

# ***ZONING ORDINANCE***

**FOR THE  
CITY OF ELLIS, KANSAS**

**PREPARED AT THE DIRECTION OF THE  
ELLIS CITY PLANNING COMMISSION**

**BY  
*RIGGS ASSOCIATES*  
PLANNERS · LAND PLANNERS · LANDSCAPE ARCHITECTS  
Lindsborg, Kansas**

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**Official Copy as Incorporated by Ordinance No. 1222**

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## TABLE OF CONTENTS

		PAGE NO.
<b>ARTICLE I:</b>	<b>TITLE</b> .....	1
	Section 1.....	1
<b>ARTICLE II:</b>	<b>PURPOSE AND INTENT</b> .....	2
	Section 1.....	2
<b>ARTICLE III:</b>	<b>AUTHORITY AND JURISDICTION</b> .....	3
	Section 1. Authority .....	3
	Section 2. Jurisdiction .....	3
	Section 3. Notice to County .....	3
	Section 4. Agricultural Exclusion .....	3
<b>ARTICLE IV:</b>	<b>INTERPRETATION AND CONSTRUCTION</b> .....	4
	Section 1. Rules of interpretation.....	4
	Section 2. Rules of Construction.....	5
	Section 3. Zoning Procedure.....	5
<b>ARTICLE V:</b>	<b>DEFINITIONS</b> .....	7
	Section 1. Definitions.....	7
	Section 2. Words of Terms.....	25
<b>ARTICLE VI</b>	<b>DISTRICTS AND BOUNDARIES</b> .....	26
	Section 1. District Classifications .....	26
	Section 2. Zoning District Map .....	26
	Section 3. Annexation Rule.....	26
<b>ARTICLE VII</b>	<b>“F-P” FLOODPLAIN DISTRICT</b> .....	27
	Section 1. Intent and Purpose of District.....	27
	Section 2. District Regulations.....	27
	Section 3. Special Use Regulations.....	27
	Section 4. Intensity of Use Regulations .....	28
	Section 5. Height Regulations .....	28
	Section 6. Yard Regulations.....	28
	Section 7. Sign Regulations .....	28
	Section 8. Parking and Loading Regulations .....	28
<b>ARTICLE VIII</b>	<b>“A-L” AGRICULTURAL DISTRICT</b> .....	29
	Section 1. Intent and Purpose of District.....	29
	Section 2. District Regulations.....	29
	Section 3. Use Regulations .....	29
	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
<b>ARTICLE IX</b>	<b>“R-S” RESIDENTIAL SUBURBAN DISTRICT</b> .....	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 .....	38
	Section 9. Parking and Loading Regulations .....	38
<b>ARTICLE X</b>	<b>“R-1” SINGLE-FAMILY DWELLING DISTRICT .....</b>	<b>39</b>
	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.....	40
	Section 8. Sign Regulations .....	41
	Section 9. Parking and Loading Regulations .....	41
<b>ARTICLE XI</b>	<b>“R-2” TWO-FAMILY DWELLING DISTRICT .....</b>	<b>42</b>
	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
<b>ARTICLE XII</b>	<b>“R-3” MULTIPLE-FAMILY DWELLING DISTRICT .....</b>	<b>45</b>
	Section 1. Intent and Purpose of District.....	45
	Section 2. District Regulations.....	45
	Section 3. Use Regulations .....	45
	Section 4. Intensity of Use Regulations .....	45
	Section 5. Lot Coverage.....	46
	Section 6. Height Regulations.....	46
	Section 7. Yard Regulations.....	46
	Section 8. Sign Regulations .....	47
	Section 9. Parking and Loading Regulations .....	47
<b>ARTICLE XIII</b>	<b>“PUD” PLANNED UNIT DEVELOPMENT .....</b>	<b>48</b>
	Section 1. Intent .....	48
	Section 2. Permitted Uses .....	48
	Section 3. General Provision.....	48
	Section 4. Standards and Conditions for Planned Unit Development.....	49
	Section 5. Application for Approval of Preliminary Plan .....	52
	Section 6. Final Plan Approval .....	54
	Section 7. Recording.....	56
	Section 8. Enforcement and Modification of Provisions of the Plan .....	56
	Section 9. Amendments .....	57
	Section 10. Platting .....	57
<b>ARTICLE XIV</b>	<b>“M-H” MANUFACTURED HOME DISTRICT .....</b>	<b>58</b>

	Section 1. Intent and Purpose of District.....	58
	Section 2. District Regulations.....	58
	Section 3. Use Regulations .....	58
	Section 4. Intensity of Use Regulations .....	58
	Section 5. Lot Coverage.....	58
	Section 6. Height Regulations.....	58
	Section 7. Yard Regulations.....	58
	Section 8. Sign Regulations .....	58
	Section 9. Parking and Loading Regulations .....	58
	Section 10. Special Manufactured Home Requirements.....	59
<b>ARTICLE XV</b>	<b>“M-P” MANUFACTURED HOME PARK DISTRICT.....</b>	<b>60</b>
	Section 1. Intent and Purpose of District.....	60
	Section 2. District Regulations.....	60
	Section 3. Use Regulations .....	60
	Section 4. Park Requirements .....	60
	Section 5. Application Procedure.....	64
<b>ARTICLE XVI</b>	<b>“C-S” HIGHWAY SERVICE DISTRICT.....</b>	<b>66</b>
	Section 1. Intent and Purpose of District.....	66
	Section 2. District Regulations.....	66
	Section 3. Use Regulations .....	66
	Section 4. Intensity of Use Regulations .....	69
	Section 5. Lot Coverage.....	70
	Section 6. Height Regulations.....	70
	Section 7. Yard Regulations.....	70
	Section 8. Sign Regulations .....	70
	Section 9. Parking and Loading Regulations .....	70
	Section 10. Landscape Regulations.....	70
	Section 11. Traffic Regulations.....	70
<b>ARTICLE XVII</b>	<b>“C-1” CENTRAL BUSINESS DISTRICT .....</b>	<b>71</b>
	Section 1. Intent and Purpose of District.....	71
	Section 2. District Regulations.....	71
	Section 3. Use Regulations .....	71
	Section 4. Intensity of Use Regulations .....	76
	Section 5. Height Regulations.....	76
	Section 6. Yard Regulations.....	76
	Section 7. Sign Regulations .....	77
	Section 8. Parking and Loading Regulations .....	77
	Section 9. Landscape Regulations.....	77
	Section 10. Traffic Regulations.....	77
<b>ARTICLE XVIII</b>	<b>“C-2’ GENERAL COMMERCIAL DISTRICT .....</b>	<b>78</b>
	Section 1. Intent and Purpose of District.....	78
	Section 2. District Regulations.....	78
	Section 3. Use Regulations .....	78
	Section 4. Intensity of Use Regulations .....	83
	Section 5. Height Regulations.....	83
	Section 6. Yard Regulation .....	83
	Section 7. Sign Regulations .....	83
	Section 8. Parking and Loading Regulations .....	83
	Section 9. Landscape Regulations.....	83
	Section 10. Traffic Regulations.....	83

<b>ARTICLE XIX</b>	<b>“C – 3” ADULT ENTERTAINMENT DISTRICT</b> .....	84
	Section 1. Intent and Purpose of District.....	84
	Section 2. District Regulations.....	84
	Section 3. Use Regulations .....	84
	Section 4. Intensity of Use Regulations .....	84
	Section 5. Height Regulations.....	84
	Section 6. Yard Regulations.....	84
	Section 7. Sign Regulations .....	85
	Section 8. Parking and Loading Regulations .....	85
	Section 9. Landscape Regulations.....	85
	Section 10. Traffic Regulations.....	85
	Section 11. Adult Use and Location Restrictions.....	85
<b>ARTICLE XX</b>	<b>“I-1” LIGHT INDUSTRIAL DISTRICT</b> .....	86
	Section 1. Intent and Purpose of District.....	86
	Section 2. District Regulations.....	86
	Section 3. Use Regulations .....	86
	Section 4. Intensity of Use Regulations .....	88
	Section 5. Height Regulations.....	89
	Section 6. Yard Regulations.....	89
	Section 7. Sign Regulations .....	89
	Section 8. Parking and Loading Regulations .....	89
	Section 9. Landscape Regulations.....	89
	Section 10. Traffic Regulations.....	89
<b>ARTICLE XXI</b>	<b>“I-2” HEAVY INDUSTRIAL DISTRICT</b> .....	90
	Section 1. Intent and Purpose of District.....	90
	Section 2. District Regulations.....	90
	Section 3. Use Regulations .....	90
	Section 4. Intensity of Use Regulations .....	92
	Section 5. Height Regulations.....	93
	Section 6. Yard Regulations.....	93
	Section 7. Sign Regulations .....	94
	Section 8. Parking and Loading Regulations .....	94
	Section 9. Landscape Regulations.....	94
	Section 10. Traffic Regulations.....	94
<b>ARTICLE XXII</b>	<b>SIGN REGULATIONS</b> .....	95
	Section 1. General Requirements.....	95
	Section 2. Specific Requirements .....	95
	Section 3. Permits and Fees Required.....	101
	Section 4. Non-conforming Signs .....	102
	Section 5. Removal of Signs from Vacant Buildings.....	102
<b>ARTICLE XXIII</b>	<b>PARKING AND LOADING REGULATIONS</b> .....	103
	Section 1. Requirements .....	103
	Schedule of Minimum Off-Street Parking & Loading Requirements.....	103
	Section 2. Plans and Approval Required.....	105
	Section 3. Construction Requirements .....	105
	Section 4. Layout and Design Requirements .....	106
	Section 5. Maintenance.....	106
	Section 6. Performance .....	106
	Section 7. Application.....	106

<b>ARTICLE XXIV</b>	<b>LANDSCAPE REQUIREMENTS</b> .....	107
	Section 1. Minimum Landscape Requirements.....	107
<b>ARTICLE XXV</b>	<b>TRAFFIC REGULATIONS</b> .....	108
	Section 1. Minimum Requirements for Traffic Regulations .....	108
<b>ARTICLE XXVI</b>	<b>BUILDINGS AND USES AFFECTED</b> .....	109
	Section 1. Minimum Building Requirements.....	109
	Section 2. Building and Structures Moved In .....	110
	Section 3. Elevation .....	110
<b>ARTICLE XXVII</b>	<b>ADDITIONAL HEIGHT, AREA, AND USE REGULATIONS</b> .....	111
	Section 1. Qualifications and Supplementations to District Regulations .....	111
	Section 2. Fences.....	114
	Section 3. Building Setback Lines .....	115
	Section 4. Lots of Record.....	115
	Section 5. Canopy and Marquee .....	115
	Section 6. Temporary Uses Permitted.....	116
	Section 7. Wind Energy Conversion System (WECS).....	116
	Section 8. Joint Driveways and Garages.....	118
	Section 9. Protection of Sewer and Other Utility Lines .....	118
	Section 10. Mining and Extraction of Minerals .....	118
	Section 11. Vacated Streets and Alleys.....	119
	Section 12. Sanitary Sewerage Requirements.....	119
	Section 13. Wireless Communications Towers.....	120
	Section 14. Inoperable or Unlicensed Vehicles.....	121
<b>ARTICLE XXVIII</b>	<b>NON-CONFORMING USES</b> .....	122
	Section 1. Non-conforming Uses Which May Be Continued .....	122
	Section 2. Non-conforming Uses Which May Not Be Continued .....	122
<b>ARTICLE XXIX</b>	<b>ENFORCEMENT, VIOLATION AND PENALTY</b> .....	124
	Section 1. Enforcement.....	124
	Section 2. Certificate of Occupancy.....	124
	Section 3. Plans .....	124
	Section 4. Violation and Penalty .....	124
<b>ARTICLE XXX</b>	<b>BOARD OF ZONING APPEALS</b> .....	125
	Section 1. Board of Zoning Appeals Established.....	125
	Section 2. Election of Officers .....	125
	Section 3. Rules of Procedure .....	125
	Section 4. Meetings.....	125
	Section 5. Records.....	125
	Section 6. Filing Fee .....	125
	Section 7. Public Hearing and Notice .....	125
	Section 8. Powers and Jurisdiction.....	125
	Section 9. Procedure .....	126
	Section 10. Variances to this Zoning Ordinance.....	127
	Section 11. Exceptions to this Zoning Ordinance .....	128
	Section 12. Performance .....	130
<b>ARTICLE XXXI</b>	<b>AMENDMENTS</b> .....	131
	Section 1. Amendments .....	131

Section 2. Applications .....	131
Section 3. Filing Fee .....	132
Section 4. Public Hearing and Notice .....	132
Section 5. Zoning Classifications of Lesser Change.....	132
Section 6. Protest.....	133
<b>ARTICLE XXXII VALIDITY.....</b>	<b>134</b>
Section 1.....	134
<b>ARTICLE XXXIII CERTIFICATE OF APPROVAL .....</b>	<b>135</b>
Section 1.....	135
Section 2.....	135
Section 3.....	135

# ***ZONING ORDINANCE***

## ***CITY OF ELLIS, 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 ELLIS, KANSAS, ZONING JURISDICTION INTO DISTRICTS FOR SUCH PURPOSES; ADOPTING A ZONING DISTRICT MAP OF THE CITY OF ELLIS, 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 SAID ORIGINAL ORDINANCE NO. 818, AND AMENDMENTS THERETO.**

**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 Ellis, Kansas, and shall repeal and replace Ordinance No. 818 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 Ellis Zoning Jurisdiction through promotion of appropriate patterns and practices of urban development. Within this general purpose, the Zoning Regulations are intended to:

1. Promote the health and general welfare of the citizens.
2. Provide for adequate light, air and acceptable noise levels.
3. Encourage the most productive use of urban land resources through promotion of compatible land use patterns.
4. Prevent the overcrowding of land and undue concentration of population.
5. Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.
6. Protect property values and conserve energy resources.
7. Regulate and restrict the location and use of buildings and the uses of land within each district for residential, commercial, industrial, and other purposes.
8. 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.
9. Guard against loss of life and damage to property due to flooding through protection of natural drainage features.
10. Preserve features of historical significance and the conservation of natural resources.
11. Implement goals, policies, and proposals of the comprehensive plan for the zoning jurisdiction.

***ARTICLE III***

***AUTHORITY AND JURISDICTION***

**SECTION 1. AUTHORITY:** The Regulations set forth herein are adopted under authority of state statutes and in accordance with the adopted Land Use Plan for the City of Ellis, Kansas.

**SECTION 2. JURISDICTION:** These Regulations shall apply to all structures and land within the incorporated area of the City of Ellis, 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 Ellis, 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 floodplain regulations in areas designated as a floodplain district, the regulations contained in this Ordinance shall not apply to land and buildings under one ownership which are 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 Ellis.
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 permit 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 XXXI.
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.

4. Any person intending to construct a residence on an unplatted tract for other than agricultural use shall prepare a plat in accordance with the Subdivision Regulations and shall obtain the approval of the Plat by the Planning Commission and the Governing Body before requesting a zoning permit.

## **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 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, and similar structures.
2. *Accessory Use.* A use of land customarily incidental and subordinate to the use of the principal building on the same 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 feed lots. 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 single-wide 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 travelway 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 Ellis, Kansas and the Kansas State Department of Health.
15. *Approved Public Water System.* Water treatment plant and service lines approved by the governing body of the City of Ellis, Kansas and the Kansas State Department of Health.
16. *Attached Accessory Building.* A building which has approximately 50% 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 six (6) sleeping rooms.

20. *Block.* A series of lots entirely surrounded by public rights-of-way, railroad rights-of-way, park, greenstrips, open land, or water ways.
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.
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 twenty (20) 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 designated to administer this Zoning Ordinance, whether such person or persons be entitled Building Official, Building Inspector, Administrative Official, City Engineer, City Administrator, City Clerk or Zoning Official.
29. *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.

30. *Bulk Regulations.* 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.
31. *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.
32. *Amended Ordinance #1269--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 more than 30 days without written approval of the City of Ellis Public Works Director. In no event shall the campground be occupied on a permanent 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.
33. *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.
34. *Car Wash.* An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
35. *Cellar.* A room having more than one-half (1/2) of its height below grade.
36. *Child Care.* The process of caring for unrelated minor children as a service with or without financial arrangements. Child care shall include the term “baby-sitting” but shall not include preschools.
37. *Child Care Center.* A day nursery providing care for four (4) or more 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.
38. *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.
39. *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.

40. *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.
41. *Comprehensive Plan.* The duly adopted comprehensive plan for the development of the City of Ellis, Kansas.
42. *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.
43. *Convenience Store.* A retail establishment offering food, drink, fuel and other convenience goods where fuel sales are incidental to sales of convenience merchandise.
44. *Density.* Restrictions on the number of dwelling units that may be constructed per acre or per square foot of a zoning lot area.
45. *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.
46. *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.
47. *Dog.* Any canine species over 6 months of age.
48. *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.
49. *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.
50. *Dwelling.* Any building or portion thereof which is designed and used primarily for residential purposes.
51. *Dwelling, Attached.* A residential building which is joined to another dwelling at one or more sides by a party wall or walls.

52. *Dwelling, Detached.* A residential building which is entirely surrounded by open space on the same lot.
53. *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.
54. *Dwelling, Seasonal.* A residence intended for occasional occupancy.
55. *Dwelling, Single-Family.* A detached building or portion thereof designed for or occupied exclusively by one (1) family.
56. *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.
57. *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.
58. *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.
59. *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.
60. *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. A family may include any number of gratuitous guests or minor children not related by blood, marriage, or adoption.
61. *Fence.* A free-standing 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.
62. *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.

63. *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.
64. *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.
65. *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.
66. *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.
67. *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.
68. *Garage, Private.* Any accessory building designed or used only for the housing and storage of automobiles which are the property of, or provided for the exclusive use of, the occupants of the lot or premises upon which such building is located and having no provisions for the commercial repair or equipping of such vehicles.

69. *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.
70. *Garage, Storage.* A building, or portion thereof, designed or used exclusively for housing four (4) or more motor-driven vehicles.
71. *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 service, 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”)
72. *Governing Body – (Legislative Body).* Unless otherwise specified, Governing Body shall mean the City Council of the City of Ellis, Kansas.
73. *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, 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.
74. *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.
75. *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. Home occupations shall meet all of the following conditions:
- a. The residential character of the property is maintained.
  - b. The activity is 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.

- c. 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.
- d. Not more than one (1) non-illuminated nameplate is used. The nameplate shall be attached to the building and shall not exceed three (3) square feet in area.
- e. No equipment or process shall be used 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.
- f. No traffic shall be generated by such home occupation in substantially greater volumes than would normally be expected in a residential neighborhood.
- g. There shall be on file in the office of the City Clerk a consent agreement to the proposed home occupation signed by seventy-five (75) percent of all Owners of property within two hundred (200) feet of the property whereon such use is to be operated.
- h. A letter of consent shall also be required from the owner of record for a property to be used for home occupation purposes. This shall specifically apply to rental properties. This letter of consent shall be submitted with the consent petition required in paragraph “g”.

- i. The Owner shall have received from the City of Ellis Board of Zoning Appeals, a Special Use Permit 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.
- j. A Special Use Permit shall be reconsidered by the City of Ellis Board of Zoning Appeals, 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.
- k. The following uses shall not in any event be considered home occupations within this definition:
  - 1) Funeral homes.
  - 2) Restaurants.
  - 3) Grocery stores.
  - 4) Stables, animal kennels, or hospitals.
  - 5) Tourist accommodations including bed and breakfast establishments, unless specifically permitted in the district.
  - 6) Renting of trailers or equipment.
  - 7) Auto and other vehicle repair.

76. *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.

77. *Hotel or Motel.* A commercial building used as a temporary abiding place for persons who are being lodged for compensation with or without meals.

78. *Institution of Higher Learning.* A college, university, or incorporated academy providing general academic instruction equivalent to the standards prescribed by the State Board of Education. Dormitories, fraternity houses, sorority houses, and other student housing, which are constructed on campus, shall be considered accessory buildings.

79. *Institution (Nonprofit).* A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

80.  *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. This definition includes both private and commercially operated facilities.
81.  *Laboratory, Medical*. An establishment which provides bacteriological, biological, medical, X-ray, pathological, and other similar analytical or diagnostic services.
82.  *Landscaping*. The improvement of a lot, parcel, or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flower beds, and ornamental objects such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.
83.  *Laundry (Self-Service or coin)*. An establishment equipped with individual coin-operated washing, drying, or dry cleaning machines.
84.  *Laundry*. An establishment where commercial laundry and dry cleaning work is undertaken.
85.  *Lodging House*. A residential building or place where lodging is provided (or which is equipped regularly to provide lodging) by pre-arrangement for definite periods, for compensation, for three (3) or more persons in contra-distinction to hotels open to transients.
86.  *Lot*. A parcel of land shown as a unit on a recorded subdivision plat.
87.  *Lot Area*. The total horizontal area within the lot lines of a lot.
88.  *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.
89.  *Lot Coverage*. The total area of building expressed as a percentage of the total lot, plot, or tract. (Includes both principal and accessory buildings.)
90.  *Lot, Depth Of*. A mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lines of the lot.
91.  *Lot, Double Frontage*. An internal lot having a frontage on two (2) streets.
92.  *Lot, Interior*. Any lot which does not constitute a corner lot.
93.  *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.
94.  *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.

95. *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.
96. *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.
97. *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.
98. *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.
99. *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.
100. *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. All manufactured homes shall be either skirted or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas, shall be anchored to the ground. All manufactured homes intended for new installation in the zoning jurisdiction of the City of Ellis 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.
101. *Manufactured Home, Dependent*. A manufactured home which does not have a flush toilet and bath or shower.
102. *Manufactured Home, Independent*. A manufactured home which has a flush toilet and a bath or shower.

103. *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.
104. *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.
105. *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.
106. *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.
107. *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.
108. *Motor Vehicle Repair Shop.* A building or portion of a building, arranged, intended, or designed to be used for making repairs to motor vehicles.
109. *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.
110. *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.

111. *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.
112. *Parcel.* All contiguous lands (including lots and parts of lots) held in one (1) ownership.
113. *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.
114. *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.
115. *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.
116. *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.
117. *Person.* Any natural individual, firm, trust, partnership, association, or corporation.
118. *Place or Court.* An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.
119. *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.
120. *Planning Commission.* The City Planning Commission of Ellis, Kansas unless otherwise specified.
121. *Plat.* A layout of a subdivision indicating the location and boundaries of individual properties.
122. *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 Ellis.

123. *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.
124. *Premises.* A parcel together with all buildings and structures thereon.
125. *Principal Structure.* The main use of land or structures as distinguished from a subordinate or accessory use.
126. *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.
127. *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.
128. *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.
129. *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.
130. *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.
131. *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.
132. *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.

133. *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.
134. *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.
135. *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.
136. *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”)
137. *Setback.* The distance between the lot line and building line.
138. *Sign.* Any words, numerals, figures, devices, designs, or trade marks 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 XXII.
139. *Site.* See “Parcel.”
140. *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 (90) feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the ninety (90) foot distance shall be increased to one hundred twenty (120) feet. (See illustration at the end of this ARTICLE.)

141. *Special Use Permit.* A special use permit is a written permit issued by the Zoning Administrator with the written authorization of the Appeals Board. This special use permit provides permission under special conditions to make certain special exception of uses in certain zoning districts as stipulated in the specific district Zoning Regulations.
142. *Story.* That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.
143. *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.
144. *Street.* A right-of-way, other than an alley, dedicated to the public use, which provides principal access to adjacent properties.
145. *Street Line.* A dividing line between a lot, tract, or parcel of land and the contiguous street.
146. *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.
147. *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.
148. *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.
149. *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.
150. *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.
151. *Tavern*. An establishment in which the primary function is the public sale and serving of cereal malt beverages.
152. *Theater, Moving Picture*. A building or part of a building devoted to the showing of moving pictures on a paid admission basis.
153. *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.
154. *These Regulations*. The document duly approved and adopted by the Planning Commission and the City Council of Ellis, Kansas, which establishes zoning requirements.
155. *Tourist Cabins*. See "Motel."
156. *Tourist Home*. A dwelling in which overnight accommodations are provided or offered for transient guests for compensation. Also see Bed and Breakfast Inn)
157. *Townhouse*. A multiple-family dwelling unit which is individually owned along with a lot or other tract of land, as opposed to a condominium.
158. *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.
159. *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.

160. *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.
161. *Variance.* A modification or variation of the provisions of these Regulations, as applied to a specific parcel of property, as distinct from rezoning.
162. *Way.* A street, an alley or other thoroughfare or easement permanently established for passage of persons or vehicles.
163. *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.
164. *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.
165. *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.
166. *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.
167. *Zone or District.* A portion, area, or section of the Ellis, 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.
168. *Zoning Administrator.* The person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these Zoning Regulations.
169. *Zoning Area.* The area to be zoned as set out on the Official Zoning Map filed of record.
170. *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 Ellis Zoning Jurisdiction is divided into districts designated as follows:

“F – P”	Floodplain District
“A – L”	Agriculture District
“R – S”	Residential Suburban District
“R – 1”	Single-Family Dwelling District
“R – 2”	Two-Family Dwelling District
“R – 3”	Multiple-Family Dwelling District
“PUD”	Planned Unit Development
“M– H”	Manufactured Home District
“M– P”	Manufactured Home Park District
“C – S”	Highway Service District
“C – 1”	Central Business District
“C – 2”	General Commercial District
“C – 3”	Adult Entertainment District
“I – 1”	Light Industrial District
“I – 2”	Heavy 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 Ellis, 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 Ellis, 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 Ellis Flood Insurance Study and accompanying Flood Insurance Rate Map, Panel Number 2000950001, effective August 1, 1983, the Ellis County Flood Insurance Rate Map, Panel Number 200940090B effective July 3, 1986 and any subsequent additions or amendments thereto, prepared for the City of Ellis and Ellis County 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 drainways.

**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 City Ordinance No. 1022 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 City Ordinance No. 1022 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 by Ordinance No. 1022 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 Ordinance No. 1022.
- 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 Ellis 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 by Ordinance No. 1022 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, not including:
  - 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. Manufactured homes incidental to general farm operations on the same tract or parcel with the principal dwelling provided the manufactured home is used exclusively by the farm family or employees, and provided that, in the case where individual wells and/or septic systems are used, spacing is in accordance with all applicable sanitary regulations.
5. Group homes, foster homes and boarding homes for children.
6. Churches and similar places of worship and parish houses.

7. Farms and ranches.
8. Golf courses and other open land recreational uses, except miniature golf courses, driving tees, or other intensive commercial uses, such as automobile race track or amusement park.
9. Greenhouses, nurseries, and garden centers.
10. Institutions of higher learning, including dormitory accommodations when located on the same tract as the educational buildings.
11. Privately-owned parks, playgrounds, golf courses, or other outdoor recreational areas, such as campgrounds, youth camps, gun clubs, and archery, trap, and skeet ranges.
12. 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.
13. Public or parochial elementary, junior high, high schools and private schools with equivalent curriculum.
14. Licensed child care centers.
15. Stands for sale of agricultural products or commodities raised or prepared on the premises.
16. 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.
17. 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.
18. 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.
19. The following uses may be allowed by special use permit when submitted, reviewed, and approved by the Board of Zoning appeals and subject to conditions as the Board 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 XXVII, Section 13 – 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 three (3) acres or larger.
- g. Preschools.
- h. Oil and gas exploration and extraction.
- i. Dog Kennels
- j. Water Retention Areas
- k. Racetrack, animal or vehicular
- l. Development of natural resources and extraction of raw materials such as rock, gravel, sand, etc.
- m. Nursing and care homes subject to inspection and license requirements.
- n. Seasonal or temporary uses such as recreation camp or similar enterprises.
- o. Telephone exchange, electric substations or similar public utilities.
- p. Agricultural product storage (elevators) when no other business is in combination with said storage.
- q. Animal feed lots subject to the license requirements of the State and subject to the following minimum sanitation and odor practices. (The intent is to establish a healthful environment around the feed lot.)

Operation:

- (1) Manure shall be removed or disposed of in one of the following manners:
  - (a) Spraying or spreading on land followed by disking or plowing.

- (b) Grinding or dehydrating in properly designed dehydrators.
  - (c) Stockpiling in a compost plant in an isolated area at least three (3) miles from a residential area.
- (2) Insect and rodent control:
- (a) Removal of manure and disposal as outlined above.
  - (b) Use of chemical sprays and poisons in accordance with procedures and recommendations of a biologist experienced in insect and rodent control.

Drainage

- (1) All ground surfaces within pens shall be so graded and compacted to insure proper drainage.
  - (2) Surface runoff shall be so controlled that no appreciable amount of soil or manure is carried into any roadway ditch or drainage area where it will deposit and form sludge banks where flies and mosquitoes can breed.
- r. Radio or television transmitters.
- s. Private clubs (as defined in these regulations).
- t. Kennels-Breeder and Boarding, provided that:
- (1) The minimum lot size shall be not less than two (2) acres.
  - (2) No kennel buildings or runs shall be located nearer than 75 feet to any property lines.
  - (3) All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick, or stone wall, louvered wood, stockade or chainlink fence with aluminum strip intertwined or other equivalent fencing providing a sight barrier to the dogs.
- u. Privately-owned parks, playgrounds, golf courses or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.
- v. Riding stables and academies providing no structure housing horses shall be located nearer than 600 feet to the boundary of any residential district.

- w. Light manufacturing operations provided that such use is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas, odor, or smoke.
- x. Raising of Fur Bearing Animals.

**SECTION 4. INTENSITY OF USE REGULATION:** Tracts in this district shall be subject to the following minimum size requirements:

1. Tracts served by private water wells and septic systems — five (5) acres.
2. Tracts served by a public water system and a private septic system — three (3) acres.
3. Tracts served by a public water system and public sewer system — two (2) acres.

**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 is within one hundred fifty (150) feet of a dwelling district zone, said building or structure shall not exceed thirty-five (35) 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 shall not exceed eighty (80) feet in height. Buildings and structures used for nonagricultural purposes shall not exceed thirty-five (35) 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. (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 road side 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. *Real 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 XXII

**SECTION 8. PARKING AND LOADING REGULATIONS:** See ARTICLE XXIII

**ARTICLE IX**

**“R – S” RESIDENTIAL SUBURBAN DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:** The “R – L” Residential Suburban District is established to provide for single-family rural residential development at a low density and to allow certain public facilities. It is the intent of the district regulation to protect the health, safety, and general welfare of persons residing in the district; to prevent uses which would devalue property; to regulate population density; and to provide adequate open space around buildings and structures. This zone is intended for application in developing areas at the fringe of the City, and is intended to minimize conflicts of incompatible uses of land and protect the public health and welfare until the area is more fully developed.

**SECTION 2. DISTRICT REGULATIONS:** In the “R – 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 following uses listed in SECTION 3 below.

**SECTION 3. USE REGULATIONS:**

1. General farm operations. This shall not include or permit:
  - a. Any activity within three hundred (300) feet of another residential district which activity is noxious or offensive by reason of dust, odor, or noise.
  - b. Feedlots
2. Single-family non-farm dwellings.
3. Residential design manufactured homes.
4. Group homes, foster homes and boarding homes for children.
5. Temporary structures incidental to construction work but only for the period of work. Basements and cellars may not be occupied for residential purposes until the building is completed.
6. Golf courses, except commercial miniature golf courses or driving tees.
7. Public parks, playgrounds, and recreational areas owned and operated by a public agency.
8. 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.
9. Raising of trees, shrubs and grasses not sold on the premises.

10. The following uses may be allowed by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
  - a. Raising and care of livestock for show and pleasure, provided:
    - 1) When an “R – L” District or a portion thereof is reclassified to another more restrictive residential zone, those uses granted by special use permit for animal shelters or similar related uses in “a” above shall be completely discontinued within a period of six (6) months from the date of reclassification.
    - 2) Uses permitted in “a” above shall not be kept for commercial purposes.
    - 3) Livestock permitted in “a” above shall be properly sheltered and proper sanitation shall be maintained at all times.
    - 4) Livestock cages or pens permitted in “a” above shall not be closer than fifty (50) feet to any residence.
  - b. Churches and similar places of worship.
  - c. Home occupations.
  - d. Hospitals and/or clinics for people on a lot, plot, or tract of land five (5) acres or larger.
  - e. Licensed child care center.
  - f. Nursing home, sanitarium, rest home, homes for the aged, or convalescent home on a lot, plot, or tract of land five acres or larger.
  - g. Preschools.
  - h. Schools – public or parochial, elementary, junior high, high schools, and private schools with equivalent curriculum.
  - i. Cemetery, crematory, or mausoleum when used in conjunction with a cemetery.
  - j. Any public building erected or land used by any department of the City, County, State, or Federal Government.
  - k. Telephone exchange, electric substations, regulator stations, and other public utilities.

- l. Oil and gas exploration, extraction, and/or production.
- m. Extraction and/or mining of minerals.
- n. Wireless communications towers. See ARTICLE XXVII.

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

1. Lots served by private water wells and septic systems — five (5) acres, with a minimum lot width of one hundred forty (140) feet.
2. Lots served by a public water system and a private septic system — three (3) acres, with a minimum lot width of one hundred forty (140) feet.
3. Lots served by a public water system and a public sewer system — nine thousand (9,000) square feet. Lots shall have an average lot width of not less than seventy (70) 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 building shall exceed thirty-five (35) 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 in ARTICLE XXVII.
  - b. Where a lot or group of 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 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. 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 eight (8) feet on each side of the principal building.

3. Rear Yard. There shall be a rear yard having a depth of not less than twenty-five (25) feet.

**SECTION 8.** SIGN REGULATIONS: See ARTICLE XXII.

**SECTION 9.** PARKING AND LOADING REGULATIONS: See ARTICLE XXIII.

## **ARTICLE X**

### **“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.
3. Group homes, foster homes and boarding homes for children.
4. Churches 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, 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. The following uses may be allowed by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
  - a. Any public building erected or land used by any department of the City, County, State, or Federal Government.
  - b. Home occupations.
  - c. Telephone exchange, electric substations and regulatory stations, or other public utilities.
  - d. Raising of crops, trees and shrubs not sold on the premises.
  - e. Licensed child care centers.
  - f. Water Retention Areas.
  - g. Preschools.

**SECTION 4. INTENSITY OF USE REGULATIONS:** Every lot shall have an area of not less than seven thousand (7,000) square feet and an average width of not less than fifty (50) 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 building shall exceed thirty-five (35) 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 in ARTICLE XXVII.
  - b. Where a lot or group of 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 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 six (6) feet on each side of the principal building, 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 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 twenty-five (25) feet.

**SECTION 8.** SIGN REGULATIONS: See ARTICLE XXII.

**SECTION 9.** PARKING AND LOADING REGULATIONS: See ARTICLE XXIII.

## **ARTICLE XI**

### **“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.
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 use unrelated to the principal use of 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 special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals and under such conditions as the Board may impose:
  - a. Any special use permitted in the “R-1” District.

**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.
2. Two-family Dwellings. A lot on which there is erected a two-family dwelling shall contain an area of not less than three thousand (3,000) square feet per family. This regulation shall also be applicable to two-family structures being converted to individually owned units. Also see ARTICLE XXVII, 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-five (45) 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 in ARTICLE XXVII.

- b. Where a lot or group of 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 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 six (6) 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 twenty-five (25) feet.

**SECTION 8. SIGN REGULATIONS:** See ARTICLE XXII.

**SECTION 9. PARKING AND LOADING REGULATIONS:** See Article XXIII.

**ARTICLE XII**

**“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 – 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 special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals, and under such conditions as the Board may impose:
  - a. Any special use permitted in the “R – 2” Two-Family Dwelling District.

**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 three thousand (3,000) 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 two thousand (2,000) square feet per family, whichever area is the 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 6,000 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-five (45) 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 in ARTICLE XXVII.
  - 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 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 six (6) 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 twenty-five (25) feet.

**SECTION 8.** SIGN REGULATIONS: See ARTICLE XXII.

**SECTION 9.** PARKING AND LOADING REGULATIONS: See ARTICLE XXIII.

**ARTICLE XIII**

**“PUD” PLANNED UNIT DEVELOPMENT DISTRICT**

**SECTION 1. INTENT.** The intent of the Planned Unit Development District is to encourage innovation in residential, commercial and industrial development by greater variety in type, design, and layout of buildings; to encourage a more efficient use of land reflecting changes in the technology of land development; to encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of land; and to provide a procedure which relates the type, design, and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods.

The “PUD” District in this ordinance is an overlay zone which may be used in conjunction with any of the standard residential, commercial or industrial zones. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met. A development plan shall be submitted by each applicant for “PUD” zoning in accordance with the provisions and conditions that follow.

**SECTION 2. PERMITTED USES.** All uses, however such uses, must be approved as shown on the development plan as specified in the regulations.

**SECTION 3. GENERAL PROVISIONS.**

1. The Planning Commission shall make a report to the Governing Body setting forth its reasons for recommendation of approval or denial of the application, along with specific evidence and facts showing that the proposed Planned Unit Development meets or does not meet the following conditions:
  - a. Said Planned Unit Development shall be in general conformity with the provisions of the adopted comprehensive plan.
  - b. Said Planned Unit Development shall not have a substantially adverse effect on the development of the neighboring area.
2. The Planned Unit Development District may be established exclusively for residential, commercial or industrial development or any combination of those types of development.
3. The minimum size allowed for a Planned Unit Development shall be as follows:

Residential	2 acres
Commercial	3 acres
Industrial	5 acres

Any “PUD” which has combined two or more types of use into a single plan shall have a minimum allowable size for the “PUD” equal to the sum of the minimum land areas required for each of the two or more types contained therein.

4. Height, bulk and setback requirements may be varied so as to promote an efficient and creative “PUD”.

**SECTION 4. STANDARDS AND CONDITIONS FOR PLANNED UNIT DEVELOPMENT.**

1. Upon recommendation of the Planning Commission the Governing Body may from time to time adopt general policies or specific rules and regulations for Planned Unit Developments and place said policies or rules and regulations of public record in the office of the Zoning Administrator; provided said policies and/or rules and regulations are not inconsistent with the adopted standards and conditions; and provided that no policies, rules or regulations shall be revised or added to, so as to be applicable to a specific proposal for a Planned Unit Development after an application for preliminary approval of a specific development plan has been filed.
2. A Planned Unit Development shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, design, and location of buildings, the density or intensity of use, open space, public facilities and the development by geographic division of the site.
  - a. The applicant shall satisfy the Planning Commission and the Governing Body that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of 18 months following approval of a final plan by the Governing Body, and a minimum of fifty percent (50%) of the total planned construction shall be completed within a period of three (3) years following such approval or the approval of the plan. The period of time established for the completion of the development may be modified from time to time by the Governing Body upon the showing of good cause by the developer.
  - b. The applicant may designate divisible geographic sections of the entire parcel to be developed as a unit, and shall, in such case, specify reasonable periods within which developments of each such unit must be commenced. In the case of residential Planned Unit Developments, the Governing Body may permit in each unit deviations from the number of dwelling units per acre established for the entire planned development, provided such deviation shall be adjusted for in other sections of the development so that the number of dwelling units per acre authorized for the entire planned development is not affected.

- c. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees as may be determined by the Planning Commission and approved by the Governing Body, to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
- d. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development. If it is determined that traffic control signals are required to prevent traffic hazards or congestion in adjacent streets, the control signals shall be provided at the developer's expense.
- e. The development shall not impose an undue burden on public services and facilities, such as water and sewer systems and fire and police protection.
- f. The entire tract or parcel of land to be submitted for Planned Unit Development shall be held in single ownership or control, or if there are two or more owners, the application for such Planned Unit Development shall be filed jointly.
- g. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a Planned Unit Development not used for structures, parking and loading areas, or access-ways shall be landscaped or otherwise improved.
- h. Off-street parking and loading shall be provided in accordance with Article XXIII.
- i. When a commercial or industrial use within a Planned Unit Development district abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet high and having a visual density of not less than ninety (90%) percent per square foot, shall be provided adjacent to any adjoining residential district except where the commercial or industrial development is separated from the residential zone by a street right-of-way. A ten (10) foot wide landscape buffer which shall consist of trees, shrubs and evergreens located along the property line which shall be maintained by the owner or owners of the property in the Planned Unit Development district, may be substituted for the solid or semi-solid fence when approved by the City.
- j. All commercial and industrial buildings shall set back not less than forty-five (45) feet from the right-of-way of any street and twenty (20) feet from any district boundary line that does not abut a street right-of-way. Additional setback from a heavily traveled thoroughfare may be required by the Governing Body, when recommended by the Planning Commission for protection of health, safety, and general welfare.

- k. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel and of the total development for each type of Planned Unit Development:

Residential	40% maximum
Commercial	35% maximum
Industrial	35% maximum

- l. A minimum of thirty (30%) percent of the net area of the part of Planned Unit Development reserved for residential development shall be provided for open space as defined by these regulations. At least one-half (1/2) of this open space shall be provided for the leisure and recreational use of all "PUD" residents and maintained by owners of property in the development as through a homeowner's association in the case of a townhouse or a residential subdivision. The common open space shall be developed for appropriate recreational facilities and a minimum of fifty (50%) percent of the proposed recreational facilities shall be constructed prior to the development of one-half (1/2) of the project, and all recreational facilities shall be constructed by the time the project is seventy-five (75%) percent developed.
- m. The "PUD" shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation and maintenance, and to insure that remedial measures will be available to the Governing body if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the Planned Unit Development or of the entire community.
- n. Modifications of the zoning or other regulations that would otherwise be applicable to the site may be permitted, providing the design of the Planned Unit Development and the amenities incorporated in it are not inconsistent with the interest of the public generally.
- o. No residential use shall have direct access onto an arterial street.
- p. All commercial or industrial areas must have access to a collector or arterial street, however, no individual commercial or industrial use may have direct access onto collector or arterial streets, unless deemed necessary by the Planning Commission and approved by the Governing Body.
- q. Sidewalks shall be built to city specifications along all public and private streets, however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrians access between each use in the Planned Unit Development.
- r. Consideration shall be given for the provision of bicycle traffic along collector and arterial streets or along the approved pedestrian-sidewalk system.

**SECTION 5. APPLICATION FOR APPROVAL OF PRELIMINARY PLAN.**

1. An application for a Planned Unit Development shall be handled in the same manner prescribed for amending the zoning ordinance. The same requirements for notice, advertisement of public hearing, protests and adoption shall be required as in conventional zoning.
2. The applicant shall prepare and submit twenty (20) copies of the preliminary development plan for review and recommendation by the Planning Commission, which said plan shall include:
  - a. A site plan showing:
    - (1) Contours at intervals of two (2) feet.
    - (2) General location, size and use of all proposed structures in conformance with the yard requirements; or designation of individual lots if such lots are proposed to be sold to individual owners.
    - (3) All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas.
    - (4) All streets adjoining subject property and the width of the existing right-of-way.
    - (5) Areas set aside for public and private open space with the type of recreational facilities planned for each area indicated.
    - (6) Designation of individual parcels if the proposed development is to be set up in separate construction phases.
    - (7) Location of required screening.
    - (8) Location of natural features such as ponds, tree clusters and rock outcropping.
    - (9) Existing development on adjacent properties within two hundred (200) feet.
  - b. The above described site plan shall also include a section designated as “General Provisions” and said section shall include the following items when said items are applicable.

- (1) Net area \_\_\_\_\_ square feet or \_\_\_\_\_ acres. (Note: Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one (1) parcel is proposed, designate net area by parcel as well as total net area.)
  - (2) Density shall not exceed \_\_\_\_\_ dwelling units per acre or a total of \_\_\_\_\_ dwelling units for the entire plan. No parcel or unit of the plan shall exceed a density of \_\_\_\_\_ units per acre for the individual parcel by more than twenty (20%) percent.
  - (3) Building coverage shall not exceed \_\_\_\_\_ of the net area of the Planned Unit Development by individual or total development.
  - (4) A minimum of \_\_\_\_\_ percent of the development plan shall be provided for common open space as defined by this regulation. (Note: Normally, this figure should be approximately fifty (50%) percent.)
  - (5) A minimum of fifty (50%) percent of the recreational facilities shall be constructed prior to the development of one-half (1/2) of the project and all recreational facilities shall be constructed by the time the project is seventy-five (75%) percent developed.
  - (6) If more than one (1) parcel is proposed, a statement relating to the sequence of development shall be included.
  - (7) Required number of off-street parking spaces: \_\_\_\_\_.
  - (8) Gross floor area proposed: \_\_\_\_\_ square feet. (Commercial "PUD" only)
  - (9) All proposed land uses shall be listed by parcel.
- c. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
  - d. The full legal description of the boundaries of the property or properties to be included in the Planned Unit Development.
  - e. A vicinity map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed Planned Unit Development.
  - f. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interest in the tract of land and the proposed development.

- g. When a Planned Unit Development includes provisions for a common open space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space or recreational facilities. If it is proposed that such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of such entity shall be submitted.
  - h. Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.
  - i. In the case where a Planned Unit Development calls for construction in units over a period of years, a schedule showing the proposed item and sequence within which the applications for final approval of all sections of the Planned Unit Development are intended to be filed shall be submitted.
  - j. A written statement by the applicant shall be submitted setting forth the reasons why in his opinion the Planned Unit Development would be in the public interest and would be consistent with the intent of the Governing Body on Planned Unit Development.
3. Action by Planning Commission: The Planning Commission shall, within sixty (60) days after a preliminary Planned Unit Development is filed, hold a public hearing on said development after giving notice as required by statute for hearings on amendments. Said public hearing may be adjourned from time to time and within a reasonable period of time after the conclusion of said public hearing, the Planning Commission shall prepare and transmit to the Governing Body and the applicant specific findings of fact with respect to the preliminary Planned Unit Development. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions.
  4. Action by Governing Body: The Governing Body shall or shall not approve the preliminary development plan and authorize the submitting of the final development plan. If the Governing Body approves the preliminary plan, it shall pass an ordinance designating the tract with an overlay of Planned Unit Development and so order the official zoning map to be amended.
  5. Substantial or significant changes in the preliminary Planned Unit Development shall only be made after rehearing and re-approval as required for the initial approval of the preliminary plan.

**SECTION 6. FINAL PLAN APPROVAL.**

1. After approval of a preliminary plan, the applicant shall submit an application for final approval. Said final application may include the entire Planned Unit Development or may be for a unit or section thereof as set forth in the approval of the preliminary plan and shall include changes required in the approval of the preliminary plan. The application shall include twenty (20) copies of such drawings, specifications, covenants, easements, conditions and form of performance

bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in the zoning regulations for Planned Unit Developments.

2. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification by the landowner of the plan as tentatively approved does not:
  - a. Vary the proposed gross residential density or intensity of use by more than five (5%) percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area, or
  - b. Increase by more than ten (10%) percent the floor area proposed for non-residential use, nor
  - c. Increase by more than five (5%) percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
  - d. Substantially change the design of plan so as to significantly alter, as determined by the Planning Commission:
    - (1) Pedestrian or vehicular traffic flow.
    - (2) The juxtaposition of different land uses.
    - (3) The relation of open space to residential development.
    - (4) The proposed phasing of construction.
3. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan, and a public hearing need not be held to consider modifications on location and design of streets or facilities for water, storm water, sanitary sewers, or other public facilities.

In the event a public hearing is not required for final approval and the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, the Planning Commission shall, within a reasonable period of time of such filing, recommend that such plan be given final approval and forward its recommendation to the Governing Body for its final approval.

4. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this article for original approval.

5. In the event that a plan or section thereof is given final approval and thereafter the land owner shall abandon said plan or section, he shall so notify the city thereof in writing. In the event the land owner shall fail to commence the Planned Unit Development within eighteen (18) months after final approval has been granted, such final approval shall terminate and shall be deemed null and void unless such time period is extended by the Planning Commission upon written application by the land owner.

**SECTION 7. RECORDING.** Any approved final plan shall be filed of record with the Register of Deeds.

**SECTION 8. ENFORCEMENT AND MODIFICATION OF PROVISIONS OF THE PLAN.** To further the mutual interest of the residents and owners of the Planned Unit Development and of the public in the preservation of the integrity of the plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement, or otherwise shall be subject to the following provisions.:

1. Enforcement by the Municipality: The provisions of the plan relating to:
  - a. The use of land and the use, bulk, and location of buildings and structures, and
  - b. The quality and location of common open space, and
  - c. The intensity of use or the density of residential units shall run in favor of the municipality and shall be enforceable in law or in equity by the municipality, without limitation on any owners or regulation otherwise granted the municipality by law.
2. Enforcement by the Residents and Owners: All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise may be enforced at law or equity by said residents and owners, acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the Planned Unit Development except as to those portions of the plan which have been finally approved and have been recorded.
3. Modifications of the Plan by the Municipality: All those provisions of the plan authorized to be enforced by the municipality under Paragraph 1 of this section may be modified, removed or released by the municipality (except grants or easements relating to the service or equipment of a public utility unless expressly consented to by the public utility), subject to the following conditions:

- a. No such modification, removal or release of the provisions of the plan by the municipality shall affect the rights of the residents and owners of the Planned Unit Development to maintain and enforce those provisions, at law or equity, as provided in Paragraph 2 of this section.
  - b. No modification, removal or release of the provisions of the plan by the municipality shall be permitted except upon a finding by the municipal authority, following a public hearing called and held in accordance with the provisions of this section, that the same is consistent with the efficient development and preservation of the entire Planned Unit Development, does not adversely affect either the enjoyment of land abutting upon or across a street from the Planned Unit Development or the public interest, and is not granted solely to confer a special benefit upon any person.
4. Modification by the Residents: Residents and owners of the Planned Unit Development may, to the extent and in the manner expressly authorized by the provision of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the municipality to enforce the provisions of the plan in accordance with the provisions of Paragraph 1 of this section.

**SECTION 9. AMENDMENTS.** A Planned Unit Development District ordinance or an approved preliminary or final development plan may be amended in the same manner prescribed in this article for approval of a preliminary or final plan. Application for amendment may be by the homeowner's association or fifty-one (51%) of the owners of the property within the "PUD".

**SECTION 10. PLATTING.** For un-platted tracts or tracts being re-platted, the approval of the preliminary Planned Unit Development shall be considered as the approval of a preliminary plat. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations.

## **ARTICLE XIV**

### **“M – H” MANUFACTURED HOME DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:** It is intended that this district be established to permit manufactured homes on permanent foundations where a lot or a group of lots is owned by the manufactured home owner.

This district is intended to be appended as an overlay to any of the residential districts to provide an opportunity for individual siting and use of manufactured homes for single-family dwellings consistent with the use and density characteristics of the surrounding neighborhood.

**SECTION 2. DISTRICT REGULATIONS:** In the “M - H” 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 in SECTION 3 below.

**SECTION 3. USE REGULATIONS:**

1. Manufactured homes on permanent foundations.
2. Uses and structures permitted under the provisions of the regulations of the parent district, of which this district is made a part.

**SECTION 4. INTENSITY OF USE REGULATIONS:** A manufactured home in an “M – H” District shall be located on a lot which conforms with the minimum lot size requirements of the parent district, of which this district is made a part.

**SECTION 5. LOT COVERAGE:** A manufactured home and accessory buildings shall not cover more than forty (40) percent of the lot area.

**SECTION 6. HEIGHT REGULATIONS:** The height requirements of the parent district, of which this district is made a part, shall be the maximum height requirements.

**SECTION 7. YARD REGULATIONS:** The yard requirements of the parent district, of which this district is made a part, shall be the minimum yard requirements.

**SECTION 8. SIGN REGULATIONS:** The sign regulations of the parent district, of which this district is made a part, shall be the minimum requirements for signs unless otherwise approved by the Planning Commission and the Governing Body.

**SECTION 9. PARKING AND LOADING REGULATIONS:** The parking and loading requirements of the parent district, of which this district is made a part, shall be the minimum requirements unless otherwise prescribed and/or approved by the Planning Commission and the Governing Body.

**SECTION 10. SPECIAL MANUFACTURED HOME REQUIREMENTS:**

Manufactured homes sited on individually owned lots shall be subject to the following special requirements:

1. Manufactured homes shall be mounted on a foundation of permanent design.
2. All open space below such manufactured home not completely enclosed by the permanent foundation shall be skirted, blocked, or otherwise screened using solid materials which will assure positive closure.
3. Each manufactured home shall be an independent dwelling unit, connected to all available utilities.
4. Each manufactured home shall be provided with anchors and tie-downs of adequate capacity to provide stability against high winds and adverse weather conditions.
5. Each independent manufactured home shall be sited in such a manner as to preserve the visual character of the neighborhood, which shall include provisions for landscaping and other site improvements as well as off-street parking.
6. Each manufactured home shall bear a certification plate pursuant to the “National Housing Construction and Safety Standards Act of 1974”, 42 U.S.C. 5401 et seq., as amended.

**ARTICLE XV**

**“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.
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.
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. Licensed child care centers.
9. Home occupations.
10. Churches and other similar places of worship.

**SECTION 4. PARK REQUIREMENTS:**

1. A tract to be used for a manufactured housing park shall be large enough to accommodate twenty-five (25) 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:

<b>Number of Manufactured Homes</b>	<b>Minimum Area of Playground</b>
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. The shelter shall be constructed below ground level as a concrete structure or other material approved by the City, and provided with heavy metal doors. 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 water-tight 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 the following minimum requirements:
  - a. Storage collection and disposal of refuse in a park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accidents, fire hazards or air pollution.
  - b. All refuse shall be stored in fly-tight, water-tight, rodent-proof containers. Containers shall be provided in sufficient number and capacity to properly store all refuse.
  - c. Refuse racks shall be provided for all refuse containers. Such racks shall be designed as to prevent the containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.
  - d. Refuse and garbage shall be removed from the park at least once each week. All refuse shall be collected and transported in covered vehicles or covered containers.
  - e. The park owner shall insure that containers at all stands are emptied regularly and maintained in a useable sanitary condition.
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 mobile 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 so 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 mobile 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.
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) years, 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 XVI**

### **“C – S” HIGHWAY SERVICE DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:** The “C – S” Highway Service District is intended for the purpose of grouping limited highway services in appropriate areas. Floor area is restricted, off-street parking, and landscaping is required in order to reduce possible adverse effects on adjacent properties.

**SECTION 2. DISTRICT REGULATIONS:** In the “C – S” 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 in SECTION 3 below.

#### **SECTION 3. USE REGULATIONS:**

1. Ambulance services.
2. Animal hospitals or clinics.
3. Apartments on floors other than the ground floor.
4. Automobile, truck and other motor vehicle sales, service, repair and rental.
6. Bakery and pastry shops, retail.
6. Bed and breakfast establishments.
7. Boat sales and rental.
8. Building materials, retail sales.
9. Commercial recreation facilities.
10. Car wash.
11. Electrical and telephone substations.
12. Farm and construction equipment sales; outdoor display shall be permitted provided that no machinery shall be displayed, parked, or stored in any required yard.
13. Feed and seed stores, including garden and lawn supplies.
14. Florist shops.
15. Funeral homes.

16. Garden supplies and landscape nursery.
17. Grocery stores.
18. Hospitals and Medical Clinics
19. Liquor stores.
20. Lumber yards.
21. Motels or motor hotels.
22. Newsstands
23. Parking lots, customer and private.
24. Parks, playgrounds, and community buildings.
25. Private clubs, fraternities, sororities and lodges.
26. Restaurants and drive-ins.
27. Self-service laundries and dry-cleaning stores.
28. Service stations.
29. Taverns.
30. Truck sales, service, and repair, provided there is no outside repair or repair storage.
31. Truck terminals.
32. Theaters, indoor.
33. The following uses of land may be allowed in this district by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals:
  - a. Amusement parks.
  - b. Child care centers.
  - c. Collection and distribution of recyclable items.
  - d. Drive-in theaters.
  - e. Manufactured home sales, subject to the following regulations:

- (1) Sales Activities: In the “C – S” Highway Service District, manufactured home sales activities shall be limited to the display, storage, and sale of completed, undamaged manufactured home units, including all activities necessary to prepare said units for display on the property and transport off the property. Said activities shall include the placement or removal of towing equipment, tires and axles, blocks, skids, jacks, skirting and steps, and the connection and disconnection of utilities. Said activities shall not include construction on or in the manufactured home.
  - (2) Density: No more than eight (8) manufactured homes may exist on each acre of property used for manufactured home sales at any given time.
- f. Miniature golf courses.
  - g. Race tracks, animal or vehicular.
  - h. Wireless communications towers subject to the provisions of ARTICLE XXVII.
  - i. Recreational vehicle (RV) parks subject to the following conditions:
    - (1) Recreational vehicle (RV) parks shall be utilized for the accommodation of travel trailers and other recreational vehicles only, and under no circumstances shall the park be utilized for occupancy by manufactured homes.
    - (2) The tract to be used for a RV park shall not be less than two (2) acres in area.
    - (3) The applicant for an RV park shall prepare or cause to be prepared a preliminary plan, drawn to a scale of not less than 1”= 100’, and ten (10) copies of said plan shall be submitted to the Planning Commission for their review and recommendation. Such plans shall comply with the following minimum requirements.
      - (a) contours at intervals of one foot shall be indicated on the plan.
      - (b) The RV park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
      - (c) RV parks shall have a maximum density of 20 RV units per gross acre and a minimum area of 1,250 square feet shall be provided for each RV space.

- (d) Each RV space shall be at least 25 feet wide and a minimum of 50 feet in depth.
  - (e) Recreational vehicles shall be located on each space so as to maintain a setback of no less than 20 feet from any public street or highway right-of-way, and as to maintain a setback of no less than 5 feet from any boundary line of an adjoining RV space when such boundary line is not common to any public street or highway right-of-way.
  - (f) All RV spaces shall front on a private roadway of not less than 24 feet in width and all roadways shall have unobstructed access to a public street.
  - (g) A solid or semi-solid fence or wall at least six feet height, but not more than eight feet high, shall be provided between the RV park and any adjoining property which is zoned for residential purposes. Said fence shall be so located as to not be in violation of the intersection site triangle as defined by this regulation. In lieu of said fence or wall, a landscape buffer may be provided not less than fifteen (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 an RV space. The fence, wall or landscape buffer shall be properly policed and maintained by the owner.
- (4) Upon approval of the preliminary RV park plan by the Planning Commission, the applicant shall prepare and submit a final plan, which shall incorporate any changes or alterations requested. The final plan and the Planning Commission recommendation shall be forwarded to the Governing Body for their review and final action.
  - (5) Any substantial deviation, as determined by the Zoning Administrator, from the Administrator, from the approved plan, shall constitute a violation of the building or zoning permit authorizing construction of the project. Changes in plans shall be re-submitted for reconsideration and approval by the Planning Commission and Governing Body prior to the issuance of a building or zoning permit.
- j. *(Amended Ordinance #1263) Article XVI Section 3(33), shall be and is hereby amended to include as follows: Apartments or individual dwelling units on the ground floor located in a motel or motor hotel which is otherwise allowed within the zoning classification, for the purpose of operation of said motel or motor hotel.*

**SECTION 4. INTENSITY OF USE REGULATIONS:**

1. Where the lot will be served by public water and sewer, the minimum lot size shall be ten thousand (10,000) square feet with 100 feet minimum width.
2. Where a private water and sewer service will be provided on the lot, the minimum lot size shall be eighty thousand (80,000) square feet.

**SECTION 5. LOT COVERAGE:** The principal and accessory buildings shall not cover more than fifty (50) percent of the lot area.

**SECTION 6. HEIGHT REGULATIONS:** No building or structure shall exceed forty-five (45) 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 streets and collector streets in ARTICLE XXVII.
  - b. Where a lot has double frontage or is a corner lot, a front yard shall be provided on both streets. No accessory buildings or structures shall project beyond the setback line of either street.
2. Side Yard. Where a “C – S” Zone abuts any residential District Zone, a side yard of not less than fifteen (15) feet shall be provided. Such side yard shall be completely enclosed with a board fence or other acceptable enclosure which shall be not less than six (6) feet in height.
3. Rear Yard. There shall be a rear yard having a depth of not less than twenty-five (25) feet.

**SECTION 8. SIGN REGULATIONS:** See ARTICLE XXII.

**SECTION 9. PARKING AND LOADING REGULATIONS:** See ARTICLE XXIII.

**SECTION 10. LANDSCAPING REGULATIONS:** See ARTICLE XXIV.

**SECTION 11. TRAFFIC REGULATIONS:** See ARTICLE XXV.

## **ARTICLE XVII**

### **“C – 1” CENTRAL BUSINESS DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:** The “C – 1” Central Business 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. The grouping is intended to strengthen the economic level of the primary shopping district.

**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 SECTION 3 below.

**SECTION 3. USE REGULATIONS:**

1. Adding machine and other small business machine repair, sales, and services.
2. Ambulance service.
3. Amusement places.
4. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
5. Apartments or individual dwelling units on floors other than the ground floor, or on the alley side of the lot.
6. Apparel and accessory stores.
7. Appliance stores.
8. Art and art supply stores.
9. Artist studios.
10. Auditoriums and similar places of public assembly.
11. Automobile accessory and supply store.
12. Automobile, truck and other motor vehicle sales and rental.
13. Automobile parking lots and garages.
14. Bakery and pastry shops (retail only).
15. Banks and other savings and lending institutions.
16. Barber shops, beauty shops and chiropody, massage, or similar personal services.

17. Bicycle shops.
18. Boat sales and rental.
19. Books and stationery stores.
20. Bowling centers and recreational buildings.
21. Building materials, retail sales.
22. Business and technical schools including schools for photography, dancing, and music.
23. Business machine sales, repair and service.
24. Catalog stores.
25. Churches.
26. Cigar and tobacco stores.
27. Clothing and costume rental shops.
28. Clothing stores.
29. Commercial recreational uses.
30. Custom dressmaking, millinery, tailoring, and similar trades.
31. Day care centers.
32. Delicatessens and catering establishments.
33. Department stores.
34. Drug stores and prescription shops.
35. Dry cleaning and laundry establishments.
36. Dry goods and notion store, including coin shops and fabric shops.
37. Electronic appliances and equipment including computer and software service.
38. Farm and construction equipment, retail sales.
39. Fire stations, police stations, jails.
40. Fix-it shops (radio, television, and small household appliances).

41. Florist and gift shops.
42. Frozen food lockers of not more than 10,000 square feet in floor area.
43. Funeral Homes.
44. Furniture and home furnishing stores.
45. Garage and auto repair shops but not including auto body and fender work and auto painting.
46. Garden supplies and landscape nursery.
47. Government buildings.
48. Grocery, fruit, and vegetable stores (retail only).
49. Hardware stores.
50. Heating and air conditioning shops, provided all merchandise is located in a building.
51. Hobby, stamp, and coin shops.
52. Hotels and motels.
53. Household appliance stores.
54. Interior decorator shops.
55. Jewelry and metal craft stores and shops.
56. Leather goods and luggage stores.
57. Libraries and museums (public).
58. Liquor stores.
59. Lock and key shops.
60. Mail order catalog stores.
61. Medical, dental, and health clinics.
62. Medical and orthopedic appliance stores.
63. Meeting halls and auditoriums.

64. Messenger and telegraph service stations.
65. Milk and milk products distribution stations.
66. Manufactured housing and recreational vehicle sales.
67. Museums
68. Music instrument sales and repair shops.
69. Music stores and studios.
70. Newspaper offices, printing and printing supply sales and service.
71. Newsstands.
72. Offices and office buildings.
73. Office supply and office equipment sales and service stores.
74. Optician and optometrist shops.
75. Paint, wallpaper and glass stores.
76. Parking lots and garages.
77. Parks and open spaces.
78. Pawn shops.
79. Pet shops.
80. Photographic equipment sales and supply stores.
81. Photographic studios.
82. Picture framing shops.
83. Prescription shops.
84. Printing and publishing houses (including newspapers).
85. Private clubs, fraternities, sororities and lodges.
86. Public buildings, including post office, city offices, county offices, state offices.
87. Radio and television studios.
88. Railway, taxi, and bus passenger stations.

89. Restaurants and snack shops, excluding drive-ins.
90. Service stations.
91. Sewing machine sales and repair.
92. Shoe repair and shoeshine shops.
93. Shoe stores.
94. Sporting and athletic goods stores.
95. Stores and shops for the conduct of retail business similar to the uses listed in this section.
96. Tailor shops.
97. Taverns.
98. Television and radio sales and service.
99. Theaters.
100. Toy stores.
101. Travel bureaus.
102. Used car lots.
103. Upholstery shops of not more than 10,000 square feet of floor area.
104. Utility company offices.
105. Variety stores.
106. Wallpaper and paint stores.
107. Watch and watch repair shops.
108. Accessory uses customarily incidental to the above uses.
109. The following uses may be allowed by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals, and under such conditions as the Board 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 six (6) 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 six (6) 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 six (6) foot sight obscuring fence.
- d. Contractors office and equipment storage yard, provided that outside storage of equipment or materials is completely enclosed by a six (6) 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 lumber yards, providing all materials and equipment are stored in a completely enclosed building or are screened by a minimum six (6) foot high solid fence.
- h. Collection and distribution of recyclable items.
- i. Wireless communications towers subject to the requirements of ARTICLE XXVII.
- j. *(Amended Ordinance #1264) Article XVII Section 3(109), shall be and is hereby amended to include as follows: Apartments or individual dwelling units on the ground floor located in a hotel or motel which is otherwise allowed within the zoning classification, for the purpose of operation of said hotel or motel.*

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

**SECTION 5. HEIGHT REGULATIONS:** No building shall exceed sixty (60) 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” Central Business District.
- 2. Side Yard. No side yard is required for any building in the “C – 1” Central Business District, except where a lot sides on any residential district, 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” Central Business District, except where a lot abuts on a residential district, in which case there shall be a fifteen (15) foot rear yard.

**SECTION 7.** SIGN REGULATIONS: See ARTICLE XXII.

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

**SECTION 9.** LANDSCAPING REGULATIONS: None required.

**SECTION 10.** TRAFFIC REGULATIONS: See ARTICLE XXV.

## *ARTICLE XVIII*

### *“C – 2” GENERAL COMMERCIAL DISTRICT*

**SECTION 1. INTENT AND PURPOSE OF DISTRICT:** The “C – 2” General Commercial District is intended for the purpose of allowing basic retail, service, and office uses in locations outside the Central Business District.

This district is intended to provide locations for commercial activities that do not need a central location but do require a location easily accessible to downtown shoppers.

Business uses needing large floor areas, particularly those not compatible with central business district densities, are included in this district.

**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. Accessory uses.
2. Amusement places (indoors).
3. Animal hospitals, clinics and kennels providing the establishment and runs are completely enclosed in a building.
4. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
5. Apparel and accessory stores.
6. Apartments on floors other than the ground floor.
7. Armory.
8. Art and art supply stores.
9. Artist studio.
10. Auditoriums and similar places of public assembly.
11. Automobile accessory and supply store.
12. Automobile and mobile home sales and service.

13. Automobile parking lots and garages.
14. Bakery and pastry shop (retail only).
15. Banks and other savings and lending institutions.
16. Barber shops, beauty shops, chiropody, massage or similar personal services.
17. Bicycle shops.
18. Books and stationary stores.
19. Bowling alleys.
20. Business and technical schools including schools for photography, dancing and music.
21. Business machine repair, sales and service including computers and related equipment.
22. Carpenter and cabinet shops employing five (5) persons or less.
23. Car wash.
24. Cigar and tobacco store.
25. Churches and other similar places of worship.
26. Clothing and costume rental.
27. Commercial recreation centers.
28. Computer and electronic stores.
29. Custom dressmaking, millinery, tailoring and similar trades.
30. Delicatessens and catering establishments.
31. Department stores.
32. Drug stores and prescription shops.
33. Dry goods and notion stores.
34. Dry cleaning and laundry establishments.
35. Fire stations, police stations and jails.
36. Fix-it shops (radio, television and small electronic appliances).

37. Florist and gift shops.
38. Funeral homes and mortuaries.
39. Furniture and home furnishing stores.
40. Golf courses including miniature golf and driving tees.
41. Government administrative buildings.
42. Greenhouses, garden centers and nurseries.
43. Grocery stores.
44. Hardware stores.
45. Hobby, stamp and coin shops.
46. Hotels and motels.
47. Household appliance stores.
48. Interior decorator's shops.
49. Jewelry and metal craft stores and shops.
50. Leather goods and luggage stores.
51. Library and museum (public).
52. Liquor stores
53. Lock and key shops.
54. Lumber and building supply stores.
55. Mail order catalog stores.
56. Medical, dental and health clinic.
57. Medical and orthopedic appliance stores.
58. Meeting halls and auditoriums.
59. Messenger and telegraph service stations.
60. Music instrument sales and repair shops.

61. Music studios.
62. Newspaper offices.
63. Newsprint, job printing and printing supply stores.
64. Offices and office buildings.
65. Office supply and office equipment stores.
66. Optician and optometrists.
67. Package liquor stores.
68. Paint and wall paper stores.
69. Parking lots and garages.
70. Parks and open spaces.
71. Pawn shops.
72. Pet shops.
73. Photographic equipment sales and supply stores.
74. Photographic studios.
75. Picture framing shops.
76. Plumbing shops.
77. Post office.
78. Printers.
79. Private clubs and lodges.
80. Radio and television studios.
81. Restaurants, including drive-ins.
82. Service stations.
83. Self-service laundries and dry cleaning establishments.
84. Sewing machine shops and stores.
85. Shoe stores.

86. Shoe repair shops.
87. Sporting and athletic goods stores.
88. Stores and shops for the conduct of retail business similar to the uses listed in this section.
89. Tailor shops.
90. Taverns.
91. Theaters.
92. Tire repair shops.
93. Toy stores.
94. Travel bureaus.
95. Used car lots.
96. Utility company offices.
97. Variety stores.
98. Watch repair shops.
99. The following uses may be allowed by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals, and under such condition as the Board may impose:
  - a. All special uses allowed in the “C-1” District.
  - b. Any public building erected on land used by any department of the City, County, State or Federal Government.
  - c. Public Utility - Telephone exchange, electric substation, radio and television towers, water, sewers or storm sewer facilities, a natural, piped gas operating under government franchise and contract.
  - d. Carpenter, cabinet, plumbing, or sheet metal shops, provided that any outside storage is completely enclosed by a six (6) foot sight obscuring fence.
  - e. Contractors office and equipment storage yard, provided that outside storage of equipment or materials is complete enclosed by a six (6) foot sight obscuring fence.
  - f. *(Amended See Ord #1265) Article XVIII Section 3(99), shall be and is hereby amended to include as follows: Apartments or individual dwelling units on the ground floor located in a hotel or motel which is otherwise allowed within the zoning classification, for the purpose of operation of said hotel or motel.*

**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. A minimum of fifteen hundred (1,500) square feet of lot area shall be required for each apartment built above ground floor.

**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, except as required for arterial streets and collector streets in ARTICLE XXVII.
  - a. Where a lot or group of lots have a double frontage, the required front yard shall be provided on both streets.
  - b. Where a lot is located at the intersection of two or more streets or roads, there shall be a front yard on each street side of a corner lot.
- 2. Side Yard. Where the “C - 2” District abuts a residential district there shall be a side yard of not less than five (5) feet.
- 3. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet, or twenty (20) percent of the depth of the lot, whichever amount is smaller.

**SECTION 7. SIGN REGULATIONS.** See ARTICLE XXII.

**SECTION 8. PARKING AND LOADING REGULATIONS:** See ARTICLE XXIII.

**SECTION 9. LANDSCAPING REGULATIONS:** See ARTICLE XXIV.

**SECTION 10. TRAFFIC REGULATIONS:** See ARTICLE XXV.

**ARTICLE XIX  
“C – 3” ADULT ENTERTAINMENT DISTRICT**

**SECTION 1. INTENT AND PURPOSE OF DISTRICT.** It is the intent and purpose of the “C – 3” Adult Entertainment District to regulate adult entertainment establishments which by their nature are known to produce deleterious effects to adjacent development and serious secondary negative impacts to juveniles, especially where such uses are clustered. Special regulations of such uses is therefore necessary to insure that these and other adverse secondary effects will not impact residential neighborhoods, public and quasi-public institutions or facilities serving the youth of the community.

**SECTION 2. DISTRICT REGULATIONS.** In the “C – 3” District no building shall be used, and no building shall be erected, altered or enlarged which is arranged, intended or designed for other than adult entertainment uses listed in SECTION 4 below.

**SECTION 3. USE REGULATIONS.**

1. Escort agencies.
2. Adult book and/or video stores.
3. Adult entertainment establishments, including bars, cabarets, massage parlors, live theaters, motion picture theaters, and other sexually-oriented entertainment businesses.
4. Adult novelty stores.

**SECTION 4. INTENSITY OF USE REGULATIONS.** All lots and tracts shall have not less than seven thousand (7,000) square feet in area with an average width of not less than fifty (50) feet.

**SECTION 5. HEIGHT REGULATIONS.** No building in a “C – 3” District shall exceed thirty-five (35) feet in height, except as may be otherwise provided by the regulations.

**SECTION 6. YARD REGULATIONS.**

1. Front Yard. There shall be a front yard having a depth of not less than twenty-five (25) feet, except as may be required for arterial streets and collector streets.
  - a. Where a lot or group of lots have a double frontage, the required front yard shall be provided on both streets.
  - b. Where a lot is located at the intersection of two or more streets or roads, there shall be a front yard on each street side of a corner lot.
2. Side Yard. There shall be a side yard on each side of a building, and no side yard shall be less than ten (10) feet.
3. Rear Yard. There shall be a rear yard of not less than twenty-five (25) feet.

**SECTION 7. SIGN REGULATIONS.** See ARTICLE XXII.

**SECTION 8. PARKING AND LOADING REGULATIONS.** See ARTICLE XXII.

**SECTION 9. LANDSCAPING REQUIREMENTS.** See ARTICLE XXIV.

**SECTION 10. TRAFFIC REGULATIONS.** See ARTICLE XXV

**SECTION 11. USE AND LOCATION RESTRICTIONS.**

1. No adult entertainment use, escort agencies, adult book or video store, or adult novelty store shall be conducted in any manner:
  - a. To allow the merchandise or activities of the establishment to be visible from any point outside of the building or structure containing such use.
  - b. That permits the observation of any material depicting, describing or relating to sexual activities from any point outside of the building or structure containing such use.
2. The provisions of Subsections (a.) and (b.) above shall apply to any display, decoration, sign, window or other opening.
3. No adult use as set out in Section 3 above shall be allowed within one thousand (1,000) feet of another existing adult use.
4. No adult use as set out in Section 3 above shall be located within one thousand (1,000) feet of any zoning district which allows residential uses or within one thousand (1,000) feet of any residence.
5. No adult use as set out in Section 3 above shall be located within one thousand (1,000) feet of a pre-existing church or place of worship, day-care facility, park, educational institution, library, museum, community center, playground or swimming pool.
6. For purposes of Subsections 3., 4. and 5. above, measurements shall be made in a straight line, without regard to intervening buildings, structures or objects, from the nearest point on the property line of the applicant's adult entertainment use to the nearest point on the property line of the church, etc..
7. No more than one such use shall be conducted within any building or structure containing an adult use.
8. No permitted adult oriented business as defined herein shall be operated between the hours of 11:30 p.m. and 8:00 a.m..

**ARTICLE XX**

**“I – 1” LIGHT INDUSTRIAL DISTRICT**

**SECTION 1 INTENT AND PURPOSE OF DISTRICT:** The “I – 1” Light Industrial District is intended for the purpose of allowing certain industrial uses which do not:

1. Require intensive land coverage.
2. Generate large volumes of vehicular traffic.
3. Create obnoxious sounds, glare, dust, or odor.

Height and land coverage are controlled to ensure compatibility with adjoining uses.

**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 SECTION 3 below.

**SECTION 3. USE REGULATIONS:**

1. Animal hospitals or clinics.
2. Auto sales and repair.
3. Bakery, whose primary purpose is not retail sales.
4. Billboards subject to requirements outlined in ARTICLE XXII.
5. Bottling works.
6. Building material sales (except for ready-mix concrete and similar uses which emit dust, odor, or smoke).
7. Carpenter, cabinet, plumbing, heating, air conditioning, and sheet metal shops.
8. Car wash establishments.
9. Carpenter, cabinet, plumbing or sheet metal shops.
10. Contractor's office and equipment storage yard, providing the storage yard is completely enclosed with a six (6) foot solid fence or wall.
11. Dog kennels.
12. Dry cleaning and/or laundry plants.

13. Farm and construction equipment sales and services.
14. Feed and seed storage and wholesale distribution.
15. Frozen food lockers.
16. Greenhouses and nurseries, retail and wholesale.
17. Light manufacturing operations, providing that such use is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas, odor, or smoke.
18. Machinery sales and storage lots .
19. Monument sales.
20. 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 six (6) feet and a visual density of no less than 90%.
21. 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 six (6) feet and a visual density of no less than 90%.
22. Motor vehicle and farm implement sales and storage.
23. *Amended See Ordinance #1239 Article XX "I-1" Light Industrial District, Section 3 Use Regulations (23) Public utility and public services uses shall be and hereby is amended to read as follows:Public utility and public service uses, including but not limited to:*
  - a. *Fire stations*
  - b. *Police stations*
  - c. *Ambulance services*
  - d. *Municipal power plant*
  - e. *Substations*
  - f. *Railroads*
  - g. *Telephone exchanges, microwave towers, television towers, telephone transmission buildings, electric power plants*
  - h. *Public utility storage yards when entire storage area is enclosed by at least a six (6) foot wall or fence.*
24. Collection and distribution of recyclable items.

25. Sign printing and manufacturing.
26. Truck and rail terminals.
27. Upholstering shops.
28. Warehouses.
29. Wholesale merchandise sales and storage.
30. The following uses of land may be allowed in this district by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals subject to such conditions as the board may require.
  - a. Livestock auction sales and/or sales of farm related products including seed and feed.
  - b. Grain elevators.
  - c. Wireless communications towers subject to the provisions of ARTICLE XXVII.
  - d. 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 ten thousand (10,000) square feet.
  - b. Minimum lot width shall be one hundred (100) 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 in ARTICLE XXVII.
3. 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 in ARTICLE XXVII.

**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 exceed seventy-five (75) feet in height.

**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 thirty (30) feet measured from the front property line except as required for arterial and collector streets in ARTICLE XXVIII.
  - 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 five (5) 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 XXII.

**SECTION 8. PARKING AND LOADING REGULATIONS:** See ARTICLE XXIII.

**SECTION 9. LANDSCAPING REGULATIONS:** See ARTICLE XXIV.

**SECTION 10. TRAFFIC REGULATIONS:** See ARTICLE XXV.

**ARTICLE XXI**

**“I – 2” HEAVY INDUSTRIAL DISTRICT**

**SECTION 1. PURPOSE AND INTENT OF DISTRICT:** The “I – 2” Heavy Industrial District is intended for the purpose of allowing basic or primary industries which are generally not compatible with residential and/or commercial activity. Certain extremely obnoxious or hazardous uses will require special permission to locate in this district.

**SECTION 2. DISTRICT REGULATIONS:** In the “I – 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 (1) of the uses listed in SECTION 3 below.

**SECTION 3. USE REGULATIONS:**

1. Animal hospitals or clinics.
2. Auto sales, and repair, service, and painting.
3. Bottling works.
4. Blacksmith shops.
5. Building materials, storage and sales.
6. Carpenter, cabinet, plumbing, heating, air conditioning, and sheet metal shops.
5. Collection and distribution of recyclable items.
- 8 Contractor's office and equipment storage yard.
9. Dog kennels.
10. Dry cleaning and/or laundry plants.
11. Feed and seed stores.
12. Frozen food lockers.
13. Grain elevators.
14. Greenhouses and nurseries, retail and wholesale.
15. Lumber yards
16. Machinery sales and storage lots.
17. Manufactured home fabrication, sales and storage.

18. Manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor, or smoke.
19. Motor vehicle and farm implement sales and storage.
20. Poultry storage or slaughtering.
21. Public utility and public service uses.
22. Radiator repair shops.
23. Service stations.
24. Storage yards providing the storage yard is completely enclosed with a six (6) foot fence or wall.
25. Truck and rail terminals.
26. Upholstering shops.
27. Vehicle body repair, provided all repair operations are conducted in a closed building, and that all outside storage shall be enclosed by a six (6) foot solid fence.
28. Warehouses or storage houses.
29. Wholesale houses.
30. The following uses of land may be allowed in this district by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals.
  - a. Automobile wrecking yards, junk yards, and scrap processing yards subject to the following:
    - (1) Located on a tract of land at least three hundred (300) feet from a residential district zone.
    - (2) The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a fence, wall, or hedge. The fence, wall, or hedge shall be of uniform height [at least six (6) feet high] and uniform texture and color and shall be so maintained by the proprietor as to ensure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk, or other material within the yard.
    - (3) No junk shall be loaded, unloaded, or otherwise placed, either temporarily or permanently, outside the enclosing building, hedge, fence or wall, or within the public right-of-way.

- (4) Burning of paper, trash, junk, or other waste materials shall be permitted only after approval of the Fire Department. Said burning, when permitted, shall be done during daylight hours only.
- (5) No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.
- b. Said use shall not be located on or visible from an arterial or major street or highway.
- c. Manufacturing or storage of bulk oil, gas and explosives.
- d. Oil and gas exploration, extraction and/or production.
- e. Storage and warehousing of products of a highly explosive, combustible or volatile nature.
- f. Mining and/or extraction of minerals.
- g. Wholesale and retail establishments which handle products of a highly explosive, combustible or volatile nature.
- h. Petroleum refining.
- i. Stockyard and slaughter houses.
- j. Ready-mix concrete and asphalt mix plants.
- k. Sanitary land fill.
- l. Storage, warehousing and sale of bulk fertilizers.
- m. Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise, or vibration.

**SECTION 4. INTENSITY OF USE REGULATIONS:**

- 1. Lots in this district shall be subject to the following minimum size requirements unless served by a public water and sewer system:
  - a. Minimum lot area shall be ten thousand (10,000) square feet.
  - b. Minimum lot width shall be one hundred (100) 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 in ARTICLE XXVII.

3. 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 in ARTICLE XXVII.

**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 exceed one hundred fifty (150) feet in height if not in conflict with airport approach zones.

**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 thirty (30) feet measured from the front property line except as required for arterial and collector streets in ARTICLE XXVII.
  - 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 five (5) 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 a building and said side yard shall not be less than the average height of adjacent buildings. For the lot or tract, side yard requirements shall be fifteen (15) feet.

3. Rear Yard. There shall be a rear yard for buildings in this district, which rear yard shall have 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 XXII.

**SECTION 8.** PARKING AND LOADING REGULATIONS: See ARTICLE XXIII.

**SECTION 9.** LANDSCAPING REGULATIONS: See ARTICLE XXIV.

**SECTION 10.** TRAFFIC REGULATIONS: See ARTICLE XXV.

**ARTICLE XXII**

**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 Zones.

**SECTION 2. SPECIFIC REQUIREMENTS:** Requirements for signs erected in the Ellis 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”, “C – 3” “I – 1”, and “I – 2” Districts only.

In the “A – L” District, an advertising sign shall be allowed by special use permit only when submitted, reviewed, and approved by the Board of Zoning Appeals and under such conditions as the Board 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 road side within any one mile.

- c. An applicant for a special use permit to erect an advertising sign shall submit to the Board 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 – S”, “C – 1”, “C – 2”, “C – 3”, “I – 1”, and “I – 2” 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:

<b>District</b>	<b>Formula (square feet)</b>	<b>Maximum Area Possible</b>
“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	300 square feet per sign
“I-1”, “I-2”	(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. Advertising or business signs in the “C – 3” district shall conform to the following:
  - a. Advertising signs shall have no more than two (2) display surfaces. Each such display surface shall:
    - (1) Not contain any flashing lights.
    - (2) Be a flat plane, rectangular shape.
    - (3) Not exceed forty-nine (49) square feet in sign area if a wall sign, nor twenty-five (25) square feet if other than a wall sign.
    - (4) Not exceed seven (7) feet in height or seven (7) feet in length.

- b. Advertising signs shall contain no photographs, silhouettes, drawings or pictorial representations of any kind.
  - c. Each letter forming a word on an advertising sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of an advertising sign shall be of a uniform and solid color.
5. Building signs are permitted in the “A – L”, “C – S”, “C – 1”, “C – 2”, “I – 1”, and “I – 2” Districts only, subject to the following:
- a. The building sign shall be affixed flat against the face of the building as opposed to perpendicular and/or double faced.
  - b. Building signs in the “C – 3” District shall conform to the following special requirements:
    - (1) Building signs shall have only one (1) display surface. Such display surface shall:
      - (a) Be a flat plane, rectangular in shape.
      - (b) Not exceed nine (9) square feet in sign area.
      - (c) Not exceed three (3) feet in height or three (3) feet in length.
      - (d) Be affixed or attached to any wall or door of the establishment.
      - (e) The provisions of SECTION 4, Subsections b. and c. above shall also apply to building signs in the “C – 3” District.
6. Marquee and canopy signs are permitted in the “C – 1” and “C – 2” 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.
7. 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 “I – 1”, and “I – 2” Districts. In the “C – 1” District, a maximum of four (4) business signs shall be allowed, except that an additional number of signs may be allowed in the “C – 1” District by special use permit when submitted, reviewed, and approved by the Board of Zoning Appeals and under such conditions as the Board may impose.

8. All signs in the “C – S”, “I – 1”, and “I – 2” Districts shall be affixed to or be a part of the building if within fifty (50) feet of a residential district.
9. Except as provided in “6” above, 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.
10. 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.
11. All lighted signs in direct vision of a traffic signal shall not be in red, green, or amber illumination.
12. Non-flashing, illuminated signs shall be permitted providing said sign shall not beam upon any street or any residential district, except as provided in “20” and “21” below. Clocks and/or thermometers installed for public convenience and information are exempt from this requirement.
13. 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” and “21” below, or into any street.
14. Flashing, moving, or animated signs in the “C – S” District are not permitted within five hundred (500) feet of a residential district or where the rays of light from the sign beam upon any part of any residential district. In the “C – S” District, no high intensity strobe or flashing lights shall be permitted to be used with any sign or separately.
15. In the “C – 1”, “C – 2”, “I – 1”, and “I – 2” Districts, only 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.
16. Sandwich board signs are permitted in the “C – S”, “I – 1”, and “I – 2” Districts only, providing said sign is permanently affixed to the surface on which it rests.
17. Non-illuminated nameplates in the “A – L”, “R – S”, “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.

18. Non-illuminated single- or double-faced “For Sale” and “For Rent” signs in the “R – S”, “R – 1”, “R – 2”, and “R – 3” Districts are subject to the following regulations (except as provided in “20” and “21” below):
  - a. Only one (1) sign shall be permitted per lot.
  - b. No sign shall exceed four (4) square feet in area.
  - c. Signs shall be located no closer than five (5) feet from any property line and shall not obstruct the view of traffic approaching a street intersection.
  - d. When said sign is affixed to a building, it shall not project higher than ten (10) feet above the ground level.
  - e. Ground signs shall not project higher than four (4) feet above ground grade.
19. In the “A – L” District, only one (1) non-illuminated “For Sale”, “For Rent”, or single- or double-faced business sign shall be permitted per residential building lot. Accessory business signs shall not exceed fifty (50) square feet.
20. 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 front yard.
  - 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.
  - h. Buildings constructed on the property line prior to the adoption of this Ordinance shall be allowed one (1) identification sign providing said sign is a flat wall sign and permanently attached to the building.

21. Signage for manufactured home parks and multi-family developments must meet the following requirements:
  - a. Only one (1) business sign per street frontage shall be permitted.
  - b. No business sign shall exceed forty (40) square feet in area for each face.
  - c. Any number of informational and directional signs shall be permitted and shall contain no advertising or solicitation.
  - d. All signs may be illuminated, either directly, indirectly, or internally, providing direct beams of light do not shine off the site or into any building on the site.
  - e. Ground signs shall not exceed ten (10) feet in height.
  
22. Temporary signs, whether illuminated or non-illuminated, are permitted in the “A – L”, “C – S”, “C – 1”, “C – 2”, “I – 1”, and “I – 2” 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.
  
23. Private informational and directional signs shall contain no advertising or solicitation and are subject to the following provisions (except as provided in “21” 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 Ellis 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 sixty (60) 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.

**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 XXIII**

**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**

<b>Structures and Uses</b>	<b>Minimum Off-Street Parking Regulations</b>	<b>Minimum Off-Street Loading Requirements</b>
Adult Uses	2 space per two seats or seating spaces, or 1 space per 100 square feet of floor space, whichever is greater.	1 space per establishment
Bowling Centers	5 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 reposeing 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

(continued from page 103)

<b>Structures and Uses</b>	<b>Minimum Off-Street Parking Regulations</b>	<b>Minimum Off-Street Loading Requirements</b>
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 104)

<b>Structures and Uses</b>	<b>Minimum Off-Street Parking Regulations</b>	<b>Minimum Off-Street Loading Requirements</b>
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.		
2. Off-street parking spaces for uses required in the, “C – 3”, “I – 1”, and “I – 2” Districts 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. PLANS AND APPROVAL REQUIRED:**

1. For all uses other than single-family residential structures, plans showing layout and design of all off-street parking areas shall be submitted to and approved by the Building Official prior to issuing a building permit. Additionally, provisions for storm water drainage into an established drainage ditch or covered storm sewer system on public right-of-way shall be required for all parking lots more than two thousand (2,000) square feet in area. Such provisions shall be consistent with and in consideration of the City’s overall storm drainage system and future plans. Before approving any parking layout, the Building Official shall satisfy himself that parking spaces provided and storm drainage design is usable and meets standard design criteria of the City.
2. In the case of multiple uses associated with a site, the Building Official may calculate the parking requirement as the accumulative requirement of the separate uses unless it is determined that the uses generate overlapping parking demand.

## **SECTION 3. CONSTRUCTION REQUIREMENTS:**

1. Parking lots for other than single-family dwellings that are two thousand (2,000) square feet in area or smaller may be constructed of gravel to a depth of four (4) inches as a minimum standard.

2. Parking lots for other than single-family dwellings that are larger than two thousand (2,000) square feet in area shall be all-weather, dust-free and constructed of the following materials or combinations thereof:
  - a. Concrete.
  - b. Asphalt.
  - c. Prime and seal over aggregate base

**SECTION 4. LAYOUT AND DESIGN REQUIREMENTS:**

1. Area: A required off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length, exclusive of access drives or aisles, ramps, and columns.
2. Access: Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
3. Design: Off-street parking spaces shall comply with the design standards relating to curb length, stall depth, driveway width, island width, barriers, and ingress and egress as contained in the Off-Street Parking Standards of this Article.
4. Surfacing: All open off-street parking and loading areas shall be graded and paved or otherwise improved with an approved concrete, asphalt, or other dust-free surface.
5. Lighting: Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.

**SECTION 5. MAINTENANCE:** No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities. All parking lot surfaces shall be maintained with a smooth, dust-free surface.

**SECTION 6. 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 7. APPLICATION:** This Article shall not apply to uses existing as of the date of adoption of this Ordinance.

## *ARTICLE XXIV*

### *LANDSCAPING REQUIREMENTS*

**SECTION 1. MINIMUM LANDSCAPE REQUIREMENTS:** All property within the zoning jurisdiction of the City of Ellis 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.
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 or sidewalk below a height of ten (10) feet or obstruct views of pedestrian and vehicular movements.
4. Where districts “PUD”, “M – P”, “C – S”, “C – 2”, “I – 1”, and “I – 2” adjoin “R – S”, “R – 1”, “R – 2”, and “R – 3” 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. Additionally, these requirements shall apply where districts “C – S”, “C – 2”, “I – 1”, and “I – 2” Districts adjoin the “M – P” and “PUD” Districts. A landscaped area and decorative architectural screen shall not be required where these uses are separated by a public street or alley.
5. Parking areas abutting public walkways or streets shall be appropriately separated by a landscaped area or a decorative architectural screen. The landscaped area or architectural screen shall not exceed three (3) feet in height.

***ARTICLE XXV***

***TRAFFIC REGULATIONS***

**SECTION 1. MINIMUM REQUIREMENTS FOR TRAFFIC REGULATIONS:** All business properties hereinafter improved shall include provision for vehicular access in accordance with the following:

1. Plans for the erection or structural alteration of any business use dependent on vehicles entering onto the business site or parking lot shall be approved by the Building Official, who may require such changes therein in relation to yards, location of curb cuts, width of drives, location of signs and accessory uses, and buildings and construction of buildings as it may deem best suited to insure safety, to minimize traffic difficulties, and to safeguard adjacent properties.

**ARTICLE XXVI**

**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><b>TYPE OF DWELLING UNIT</b></u>	<u><b>MINIMUM AREA</b></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 tar paper 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. The proposed use conforms with the district zoning regulations of the district into which it is to be moved.
- 2. The building or structure meets building, fire, safety, and health regulations.
- 3. The Board of Zoning Appeals finds that the building or structure will not devalue properties in the area where the structure is proposed to be moved.

**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 street or roadway.

## **ARTICLE XXVII**

### **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.
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. Accessory buildings may be built in a side or rear yard but such accessory buildings shall not be nearer than the main building to any side lot line. 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 or side lot lines of the property than three (3) feet, except that where vehicular access to a garage is perpendicular to the alley line, a setback of at least ten (10) feet from the alley line shall be required. No accessory building shall cover more than 30 percent of the required rear yard.
4. *Amended Ordinance #1259: Article 27, section 1, paragraph 4 shall be and is hereby amended to read as follows: No accessory building shall be constructed upon a lot, tract or parcel until the construction of the main building has been commenced and no accessory building shall be used for dwelling purposes. All accessory buildings as defined in this ordinance shall require the existence of a main building on the same or immediately adjacent lot, tract or parcel of the same ownership on which the accessory building is located.*

*Ordinance #1261: Article XXVII, shall be and is hereby amended to read as follows: Any accessory building shall not exceed 1,200 square feet in size or result exceeding thirty percent (30%) of the total coverage area of the lot, inclusive of the main building. Further, accessory buildings shall not exceed twenty-one (21) feet in height.*

5. *Amended See Ord #1238. Article XXVII, Section 5 shall be and hereby is amended to read as follows: The setback line for all yard requirements shall be determined by measuring the horizontal distance from the property line to the foundation of the structure with any cornice, eave, or projection overhang to extend no more than sixteen (16) inches into any setback*

6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.)
12. 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 ninety (90) feet from the point of the centerline intersection.
13. 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.
14. 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.

15. Privately owned swimming pools shall be enclosed as appropriate to assure privacy and safety.
16. Major recreational equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, camping buses or converted trucks, and tent trailers shall not be stored in a residential district except within an enclosed building, or behind the front yard setback line.
  - a. On a corner lot such equipment shall be kept back of the front yard setback lines on both street sides.
  - b. 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.
17. 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:** Except as otherwise specifically provided in other codes, ordinances, or resolutions, the following regulations shall apply to the construction of fences:

- 1. No fence shall be constructed closer to the street than the front setback line established for the district in which such fence is to be erected, except that fences installed upon public or parochial school grounds or in public parks and public playgrounds may be permitted by special use permit approved by the Board of Zoning Appeals without any front yard setback limitation, providing the fence does not encroach on any required utility easements or cause any vision impairment for vehicles.
- 2. 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.
- 3. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.

4. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight, or hindering ventilation, or any fence which shall adversely affect the public health, safety, and welfare.
5. No fence, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet; provided, however, that the Board of Zoning Appeals may, by exception, authorize the construction of a fence higher than six (6) feet if the Board finds the public welfare is preserved.
6. All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.
7. Fences shall be exempt from the provisions of SECTION 3 of this Article; however, the City retains the right to remove any fence for right-of-way purposes.

**SECTION 3. BUILDING SETBACK LINES:** Building setback lines are hereby established for all arterial and collector streets, as shown on the adopted Major Street Plan in the Ellis Comprehensive Plan. The setback lines, as established in this section, shall be held to the minimum for the purpose of promoting the public health, safety, morals, order, convenience and economy in the process of development and shall conform with the following requirements:

1. *Arterial Streets:* No building or structure which fronts or sides on an arterial street shall be located nearer to the centerline of the arterial street than the sum of the required front yard (in feet) plus fifty (50) feet, except as provided in SECTION 2 of this Article.
2. *Collector Streets:* No building or structure which fronts or sides on a collector street shall be located nearer to the centerline of the collector street than the sum of the required front yard (in feet) plus forty (40) feet, except as provided in SECTION 2 of this Article.

**SECTION 4. 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 Board of Zoning Appeals.

**SECTION 5. 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 6. 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.
4. Carnivals and Circuses: A carnival or circus, but only in a C-1, C-2, I-1 or I-2 District, and then only 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 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 7. WIND ENERGY CONVERSION SYSTEMS (WECS):** Wind energy conversion systems (WECS) may be permitted subject to the following requirements:

- a. The minimum distance from any lot line to any tower, pole or other support structure of the wind energy conversion system shall be established by the following minimum standards:

<b>Rotor Diameter (Feet)</b>	<b>Setback Distance (Feet)</b>
5	100
10	165
15	220
20	270
25	310
30	340
35	365
40	385

Intermediate rotor size distances shall be interpolated from the above values.

- b. The WECS shall not be located in any required yard.
- c. The WECS shall not cause interference to microwave communications or radio and television reception in the area. Noise levels measured at the lot line shall not exceed sixty (60) DBA in a residential zone.
- d. To limit climbing access to WECS tower, or other support structure, a six (6) foot high fence with locking portal shall be place around the WECS support or if a tower is utilized, the tower climbing apparatus shall be limited to no lower than twelve (12) feet from the ground or the WECS support may be mounted on a rooftop.
- e. All blades of a WECS shall be constructed of non-metallic substances. If the applicant can prove, in writing form, that no electromagnetic interference will result, a metal content of up to twenty-five (25) percent will be acceptable.
- f. The WECS 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.
- g. Height of the WECS shall not exceed the maximum height restriction in the zone where it is located by more than twenty (20) feet. The height of the WECS shall be measured at the center of the blade diameter.
- h. Data pertaining to the WECS' safety and structural integrity shall be certified by a licensed engineer and filed with the building permit application. The tower or support and top adapter shall meet the restrictions specified in the City's building code.
- i. The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth in the electric utility's current service regulations applicable to WECS .

- j. A plot plan shall be submitted with the application for building permit showing the proposed location and height of the WECS, fencing and all existing buildings within two hundred (200) feet of the exterior lot lines.
- k. The owner/operator shall provide covenants, easements or similar documentation to assure sufficient wind to operate the WECS unless adequate accessibility to the wind is provided by the site.
- l. The owner/operator shall certify that the WECS does not violate any covenants of record.
- m. The applicant shall provide a certificate of liability insurance. Annually the owner/operator shall present evidence to the zoning administrator that the liability insurance is still in effect.

**SECTION 8. 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 9. 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 10. MINING AND EXTRACTION OF MINERALS:** In districts where mineral extraction is a permitted use, the following shall apply:

- 1. In the case of open excavation, there will be required a substantial fence with suitable gates completely enclosing the portion of the property in which the excavation is located, and such fence shall be located forty (40) feet or more distance from the edge of such excavation.
- 2. The slope of the material in such sand, gravel or other pit shall not exceed the normal angle of repose of such materials, and the plane of such angle of repose shall not come nearer than forty (40) feet to any property lines.
- 3. In the case of a quarry or other excavation in rock, there will be required a substantial fence, with suitable gates at all points a distance of forty (40) feet or more from the face of any quarry walls.
- 4. Rock crushers, cement plants or other crushing, grinding, polishing, or cutting machinery or other physical or chemical process for treating the product of such quarry may be prohibited.
- 5. No such quarry shall be nearer than forty (40) feet to any property boundary line, street or highway right-of-way line.

**SECTION 11 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 12 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 following requirements.

1. All percolation rates shall be based on the standard test procedures and shall be the responsibility of the person applying for a permit.
2. Septic Tanks constructed of concrete, metal, concrete blocks or other material of similar nature, size of which shall be:

Two bedroom home	1000 gallons minimum
Three bedroom home	1250 gallons minimum
Four bedroom home	1500 gallons minimum
3. All waste water must run through septic tanks including laundry, kitchen, lavatory, etc.
4. Individual laterals shall not be less than 90 feet or more than 100 feet in length. There shall be a separation of six (6) feet between laterals.
5. Trench bottom and tile lines shall have a fall of 2 to 4 inches per 100 feet and shall be 10 inches in depth.
6. Lateral lines shall be constructed for continual flow, or if desired, use of absorption fields will be accepted.
7. Absorption field not less than 6 feet long, 4 feet wide, and not more than 6 feet deep, shall be available at the end of each lateral line. The last tile must lie in the absorption field with high rock below and above the tile with building or tar paper over the grade, and back fill of earth over paper, with an overfill of four to six inches for settlement.
8. Owner is required to provide a sketch with percolation times to the County Health Department for evaluation and recommendations, prior to receiving a permit for construction of an individual sewage system.

**SECTION 13 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 14. INOPERABLE OR UNLICENSED VEHICLES.**

- 1. Repair, remodeling, assembly, disassembly, storage or standing of any inoperable vehicle other than in an enclosed garage except in a district permitting and regulating such uses, is prohibited.
- 2. A motor vehicle shall be determined as inoperable when it does not have a current state license plate or when it has a current state license plate, but is disassembled or wrecked in part or whole and is unable to move under its' own power.
- 3. Inoperable vehicles may be stored or may stand only in a legally conforming auto wrecking yard or in a fully enclosed storage structure in any district of these regulations.

**ARTICLE XXVIII**

**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

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 XXIX**

### **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 Board of Zoning Appeals.

**SECTION 2. CERTIFICATE OF ZONING COMPLIANCE:**

1. Subsequent to the effective date of this Zoning Ordinance, no change in the use or occupancy of 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 complies with the provisions of this Zoning Ordinance.
2. No excavation, erection, or alteration of any building 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 (500) dollars, 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 XXX**

### **BOARD OF ZONING APPEALS**

**SECTION 1. BOARD OF ZONING APPEALS ESTABLISHED:** A Board of Zoning Appeals is hereby established. Such Board shall consist of not less than three (3) nor more than seven (7) members who shall be appointed by the Mayor, by and with the consent of the City Governing Body. All members of the Board so appointed shall be residents of the City; provided, however, that if the City shall administer zoning regulations outside the City limits, one member of the board shall be a resident of the zoning jurisdiction outside the city limits. The members first appointed shall serve respectively for terms of one (1), two (2), and three (3) years, divided equally or as nearly equal as possible, among the members. Thereafter, members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term. All members of said Board shall serve without compensation. One member may be a member of the Planning Commission. As provided by K.S.A. 12-759, the Ellis Planning Commission has been designated to act as the Board of Zoning Appeals.

**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 be published once in the official newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of said notice shall be mailed to each party to the appeal and to the Planning Commission.

**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. 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, 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 a reasonable time, as provided by the rules of the Board, 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. Variances from yard regulations may not be more than one-half (1/2) the required yard and shall not encroach upon the required setback for adjacent buildings.

3. 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.
4. 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 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 Governing Body may enforce such bond by all equitable means. Bonds or other security shall be filed with the City Clerk.

## ***ARTICLE XXXI***

### ***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 "PUD" Planned Unit Development, or "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 "PUD," or "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 “PUD” or “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 – S”	Residential Suburban District
“R – 1”	Single-Family Dwelling District
“R – 2”	Two-Family Dwelling District
“R – 3”	Multiple-Family Dwelling District
“C – S”	Highway Service District
“C – 2”	General Commercial District
“I – 1”	Light Industrial District
“I – 2”	Heavy Industrial District

2. Zones Not Included.

Because of the highly specialized purposes of the “PUD” Planned Unit Development; “M – H” Manufactured Home; “M – P” Manufactured Home Park; “C – 1” Central Business; and “C – 3” Adult Entertainment Districts, they are not included in the table of lesser zoning changes, and are excluded from designation through the lesser change provisions.

**SECTION 6. 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 XXXII***

***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 XXXIII**

**CERTIFICATE OF APPROVAL**

**SECTION 1.** Zoning Ordinance No.818 and all amendments thereto 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 6th day of December, 2004.

/s/ Mary Jo Walz  
\_\_\_\_\_  
\_\_\_\_\_, Secretary

/s/ Richard Neumann  
\_\_\_\_\_  
\_\_\_\_\_, Chairman

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

PASSED this 20<sup>th</sup> day of December, 2004.

ATTEST  
/s/ Mary Jo Walz  
\_\_\_\_\_  
\_\_\_\_\_, City Clerk

/s/ David R. McDaniel  
\_\_\_\_\_  
\_\_\_\_\_, Mayor