necessity of obtaining a Conditional Use Permit or other variance subject to the restrictions and regulations provided for herein:
 - a. Architects, engineers, and draftspersons;
 - b. Barber and beauty shops;
 - c. Insurance agents;
 - d. Attorneys
 - e. Seamstresses
 - f. Computer services and repair
 - g. Electronics repair;
 - h. Accountants;
 - i. Counselors;
 - j. Florists.

Allowable home occupations shall not have more than two (2) employees in addition to the owner/occupant of the premises. Allowable home occupations shall not have more than three (3) customers or non-employees on site at any given time. Hours of operation shall be limited to the hours of 7:00 a.m. to 7:00 p.m. However, nothing herein shall limit the owner/occupant from conducting the business of the operation at other hours provided no other employees or customers are on the premises.

Any signage on the premises shall be limited to three (3) square feet and shall be affixed to the structure within which the home occupation is conducted.

15. The following uses may be allowed by Conditional Use Permit when submitted, reviewed, and approved by the Planning Commission and Governing Body, and under such conditions as they may impose:
 - a. Any public building erected or land used by any department of the City, County, State, or Federal Government.
 - b. Home occupations not listed in paragraph 12 above.
 - c. Bed and breakfast establishments.
 - d. Telephone exchange, electric substations and regulatory stations, or other public utilities.

- e. Raising of crops, trees and shrubs not sold on the premises.
- f. Rooming and lodging houses.
- g. State licensed child centers.
- h. Water Retention Areas.
- i. Preschools.

SECTION 4. INTENSITY OF USE REGULATIONS: Every lot shall have an area of not less than six thousand (6,000) square feet and an average width of not less than fifty (50) feet and an average depth of not less than one hundred-twenty (120) feet.

SECTION 5. LOT COVERAGE: The principal building and accessory buildings shall not cover more than thirty (30) percent of the lot area.

SECTION 6. HEIGHT REGULATIONS: No residence shall exceed forty (40) feet in height. Accessory buildings shall not exceed seventeen (17) feet in height; sidewalls shall not exceed twelve (12) feet in height.

SECTION 7. YARD REGULATIONS:

1. Front Yard.

- a. There shall be a front yard having a depth of not less than twenty-five (25) feet, except as required for arterial and collector streets.
- b. Where a lot or group of lots has a double frontage, the required front yard shall be provided on both streets.
- c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of a corner lot; provided, however, that the buildable width of a single lot of record, as of the effective date of this Ordinance, shall not be reduced to less than thirty-five (35) feet, except as may be required to preserve a minimum setback of six (6) feet from the lot line.

2. Side Yard.

- a. Except as hereinafter required in the additional height, area, and use regulations of this Ordinance, there shall be a side yard having a width of not less than ten (10) percent of the width of the lot with a minimum of five (5) feet on each side of the principal building.
- b. Where more than one principal building is constructed on a tract for hospital use, nursing home use, church use, school use, and other public uses, the spacing between principal buildings shall not be less than the average height of the adjacent buildings.

3. Rear Yard. There shall be a rear yard having a depth of not less than five (5) feet.

SECTION 8. SIGN REGULATIONS: See ARTICLE XVI.

SECTION 9. PARKING AND LOADING REGULATIONS: See ARTICLE XVII.

ARTICLE X

“R – 2” TWO-FAMILY DWELLING DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: The “R – 2” Two-Family Dwelling District is intended for the purpose of allowing a slightly higher density than in district “R – 1” yet retaining the residential qualities. This district allows duplex uses, single-family homes, certain community facilities, and certain special uses.

SECTION 2. DISTRICT REGULATIONS: In the “R – 2” District, no building or land shall be used and no building or structure shall be erected, altered or enlarged which is arranged, intended, or designed for other than one of the uses listed in SECTION 3 below.

SECTION 3. USE REGULATIONS:

1. Single-family dwellings.
2. Residential design manufactured homes shall comply with all ordinances of the City of Ellinwood, Kansas.
3. Group homes, foster homes and boarding homes for children.
4. Two-family dwellings.
5. Community recreation buildings owned and operated by a public agency.
6. Churches and similar places of worship and parish houses.
7. Golf courses, except miniature golf courses and driving tees operated for commercial purposes.
8. Hospitals and clinics on a parcel of land not less than two (2) acres in size (but not animal hospitals or mental hospitals).
9. Institutions of higher learning, including dormitory accommodations.
10. Public parks, playgrounds, and recreation areas.
11. Schools – public or parochial, elementary, junior high, high schools, and private schools with equivalent curriculum.
12. Nonprofit institutions of an educational, philanthropic, or eleemosynary nature, but not penal institutions.
13. Nursing and convalescent homes on a tract of land not less than two (2) acres in size.

14. Customary accessory uses and structures located on the same lot or group of lots with the principal use including tennis courts, swimming pools, private garages, garden houses, barbecue ovens, and fireplaces, but does not include uses unrelated to the principal use or any activity commonly conducted for gain.
15. Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is complete.
16. The following uses may be allowed by Conditional Use Permit when submitted, reviewed, and approved by the Planning Commission and Governing Body and under such conditions as they may impose:
 - a. Any conditional use and home occupation permitted in the “R-1” District.
17. Metal shipping containers and portable storage containers shall not be allowed in R-1, R-2, or R-3 districts.
18. Building permits are required for all carports. In addition to other pertinent provisions of this Ordinance, carports shall be subject to the following.
 - The roof of carports must be made of metal or other standard roofing material.
 - Canvas or vinyl roof/tops are not allowed.
 - Carports cannot have siding on the sidewalls or entrance.
 - Carports must be anchored to concrete footings.
 - Entrances to carports and floors of carports must consist of concrete, asphalt, rock, or gravel.
 - Carports must be a part of the structure of the of the residence.
 - Free standing carports cannot be attached to the residence.
 - Carports must be no less than ten (10) feet from the residence.
 -

SECTION 4. INTENSITY OF USE REGULATIONS: Lots in this district shall be subject to the following minimum size requirements:

1. **Single-Family Dwellings.** A lot on which there is erected a single-family dwelling shall contain an area of not less than six thousand (6,000) square feet with a minimum lot width of fifty (50) feet and a minimum lot depth of one hundred-twenty (120) feet.
2. **Two-family Dwellings.** A lot on which there is erected a two-family dwelling shall contain an area of not less than four thousand (4,000) square feet of lot area per family. This regulation shall also be applicable to two-family structures being converted to individually owned or occupied units. Also see ARTICLE XXI, Additional Height, Area, and Use Regulations.
3. **Dormitories, lodging houses, nursing homes, and boarding houses** shall, in addition to meeting the above requirements for single-family buildings, provide at least five hundred (500) square feet of lot area for each occupant.

SECTION 5. LOT COVERAGE: The principal building and accessory buildings shall not cover more than forty (40) percent of the lot area.

SECTION 6. HEIGHT REGULATIONS: No building shall exceed forty (40) feet in height.

SECTION 7. YARD REGULATIONS:

1. Front Yard.

- a. There shall be a front yard having a depth of not less than twenty-five (25) feet, except as required for arterial and collector streets.
- b. Where a lot or group of lots has a double frontage, the required front yard shall be provided on both streets.
- c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of a corner lot; provided, however, that the buildable width of a single lot of record as of the effective date of this Ordinance shall not be reduced to less than thirty-five (35) feet, except as may be required to preserve a minimum setback of six (6) feet from the property line.

2. Side Yard.

- a. There shall be a side yard on each side of a principal building which shall be one-third (1/3) the height of the building or ten (10) percent of the width of the lot, whichever is the greater, with a minimum of ten (10) feet except as provided for zero lot-line development.
- b. Where more than one principal building is constructed on a tract for hospital use, nursing home use, church use, school use, and other public or quasi-public uses, the spacing of said buildings shall not be less than the average height of the adjacent buildings.

3. Rear Yard. There shall be a rear yard for each principal building in this district, which shall have a depth of not less than ten (10) feet.

SECTION 8. SIGN REGULATIONS: See ARTICLE XVI.

SECTION 9. PARKING AND LOADING REGULATIONS: See Article XVII.

ARTICLE XI

“R – 3” MULTIPLE-FAMILY DWELLING DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: The “R – 3” Multiple-Family Dwelling District is intended for the purpose of allowing moderate to high residential density land use with the co-mingling of compatible single-family and two-family dwellings, apartments, home occupations, certain community facilities, and certain special uses, yet retaining the basic residential qualities.

SECTION 2. DISTRICT REGULATIONS: In the “R – 3” District, no building shall be used and no building or structure shall be erected, altered or enlarged which is arranged, intended, or designed for other than one of the uses listed in SECTION 3 below.

SECTION 3. USE REGULATIONS:

1. Any use permitted in the “R-1” Single Family Dwelling District and the “R – 2” Two-Family Dwelling District.
2. Multiple-Family Dwellings.
3. Bed and Breakfast Establishments.
4. Rooming and lodging houses.
5. Private clubs, fraternities, sororities, and lodges, except those where the chief activity is a service customarily carried on as a business.
6. The following uses may be allowed by Conditional Use Permit when submitted, reviewed, and approved by the Planning Commission and Governing Body, and under such conditions as the Board may impose:
 - a. Any conditional use or home occupation permitted in the “R-1” Single Family Dwelling District and the “R – 2” Two-Family Dwelling District.
7. Metal shipping containers and portable storage containers shall not be allowed in R-1, R-2, or R-3 districts.
8. Building permits are required for all carports. In addition to other pertinent provisions of this Ordinance, carports shall be subject to the following.
 - The roof of carports must be made of metal or other standard roofing material.
 - Canvas or vinyl roof/tops are not allowed.
 - Carports cannot have siding on the sidewalls or entrance.
 - Carports must be anchored to concrete footings.
 - Entrances to carports and floors of carports must consist of concrete, asphalt, rock, or gravel.
 - Carports must be a part of the structure of the of the residence.
 - Free standing carports cannot be attached to the residence.
 - Carports must be no less than ten (10) feet from the residence.

SECTION 4. INTENSITY OF USE REGULATIONS: Lots in this district shall be subject to the following minimum size requirements:

1. Single-Family Dwellings: A lot on which there is erected a single-family dwelling shall contain an area of not less than six thousand (6,000) square feet.
2. Two-Family Dwellings: A lot on which there is erected a two-family dwelling shall contain an area of not less than four thousand (4,000) square feet per family.
3. Multi-Family Dwellings: A lot on which there is erected a multiple-family dwelling shall contain an area of not less than six thousand (6,000) square feet, or one thousand seven hundred fifty (1,750) square feet per family of lot area, whichever is larger.
4. Bed and Breakfast Establishments: A lot on which there is a bed and breakfast establishment shall contain an area of not less than 7,000 square feet.
5. Dormitories, lodging houses, nursing homes, rooming houses and boarding houses – same as “R – 2” District requirements.
6. Minimum lot width shall be 50 feet.
7. Where a single lot of record as of the effective date of this Ordinance, as defined in the definitions section of this Ordinance, has less area than that specified for multiple-family dwellings, and its boundary lines, along their entire length, touched lands under other ownership on the effective date of this Ordinance and have not since been changed, such lot may be used only for single-family dwelling purposes, or for any other non-dwelling use permitted in this district, provided the structure conforms with other yard and height requirements of this district.

SECTION 5. LOT COVERAGE: The principal building and accessory buildings shall not cover more than forty (40) percent of the lot area.

SECTION 6. HEIGHT REGULATIONS: No building shall exceed forty (40) feet in height.

SECTION 7. YARD REGULATIONS:

1. Front Yard.
 - a. There shall be a front yard having a depth of not less than twenty-five (25) feet, except as required for arterial and collector streets.
 - b. Where a lot or lots have a double frontage, the required front yard shall be provided on both streets.
 - c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of the corner lot; provided, however, that the buildable width of a single lot of record, as of the effective date of this Ordinance, shall not be reduced to less than thirty-five (35) feet, except as may be required to preserve a minimum setback of six (6) feet from the property line.
2. Side Yard.

- a. There shall be a side yard on each side of a principal building, which shall be a minimum of ten (10) feet.
 - b. Where more than one principal building is constructed on a tract for hospitals, nursing homes, churches, schools, institutions of higher learning, public buildings, or other public or quasi-public uses, the spacing of said buildings shall not be less than the average height of the adjacent buildings.
3. Rear Yard. There shall be a rear yard for each principal building in this district, which shall have a depth of not less than ten (10) feet.

SECTION 8. SIGN REGULATIONS: See ARTICLE XVI.

SECTION 9. PARKING AND LOADING REGULATIONS: See ARTICLE XVII.

ARTICLE XII

“M – P” MANUFACTURED HOME PARK DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: It is the intent of the “M - P” Manufactured Home Park District to permit low-density manufactured home uses in a park-like atmosphere. The Manufactured Home Park District is intended for those areas where the owner proposes to develop and rent or lease individual sites.

SECTION 2. DISTRICT REGULATIONS: In the “M – P” District, no building shall be used and no building shall be erected, altered, or enlarged which is arranged, intended, or designed for other than uses listed in SECTION 3 below.

SECTION 3. USE REGULATIONS:

1. Independent manufactured homes located on a well-drained concrete slab, subject to the applicable provisions of the City of Ellinwood Manufactured Home Ordinance.
2. Parks and playgrounds.
3. Manufactured housing service buildings, such as coin-operated washers and dryers, for exclusive use of residents of the manufactured home park.
4. Office for manager of the manufactured home park.
5. Storage building for vehicles used to tow manufactured housing units.
6. Storage building for blocks, skirts, pipe, and other material and equipment required to set up a manufactured house provided that all materials and equipment shall be in an enclosed building or an enclosed or screened area not visible to the public.
7. Accessory uses and buildings, including swimming pools, bath houses, RV and boat storage sheds, patios, etc., for exclusive use of manufactured housing residents.
8. Churches and other similar places of worship.
9. The following uses may be allowed by Conditional Use Permit when submitted, reviewed, and approved by the Planning Commission and Governing Body and under such conditions as they may impose:
 - a. Home occupations.

SECTION 4. PARK REQUIREMENTS:

1. A tract to be used for a manufactured housing park shall be large enough to accommodate ten (10) or more manufactured units.
2. Each manufactured housing park space shall be not less than thirty-five (35) feet wide.
3. Manufactured housing parks shall have a maximum density of eight (8) manufactured units per gross acre, and each space shall have not less than three thousand (3,000) square feet.
4. The manufactured housing park shall be located on a well-drained site properly graded to insure rapid drainage.
5. Manufactured housing parks shall provide screening when they abut residential property.
6. Each manufactured housing park having more than ten (10) lots for rent shall reserve an area for child recreation according to the following schedule:

<u>Number of Manufactured Homes</u>	<u>Minimum Area of Playground</u>
0-10	None required
10 – 20	1,500 square feet
21 – 25	2,500 square feet
25 and over	100 square feet per lot

7. The recreation area shall be located so as to be free from hazards and provided with play equipment.
8. All new manufactured housing parks shall provide a storm shelter for the occupants. All existing manufactured housing parks (at the date of the adoption of this Ordinance) are encouraged to provide storm shelters.
9. The manufactured housing shelter shall be approved, after the submission of plans by the applicant, by the Zoning Administrator. It shall be located so as to be accessible to the park residents in a central place with access to the shelter clearly marked.
10. Manufactured housing units shall be located so that there is at least a twenty (20) foot clearance between manufactured houses; provided, however, with respect to manufactured houses parked end-to-end, the clearance shall not be less than ten (10) feet. No manufactured housing unit shall be located less than ten (10) feet from the front driveway.

11. No manufactured housing unit shall be located less than twenty-five (25) feet from any property line of the manufactured housing park or from any community building within the park, including any washroom, toilet, laundry facilities, or office.
12. All manufactured housing spaces shall abut on an internal driveway that is not less than twenty-four (24) feet in width; provided, however, that no on-street parking is permitted. If parallel parking is permitted on one side of the street, the width shall be increased to twenty-eight (28) feet, and if parallel parking is permitted on both sides of the street, the width shall be increased to thirty-six (36) feet. Such driveways shall have unobstructed access to a public street or highway and shall have, as a minimum, a gravel surface or be paved and well maintained and lighted.
13. Manufactured housing parks containing more than twenty (20) units shall provide each lot with a concrete pad for parking two (2) vehicles separate from the road. The minimum pad size shall be fourteen (14) feet wide and sixteen (16) feet in depth. In parks containing less than twenty (20) units, the parking space may be constructed of crushed rock finished to a depth of eight (8) inches.
14. All roadways and walks within the manufactured housing park shall be hard surfaced and provided with night lighting using lamps spaced at intervals of not more than one hundred (100) feet.
15. All electrical distribution systems and telephone service systems to each manufactured housing space, except outlets and risers, shall be underground. Each manufactured housing space shall be provided with a 110-volt and 220-volt service with a minimum 100-ampere individual service outlet.
16. Whenever master television antenna systems including cable systems, are to be installed, the complete plans and specifications for the system must be submitted for approval. Distribution to individual manufactured housing spaces shall be underground and shall terminate adjacent to the electrical outlet.
17. Laundry facilities for the exclusive use of the manufactured housing occupants may be provided in a service building.
18. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and manufactured housing spaces within the park. Each manufactured housing space shall be provided with a cold-water tap at least four (4) inches above the ground. An adequate supply of hot water shall be provided at all times in the service buildings for all washing and laundry facilities.
19. All manufactured housing units within the “M – P” District shall be connected to an approved public water supply and an approved sanitary sewer system with at least a four (4) inch sewer connection to each manufactured housing unit. The sewer connection shall be provided with suitable fittings so that a watertight connection can be made between the manufactured housing drain and the sewer

connection. Such individual unit connections shall be so constructed that they can be closed when not linked to a manufactured housing unit and shall be trapped in such a manner as to maintain them in an odor-free condition.

20. Each manufactured housing unit shall be secured by anchoring the superstructure against uplift, sliding, rotation, and overturning.
21. Outdoor laundry drying space of adequate area and suitable location shall be provided and indicated upon required plan.
22. The owner or operator shall include with the required plan the method of refuse collection and the location of refuse containers. Refuse and garbage handling methods shall meet all requirements of the City of Ellinwood, Kansas, solid waste collection or such requirements as may be imposed by the City of Ellinwood.
23. If only independent manufactured housing spaces are to be provided, no service building will be required; however, when such service building is required, it shall comply with the following regulations:
 - a. Be located twenty (20) feet or more from any manufactured housing unit.
 - b. Be adequately lighted.
 - c. Have the interior finished with moisture-resistant material to permit frequent washing and cleaning.
 - d. Provide at least one (1) lavatory, water closet, and shower for each sex; one (1) laundry tray, one (1) floor drain, and hot and cold water.
 - e. Have adequate heating facilities for the building and equipment, which will furnish an ample supply of heated water during time of peak demands.
 - f. Have all rooms well ventilated with all openings effectively screened.
24. When liquefied petroleum gas is used in a manufactured home park, containers for such gas shall not hold more than twenty-five (25) gallons water capacity, shall be the liquefied petroleum gas containers approved by the United States Commerce Commission for its intended purposes, and shall be attached to the manufactured home in a manner approved by the Liquefied Petroleum Gas Association.
25. A solid or semi-solid fence or wall, minimum 6 feet, maximum 8 feet high, shall be provided between the manufactured home park district and any adjoining property or property immediately across the alley which is zoned for residential purposes other than for manufactured homes. Said fence shall be located as defined by this regulation. In lieu of said fence or wall, a landscape buffer may be provided not less than 15 feet in width and said landscape buffer shall be planted with coniferous and deciduous plant material so as to provide proper screening for the park. When the landscape buffer is used in lieu of the fence or wall, the landscape buffer shall not be included as any part of a required rear yard for a manufactured home space. The fence, wall, or landscape buffer shall be properly policed and maintained by the Owner.

26. The Owner or operator shall include with the required plan a budget for financing the proposed improvements.

SECTION 5. APPLICATION PROCEDURE:

1. The applicant for a manufactured housing park shall prepare or cause to be prepared an application for rezoning and a development plan and shall present ten (10) copies of the plan for review by the Planning Commission. The development plan shall show topography and the location and size of:
 - a. Manufactured housing sites.
 - b. Service buildings.
 - c. Off-street parking areas.
 - d. Electrical outlets.
 - e. Sewer outlets.
 - f. Water outlets.
 - g. Water lines.
 - h. Sewer lines.
 - i. Recreational areas.
 - j. Landscaped areas and walls or fences.
 - k. Roadways.
 - l. Sidewalks.
 - m. Storm water drainage.
2. Following a rezoning hearing, as required by law and preliminary approval of the development plan, the Planning Commission shall submit the plan together with a record of the hearing plus its formal recommendations to the Governing Body for final approval.
3. When final approvals have been obtained, the Zoning Administrator shall issue a permit to operate the manufactured housing park.
4. Upon the issuance of the permit for a mobile home park or court, the City shall have the authority to have said manufactured home inspected by the proper inspecting officer of the City, and if it shall be found that the holder of said permit has made any false or misleading statements in his application or has placed or caused to be placed more manufactured homes in said manufactured home park or court than provided for and set forth in said application for permit, or that said holder of said permit has violated or caused to be violated any provision of this Article, the City Governing Body shall have the power to revoke said permit.

5. If the City shall determine upon proper inspection by the inspecting officer of the City, that the sanitary condition of the manufactured home park shall have become so unsanitary as to endanger health or welfare of occupants of said manufactured home park or the surrounding community, or that said sanitary facilities have become inadequate to properly protect the occupants of said manufactured park, the City Governing Body shall have the power to require the holder of said manufactured home park permit, within ten (10) days, to set said manufactured home park in proper sanitary condition. If, upon notice from the City to the holder of the permit as aforesaid, the owner or manager of said manufactured home park shall fail or refuse to place said park or court in sanitary condition, the City Governing Body shall have the right to revoke said permit.
6. Whenever a property zoned "M-P" ceases to be used for such purposes for a period of one (1) year, the Planning Commission shall initiate action and hold a public hearing to rezone said property back to its former zoning district classification.
7. After the effective date of this Ordinance, no new manufactured housing park may be operated and no existing park expanded, except in accordance with these Regulations and under permit from the Zoning Administrator.

ARTICLE XIII

“C – 1” LIGHT COMMERCIAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: The “C – 1” Light Commercial District is intended for the purpose of grouping retail merchandising activities into a concentrated area serving the general shopping needs of the trade area. Principal permitted uses include department stores, apparel stores, general retail sales and services, and similar uses appropriate for comparison shopping.

SECTION 2. DISTRICT REGULATIONS: In the “C – 1” District, no building shall be used and no building or structure altered, enlarged, or erected which is arranged, intended, or designed for other than one of the uses listed in “R-1”, “R-2”, and “R-3” Districts and in SECTION 3 below.

SECTION 3. USE REGULATIONS:

1. Ambulance service.
2. Amusement places.
3. Antique shops and stores, provided that any outdoor displays shall not be left overnight and shall not interfere with pedestrian traffic.
4. Apartments or individual dwelling units on floors other than the ground floor or on the alley side of the lot.
5. Appliance stores.
6. Art and art supply stores.
7. Artist studios.
8. Auditoriums and similar places of public assembly.
9. Automobile accessory and supply store.
10. Automobile, truck and other motor vehicle sales and rental.
11. Bakery and pastry shops (retail only).
12. Banks and other savings and lending institutions.
13. Barber shops, beauty shops and chiropody, massage, or similar personal services.
14. Bicycle shops.
15. Boat sales and rental.
16. Books and stationary stores.
17. Bowling centers and recreational buildings.
18. Building materials, retail sales.

19. Business and technical schools including schools for photography, dancing, and music.
20. Churches.
21. Clothing and costume rental shops.
22. Clothing stores.
23. Commercial recreational uses.
24. Custom dressmaking, millinery, tailoring, and similar trades.
25. Day care centers.
26. Delicatessens, restaurants, and catering establishments.
27. Department stores, dry goods, and other retail outlets.
28. Drug stores and prescription shops.
29. Dry cleaning and laundry establishments.
30. Electronic appliances and equipment including computer and software service.
31. Fire stations and police stations, including jail facilities.
32. Fix-it shops (radio, television, and small household appliances).
33. Florist and gift shops.
34. Frozen food lockers of not more than 10,000 square feet in floor area.
35. Funeral Homes.
36. Furniture, home furnishing, and interior design stores.
37. Government buildings.
38. Grocery, fruit, and vegetable stores (retail only).
39. Gun Shops
40. Hardware stores.
41. Hobby, stamp, and coin shops.
42. Household appliance stores.
43. Jewelry and metal craft stores and shops.
44. Leather goods and luggage stores.

49. Libraries and museums.
50. Liquor stores.
51. Lock and key shops.
52. Medical, dental, opticians, and health clinics.
53. Medical, orthopedic, and optician appliance stores.
54. Meeting halls and auditoriums.
55. Music stores, music instrument repair shop, music studio.
56. Newspaper offices, printing and printing supply sales and service.
57. Offices and office buildings.
58. Office supply and office equipment sales and service stores.
59. Paint, wallpaper and glass stores.
60. Parking lots and garages.
61. Parks and open spaces.
62. Pawn shops.
63. Pet shops.
64. Photographic equipment sales and supply stores and photographic studios.
65. Private clubs, fraternities, sororities and lodges.
66. Radio and television studios.
67. Restaurants and snack shops, excluding drive-ins.
68. Stores and other shops and services of businesses similar to the uses listed in this section.
69. Taverns.
70. The following uses may be allowed by Conditional Use Permit when submitted, reviewed, and approved by the Planning Commission and Governing Body, and under such conditions as they may impose:
 - a. Motor vehicle repair service, provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the Building Official to be a safety hazard or visual blight shall be screened from public view and access by a solid

or semi-solid fence having a minimum height of eight (8) feet and a visual density of no less than 90%.

- b. Motor vehicle body shop, provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the Building Official to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of eight (8) feet and a visual density of no less than 90%.
- c. Carpenter, cabinet, plumbing, or sheet metal shops, provided that any outside storage is completely enclosed by a eight (8) foot sight obscuring fence.
- d. Contractors office and equipment storage yard, provided that outside storage of equipment or materials is completely enclosed by an eight (8) foot sight-obscuring fence.
- e. Storage and warehousing except for products of a highly explosive, combustible or volatile nature.
- f. Wholesale establishments except those, which handle products of a highly explosive, combustible or volatile nature.
- g. Retail lumberyards, providing all materials and equipment are stored in a completely enclosed building or are screened by a minimum eight (8) foot high solid fence.
- h. Collection and distribution of recyclable items.
- i. Wireless communications towers subject to the requirements of ARTICLE XXI.

SECTION 4. INTENSITY OF USE REGULATIONS: No requirements except those to meet fire regulations.

SECTION 5. HEIGHT REGULATIONS: No building shall exceed forty-five (45) feet in height except as otherwise provided in the additional height, area, and use regulations of this Ordinance.

SECTION 6. YARD REGULATIONS:

- 1. Front Yard. No front yard is required for any building in the “C – 1” Light Commercial District.
- 2. Side Yard. No side yard is required for any building in the “C – 1” Light Commercial District, except where a lot sides on any residential district or street, in which case there shall be a fifteen (15) foot side yard.
- 3. Rear Yard. No rear yard is required for any building in the “C – 1” Light Commercial District, except where a lot abuts on a residential district, in which case there shall be a fifteen (15) foot rear yard. If an alleyway exists between the residential district and “C-1” District, the rear yard setback shall be five (5) feet.

SECTION 7. SIGN REGULATIONS: See ARTICLE XVI.

SECTION 8. PARKING AND LOADING REGULATIONS: **None required.**

SECTION 9. LANDSCAPING REGULATIONS: None required.

ARTICLE XIV

“C – 2” HEAVY COMMERCIAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: The “C – 2” Heavy Commercial District is intended for the purpose of allowing those approved uses in R-1, R-2, R-3, and C-1 districts and such other uses as designated hereinafter.

SECTION 2. DISTRICT REGULATIONS: In the “C – 2” District, no building shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended, or designed for other than one of the uses listed in SECTION 3 below.

SECTION 3. USE REGULATIONS:

1. All uses approved in “R-1”, “R-2”, “R-3”, and “C-1” Districts.
2. Animal hospitals, clinics, and boarding facilities providing the establishment and runs are completely enclosed in a building.
3. Auditoriums and similar places of public assembly.
4. Automobile accessory and supply store.
5. Automobile and mobile home sales and service.
6. Carpenter, cabinet, and contractor shops and storage yards and facilities.
7. Heating, air conditioning, plumbing, and sheet metal sales and repair stores.
8. Hotels and motels.
9. Lumber and building supply stores.
10. Oil field supply and repair shops.
11. Pet shops.
12. Radio and television studios.
13. Service stations and vehicular filling stations.
14. Tire sales and repair shops.

SECTION 4. INTENSITY OF USE REGULATIONS:

1. A tract used for other than residential purposes shall be not less than two thousand five hundred (2,500) square feet in area with an average width of not less than twenty-five (25) feet.

SECTION 5. HEIGHT REGULATIONS: No building in a “C – 2” District shall exceed forty-five (45) feet except as provided in the additional height, area, and use regulations of this ordinance.

SECTION 6. YARD REGULATIONS:

1. Front Yard. There shall be a front yard having a depth of not less than twenty-five (25) feet.
 - a. Where a lot or group of lots has a double frontage, the required front yard shall be provided on what would normally be considered the front of the business or the address side of the business. The side of the structure facing the non-frontage street shall have a yard setback of not less than fifteen (15) feet.
 - b. Where a lot is located at the intersection of two or more streets or roads, there shall be a front yard of not less than twenty-five feet on the side of the building or the address side of the business that would normally be considered the front of the business. The side of the structure facing the non-frontage street shall have a yard setback of not less than fifteen (15) feet.
2. Side Yard. Where the “C - 2” District abuts a residential district, there shall be a side yard of not less than ten (10) feet.
3. Rear Yard. There shall be a rear yard of not less than ten (10) feet unless the rear yard abuts an alley in which case the rear yard shall be not less than five (5) feet.

SECTION 7. SIGN REGULATIONS. See ARTICLE XVI.

SECTION 8. PARKING AND LOADING REGULATIONS: See ARTICLE XVII.

SECTION 9. LANDSCAPING REGULATIONS: See ARTICLE XVIII.

ARTICLE XV

“I – 1” INDUSTRIAL DISTRICT

SECTION 1. INTENT AND PURPOSE OF DISTRICT: The “I – 1” Industrial District is intended for the purpose of allowing certain industrial uses which are generally not compatible with residential and/or commercial activity. Certain obnoxious or hazardous uses will require special permission to locate in the district.

SECTION 2. DISTRICT REGULATIONS: In the “I – 1” District, no building or land shall be used and no building or structure shall be erected, altered, or enlarged which is arranged, intended, or designed for other than one of the uses listed in “R-1”, R-2”, “R-3”, “C-1”, “C-2” Districts and listed in SECTION 3 below.

SECTION 3. USE REGULATIONS:

1. Assembly plants including the manufacture of finished products used in the assembly of the main product.
2. Grain elevators and grain storage facilities.
3. Machinery sales and storage lots.
4. Manufacturing plants including the making of goods, parts, and articles by hand or machinery.
5. Meat processing.
6. Motor vehicle body shop, provided that all work shall be performed, and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the Building Official to not be a safety hazard or visual blight.
7. Storage of liquefied gas substances, pipe, machinery, and similar products.
8. Truck and rail terminals.
9. Warehouses.
10. The following uses of land may be allowed in this district by Conditional Use Permit when submitted, reviewed, and approved by the Planning Commission and Governing Body subject to such conditions as they may require.
 - a. Automobile wrecking yards, junk yards, and scrap processing yards.
 - c. Salvage yards.
 - d. Wholesale fireworks storage and sales.
 - e. Wholesale and storage of products of a volatile nature such as anhydrous and similar products.

SECTION 4. INTENSITY OF USE REGULATIONS:

1. Lots in this district shall be subject to the following minimum size requirements:
 - a. Minimum lot size shall be seven thousand five hundred (7,500) square feet.
 - b. Minimum lot width shall be fifty (50) feet.
2. A building, structure, or use allowed in this district may occupy all of the lot except for that area required for off-street parking and off-street loading and unloading and their access roads and as required for arterial and/or collector streets.
4. In the case where the required off-street parking and/or loading and unloading will be provided within the building or structure, then the structure may cover the entire lot except as required for arterial and/or collector streets.

SECTION 5. HEIGHT REGULATIONS:

1. When a building or structure is within one hundred fifty (150) feet of a residential district zone, said building or structure shall not exceed forty-five (45) feet in height.
2. When a building or structure is more than one hundred fifty (150) feet from a residential district zone, said building structure shall not be subject to a height restriction.

SECTION 6. YARD REGULATIONS:

1. Front Yard.
 - a. No front yard setback is required for existing uses. New structures shall provide a front yard having a depth of not less than twenty-five (25) feet measured from the front property line.
 - b. Where a lot or lots have double frontage, the required front yard shall be provided on both streets.
 - c. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of the corner lot except the buildable width of such lot shall not be reduced to less than twenty-eight (28) feet except where necessary to provide a yard on the side street not less than fifteen (15) feet in width.
 - d. No accessory building shall project beyond the front yard line on either street.
2. Side Yard. There shall be a side yard on each side of each building and said side yard shall not be less than the average height of adjacent buildings. The required side yards for the lot or tract shall be thirty (30) feet.
3. Rear Yard. There shall be a rear yard having a depth of not less than twenty-five (25) feet or twenty (20) percent of the depth of the lot, whichever is the smaller.

SECTION 7. SIGN REGULATIONS: See ARTICLE XVI.

SECTION 8. PARKING AND LOADING REGULATIONS: See ARTICLE XVII.

SECTION 9. LANDSCAPING REGULATIONS: See ARTICLE XVIII.

ARTICLE XVI

SIGN REGULATIONS

SECTION 1. GENERAL REQUIREMENTS:

1. It shall be unlawful for any person to erect, move, alter, change, repair, place, suspend, or to cause or permit to be erected, moved, altered, changed, repaired, placed, suspended, or attached any sign in violation of this Zoning Ordinance and this Article.
2. It shall be unlawful for any person or persons to fasten, paste, place, post, paint, or attach in any way any sign, handbill, poster, advertisement, or notice of any kind or sort, whether political or otherwise, or to cause the same to be done, in or upon any curbstone, lamp post, telephone, telegraph, or electric light pole, tree, or bridge. It shall be unlawful to paste, place, paint, or attach any sign on any building, street, or property of the City; provided, however, that any property owner or the occupant of any property abutting on any public street in the City or County may paint or stamp the address of such property upon the curbing directly in front of the building or to have same painted thereon, subject to approval by the Building Official.
3. Billboards are defined as signs advertising products or services other than those available on the premises and which have an area of three hundred (300) square feet or more per face. Billboards shall not be permitted under these sign regulations in any City Zoning District.
4. Murals are defined as any painting or other artistic rendition applied to the side of any structure or building in City of Ellinwood, Kansas, and which do not advertise a business or event. Murals shall be regulated by the provisions of this section. All murals shall require approval of the City Administrator. The City Administrator shall have the discretion to refer the application for a mural to the Planning Commission. The decision of the Planning Commission with any together with any recommendations shall be referred to the Governing Body for final approval. The Governing Body shall have the option of approving the Planning Commission recommendation or referring the matter back to the Planning Commission for further consideration.

SECTION 2. SPECIFIC REQUIREMENTS: Requirements for signs erected in the Ellinwood Zoning Jurisdiction are as follows:

1. Advertising signs, other than billboards, which call attention to an activity or product located on a different tract from the sign. Advertising signs are permitted in the “A – L”, “C – 1”, “C – 2”, and “I – 1” Districts only.

In the “A – L” District, an advertising sign shall be allowed by conditional use permit only when submitted, reviewed, and approved by the Planning Commission and Governing Body and under such conditions as they may impose:

- a. The advertising sign shall not exceed fifty (50) square feet in area for a single- or double-faced sign; the bottom edge of the sign shall be at least three (3) feet above the

average ground level; and the top edge not higher than ten (10) feet above the average ground level.

- b. The advertising sign shall not be located closer than 500 feet from two or more intersecting roads. Not more than one (1) such sign shall be permitted on one roadside within any one mile.
 - c. An applicant for a Conditional Use Permit to erect an advertising sign shall submit to the Planning Commission and Governing Body a plot plan showing the location, size, and construction details of the proposed sign installation; a letter from the property owner indicating intent to lease said property together with a copy of terms of said lease. Such permit shall be issued for a period of five (5) years, and its renewal shall be subject to a review of the site and changed conditions within the surrounding area.
2. Business signs which call attention to an activity or product located on the tract upon which the sign is located are permitted in the “A – L”, “C – 1”, “C – 2”, and “I – 1” Districts only, except as may be expressly permitted below.
 3. The gross surface area on one side of an advertising or business sign shall not exceed the following limitations:

District	Formula (square feet)	Maximum Area Possible
“A-L”, “C-1”, “C-2”	No greater than three (3) times the lineal feet of frontage of the lot occupied by the building. Each side of the lot which abuts upon a street shall be considered a separate frontage, and the gross surface area of all signs located on each side of a building shall not exceed three (3) times the lineal feet of the adjacent frontage	150 square feet per sign
“I-1”	(same as above)	Not Applicable

In all districts, individual letters with no background shall be measured by the minimum rectangular area necessary to encompass such letter or by a combination of rectangles as are necessary to encompass letters of irregular dimensions.

4. Building signs are permitted in the “A – L”, “C – 1”, “C – 2”, and “I – 1” Districts only, subject to the following:

The building sign shall be affixed flat against the face of the building as opposed to perpendicular and/or double faced.

5. Marquee and canopy signs are permitted in the “C – 1”, “C – 2”, and “I-1” Districts only. The sign must be mounted either on the front edge of the marquee or canopy or suspended beneath (see “10” below). Signs suspended beneath a marquee or canopy shall not exceed eight (8) square feet in surface area and shall contain an announcement of the business name only. The lowest elevation shall always be no less than eight (8) feet above the sidewalk surface. The canopy or marquee shall be constructed and maintained in accordance with the Building Code of the City.

6. A maximum of two (2) business signs [only one (1) on a facade] shall be allowed for a business or profession conducted on the premises in the “C-1”, “C-2”, and “I – 1”, except that an additional number of signs may be allowed by special use permit when submitted, reviewed, and approved by the Planning Commission and Governing Body and under such conditions as the Board may impose.
7. No sign shall be permitted to overhang a road, street, or alley right-of-way, and no sign shall be located in a manner as to constitute a traffic hazard.
8. Any sign, other than one affixed flat against the face of a building, which is located within three (3) feet of a driveway or parking area or within fifty (50) feet of the intersection of the centerlines of two (2) or more streets, measured along the adjacent curb lines, shall have its lowest elevation at least ten (10) feet above curb level to avoid creation of line-of-sight or other traffic-related obstructions.
9. All lighted signs in direct vision of a traffic signal shall not be in red, green, or amber illumination.
10. Non-flashing illuminated signs shall be permitted providing said sign shall not beam upon any street or any residential district, except as provided in Section 14 below. Clocks and/or thermometers installed for public convenience and information are exempt from this requirement.
11. Where a sign is illuminated by light directed upon it, the direct ray of light shall not beam upon any existing residential district, except as provided in “20” below, or into any street.
12. Flashing, moving, or animated signs shall be permitted only upon approval of the City Building Inspector providing it is first determined that the location and colors will in no way create a traffic hazard or confusion with traffic lights and with lights on emergency vehicles and that direct rays of the sign will not be directed into any residential district.
13. Non-illuminated nameplates in the “A – L”, “R – 1”, “R – 2”, and “R – 3” Districts shall conform to the following restrictions:
 - a. The nameplate shall not exceed three (3) square feet in area.
 - b. The nameplate shall show only the name and/or address of the occupant.
 - c. The nameplate shall be attached to the building.
14. Bulletin boards and signs for churches and other public institutions are subject to the following regulations:
 - a. One (1) sign or bulletin board shall be permitted on each street side if located on the same site as the principal building.
 - b. If sign or bulletin board is illuminated, the lights shall be directed away from adjoining residential uses.
 - c. No sign or bulletin board shall exceed twenty-four (24) square feet in area.

- d. No sign shall be located closer than eight (8) feet from any side or rear property line.
 - e. A sign or bulletin board located in the front yard shall be no closer to the street line than one-half (1/2) the required set back.
 - f. A sign or bulletin board, affixed to a building, shall not project higher than ten (10) feet above the ground level.
 - g. Ground signs shall be permanently anchored to the ground and shall not exceed a height of six (6) feet above normal grade.
15. Temporary signs, whether illuminated or non-illuminated, are permitted in the “A – L”, “C – 1”, “C – 2”, and “I – 1”, Districts only (except as provided in “18” above).
- a. Only one (1) such sign shall be permitted per location.
 - b. Temporary signs shall not exceed forty-five (45) square feet of surface area.
 - c. No temporary sign, except on approval by the Governing Body, shall extend over or into any street, alley, sidewalk, or other public thoroughfare. It shall not obstruct any wall opening.
 - d. Every temporary sign shall be secured to prevent movement or overturning, in a manner approved by the building official.
 - e. All electrical cords to such signs shall be located so as not to expose them to physical damage. No such electrical cord shall be laid upon any sidewalk, driveway, or parking lot. All such wiring shall be subject to the electrical code of the City.
 - f. Temporary signs shall not exceed six (6) feet in height and shall be so located so as to avoid creation of line-of-sight or other traffic-related obstructions.
16. Private informational and directional signs shall contain no advertising or solicitation and are subject to the following provisions (except as provided in Section 14 above).
- a. Where a sign is illuminated by light directed upon it, the direct rays of light shall not beam upon any part of any residential district or into any street.
 - b. Lighted signs in direct vision of traffic shall not be in red, green, or amber illumination.
 - c. Flashing signs shall not be allowed.
 - d. Only one sign shall be permitted per location.
 - e. Signs shall not exceed thirty-two (32) square feet of surface area for each face.
 - f. No private informational or directional sign, except on approval by the Governing Body, shall extend over or into any street, alley, or sidewalk or other public thoroughfare. It shall not obstruct any wall opening.

- g. Any sign, other than one affixed flat against the face of the building and located within three (3) feet of a driveway or parking area or within fifty (50) feet of the intersection of two (2) or more streets, measured along the adjacent curb line, shall have the lowest elevation at least ten (10) feet above the curb level to avoid line-of-sight or other traffic-related obstructions.

SECTION 3. PERMITS AND FEES REQUIRED:

1. A permit shall be required for the erection, construction, or alteration of any sign in the Ellinwood Zoning Jurisdiction.
2. Application for permits by other than the property owner shall be accompanied, in each instance, by either a letter authorizing the placement of a sign on the land or building, signed by the owner or his duly authorized agent, or accompanied by a lease showing the right of the applicant. Such application shall conform to the regulations herein provided, and no signboard shall be erected or painted on any area until the application is acted upon and granted.
3. A charge in accordance with a schedule of fees determined by the Governing Body shall be made for each permit granted.
4. If a sign, for which a permit is granted, is not erected within one hundred eighty (180) days from date of the permit, the permit shall, unless renewed, become void.
5. Advertising painted or placed on a structure shall be deemed subject to these regulations if permanent and over eight (8) square feet in area.
6. All signs shall be constructed, located, and placed in accordance with local ordinances and the laws of the State of Kansas.
7. Permits, except for permits for temporary signs, are issued for the life of the sign so long as it is kept in good condition and changing conditions do not make it a hazard or undesirable to adjoining property owners. In such case, the City may direct its removal.
8. Permits for temporary signs shall be issued for up to 30 days plus one renewal for a total of 60 days maximum per year.
9. Nothing herein shall be construed to require permits for temporary signs that are not left out overnight and that are placed in front of a business for the purpose of advertising special events, hours of operation, or sale of specific items on that date. Examples of such signage are menu boards for restaurants, chalkboards or bulletin boards listing events for a business, or signage indicating a business is open.

SECTION 4. NON-CONFORMING SIGNS: All advertising signs, business signs, or bulletin boards not in accordance or in compliance with this Article which were in existence as of the date of adoption of this Ordinance, shall be exempt from this Article except that upon the change of ownership of any building or property having a non-conforming sign which was in existence prior to the adoption date, or upon remodeling or renovating of the exterior of any building to the extent of greater than fifty (50) percent, the non-conforming sign shall be brought into conformity with this Article and any other City, State, or Federal regulations.

SECTION 5. REMOVAL OF SIGNS FROM VACANT BUILDINGS: Signs located on vacant buildings shall be removed by the property owner or his authorized agent within thirty (30) days after said premises are vacated.

ARTICLE XVII

PARKING AND LOADING REGULATIONS

SECTION 1. REQUIREMENTS: Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by fifty (50) percent or more, accessory off-street parking and/or loading spaces shall be provided as required by the following schedule, except that these requirements shall not apply in the “C – 1” Commercial District.

SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS

Structures and Uses	Minimum Off-Street Parking Regulations	Minimum Off-Street Loading Requirements
Bowling Centers	4 spaces per lane plus required spaces for other uses in association	1 space per establishment
Churches, Synagogues, & Temples	1 space per 4 seats in main unit of worship	None required
Drive-up Facilities: Bank Teller Windows, Fast Food pick-up, and similar facilities	60 feet of waiting space ahead of facility (1 space is 20 feet)	None required
Eating and Drinking Places	Parking spaces equal to 30% of capacity in persons	2 spaces per establishment
Education Uses, Adult Day Care and Day Care, and Primary Schools	Parking spaces equal to 20% of capacity in students or persons served	2 spaces per structure
Educational Uses, All Other	Parking spaces equal to 40% of capacity in students	2 spaces per structure
Funeral Homes and Chapels	8 spaces per repose room plus 1 space per 4 seats in chapel	2 spaces per establishment
Home Occupations	2 spaces in addition to those required for the dwelling	None required
Hospitals	1 space per 2 beds plus 1 per each employee	3 spaces per structure

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Structures and Uses	Minimum Off-Street Parking Regulations	Minimum Off-Street Loading Requirements
Hotels	1 space per rental unit	1 space per establishment
Indoor Recreation Centers: Fitness Clubs, Arcades, Skating Rinks, Bingo Parlors, and similar facilities	1 space per 125 square feet of gross floor area	1 space per establishment
Industrial Uses	1 space per 2 employees on largest shift	2 spaces per establishment
Libraries	1 space per 500 square feet of floor area	1 space per structure
Lodging & Boarding Houses	1 space per 2 rental units	None required
Medical Clinics	5 spaces per staff doctor or dentist	None required
Manufactured Home Park	2 spaces per dwelling unit	None required
Motels	1 space per rental unit	None required
Offices	1 space per 250 SF of gross floor area	None required
Private Clubs & Lodges	1 space per 200 square feet of floor area	1 space per establishment
Residential Structures (Multi-family)	2 spaces per dwelling unit	None required
Residential Structures (Single-Family)	2 spaces per dwelling unit	None required
Retail Sales Establishments	1 space per 200 square feet gross floor area	1 space per establishment
Roadside Stands	4 spaces per establishment	None required
Convalescent & Rest Home Services	1 space per 3 beds, plus 1 space per employee	1 space per establishment
Service Establishments	1 space per 200 square feet gross floor area	1 space per establishment
Theaters, Auditoriums, & Places of Assembly	1 space per 4 people in designed capacity	1 space per establishment

(continued from page _____)

Structures and Uses	Minimum Off-Street Parking Regulations	Minimum Off-Street Loading Requirements
Veterinary Establishments	3 spaces per staff doctor	None required
Wholesaling and Distribution Operations	1 space per 2 employees	2 spaces per establishment
1.	Off-street parking lots for single- or multiple-family dwellings, home occupations, schools, churches and similar places of public assembly, hospitals, nursing homes, boarding and lodging houses, dormitories, or fraternity or sorority houses shall not be located in any required front yard area. In addition to not being located in any required front yard area, off-street parking for single or multiple family dwellings shall only be on an improved surface of asphalt, concrete, gravel, stone, or other similar material and shall only be accessible by way of a designated entrance drive to the property.	
2.	Off-street parking spaces for uses required in the, “I – 1” District shall be located in back of the required front yard line and shall be on the same lot as the building they serve.	
3.	Exterior Storage:	
a.	All-weather, dust-free surfacing of areas for exterior storage of business vehicles, equipment, and materials is not required.	
b.	Exterior storage of business vehicles, equipment, and materials shall not occur upon required off-street parking.	

SECTION 2. GENERAL REQUIREMENTS:

1. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance. Use of property in violation hereof shall be a violation of this Ordinance. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.
2. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Governing Body, after a report and recommendation from the Planning Commission, based upon the requirements of comparable uses listed.
3. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

4. Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the City Official designated as the Building Inspector in the form of deeds, leases or contracts to establish the joint use.
5. Off-street parking spaces for a dwelling shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.
6. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting business or use.
7. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:
 - a. Delineation of individual parking and loading spaces.
 - b. Circulation area necessary to serve spaces.
 - c. Access to streets and property to be served.
 - d. Curb cuts.
 - e. Dimensions, continuity and substance of screening.
 - f. Grading, drainage, surfacing and sub-grading details.
 - g. Delineation of obstacles to parking and circulation in finished parking area.
 - h. Specifications as to signs and bumper guards.
 - i. Other pertinent details.
8. Design requirements for parking lots.
 - a. Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.
 - b. Except for parking to serve residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sign obscuring fence of not less than five (5) feet nor more than six (6) feet in height except where vision clearance is required.
 - c. Artificial lighting, which may be provided, shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling.

- d. Parking spaces along the outer boundaries of a parking lot located adjacent to an arterial street shall be contained by a curb at least four inches high and set back a minimum of four (4) feet from the property line or by a bumper rail.
 - e. Access aisles shall be of sufficient width for all vehicles turning and maneuvering.
 - f. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than thirty (30) feet in width and shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives. In the case of a corner lot, service drives shall be located not closer than thirty (30) feet to the intersecting street line. Service entrance drives shall be located no closer than ten (10) feet to a side lot line, except that a common service drive or two (2) adjacent properties with width not exceeding thirty (30) feet may be provided at the common lot line.
 - g. Service drives shall have a minimum vision clearance are formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining the lines through points thirty (30) feet from their intersection.
9. Completion time for parking lots. Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the City Official designated as the Building Inspector.

SECTION 3. MAINTENANCE: No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities. As nearly as possible, all parking lot surfaces shall be maintained with a smooth, dust-free surface.

SECTION 4. PERFORMANCE: In lieu of construction of the required parking lot, the Governing Body of the City may accept a corporate surety bond, cashier's check, escrow account, or other security of a type and in an amount approved by the Governing Body. Such security shall be conditioned upon the actual completion of such work or improvement within the specified time and shall be enforceable by the Governing Body by all equitable means.

SECTION 5. APPLICATION: This Article shall not apply to uses existing as of the date of adoption of this Ordinance.

ARTICLE XVIII

LANDSCAPING REQUIREMENTS

SECTION 1. MINIMUM LANDSCAPE REQUIREMENTS: All property within the zoning jurisdiction of the City of Ellinwood shall hereinafter be subject to the following minimum requirements:

1. The open, unpaved areas of each property shall be graded to provide for the adequate drainage of all storm water and shall be free of hazards, nuisances, or unsanitary conditions. In its sole discretion, the City may require a drainage study demonstrating that drainage from the property shall not cause damage or negatively impact adjoining or downstream property.
2. Open, unpaved areas shall be appropriately landscaped to provide an attractive appearance to enhance the character of the neighborhood.
3. No vegetation shall overhang a public street below a height of fourteen (14) feet, obstruct views of pedestrian and vehicular movements, or overhang a sidewalk below a height of seven (7) feet.
4. Where districts “C-1”, “C-2”, and “I – 1” adjoin “R – 1”, “R – 2”, “R – 3” and “M – H” Districts, they shall be appropriately separated by a landscaped area of at least fifteen (15) feet wide or a decorative architectural screen of at least six (6) feet high. A landscaped area and decorative architectural screen shall not be required where these uses are separated by a public street or alley.

ARTICLE XIX

BUILDINGS AND USES AFFECTED

SECTION 1. MINIMUM BUILDING REQUIREMENTS: No building or structure shall be erected, enlarged, reconstructed, or moved into the zoning jurisdiction with less than the following:

1. *Dwelling Units:*

- a. All dwelling units shall provide a minimum floor area, exclusive of porches, breezeways, and garages, as follows:

<u>TYPE OF DWELLING UNIT</u>	<u>MINIMUM AREA</u>
Single-Family	600 square feet
Two-Family	600 square feet per unit
Multiple-Family	480 square feet per unit

- b. Every dwelling unit shall be provided with at least one (1) water closet, which water closet shall be located within the dwelling and in a room, which affords privacy.
- c. Every dwelling unit shall contain a kitchen sink, which is connected to running water and an approved sewer system.
- d. Every dwelling unit shall be enclosed with an exterior wall surface, other than tarpaper or corrugated metal.
- e. No basement or cellar shall be occupied for residential purposes until the main portion, aboveground, is completed.

2. *Bed and Breakfast Inns:*

- a. All units shall be served with an approved public water supply and an approved public sanitary sewer system.

3. *Motels:*

- a. The number of motel units permitted on a tract of land shall not exceed the number obtained by dividing the total square feet of area of the site by one thousand five hundred (1,500).
- b. Motels shall be served with an approved public water supply and approved public sanitary sewer system.
- c. Each motel unit shall contain not less than two hundred (200) square feet of floor area.

4. *Tents:* No tent, except play tents for children, shall be used for any purpose except those authorized by the Governing Body.

SECTION 2. BUILDINGS AND STRUCTURES MOVED IN: Buildings and structures may be moved into various districts providing:

1. No structure shall be moved into the City of Ellinwood and located on an individual lot or parcel as an individual unit, and no structure shall be moved from one area to another area within the City except after approval of the Planning Commission and the Governing Body. A structure shall in this case mean all buildings, which were initially constructed on site or were constructed off site with the intention of moving the structure to a location other than where constructed. New modular homes shall be excluded from this provision. Manufactured homes shall be excluded from this provision when desiring to move into or out of a manufactured home park or manufactured home subdivision, but this provision shall include pre-constructed structures commonly referred to as “double-wides” unless locating in manufactured home parks. The procedure for requesting approval for the moving of structures shall be the same as required for the authorization of conditional uses as provided in ARTICLE XXV hereof. Provided that when an application is made to the Planning Commission to move a structure other than a structure of new construction, the Planning Commission may require the applicant to furnish a performance bond directed to the City of Ellinwood, Kansas, in a sum not less than 25 percent of the anticipated value of the structure when moved and completed. The condition of the bond shall be that the applicant shall complete the moving procedure and complete construction and renovation as set forth in plans and specifications provided to the Planning Commission; all within 12 months from the date the Planning Commission and the Governing Body shall issue a permit to move the structure.

SECTION 3. ELEVATION: Unless otherwise directed by the City Building Inspector, the first -floor elevation of a building or group of buildings shall be at least eighteen (18) inches above the grade of the center of the nearest street or roadway. An alley or alleyway shall not be considered a street or roadway.

ARTICLE XX

CONDITIONAL USES

SECTION 1. REQUIREMENTS: Recognizing that certain uses may be desirable, but that these uses may be incompatible with other uses permitted in a district, certain Conditional Uses, which require a special review by the Planning commission, have been enumerated in the use regulations of the various zones. When found to be in the interest of the public health, safety, morals, and general welfare of the community, such uses, upon review, may be permitted in any district where they are specifically listed.

1. Procedure: Before the location or establishment thereof, or before any change or use of the premises existing at the time of the effective date of these Regulations or permitted as herein provided is made, site plans in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Ellinwood Planning Commission as specified in ARTICLE XXV of these Regulations. The Ellinwood Planning Commission shall hold a public hearing following the provisions, also outlined in ARTICLE XXV of these Regulations, and shall review such plans and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses where requested, provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in ARTICLE XXV of these Regulations.

Conditional Uses granted under these regulations shall be limited as follows:

- a. Conditional Use Permits issued with a specified time limit shall continue in force and effect until the expiration as specified within said Conditional Use Permit.
- b. A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a Condition of Authorization, as long as all conditions placed on it are met; however, if that particular use ceases to exist for a period of six (6) months, it will forfeit its Conditional Use Permit and will not be allowed to exist again unless another application is made, a public hearing held and a new Conditional Use Permit approved.

2. No application for a Conditional Use Permit shall be considered and no Conditional Use Permit shall be issued for any person on any property, which proposes as the only use the placement of an advertising sign or billboard. Further, an advertising sign or billboard permitted as an accessory structure in an approved Conditional Use Permit shall not be built, used or remain in use unless the principal use and/or structure on the property is first built and/or currently used. Upon the cessation of the principal use and/or structure on the property, the advertising sign or billboard shall lose its standing as an accessory structure and must be removed. At no time shall an advertising sign or billboard first established under these regulations gain standing as a non-conforming use since the placement and continued use of such advertising sign or billboard is accessory to another principal structure or use.

ARTICLE XXI

ADDITIONAL HEIGHT, AREA, AND USE REGULATIONS

SECTION 1. QUALIFICATIONS AND SUPPLEMENTATIONS TO DISTRICT REGULATIONS: The regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Ordinance.

1. In districts where public buildings, semi-public buildings, public service buildings, hospitals, institutional buildings, schools, and churches and similar places of worship are permitted, one (1) foot of additional height will be permitted for each one (1) foot of additional building setback provided up to a maximum of fifteen (15) feet of additional height.
2. Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio and television towers, or necessary mechanical appurtenances, which do not conflict with airport approach zones, may be erected to a height not to exceed one hundred fifty (150) feet.
3. Except as hereinafter set forth, accessory building may be built in a side or rear yard subject to all side and rear yard setbacks. An accessory building shall not extend closer than 10 feet to the front line of the main building. When any accessory building is constructed in a rear yard, it shall not encroach on any required utility easements and shall not be located any closer to the rear line of the property than five (5) feet. Other than those situations where vehicular access to a garage is perpendicular to the alley line, a setback of at least eight (8) feet from the alley line shall be required. No accessory building or buildings shall cover more than 30 percent of the required rear yard.

Storage buildings not exceeding 10 feet wide by 12 feet long by 9 feet high shall not be subject to rear yard setbacks and may be placed on the rear property line but cannot extend closer than 10 feet to the front line of the main building. No accessory building shall be placed closer than five (5) feet to the primary structure.

4. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.
5. The setback line for yard requirements shall be determined by measuring the horizontal distance from the property line to the nearest architectural projection of the building.
6. On any block face where fifty (50) percent of the existing principal structures are closer to the street than the required front yard setback, new principal structures, except on corner lots may be located out to the average setback of the existing structures along the block face.
7. Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the City Building Inspector for a distance of not more than three-and-one-half (3-1/2) feet provided the same are so placed as not to obstruct light and ventilation.

8. For the purpose of the side yard regulations, a two-family dwelling or a multiple-family dwelling shall be considered as one building occupying one lot.
9. Temporary buildings and temporary construction signs that are used in conjunction with construction work may be permitted in any district during the period that the building is being constructed, but such temporary building and/or sign shall be removed upon completion of the construction work.
10. No side yards are required where dwelling units are erected above commercial structures, and front, side, and rear yard requirements shall not apply to the interior walls of dwelling units established under the Kansas Apartment Ownership Act or under the Kansas Townhouse Ownership Act.
11. Whenever the number of employees is restricted in connection with any use in the commercial districts, such maximum number applies only to employees principally engaged in processing, selling, or treating materials or products on the premises and not to employees engaged in delivery or off-site similar activities.
12. Electronic communications towers shall be permitted in any commercial, industrial, or agricultural district providing the height of said towers do not conflict with any airport approach or landing zone or with any other ordinance, and providing that towers within one hundred fifty (150) feet of a residential district shall not exceed eighty (80) feet in height. (Also see Section 13, Wireless Communications Towers.)
13. On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two-and-one-half (2-1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines seventy-five (75) feet from the point of the centerline intersection.
14. In any district, more than one structure housing a permitted or permissible principal use may be erected on a zoning lot, provided that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.
15. Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.
16. Privately owned swimming pools shall be enclosed as appropriate to assure privacy and safety.
17. Recreational equipment such as boats, boat trailers, fifth wheel travel trailers, motor homes, travel trailers, pick-up campers or coaches, camping buses or converted trucks, and tent trailers shall not be stored in a residential district except as follows:
 - Within an enclosed building in the rear yard subject to all setback requirements.
 - On an improved surface in the front yard. An improved surface shall be gravel, rock, concrete, or asphalt.
 - On a corner lot such equipment shall not extend beyond the rear or side of the primary structure. This prohibition does not apply to those property owners who

own a recreational vehicle at the time of adoption of this ordinance. This exception does not transfer to new owners of the property.

18. No such recreational equipment shall be utilized for living, sleeping or housekeeping purposes when parked on a residential lot or in any location not approved for such use for more than seventy-two (72) hours.

19. Conversion of a two-family or multiple-family structure to individually owned single-family dwelling units may be permitted subject to the requirements of the Subdivision Regulations, and to the following:

a. An application for such unit conversion shall be filed for review and comment by City staff and the Planning Commission and approval by the Governing Body. Such application shall be accompanied by the following information as a minimum:

- (1) A plot plan showing site and structure arrangements and proposed re-platting.
 - (2) A full legal description of the subject property, including legal descriptions of proposed individual properties after re-platting.
 - (3) A description of proposed structural and utility alterations to provide for individual services and maintenance.
 - (4) A description of proposed public access patterns, both vehicular and pedestrian.
 - (5) A copy of protective covenants which shall be written to run with the land in which shall be specified methods for providing for maintenance of shared property and/or easements, responsibilities for shared expenses, and continued use of the property for specified purposes. Such covenants shall be written to provide for the long-term maintenance and use of the premises for residential purposes only, within the overall context of neighborhood development.
 - (6) Any other supplementary information as may be required to assess short- and long-term neighborhood impacts associated with the proposed conversion.
- b. The applicant for unit conversion shall submit with his application a consent agreement signed by seventy-five (75) percent of all owners of property within two hundred (200) feet of the premises whereon the unit conversion is proposed.
- c. Where a two-family or multiple-family structure is converted to individually owned, single-family dwelling units, a separation of utility service lines is required from each individually owned, single-family dwelling unit to a public utility line or to a utility line, private well, septic system, or lagoon which is located in an area of a lot or building that is owned by or accessible to a party legally responsible for maintenance of utility lines or systems on behalf of the owners of each converted single-family dwelling unit.
- d. The Planning Commission and Governing Body shall not approve an application for conversion from a two-family or multiple-family structure to individually-owned, single-family dwelling units where it is determined that an existing or proposed utility service line, private well, septic system, or lagoon exists or is proposed to exist in an

area where the maintenance of said utilities would require entry into an individually-owned dwelling unit.

- e. All conversions of two-family or multiple-family structures to individually owned, single-family dwelling units are subject to all applicable City codes, including building permit application and inspection procedures.
- f. The above procedures and regulations are applicable even where the conversion does not require new construction.
- g. After reviewing a conversion application for compliance with all applicable City codes, the Building Official/Code Enforcement Officer shall report to the Planning Commission and Governing Body all details of non-compliance with City codes.

SECTION 2. FENCES: Building permits are required for all fences. Except as otherwise specifically provided in other codes, ordinances, or resolutions, the following regulations shall apply to the construction of fences:

1. Front yard fences shall comply with the following guidelines:
 - a. Front yard fences shall be not less than twelve (12) inches from the front property line and no less than ten (10) feet from the curb in those areas where a curb is present. Allowable materials are wrought iron, split rail, wood or vinyl.
 - b. Any fence located in the front yard in an R-1, R-2, or R-3 zoned area shall be not be more than three (3) feet in height and shall be of a material that is at least 50% opaque. Allowable materials for front yard fences are wrought iron, split rail, decorative wood or vinyl.
 - c. The front yard for purposes of this section shall be that part of the yard from the front line of the house to the front property line.
 - d. Prohibited fence materials in the front yard are: chain link, poultry fencing, woven or welded wire, snow fence, plastic fence, mesh fence, safety fence, metal fence panels, kennel fencing, barb wire or barbless wire, and field fence.
 - e. Side and rear yard fences may be placed on the property line provided the adjoining property owner gives written approval.
 - f. It shall be the responsibility of the property owner to locate the corner property pins or have a survey performed to locate said pins prior to construction of the fence being commenced.
2. Side and rear yard fences shall only be constructed of the following or similar materials: brick or stone walls or pillars, chain link, wood stockade, split rail, wood rail, wrought iron, spaced picket fence, imitation vinyl or other similar decorative material as approved by the City Building Inspector or city administrator. Barbed wire, electric wire, razor wire, roofing tin, ply board, and corrugated tin fences and similar products are specifically not allowed.
3. Fences installed upon public or parochial school grounds or in public parks and public playgrounds may be permitted to the property line providing the fence does not encroach on any required utility easements or cause any vision impairment for vehicles.

4. Side and rear yard fences in residential zoned areas shall not exceed a height of six (6) feet and may be connected to the front corner of the residence but shall not extend beyond the front corner into the front yard.
5. Fences in commercial or industrial zoned areas shall not exceed eight (8) feet in height.

Barb wire shall only be allowed in situations in a commercial or industrial zoned area where safety issues or critical infrastructure are present such as electric substations, propane or anhydrous ammonia tanks, and oil or gas wells. No barb wire shall be allowed without the permission of the City Building Inspector or City Administrator.
6. No fence shall be constructed within city right of way or city property.
7. All fences shall be constructed with the finished side of the fence facing outward from the property. Posts and support beams shall be placed on the inside of the finished surface. When doubt exists as to which way the surface of the proposed fence shall face, the City Building Inspector shall make the final determination.
8. No fence shall be constructed which will constitute a traffic hazard and no permit shall be granted for the construction of a fence unless the City Building Inspector has certified that the proposed fence will not constitute a traffic hazard.
9. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
10. Fences shall not restrict natural surface drainage or be constructed in such a way as to divert or channel water with increased velocity.
11. No fence shall be constructed directly over and parallel to an existing utility easement, however a fence may cross perpendicular to a utility easement or may run parallel along the edge of a utility easement.

Any fence constructed in a utility easement may need to be removed by the utility or the City. The utility or the City shall not be responsible to replace or repair the fence in the event of its removal.
12. The owner of the fence shall maintain the fence in good, sound condition. It must be free of damage, breaks or missing structural members. Areas that are leaning, buckling, sagging or deteriorating must be repaired or replaced with compatible material. The area at the base of the fence must be kept free of debris and neatly trimmed.

Where fencing has been previously painted and there are areas of chipping, peeling, scaling, or missing paint equal to or greater than 20% of the surface area, then the surface must be repainted or stripped of all paint.
13. All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.

In the event 50% or more of any fence is destroyed or damaged beyond repair, the entire fence must be removed or rebuilt to code.
14. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of a corner lot. Any fences erected on such a lot shall comply with the building requirements for a front yard fence as set forth in Section 2. Fences 1a. However if the back lot line abuts a reverse corner lot, a fence may be erected on the yard, that is not the

legal address at the time the fence is erected, at a height not to exceed 6 feet but said fence shall not extend beyond the property line or more than 20 feet from the corner of the house, whichever is shorter, and shall not extend beyond the front of the house. The term “corner of the house” does not include front and rear porches of a house. Under no circumstances shall the fence protrude into the site triangle.

SECTION 3. LOTS OF RECORD: A lot or group of lots, which were platted and recorded in the office of the Register of Deeds prior to the effective date of this Ordinance, may be used for any purpose permitted in the district in which it is located; provided, however, that no residential building permit shall be issued for construction of a residential structure that does not conform with the minimum yard and height requirements unless specifically authorized by the Planning Commission and Governing Body.

SECTION 4. CANOPY AND MARQUEE: A canopy, marquee, or balcony may be permitted to “overhang a public way” in Districts “C – 1” and “C – 2” providing:

1. The canopy, marquee, or balcony is constructed and maintained in accordance with the City Building Code and other applicable codes, ordinances, and resolutions.
2. No portion of the canopy, marquee, or balcony, including supports, shall be less than eight (8) feet above the level of the sidewalk or other public way except as required by SECTION 1, Item 12 above.
3. The canopy, marquee, or balcony shall not extend beyond a point two (2) feet inside the curb line of a public street.

SECTION 5. TEMPORARY USES PERMITTED:

1. Christmas Tree Sales: Christmas tree sales in any business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations provided that no trees shall be displayed which would obstruct intersection sight distance requirements.
2. Contractor’s Office: Contractor’s office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.
3. Real Estate Offices: Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.
3. Carnivals and Circuses: A carnival or circus for a period that does not exceed one (1) week. Such use need not comply with the front yard requirements, provided that structures or equipment, which might block the view of operators of motor vehicles on the public streets, shall conform to the requirements for the street intersection sight distance as defined by these regulations.
5. Seasonal sales events and festivals: Seasonal sales events and festivals, including farmers market, in any district subject to any special requirements of the Governing Body.

6. Other special temporary uses as may be permitted by the Governing Body and under such conditions as they may require.

SECTION 6. WIND ENERGY CONVERSION SYSTEMS (WECS): The City of Ellinwood ordinances relating to the regulation and permitting of wind energy conversion systems (WECS) shall govern the placement and operation of such systems

SECTION 7. JOINT DRIVEWAYS AND GARAGES: Where joint driveways and joint garages were in existence prior to the passage of this ordinance, it shall be permissible to repair, reconstruct or enlarge joint garages and it is not necessary to conform to the provisions governing internal lot lines.

SECTION 8. PROTECTION OF SEWER AND OTHER UTILITY LINES: No building or addition thereto shall be erected over or across any public sewer or utility line, nor upon any platted or recorded easement, unless permission is granted in writing by the respective party whose lines are involved.

SECTION 9. MINING AND EXTRACTION OF MINERALS: Mining and extraction of minerals shall not be allowed within the city limits of the City of Ellinwood. Within the territorial zoning jurisdiction of the city, mining and extraction of minerals may be allowed through application for a Conditional Use permit.

SECTION 10. VACATED STREETS AND ALLEYS: Whenever any street, alley or other public right-of-way is vacated by official action of the Governing Body, any zoning districts adjoining each side of any such vacated street, alley or public-way shall be automatically extended to the center of such vacated street or alley and all area included in such adjusted boundary shall then and thenceforth be subject to all regulations of the extended districts.

SECTION 11. SANITARY SEWERAGE REQUIREMENTS: All new construction of residential units, relocation of residential units, manufactured housing and all other buildings which would generate sewage, shall be connected to a public sewer system where available, or provided with a private system meeting the requirements adopted by Barton County, Kansas.

SECTION 12. WIRELESS COMMUNICATIONS TOWERS: Wireless communication and other telecommunications towers may be permitted subject to the following requirements:

1. The minimum distance from any lot or property line to any tower, pole or other support structure shall be the total maximum height of the tower, pole or other support structure plus attached antennas.
2. Anchors, guy wires and other accessory structures may not be located in any required yard.
3. The tower, pole or other support structure shall not exceed the maximum height restriction in the zone where it is located by more than thirty (30) feet, unless technical data indicating a greater requirement for adequate reception is provided.
4. Unauthorized access to the tower, pole or other support structure, including anchors and guy wires, shall be limited by provision of an immediately surrounding six (6) foot high fence with locking portal. Tower climbing apparatus shall be limited to no lower than twelve (12) feet from the ground.

5. Telecommunications towers shall be located in compliance with the guidelines of the Federal Aviation Regulations with regard to airport approach and clearance around VOR and DVOR Stations.
6. The tower or other support structure shall be designed to permit addition of antenna array for at least two additional service providers so as to limit the number of permitted structures in the zoning jurisdiction.
7. Information certifying safety and structural integrity of the tower and other support structures shall be certified by a licensed engineer and filed with the permit application.
8. When located within one thousand (1,000) feet of a residential district, the tract shall be appropriately landscaped to produce a visually pleasing appearance.
9. An application for a permit to site a wireless telecommunications facility shall be accompanied by the following:
 - a. A site development plan, including landscape provisions and topographic information.
 - b. A technical description of the tower and the reasons for its design and location.
 - c. An explanation of need for a separate tower as opposed to an existing facility.
 - d. Information establishing structural integrity and capacity for additional antenna array.
 - e. Proof of ownership or authorization to use the proposed site.
 - f. Copies of any necessary easements.
 - g. A Certificate of liability insurance.
 - h. An affidavit certifying that the space on the proposed tower will be made available to future users when technically feasible.
10. The applicant shall also provide such other additional support information as may be determined by the City.

SECTION 13. HOME OCCUPATIONS. Home Occupations, where specifically permitted, shall meet all of the following conditions:

1. The residential character of the property shall be maintained.
2. The activity shall be conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
3. No display or storage shall indicate from the exterior of the buildings that they are being used in part for any purpose other than a dwelling or accessory building.
4. Not more than one (1) non-illuminated nameplate shall be used. The nameplate shall be attached to the building and shall not exceed three (3) square feet in area.

5. No equipment or process shall be in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of a person off the lot if the occupation is conducted in a residence, or outside the individual dwelling unit if conducted in other than a residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
6. No traffic shall be generated by such home occupation in substantially greater volumes than would normally be expected in a residential neighborhood.
7. In those instances where a home occupation is required to be approved by the Planning Commission and Governing Body, a Conditional Use Permit shall be issued to operate such home occupation in accordance with the provisions of this Ordinance and other applicable rules and regulations. Such permit shall be personal to the applicant thereof and shall not be assignable.
10. The Conditional Use Permit shall be reconsidered by the City of Ellinwood Planning Commission and Governing Body, with regard to revoking the permit if a review petition stating problems regarding the home occupation has been submitted and signed by fifty (50) percent of all owners of property within two hundred (200) feet of the premises whereon the home occupation is conducted.
11. The following uses shall not in any event be considered home occupations within this definition:
 - a. Funeral homes.
 - b. Restaurants.
 - c. Liquor stores.
 - d. Grocery stores.
 - e. Stables, animal kennels, or hospitals.
 - f. Tourist accommodations including bed and breakfast establishments.
 - g. Renting of trailers or equipment.
 - h. Auto and other vehicle repair.

ARTICLE XXII

NON-CONFORMING USES

SECTION 1. NON-CONFORMING USES, WHICH MAY BE CONTINUED:

1. The following lawful non-conforming uses of land may be continued:
 - a. A use of land, which existed prior to the effective date of this Zoning Ordinance.
 - b. A use of land existing at the time of the annexation.
 - c. A use of land existing at the time an amendment is made to the Zoning Ordinance, which changes such land to a more restricted district or extends the jurisdiction of the Zoning Ordinance to the land use.
2. The lawful use of a building located upon any land, except as provided in SECTION 2 below, may be continued although such use does not conform with the provisions of this Zoning Ordinance, and such use may be continued throughout the building if no structural alterations are made therein, except those required by law or ordinance. If no structural alterations are made in such building, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted use classification. The foregoing provisions shall also apply to any uses of buildings, which may be made non-conforming by any subsequent amendment or change of this Zoning Ordinance.
3. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a non-conforming use.
4. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.

SECTION 2. NON-CONFORMING USES, WHICH MAY NOT BE CONTINUED:

1. When a non-conforming use is discontinued or abandoned, for a period of six (6) consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the City of Ellinwood. Fences shall be governing by the provisions of Article (XXI), Section 2 Fences provision shall also apply specifically to fences.
2. No use, which is accessory to a principal non-conforming use, shall continue after such principal use shall cease or terminate.
3. No non-conforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

4. Whenever a non-conforming use of building has been changed to a more conforming use, such use shall not thereafter be changed to a less conforming use.

5. A non-conforming building which has been damaged to the extent of more than fifty (50) percent of its fair market value by fire, explosion, act of God, or the public enemy shall not be restored, except in accordance with all zoning regulations of the zoning district. In the event a question may arise on the fair market value of such a building, the same shall be determined by three (3) appraisers one (1) shall be selected by the Governing Body, one (1) shall be selected by the owner of the building, and the third appraiser shall be selected by the two selected appraisers. If the first two appraisers selected cannot agree on the selection of the third such appraiser, the Judge of the appropriate court shall be requested to appoint the third appraiser. The decision of the appraisers, or a majority of them, shall be final and conclusive and shall be binding upon all concerned to the purpose of determining whether the damaged property may be restored. The cost of such appraisal shall be paid by the property owner.

ARTICLE XXIII

ENFORCEMENT, VIOLATION, AND PENALTY

SECTION 1. ENFORCEMENT: The City Zoning Official shall administer and enforce this Zoning Ordinance. Appeals from the decision of the City Zoning Official may be made to the Planning Commission and Governing Body.

SECTION 2. CERTIFICATE OF ZONING COMPLIANCE:

1. Subsequent to the effective date of this Zoning Ordinance, no change in the use or occupancy of neither land nor any change in the use or occupancy of an existing building shall be made, nor shall any new building be occupied, until a certificate of zoning compliance has been issued by the City Zoning Official. The certificate of zoning compliance shall state that the land and/or building comply with the provisions of this Zoning Ordinance.
2. No excavation, erection, or alteration of any building or fence shall be permitted before an application has been made and approved for a building permit, and no building or premises shall be occupied until a certificate of zoning compliance is issued.
3. A record of all certificates of zoning compliance shall be kept on file in the office of the City Zoning Official and copies shall be furnished for two (2) dollars on request by any person having an interest in the land or building affected.

SECTION 3. PLANS: Each application for a building permit shall be accompanied by a plan in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this Zoning Ordinance. A record of applications and plans shall be kept in the office of the City Zoning Official.

SECTION 4. VIOLATION AND PENALTY:

1. The owner or agent of a building or premises in or upon which a violation of any provision of this Ordinance has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor, or any other person who commits, takes part or assists in any violation, or who maintains any building or premises in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months for each offense, or by both such fine and imprisonment. Each and every day that such violation continues shall constitute a separate offense.
2. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Zoning Ordinance, the appropriate authorities of said area, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

ARTICLE XXIV

BOARD OF ZONING APPEALS

SECTION 1. BOARD OF ZONING APPEALS ESTABLISHED: (This will coincide with our current ordinance)

SECTION 2. ELECTION OF OFFICERS: The Board shall annually elect one (1) of its members as chairman and shall appoint a secretary who may be an officer or an employee of the City.

SECTION 3. RULES OF PROCEDURE: The Board shall adopt bylaws and rules of procedure for the conduct of business.

SECTION 4. MEETINGS: Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine.

SECTION 5. RECORDS: The Board shall keep minutes of its proceedings showing evidence presented, findings of fact by the Board, decisions of the Board, and voting upon each question. Records of all official actions of the Board shall be filed in its office and shall be a public record.

SECTION 6. FILING FEE: For the purpose of wholly or partially defraying the cost of the proceedings prescribed herein, including publication costs, the applicant, upon filing an appeal, shall pay to the City Clerk a fee in the amount as determined by a schedule of fees maintained by the Governing Body. Promptly upon filing the appeal and required filing fee, the City Clerk shall refer said appeal to the secretary of the Board of Zoning Appeals.

SECTION 7. PUBLIC HEARING AND NOTICE: The Board of Zoning Appeals shall fix a reasonable time for hearing of an appeal or other matter referred to it. Notice of the time, place, and subject of such hearing shall comply with the notice requirements set forth by Kansas statute.

SECTION 8. POWERS AND JURISDICTIONS: The Board of Zoning Appeals shall administer the details of appeals or other matters referred to it regarding the application of the Zoning Ordinance. The Board shall have the following specific powers:

1. To hear and decide on appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the Zoning Ordinance.
2. To interpret the provisions of the Zoning Ordinance in such a way as to carry out the intent and purposes of the adopted comprehensive plan, and to correct the several districts accompanying and made a part of this Ordinance where the actual street layout varies from the street layout as shown on the zoning district map.
3. To authorize, in specific cases, a variance from the specific terms of the regulations which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, results in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

The Board must find that the granting of such variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable or unusual hardship or difficulty.

4. To grant exceptions to the provisions of the zoning regulations in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning regulations. In no event shall exceptions to the provisions of the zoning regulation be granted where the use or exception contemplated is not specifically listed as an exception in the zoning regulations unless the Board finds that said use is compatible with another listed exception. Further, under no conditions shall the Board of Zoning Appeals have the power to grant an exception when conditions of this exception, as established in the zoning regulations by the Governing Body or Kansas law, are not found to be present.

SECTION 9. PROCEDURE:

1. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the City or County, or any governmental agency or body affected by any decision of the official administering the provisions of this Zoning Ordinance.
2. Appeals shall be taken within thirty (30) days of the decision being appealed from is made by filing a notice of appeal specifying the grounds thereof and payment of the required filing fee.
3. Appeals and requests to the Board for variances and exceptions to this Zoning Ordinance shall be prepared and submitted on forms approved by the Board.
4. After filing the required appeal or request and payment of the required fee, the Board of Zoning Appeals shall advertise and hold a public hearing as provided in SECTION 7 above.
5. Notice of the decision of the Board of Zoning Appeals shall be in writing and transmitted to the appellant. A copy of such decision shall also be transmitted to the City Building Inspector for filing and action, if action is required.
6. Any person, official or governing agency dissatisfied with any order or determination of said Board may bring an action in the District Court of the County, to determine the reasonableness of any such order or determination.

SECTION 10. VARIANCES TO THIS ZONING ORDINANCE:

1. The Board may authorize, in specific cases, a variance from the specific terms of this Zoning Ordinance which will not be contrary to the public interest and where, because of special conditions, a literal enforcement of the provisions of the Zoning Ordinance will, in an individual case, result in unnecessary hardship, providing that the spirit of the Zoning Ordinance is observed, public safety and welfare are secured, and substantial justice is done. Such variance shall not permit any use not permitted by this Zoning Ordinance.

The following requirements must be met before the Board may grant a variance:

- a. The applicant must show that his property was acquired in good faith.

- b. The request for a variance must arise from a condition, which is unique to the property in question, is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or applicant.
 - c. The granting of a variance shall not adversely affect the rights of adjacent property owners or residents.
 - d. The strict application of this Zoning Ordinance will cause unnecessary hardship upon the property owner represented in the application.
 - e. The granting of a variance shall not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
 - f. The granting of a variance will not violate the spirit and intent of this Zoning Ordinance.
2. In exercising the above powers, the Board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision, or determination appealed from the City Building Inspector. The Board may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the same powers as the City Building Inspector from whom the appeal is taken. If the Board approves the variance, they shall notify the City Building Inspector of their decision and shall instruct him to issue a permit. A time limit may be specified as a condition for granting the appeal.
 3. Every variation granted or denied by the Board shall be accompanied by the written finding of fact, based on testimony and evidence, and specifying the reason for granting or denying the variance, a copy of which shall be filed in the office of the City Clerk to be available for public inspection.

SECTION 11. EXCEPTIONS TO THIS ZONING ORDINANCE:

1. Exceptions to this Zoning Ordinance, as authorized by the district regulations, shall be made by special use permit after the request has been duly advertised and a public hearing held as required by law. All special use permits shall be subject to the following requirements.
2. Prior to review of the request of an exception by the Board of Zoning Appeals, the applicant shall:
 - a. File an application on forms provided.
 - b. File with the application a statement certifying that the applicant is the lawful owner of the real estate upon which the excepted use is proposed or that he has the lawful right to receive a conveyance thereof if the application is granted.
 - c. File a form of declaration of restrictions indicating use, which is to be made by the legal owner if the application is granted. Said restrictions must show that use of the land will be solely that which was applied for as an excepted use. The restriction must provide that, if such use is abandoned or is proposed to be changed, the subsequent use shall be in conformity with the zoning restrictions in effect as to the land prior to authorization of the exception, unless a new application for an excepted use is made and granted.

3. A site plan shall be filed with the application showing:
 - a. Legal dimension of the tract to be used.
 - b. Location of all proposed improvements including curb-cut access, off-street parking, and other such facilities as the applicant proposes to install.
 - c. Grade elevations.
 - d. Building setback from all property lines.
 - e. Front, side, and rear elevations of all improvements to be erected.
 - f. Perspective drawings of the proposed improvements, in such detail as will clearly show the finished appearance of the improvements proposed.
 - g. Location and type of planting, screening, or walls.
 - h. Such other items as the Board shall deem necessary to process the application properly.
4. In considering any application for an exception hereunder, the Board of Zoning Appeals shall give consideration to the comprehensive plan, and the health, safety, morals, comfort, and general welfare of the public, including, but not limited to, the following factors:
 - a. The stability and integrity of the various zoning districts.
 - b. Conservation of property values.
 - c. Protection against fire and casualties.
 - d. Observation of general police regulations.
 - e. Prevention of traffic congestion.
 - f. Promotion of traffic safety and the orderly parking of motor vehicles.
 - g. Promotion of the safety of individuals and property.
 - h. Provision for adequate light and air.
 - i. Prevention of overcrowding and excessive intensity of land uses.
 - j. Provision for public utilities and schools.
 - k. Invasion by inappropriate uses.
 - l. Value, type, and character of existing or authorized improvements and land uses.
 - m. Encouragement of improvements and land uses in keeping with overall planning.

- n. Provision for orderly and proper urban renewal, development, and growth.

SECTION 12. PERFORMANCE:

1. In making any decision varying or modifying any provisions of this Zoning Ordinance or in granting an exception to the district regulations, the Board of Zoning Appeals shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.
2. In lieu of actual construction of an approved off-street parking lot, the Board of Zoning Appeals may accept, in the name of the City, a corporate surety bond, cashier's check, escrow account, or other like security in an amount to be fixed by the City and conditioned upon actual completion of such improvement within a specified time, and the City may enforce such bond by all equitable means. Bonds or other security shall be filed with the City Clerk.

ARTICLE XXV

AMENDMENTS

SECTION 1. AMENDMENTS: The Governing Body may, from time-to-time, amend, supplement, or change the district boundaries or regulations contained in this Zoning Ordinance. A proposal for an amendment or a change in zoning may be initiated by the Governing Body or by the Planning Commission or upon application of the owner of the property affected. All such proposed changes shall first be submitted to the Planning Commission for Public Hearing, recommendation and report. The Planning Commission shall hold a public hearing thereon and shall cause an accurate, written summary to be made of the proceedings.

SECTION 2. APPLICATIONS:

1. Any party desiring any change in zoning district boundaries or regulations contained in this Zoning Ordinance, as to any lot, tract, or area of land, shall file with the City Clerk an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the Planning Commission. At the time of filing said application with the City Clerk, the applicant shall provide the City Clerk with the names and addresses of all owners of any land within the City's boundary located within two hundred (200) feet of the outer limits of said area to which the applicant desires change of zoning.

Where the proposed zoning amendment will include property located adjacent to or outside the City's limits, the applicant shall provide the City Clerk with the names and addresses of all owners of any land located within one thousand (1,000) feet in the unincorporated area.

2. An applicant for a change in zone to "M – P" Manufactured Home Park District must satisfy the Planning Commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule for construction. The proposed construction shall begin within a period of eighteen (18) months following approval by the Governing Body, and forty (40) percent of the total planned construction shall be completed within a period of three (3) years following such approval.

Such applicant shall also prepare and submit a preliminary development plan for review and approval by the Planning Commission and Governing Body. Applicants for the "M – P" zones shall submit a plan prepared in accordance with the requirements of the individual district regulations.

Upon approval of the zoning application and preliminary development plan by the Planning Commission, the applicant shall prepare and submit a final development plan which shall incorporate any changes or alterations requested. The final development plan and the Planning Commission recommendation shall be forwarded to the Governing Body for their review and final action.

In the event that, within eighteen (18) months following approval by the Governing Body of an “M – P” District, the applicant does not proceed with construction substantially in accordance with the plan so approved, the Planning Commission shall initiate action to rezone the property. A public hearing, as required by law, shall be advertised and held, at which time the applicant shall be given an opportunity to show why construction has been delayed. Following the hearing, the Planning Commission shall make findings of fact and shall submit their recommendation to the Governing Body for official action.

SECTION 3. FILING FEE: For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon the filing of the application, shall pay to the City Clerk a fee in an amount as required by a schedule of fees determined by the Governing Body. Promptly upon the filing of any such application, the City Clerk shall refer the application to the Planning Commission for study and recommendation.

SECTION 4. PUBLIC HEARING AND NOTICE: Before the Planning Commission shall, by proper action, formulate its recommendation to the Governing Body on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the Governing Body or Planning Commission or by others, the Planning Commission shall hold a public hearing on such proposal. The secretary of the Planning Commission shall cause a notice of public hearing to be published once in the official newspaper and at least twenty (20) days shall elapse between the date of such publication and the date set for the hearing. Such notice shall fix the time and place for such hearing and shall contain a statement regarding the proposed changes in the regulations or restrictions or in the boundary of any district, and if such proposed amendment will affect specific property, the legal description and general street address shall be given; provided that, in addition to such publication notice, at least twenty (20) days before the hearing written notice of such proposed change shall be mailed to all the owners of land within the City’s boundary located within two hundred (200) feet of the area proposed to be altered, except that where the change will include property located adjacent to or outside the City’s limits, the written notice shall also be mailed to all owners of land outside the City’s boundary located within one thousand (1,000) feet of the area proposed to be altered. Failure to receive such notice shall not invalidate any subsequent action taken when the notice has been properly addressed and deposited in the mail. Whenever five or more property owners of record owning 10 or more contiguous or non-contiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by publication and hearing, however, such zoning amendment shall not require written notice and shall not be subject to protest petition.

SECTION 5. ZONING CLASSIFICATIONS OF LESSER CHANGE: In accordance with the provisions of K.S.A. 12-757, the Planning Commission and the Governing Body may recommend and approve a lesser change in zoning districts without re-publication of a notice or re-distribution of notices to property owners when such change is more restrictive than the district which is applied for as shown on the table below; *provided, however, that such recommendation and approval shall not be for a lesser classification than the existing zoning district.* If the applicant at the Governing Body meeting, at which a zoning amendment is being considered, desires to amend the application and/or the Governing Body desires to consider a “lesser” zoning change, then such a proposed change shall be returned to the Planning

Commission for reconsideration and further recommendation to the Governing Body without further publication or notice.

For the purposes of this section, zoning classifications of lesser change shall be as shown below, based on descending order of use restriction:

1. Most Restrictive to Least Restrictive.

- “A – L” Agriculture District
- “R – 1” Single-Family Dwelling District
- “R – 2” Two-Family Dwelling District
- “R – 3” Multiple-Family Dwelling District
- “C – 1” Light Commercial District
- “C – 2” General Commercial District
- “I – 1” Industrial District

2. Zones Not Included.

Because of the highly specialized purpose “M – P” Manufactured Home Park, it is not included in the table of lesser zoning changes and is excluded from designation through the lesser change provisions.

SECTION 6. ZONING AMENDMENT CONSIDERATIONS. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendations of the Commission is based using the following factors as guidelines:

1. What are the existing uses of property and their character and condition on the subject property and in the surrounding neighborhood?
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change in zoning classification?
3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration for a change in zoning?
4. Would the requested change in zoning correct an error in the application of these regulations as applied to the subject property?
5. Is the change in zoning requested because of changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property if the change in zoning was approved?

7. Would the subject property need to be platted or re-platted or in lieu of dedications made for rights-of-way, easements, access control or building setback lines if the change in zoning was approved?
8. Would a screening plan be necessary for existing and/or potential uses of the subject property if the change in zoning was approved?
9. Is the general amount of suitable vacant land or buildings available or not available for development that currently has the same zoning district classifications as is requested for the subject property?
10. In the event that the subject property is requested for business or industrial uses, are such uses needed to provide more services or employment opportunities?
11. Is the subject property suitable for the current zoning to which it has been restricted?
12. If the change in zoning were approved, would the uses, which would be permitted on the subject property, be compatible with the uses permitted on other property in the neighborhood?
13. Would the change in zoning as requested be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
14. Is the request for the zoning change in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
15. What is the nature of the support or opposition of the requested change in zoning?
16. Are there any informational materials or recommendations available from professional persons knowledgeable on this request, which would be helpful in its evaluation?
17. Does the relative gain to the public health, safety and general welfare outweigh the loss in value or the hardship imposed upon the applicant by not approving the requested change in zoning?

Of those factors considered as relevant to the requested change in zoning district classification or boundary, not all factors need to be given equal consideration by the Commission in deciding upon its recommendation.

SECTION 7. PROTEST: If a protest against such amendment is filed in the office of the City Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, said protest being duly signed and acknowledged by the owners of twenty (20) percent or more of any real property proposed to be rezoned or by the owners of twenty (20) percent of the area, excepting public streets and ways located within the corporate limits of the City and located within two hundred (200) feet of the boundaries of the property proposed to be rezoned, or within one thousand (1,000) feet in the unincorporated area if the property to be rezoned is located adjacent to or outside the City's limits, such amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the Governing Body.

Whenever the City initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or non-contiguous lots, tracts or parcels of the same zoning classification having five or more owners of record, only such owners shall be eligible to initiate a protest petition.

ARTICLE XXVI

VALIDITY

SECTION 1. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE XXVII

CERTIFICATE OF APPROVAL

SECTION 1. All previous zoning regulations are hereby repealed.

SECTION 2. It is hereby certified that this Zoning Ordinance and the Zoning District Map referred to in this Zoning Ordinance were duly approved by the Planning Commission on the ____ day of _____, 20__.

_____, Secretary

_____, Chairman

SECTION 3. This Ordinance shall become effective upon its publication by reference once in the official area newspaper.

PASSED this ____ day of _____, 20__.

ATTEST

_____, City Clerk

_____, Mayor