

ORDINANCE NO. 82-5

*Amended
Ord # 86-5*

AN ORDINANCE RELATING TO ZONING: ESTABLISHING ZONING REGULATIONS AND REPEALING ANY ORDINANCE OR SECTION THEREOF IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GALENA:

ARTICLE 1 TITLE, PURPOSE AND DEFINITIONS

Section 1: Short Title. This Ordinance shall be known as the "Zoning Ordinance" of the City of Galena, Kansas.

Section 2: Purposes. The several purposes of this Ordinance are: to encourage the most appropriate use of land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate open space for light and air; to lessen the congestion on streets; to give an orderly growth to the city; to prevent undue concentrations of population; to facilitate adequate provisions for community utilities and facilities such as water, sewerage, electrical distribution systems, transportation, schools, parks, and other public requirements; and in general to promote public health, safety, and general welfare.

Section 3: Definitions. As used in this Ordinance, the masculine includes the feminine and neuter and the singular includes the plural. The following words and phrases, unless the context otherwise requires, shall mean:

- (1) Accessory structure or use. A structure or use incidental and subordinate to the main use of the property, including a home occupation, and which is located on the same lot with the main use.
- (2) Alley. A narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.
- (3) Apartment House. See dwelling, multi-family.
- (4) Basement. That portion of a building between floor and ceiling which is partly below and partly above grade, but so located that the vertical distance from the grade to the floor below is less than the vertical distance from the grade to the ceiling.
- (5) Billboard. See Sign.
- (6) Building. A structure built for the support, shelter, or enclosure of persons, animals, chattels or property of any kind.
- (7) City or Community. The City of Galena, Kansas.
- (8) City development plan. An official map, master or development plan, street plan, land use plan, building setback plan, design plan, or other map, plan or policy pertaining to the physical development of the city which has been officially adopted by the Council.
- (9) Dwelling, duplex; or dwelling, two-family. A detached building containing two dwelling units.
- (10) Dwelling, multi-family. A building containing three or more dwelling units.
- (11) Dwelling, single-family. A detached building containing one dwelling unit, BUT NOT INCLUDING A MOBILE HOME.
- (12) Dwelling unit. One or more rooms designed for occupancy by one family and not having more than one cooking facility.

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- (13) Employees. All persons, including proprietors, working on the premises during the largest shift at peak season.
- (14) Family. An individual, or two or more persons related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit in which board and lodging may also be provided for not more than four additional persons, excluding servants; or a group of not more than five persons who need not be related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit.
- (15) Fence, sight obscuring. A fence or evergreen planting arranged in such a way as to obstruct vision.
- (16) Floor area. The area included in surrounding walls of a building, or portion thereof, exclusive of vents, shafts and courts.
- (17) Garage, private. An accessory building or portion of a main building used for the parking or temporary storage of vehicles or used by occupants of the main building.
- (18) Garage, public. A building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.
- (19) Grade (ground level). The average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five feet of a sidewalk, the above-ground level should be measured at the sidewalk.
- (20) Height of building. The vertical distance from the "grade" to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.
- (21) Home occupation. An occupation carried on within a dwelling or accessory building by members of the family occupying the dwelling with no servant, employee, or other person being engaged, provided the residence character of the building is maintained and the occupation 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 not infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their home.
- (22) Hospital. An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.
- (23) Hotel. A building in which lodging is provided for guests for compensation and in which no provision is made for cooking in the guest rooms.
- (24) Kennel. A lot or building in which four or more dogs or cats at least four months of age are kept commercially for board, propagation, or sale.
- (25) Lot. A parcel or tract of land which is occupied by a structure together with the yards and other open spaces required by this Ordinance.
- (26) Lot area. The total horizontal area within the lot lines of a lot.
- (27) Lot, corner. A lot abutting on two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than one-hundred thirty-five (135) degrees.

- (28) Lot, depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.
- (29) Lot, interior. A lot other than a corner lot.
- (30) Lot line. The property line bounding a lot.
- (31) Lot line, front. In the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.
- (32) Lot line, rear. A lot line which is opposite and most distant from the front lot line, and in the case of an irregular triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line.
- (33) Lot line, side. Any lot line not a front or rear lot line.
- (34) Lot width. The horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
- (35) Motel. A building or group of buildings on the same lot containing guest units with separate entrances from the building exterior and consisting of individual sleeping quarters, detached or in connecting rows, with or without cooking facilities, for rental to transients.
- (36) Nonconforming structure or use. A lawful existing structure or use at the time this Ordinance or any amendments thereto becomes effective which does not conform to the requirements of the zone in which it is located.
- (37) Parking space. A rectangle area containing not less than two hundred (200) square feet with maneuvering and access space required for a standard American automobile to park within the rectangle.
- (38) Person. Every natural person, firm, partnership, association, or corporation.
- (39) Screening. See fence, sight obscuring.
- (40) Service drive. A driveway entering a street from a drive-in business establishment or an off-street parking area, excluding residential driveways, serving fewer than 10 dwelling units.
- (41) Sign. A presentation or representation, other than a house number, by words, letters, figures, designs, pictures, or colors publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation, or a request for aid in other type of advertising. This includes the board, metal, or surface upon which the sign is painted, included, or attached. Each display surface of a sign shall be considered to be a sign.
- (42) Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.
- (43) Street. The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms "road", "highway", "lane", "place", "avenue", "alley", or other similar designations.

- (44) Structure. That which is built or constructed. An edifice or building of any kind or any place of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.
- (45) Structural alteration. Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams or girders, or any structural change in the roof.
- (46) Mobile Home. A factory-built structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit without a permanent foundation. The phrase "without a permanent foundation" indicated that the support system is constructed with the intent that the mobile home placed thereon may be moved at the convenience of the owner. The term shall include two or more separately towed units when bolted or otherwise fastened together to form a complete living unit. All mobile homes shall be skirted and, according to standards of the State of Kansas, shall be anchored to the ground.
- (47) Mobile Home Park. Any area, parcel or tract of ground equipped as required for support of mobile homes and used or intended to be used by two or more occupied mobile homes. Such mobile home parks shall be under one ownership and control, but under no circumstances shall the mobile home spaces be sold or offered for sale individually. The term mobile home park does not include a sales area on which unoccupied mobile homes, whether new or used, are parked for the purposes of sale, storage, or inspection. A mobile home may, however, be parked on a space for purposes of sale by the resident owner. In addition to rental of space, the mobile home park owner may also rent mobile homes placed on spaces for that purpose.
- (48) Use. The purpose of which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.
- (49) Vision clearance area. A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in the regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings, walls, structures, or temporary or permanent obstructions exceeding three and one-half (3½) feet in height measured from the top of the curb or existing grade.
- (50) Yard. An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Ordinance.
- (51) Yard, front. A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the main building.
- (52) Yard, rear. A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building.
- (53) Yard, side. A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of building.

Section 4: Compliance with Ordinance Provisions. No structure or premises shall hereafter be used or occupied and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this Ordinance.

Section 5: Classification of Districts. For the purpose of this Ordinance the city is divided into zones designated as follows:

<u>Districts</u>	<u>Abbreviated Designations</u>
Residential	R
Single-family residential	R-1
Two-family residential	R-2
Multi-family residential	R-3
Business Districts	
Retail business	C-1
General business	C-2
Industrial Districts	
General industry	M-1
Heavy industry	M-2
Agricultural	A
Mobile Home Park	MHP
Mobile Home Subdivision	MHS

Section 6: Zoning Map.

- (1) The location and boundaries of the district designated in Section 5 are hereby established as shown on the map entitled "Zoning Map of the City of Galena" date _____, 19____, and signed by the Mayor and City Clerk, and hereafter referred to as the "Zoning Map".
- (2) The zoning map and all notations thereon are hereby made a part of this Ordinance.
- (3) The signed copy of the zoning map containing the zoning districts designated at the time of adoption in this Ordinance shall be maintained without change on file in the office of the City Clerk.

ARTICLE 2 DISTRICT REGULATIONS

PART 1 R DISTRICT: ONE-FAMILY RESIDENTIAL DISTRICT

Section 1: Description of District. This district is composed of certain quiet, low-density residential areas of the city plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of most families and to prohibit activities of a commercial nature. To these ends, development is limited to single-unit dwellings providing homes for the residents plus certain public facilities which serve the residents of the district. The following regulations shall apply to all R Districts:

Section 2: Uses Permitted Outright.

- (1) Single-family dwellings and their accessory uses are permitted out-right in an R District.

Section 3: Conditional Uses Permitted. The following uses and their accessory uses are permitted in an R District, when authorized in accordance with the requirements governing conditional uses:

- (1) Church.
- (2) Governmental structure or use including public park, playground, recreational building, fire station, library or museum.
- (3) School: Nursery, primary, elementary, junior high or senior high.
- (4) Utility substation or pumping station with no equipment storage.
- (5) Hospital, sanitarium, rest home, home for the aged, nursing or convalescent home.
- (6) Excavation of natural resources.

Section 4: Signs. Signs permitted in an R District shall be erected and maintained at least fifteen (15) feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In event of a complaint on the character or kind of sign being maintained, the decision of the Board of Appeals shall be final as to compliance of the sign with this provision, which decision shall be made after an investigation and report by the planning commission if deemed desirable by the Board. The following signs are permitted in an R zone:

- (1) One name plate or sign indirectly illuminated or not illuminated less than three (3) square feet in area for each dwelling.
- (2) One temporary sign, not illuminated, less than six (6) square feet in area advertising the sale, lease, or rental of the property.
- (3) One temporary sign per tract of land or subdivision advertising the sale of the tract or the lots in the tract and not exceeding 48 square feet in area. The sign shall be reduced in size by 6 square feet for each lot less than eight (8) in the subdivision.
- (4) One name plate or sign associated with uses other than those indicated in (1), (2), and (3) above, provided such sign or name plate shall not exceed 48 square feet in area.

Section 5: Lot Size. The lot size in an R District shall be as follows:

- (1) The minimum lot area shall be seven thousand, two hundred (7,200) square feet for an interior lot and nine thousand (9,000) square feet for a corner lot.
- (2) The minimum lot width at the front building line shall be sixty (60) feet for an interior lot and seventy-five (75) feet for a corner lot.
- (3) The minimum lot depth shall be one hundred (100) feet.

Section 6: Setback Requirements. The yards in an R District shall be as follows:

- (1) The front yard shall be a minimum of twenty-five (25) feet.
- (2) The side yard shall be a minimum of eight (8) feet on one side and eight (8) feet on the other side, except that on corner lots the setback for all buildings shall be a minimum of twenty-five (25) feet on all the sides abutting a street.
- (3) The rear yard shall be a minimum of ten (10) feet.
- (4) The entrance side of a garage or carport shall be set back at least twenty-five (25) feet from the access street, except that in the case of an alley, the entrance shall be set back at least fifteen (15) feet from the center line of the alley.

Section 7: Height of Buildings. In an R District, no building shall exceed a height of two and one-half (2½) stories or thirty-five (35) feet, whichever is less.

Section 8: Lot Coverage. In an R District, buildings shall not occupy more than thirty (30) percent of the lot area.

PART 2 R-1 DISTRICT: ONE-FAMILY RESIDENTIAL DISTRICT

Section 1: Description of District. This district is composed of certain quiet, low-density residential areas of the city plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of most families and to prohibit activities of a commercial nature. To these ends, development is limited to single-unit dwellings providing homes for the residents plus certain public facilities, which serve the residents of the district. The following regulations shall apply to all R-1 Districts:

Section 2: Uses Permitted Outright.

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- (1) Single-family dwellings and their accessory uses are permitted outright in an R-1 District.
- (2) Home occupations, provided that any such occupation shall not occupy more than ten (10) percent of the total floor area, of the main building or if located in an accessory building, shall not occupy more than five (5) percent of the total lot area.

Section 3: Conditional Uses Permitted.

The following uses and their accessory uses are permitted in an R-1 District when authorized in accordance with the requirements governing conditional uses.

- (1) Church.
- (2) Governmental structure or use including public park, playground, recreation building, fire station, library, or museum.
- (3) School: nursery, primary, elementary, junior high or senior high.
- (4) Utility substation or pumping station with no equipment storage.
- (5) Hospital, sanitarium, rest home, home for the aged, nursing or convalescent home.
- (6) Excavation of natural resources.

Section 4: Signs. Signs permitted in an R-1 District shall be erected and maintained at least fifteen (15) feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In event of a complaint on the character or kind of sign being maintained, the decision of the Board of Appeals shall be final as to compliance of the sign with this provision, which decision shall be made after an investigation and report by the planning commission if deemed desirable by the Board. The following signs are permitted in an R-1 zone:

- (1) One name plate or sign indirectly illuminated or not illuminated less than three (3) square feet in area for each dwelling.
- (2) One temporary sign, not illuminated, less than six (6) square feet in area advertising the sale, lease, or rental of the property.

- (3) One temporary sign per tract of land or subdivision advertising the sale of the tract or the lots in the tract and not exceeding 48 square feet in area. The sign shall be reduced in size by 6 square feet for each lot less than eight (8) in the subdivision.
- (4) One name plate or sign associated with uses other than those indicated in (1), (2), and (3) above, provided such sign or name plate shall not exceed 48 square feet in area.

Section 5: Lot Size. The lot size in an R-1 District shall be as follows:

- (1) The minimum lot area shall be five thousand (5,000) square feet for an interior lot and six thousand five hundred (6,500) square feet for a corner lot.
- (2) The minimum lot width at the front building line shall be fifty (50) feet for an interior lot and sixty (60) feet for a corner lot.
- (3) The minimum lot depth shall be one hundred (100) feet.

Section 6: Setback Requirements. The yards in an R-1 District shall be as follows:

- (1) The front yard shall be a minimum of twenty-five (25) feet.
- (2) The side yard shall be a minimum of eight (8) feet on one side and eight (8) feet on the other side, except that on corner lots the setback for all buildings shall be a minimum of twenty-five (25) feet on the side abutting a street.
- (3) The rear yard shall be a minimum of ten (10) feet.
- (4) The entrance side of a garage or carport shall be set back at least twenty-five (25) feet from the access street, except that in the case of an alley, the entrance shall be set back at least fifteen (15) feet from the center line of the alley.

Section 7: Height of Buildings. In an R-1 District, no building shall exceed a height of two and one-half (2½) stories or thirty-five (35) feet, whichever is less.

Section 8: Lot Coverage. In an R-1 District, buildings shall not occupy more than thirty (30) percent of the lot area.

PART 3 R-2 DISTRICT: TWO-FAMILY RESIDENTIAL DISTRICT

Section 1: Description of District. This district is composed of certain medium-density residential area of the city representing a compatible co-mingling of single-family and two-family dwellings, plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of many families and to prohibit activities of commercial nature. To these ends, development is limited to a medium concentration and uses are typically single-family and two-family dwellings, plus certain additional uses, such as schools, parks, churches, and certain public facilities, which serve the residents of the district. The following regulations shall apply in all R-2 Districts:

Section 2: Uses Permitted Outright. The following uses and their accessory uses are permitted outright in an R-2 District:

- (1) Any use permitted outright in an R-1 District.
- (2) Two-family dwellings.

*Amended
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Section 3: Conditional Uses Permitted. A use permitted as a conditional use in an R-1 District is permitted as a conditional use in an R-2 District.

Section 4: Signs. A sign permitted in an R-1 District is permitted in an R-2 District.

Section 5: Lot Size. The lot size in an R-2 District shall be as follows:

- (1) The minimum lot area shall be six thousand (6,000) square feet and shall not be less than four thousand (4,000) square feet per dwelling unit.
- (2) The minimum lot width at the front building line shall be sixty (60) feet for an interior lot and seventy-five (75) feet for a corner lot.
- (3) The minimum lot depth shall be one hundred (100) feet.

Section 6: Setback Requirements. In an R-2 District, the yards shall be the same as those required in an R-1 District.

Section 7: Height of Buildings. In an R-2 District, no building shall exceed a height of two and one-half (2½) stories or thirty-five feet (35), whichever is less.

Section 8: Lot Coverage. In an R-2 District, buildings shall not occupy more than thirty (30) percent of the lot area.

PART 4 R-3 DISTRICT: MULTIPLE-RESIDENTIAL DISTRICT

Section 1: Description of District. This district is composed of certain high-density residential areas of the city plus certain open areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life and to prohibit activities of a commercial nature. To these ends, development is limited to a relatively high concentration and uses are typically single-family, two-family, and multiple-family dwellings, plus certain additional uses such as schools, parks, churches, and certain public facilities which serve the residents of the district. The following regulations shall apply to all R-3 Districts:

Section 2: Uses Permitted Outright. The following uses and their accessory uses are permitted outright in an R-3 District:

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- (1) A use permitted outright in an R-2 District.
- (2) Multi-family dwelling.

Section 3: Conditional Uses Permitted. The following uses and their accessory uses are permitted in an R-3 District in accordance with the requirements governing conditional uses.

- (1) A use permitted as a conditional use in an R-2 District.
- (2) Multi-family dwelling exceeding the lot area per dwelling unit standard specified in Section 27 (1) or exceeding the height limits specified in Section 29, provided the gross floor area does not exceed two and one-half (2½) times the lot area and provided further that the side yards are increased one (1) foot for every two (2) foot increase in building height over thirty-five (35) feet.
- (3) Office for a doctor, dentist, or other practitioner of the healing arts; attorney; architect; engineer; surveyor; accountant; or realtor but only in a one-story building on a lot adjacent to or directly across a street from a business or industrial district and meeting the fire district standards of the business or industrial zone.

(4) Hotel, motel, boarding house, lodge, club.

(5) Mortuary.

Section 4: Signs. A sign permitted in an R-1 District is permitted in an R-3 District.

Section 5: Lot Size. The lot size in an R-3 District shall be as follows:

(1) The minimum lot area shall be six thousand (6,000) square feet for a single-family dwelling; seven thousand, two hundred (7,200) square feet for a duplex dwelling; and seven thousand, five hundred (7,500) square feet to two thousand, five hundred (2,500) square feet per dwelling unit, whichever is greater, for a multi-family dwelling except as provided by Section 25 (2).

(2) The minimum lot width at the front building line shall be sixty (60) feet for an interior lot and seventy-five (75) feet for a corner lot.

(3) The minimum lot depth shall be one hundred (100) feet.

Section 6: Setback Requirements. In an R-3 District, the yards shall be as follows:

(1) The front yard shall be the same as required in an R-1 District.

(2) Each side yard shall be a minimum of eight (8) feet, except that on a corner the setback for all buildings shall be a minimum of twenty-five (25) feet on the side abutting a street.

(3) The rear yard shall be the same as required in an R-1 District.

(4) A garage or carport shall be set back the same as required in an R-1 District.

Section 7: Height of Buildings. In an R-3 District, no building shall exceed a height of forty (40) feet except as provided by Article 2, Part 4, Section 4 (2).

Section 8: Lot Coverage. In an R-3 District, buildings shall not occupy more than forty (40) percent of the lot area.

PART 4-A MH-P DISTRICT: MOBILE HOME PARKS

Section 1: Description of District. This district is designed to provide for medium density mobile home parks where such uses may be located along arterial or collector streets. Mobile homes will not be allowed on individually owned zoning lots; mobile homes may be for rent or for the rental of space. Mobile home parks may be further governed in accordance to Mobile Homes Ordinance No. 82-6.

Section 2: Uses Permitted Outright.

(1) Mobile home parks if all requirements of Mobile Home Ordinance Number 82-6 are met.

(2) Group day care centers and nursery schools.

(3) Recreational facilities such as playgrounds, swimming pools, tennis courts, shuffleboards, ball fields, and lakes providing boating and fishing for residents of the mobile home park to the exclusion of the general public.

(4) Recreation or community buildings, washrooms, rest rooms, laundry facilities, storm shelters and offices for the mobile home parks.

Section 4: Signs. Signs permitted in an MH-P District shall be erected and maintained at least fifteen (15) feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In event of a complaint on the character or kind of sign being maintained, the decision of the Board of Appeals shall be final as to compliance of the sign with this provision, which decision shall be made after an investigation and report by the planning commission, if deemed desirable by the Board. The following signs are permitted in an MH-P zone:

- (1) The name plate or sign indirectly illuminated or not illuminated less than eight (8) square feet in area for each park.
- (2) One temporary sign, not illuminated, less than six (6) square feet in area advertising the sale, lease or rental of the park.

Section 5: Lot Size. The lot size in an MH-P District shall be as follows:

- (1) The minimum lot area shall be five thousand (5,000) square feet.
- (2) The minimum lot width shall be fifty (50) feet.
- (3) The minimum lot depth shall be one hundred feet. (100)

Section 6: Bulk Regulations. Bulk regulations in an MH-P District shall be as follows:

- (1) Maximum height shall be thirty-five (35) feet.
- (2) Minimum yard requirements shall be on all sides abutting a street.
 - (a) Twenty (20) feet for the mobil-home parks.
 - (b) Twenty (20) feet for all other uses.
- (3) Minimum side yards shall be:
 - (a) Ten (10) feet for the mobile-home park.
 - (b) Fifteen (15) feet for all other permitted uses.
- (4) Minimum rear yards shall be:
 - (a) Twenty (20) feet for mobile home parks.
 - (b) Twenty (20) feet for all other permitted uses.

Section 7: Standards for MH-P Mobile-Home Parks. Each mobile-home park shall be designed so as to comply with the following standards:

- (1) The mobile-home park shall be located on a well drained site which is properly graded to insure rapid drainage and freedom from stagnant pools of water.
- (2) Mobile-homes shall be located so that there is at least a fifteen (15) foot clearance between mobile homes; provided, however, with respect to mobile homes parked end-to-end, the clearance shall not be less than ten (10) feet. No mobile home shall be located less than ten (10) feet from the front.
- (3) All mobile home spaces shall abut on a street or on a driveway that is not less than twenty-four (24) feet in width. Such driveways shall have unobstructed access to a public street and shall have an all-weather surface which is well-maintained and adequately lighted.
- (4) Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in any other residential district.

- (5) Each mobile home park is required to devote at least ten percent (10%) of its gross area to open space provided for the recreational use and enjoyment of the occupants of the park. Required yards between mobile homes and vehicular driveways shall not be counted in computing such open space.
- (6) Mobile home park owners are required to provide a landscaped buffer area or fence, or both along yards which are adjacent to other residential areas and to include a storm shelter for the residents.
- (7) In all other respects, mobile home parks shall comply with all of the applicable statutes of the State of Kansas and all applicable ordinances and regulations of all political subdivisions of the State.

Section 8: Unused Mobile Home Park. Whenever a property, zoned for the MH-P Mobile Home Park District ceases to be used for such purposes for a period of two (2) years, the City Planning Commission may initiate an application to rezone the property to some other district compatible with the surrounding neighborhood area.

PART 4-B MH-S: MOBILE-HOME SUBDIVISION DISTRICT

Section 1: Description of District. This district is intended as a medium-density area of individually owned lots for locating all types of mobile homes with or without permanent foundations, but in any event must have a foundation or be skirted.

Section 2: Uses Permitted Outright.

- (1) Mobile homes, but not modular housing, if all requirements of Mobile Home Ordinance No. 82-6 are met.
- (2) Agriculture, as defined in these regulations.

Section 3: Conditional Uses Permitted. None.

Section 4: Signs. Signs permitted in an MH-S Mobile Home Subdivision District, shall be erected and maintained at least fifteen (15) feet from the street line and shall be of a kind and character not unsightly or unduly conspicuous in the neighborhood in which they are erected. In the event of a complaint on the character or kind of sign being maintained, the decision of the Board of Appeals shall be final as to compliance of the sign with this provision, which decision shall be made after an investigation and report by the planning commission, if deemed desirable by Appeals Board. The following signs are permitted in an MH-S Mobile Home Subdivision Zone:

- (a) One name plate or sign indirectly illuminated, or not illuminated, less than three (3) square feet in area for each mobile home.
- (b) One temporary sign, not illuminated, less than six (6) square feet in area, advertising the sale, lease or rental of the property.
- (c) One temporary sign per tract of land or subdivision advertising the sale of the subdivision, or the lots in the subdivision, and not exceeding forty-eight (48) square feet in the area. The sign shall be reduced in size by six (6) square feet for each lot less than eight (8) in the subdivision.
- (d) One name plate or sign associated with uses other than those indicated in (a), (b), and (c) above, provided the sign or name plate does not exceed forty-eight (48) square feet in area.

Section 5: Bulk Regulations. Bulk regulations in an MH-S Mobile Homes Subdivision District shall be as follows:

- (1) Maximum height shall be thirty-five (35) feet.
- (2) Yard requirements shall be:
 - (a) Minimum front yard is twenty-five (25) feet on a lot abutting a street.
 - (b) Minimum side yards shall be eight (8) feet each for each lot.
 - (c) Minimum rear yards shall be twenty (20) feet on each lot.
- (3) Maximum lot coverage shall be fifty percent (50%) of each lot.

Section 6: Use Limitations. Use limitations shall be as follows:

- (1) A mobile home subdivision shall have a minimum gross area per lot of twenty-thousand (20,000) square feet.
- (2) A mobile home subdivision must be on land platted for each lot.
- (3) All mobile home structures must be oriented on the lot so that the longest length of the home is parallel to the sides of the lot unless granted a variance by the Board of Appeals, where the shape of the lot would warrant an orientation parallel to the front lot line.

PART 5 C-1 DISTRICT: RETAIL BUSINESS DISTRICT

Section 1: Description of District. This district is composed of certain land and structures used primarily to provide retailing and personal services, such as clothing stores and banks, and basically conducted within an enclosed structure. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for providing service to the families of the city, and to prohibit activities of an industrial nature. To these ends, development is primarily limited to retailing and personal services plus those uses permitted in any residential district. The regulations are designed to permit development of the enumerated functions limited by standards designed to retaining a favorable environment for the proper functioning of the district, plus certain public facilities which are needed to serve the occupants of the district. The following uses and their accessory uses are permitted outright in all C-1 Districts, provided that:

- (1) There shall be no manufacturing, compounding, processing or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are customarily sold at retail on the premises, and
- (2) Such uses, operations or products are not objectionable due to odor, dust, smoke, noise, vibration or other similar causes.
- (3) All articles for sale, rent, display, storage, or hire must be kept within an enclosed building.

Section 2: Uses Permitted Outright.

- (1) Any use permitted outright in an R-3 District, excluding dwellings.
- (2) Auditorium, exhibit or hall, or other public assembly room.
- (3) Automobile or boat sales showrooms.

- (4) Bank, loan company, or similar financial institution.
- (5) Bus passenger station.
- (6) Club, Lodge.
- (7) Custom dressmaking, tailor shop.
- (8) Eating or drinking establishment.
- (9) Hotel, boarding house.
- (10) Laundry, cleaning, or pressing establishment using non-explosive and non-inflammable cleaning fluid.
- (11) Locksmith.
- (12) Medical or dental laboratory.
- (13) Mortuary.
- (14) News stand.
- (15) Parking lot or parking garage.
- (16) Pet shop.
- (17) Railway passenger station or express office.
- (18) Restaurant, tavern, tearoom, or cafe.
- (19) Retail store or business.
- (20) Shoe repair shop.
- (21) Studio; art, music, dance, health, photographic, radio or television broadcasting.
- (22) Second-hand store.
- (23) Theater, except drive-in type.
- (24) Pawnshop.
- (25) Watch and clock repair shop.
- (26) Wholesale office and showroom with merchandise on the premises limited to samples only.
- (27) Other similar retail commercial uses but not including a use first listed in the C-2 District.

Section 3: Conditional Uses Permitted. The following uses and their accessory uses are permitted in C-1 District when authorized in accordance with the requirements of governing conditional uses:

- (1) Dwellings: one-family, two-family and multi-family provided they shall be governed by the requirements of the R-1 District for single-family, the R-2 District for two-family and the R-3 District for multi-family.
- (2) Any use permitted as a conditional use in an R-1 District.
- (3) Automobile service station including minor auto repairs but excluding body and fender work, painting, and upholstery.
- (4) Drive-in establishment offering goods or services to customers waiting in parked motor vehicles, except drive-in theaters.
- (5) Motel.

Section 4: Signs. The following signs are permitted in the C-1 District:

- (1) Signs permitted in the R-1 District.
- (2) Signs identifying a business establishment or business area. One (1) sign not exceeding twenty (20) square feet in area on each side of the lot abutting a street for each business establishment. Signs shall be limited to those identifying the business establishment, except that no business sign shall be located within fifty (50) feet of a lot in a residential district, a public park, or a school.

Section 5: Lot Size.

- (1) Lots used for dwelling purposes shall be governed by the requirements specified for R-3 Districts.
- (2) There shall be no minimum lot area.
- (3) There shall be no minimum lot width.
- (4) There shall be no minimum lot depth.

Section 6: Setback Requirements.

- (1) There shall be no requirements (front yard) for a building used for non-residential purposes.
- (2) There shall be no requirements (rear yard) for a building used for non-residential purposes.
- (3) There shall be no requirements (side yard) for a building used for non-residential purposes.

Section 7: Height of Buildings. In a C-1 District, building height shall not exceed sixty (60) feet.

Section 8: Lot Coverage. There shall be no limitations as to lot coverage.

Section 9: Limitations on Use. In a C-1 District, the following conditions and limitations shall apply:

- (1) All business, service, repair, processing, storage, or merchandise display shall be conducted wholly within an enclosed building, except for off-street parking and loading, drive-in windows, minor services for motor vehicles, and display of merchandise along the wall of the building not extending more than five (5) feet from the wall.
- (2) All items produced or wares and merchandise handled shall be sold at retail on the premises except in the case of Article 2, Part 5, Section 3 (26).

PART 6 C-2 DISTRICT: GENERAL BUSINESS DISTRICT.

Section 1: Description of District. This District is composed of certain land and structures used primarily to provide retailing and personal services of all kinds, including those uses permitted in the C-1 Districts, plus activities not basically conducted within an enclosed structure, such as used car lots. The regulations for this district, are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for providing service to the people of the area, and to prohibit activities of an industrial nature. To these ends, development is primarily limited to all types of retailing and personal services plus those uses permitted in any residential district. The regulations are designed to permit development of the enumerated functions limited by standards designed to retaining a favorable environment for the proper functioning of the district; plus certain public facilities which are needed to serve the occupants of the district. The following regulations shall apply to all C-2 Districts:

Section 2: Uses Permitted Outright. The following uses and their accessory uses are permitted outright in a C-2 District:

- (1) Any use permitted outright in a C-1 District.
- (2) Automobile, boat, or trailer sales establishment.
- (3) Automobile, boat, truck, or trailer storage garage, truck rental or sales.
- (4) Automobile laundry.
- (5) Automobile service station.
- (6) Business, technical or trade school.
- (7) Catering establishment.
- (8) Blueprinting, photostating, or other reproduction process.
- (9) Bookbindery.
- (10) Building materials, retail outlet only.
- (11) Commercial amusements, if conducted wholly within an enclosed building.
- (12) Custom manufacturing of goods for retail sale on the premises.
- (13) Electric power generator, transformer station, or substation.
- (14) Fuel oil storage and distribution with underground tanks.
- (15) Laboratory.
- (16) Newspaper or printing establishment.
- (17) Public garage, including automobile repairing, and incidental automobile body and fender work, painting, and upholstering, if conducted completely within an enclosed building.
- (18) Storage building for household goods.
- (19) Telephone exchange.
- (20) Tire shop, including incidental recapping.
- (21) Plumbing, sign painting, upholstering, cabinet or carpenter shop.
- (22) Utility station or substation.
- (23) Veterinary office or animal hospital.
- (24) Sign painting shop.
- (25) Other similar uses, but not including a use first listed in the M-1 District.

Section 3: Conditional Uses Permitted. The following uses are permitted in the C-2 District when authorized in accordance with the requirements governing conditional uses.

- (1) Any use permitted as a conditional use in a C-1 District.
- (2) New railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots.
- (3) Drive-in theater.
- (4) Motel.

Section 4: Signs. The following signs are permitted in the C-2 District.

- (1) Signs permitted in the R-1 District.
- (2) Signs identifying a business establishment or business use shall be governed by the regulations as specified for C-1 Districts.

Section 5: Lot Size. The lot size in a C-2 District shall be as follows:

- (1) Lots used for dwelling purposes shall be governed by the requirements as specified for R-3 Districts.
- (2) The minimum lot area for non-residential uses shall be five thousand (5,000) square feet.
- (3) The minimum lot width at the front building line shall be fifty (50) feet.
- (4) The minimum lot depth shall be one hundred (100) feet.

Section 6: Setback Requirements. In a C-2 District, the yards shall be as follows:

- (1) The minimum yard dimensions of the residential district shall apply on the sides of a lot abutting a residential district.
- (2) The front yard shall be a minimum of fifteen (15) feet, and in the case of corner lots, the minimum requirements shall be fifteen (15) feet for all yards abutting a street.
- (3) Side Yard. There shall be no side yard requirements for non-residential uses, except as provided above; provided further that corner lots shall have a minimum yard of fifteen (15) feet for all yards abutting a street.

Section 7: Height of Buildings. In a C-2 District no structure shall exceed sixty (60) feet in height.

Section 8: Lot Coverage. In a C-2 District, business buildings shall not occupy more than fifty (50) percent of the lot area.

Section 9: Limitation on Use. In a C-2 District, the following conditions and limitations shall apply:

- (1) All business, service, repair, processing, storage, or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential district by a sight-obscuring fence permanently maintained at least six (6) feet in height.
- (2) Openings to structures on sides adjacent to or across a street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects on the residential properties.
- (3) Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement except in those portions of the lot maintained as landscape areas.

PART 7 M-1 DISTRICTS: GENERAL INDUSTRIAL DISTRICTS

Section 1: Description of District. This district is composed of certain lands and structures used primarily for wholesaling and light industrial purposes. The regulations of this district are intended to provide intensity standards and standards of external effect compatible with the surrounding or abutting districts. To these ends, development is limited to wholesaling and light industries which can be operated in a clean and reasonably quiet manner, plus certain public facilities which are needed to serve the occupants of the district. The following regulations shall apply to all M-1 Districts:

Section 2: Uses Permitted Outright. The following uses and their accessory uses are permitted outright in an M-1 District:

- (1) Any use permitted outright in a C-2 District.
- (2) Assembly, manufacture, or preparation of articles and merchandise from the following types of previously prepared materials; bone, canvas, cellophane, cloth, cork, feathers, felt, fibre, fur, hair, glass, horn, lacquer, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wax, wire, wood (excluding sawmills, lumber mills, planing mills, and molding plants, but not cabinet shops or woodworking shops), yarn, or paint not employing a boiling process.
- (3) Assembly of electrical appliances or equipment, electronic instruments and devices, radios, phonographs, television, including the manufacture of small parts such as coils, condensers, transformers crystal holders.
- (4) Assembly of metal products.
- (5) Manufacture of figurines, pottery, or similar ceramic products using only previously pulverized clay.
- (6) Manufacture of musical instruments, novelties, rubber or metal stamps, toys.
- (7) Manufacture of optical goods, scientific or precision instruments or equipment.
- (8) Manufacture of artificial limbs, dentures, hearing aids, surgical instruments or dressings, or other devices employed by the medical and dental professions.
- (9) Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products or meat, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, except that the rendering of fat or oils, fish or meat slaughtering, and processing of fermented food such as sauerkraut, vinegar, or yeast shall be excluded.
- (10) Manufacture or maintenance of signs, billboards, commercial advertising structures or name plates.
- (11) Manufacture of medicines.
- (12) Auto or truck storage garage; truck rental or sales.
- (13) Automobile painting or upholstering.
- (14) Building of marine pleasure craft.
- (15) Building materials storage or sale yard.
- (16) Bottling plant.
- (17) Cabinet or carpenter's shop.
- (18) Coin machine manufacture or repair.
- (19) Contractor's equipment storage.
- (20) Cold Storage Plant.
- (21) Creamery.
- (22) Dwelling for caretaker or watchman working on the property.
- (23) Electroplating shop.
- (24) Equipment sales, rental, storage, or repair.

- (25) Farm machinery sales or service.
- (26) Fuel supply outlet or distributor, providing no dust is produced.
- (27) Laundry, dry cleaning, dyeing, or rug cleaning plant.
- (28) Railroad tracks and facilities such as switching yards, spur or holding tracks, freight depots.
- (29) Sheet metal shop or other metal working shop, machine shop not using drop hammer or punch press.
- (30) Plumbing contractor.
- (31) Warehousing.
- (32) Welding shop.
- (33) Wholesale distributor or outlet.
- (34) Any other similar use but not including a use first listed in the M-2 District.

Section 3: Conditional Uses Permitted. The following uses are permitted in an M-1 District when authorized in accordance with the requirements of Article 3.

- (1) Governmental structure or use.
- (2) Drive-in theater.

Section 4: Signs. In an M-1 District, identification and advertising signs accessory to the allowed use are permitted, except that none shall be located within one hundred (100) feet of a lot in a residential district, a public park, or a school unless it meets the requirements for a business sign in a C-1 District.

Section 5: Lot Size. The lot size in an M-1 District shall be as follows:

- (1) The minimum lot area shall be five thousand (5,000) square feet.
- (2) The minimum lot width at the front building line shall be fifty (50) feet.
- (3) The minimum lot depth shall be one hundred (100) feet.

Section 6: Setback Requirements.

- (1) In an M-1 District, lots across a street from or abutting a residential district shall have a minimum yard dimension of twenty-five (25) feet for that side of the lots facing the residential district.
- (2) There shall be a minimum side yard of not less than ten (10) feet.
- (3) There shall be a minimum rear yard of not less than twenty-five (25) feet.

Section 7: Height of Building. In an M-1 District, no structure shall exceed a height of sixty (60) feet except that within one hundred (100) feet of a residential district no structure shall exceed fifty (50) feet in height.

Section 8: Lot Coverage. In an M-1 District, buildings shall not occupy more than seventy (70) percent of the lot area except that not more than fifty (50) percent of the area of that part of the lot which is within one hundred (100) feet of a residential district shall be covered by buildings.

Section 9: Limitations on Use. In an M-1 District, the following conditions and limitations shall apply:

- (1) All business, service, repair, processing, storage, or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential zone by a sight obscuring fence permanently maintained at six (6) feet in height.
- (2) Openings to structures on sides adjacent to or across a street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects on residential properties.
- (3) Motor vehicle, boat, or trailer rental, sales or storage lots shall be drained and surfaced with crushed rock or pavement except in those portions of the lot maintained as landscape area.
- (4) Yards abutting or across a street from a residential district shall be continuously maintained in lawn or other landscaping unless screened from the residential district as provided in Section 57 (1)
- (5) Access points from a public road to properties in an M-1 District shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.
- (6) All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.
- (7) The emission of odorous gases or matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited.

PART 8 M-2 DISTRICTS: HEAVY INDUSTRIAL DISTRICTS.

Section 1: Description of District. This district is composed of certain lands suitable for relatively heavy industrial uses, such as flour and feed milling, and chemical plants. The purpose of this district is to permit the normal operations of most all industries, subject to the regulations of this Ordinance and any other ordinance of the city regulating nuisances or special fire hazards. The regulations for this district are to promote and encourage a suitable environment for the proper functioning of the district, plus certain public facilities which are needed to serve the occupants of the district. The following regulations shall apply to all M-2 Districts:

Section 2: Uses Permitted Outright. The following uses and their accessory uses are permitted outright in an M-2 District.

- (1) Any use permitted in an M-1 District, except those uses permitted in any R, R-1, R-2, or R-3 District.
- (2) Acetylene gas manufacture.
- (3) Aircraft manufacture.
- (4) Alcoholic beverage manufacture.
- (5) Asphalt manufacture or refining.
- (6) Asphalt or concrete mixing plant.
- (7) Automobile manufacture.
- (8) Blast furnace.

- (9) Boiler works.
- (10) Brick, tile, terra cotta or clay products manufacture.
- (11) Coal and petroleum products, refining or wholesale storage of petroleum.
- (12) Concrete, cinder, pumice block manufacture.
- (13) Creosote treatment of manufacture.
- (14) Emery cloth or sand paper manufacture.
- (15) Fat rendering or tallow grease or lard refining or manufacturing of products from fats.
- (16) Flour and feed milling and storage.
- (17) Forge plant.
- (18) Gas (illuminating or heating)
- (19) Glucose or starch manufacture.
- (20) Iron, steel, brass or copper foundry, fabrication or works.
- (21) Nitrating process.
- (22) Oilcloth or linoleum manufacturing.
- (23) Oiled rubber or leather goods manufacture.
- (24) Paint, oil, shellac, varnish, or turpentine manufacture.
- (25) Paper manufacture.
- (26) Rock crushers.
- (27) Rolling mills.
- (28) Rubber, natural or synthetic, or treatment from crude or scrap materials or the manufacture of articles therefrom.
- (29) Salt works.
- (30) Sauerkraut or pickle, etc., manufacture.
- (31) Saw mills.
- (32) Shoe polish manufacturing.
- (33) Soap manufacture.
- (34) Soda ash manufacture.
- (35) Stone mill.
- (36) Sugar manufacture.
- (37) Tar or asphalt roofing or water-proofing manufacture.
- (38) Vinegar Manufacture.
- (39) Yeast plant.
- (40) The following uses, provided that the location and development are first approved by Board of Appeals after a recommendation by the Planning Commission.
 - (a) Abattoirs or slaughter houses, including meat packing plants.
 - (b) Acid manufacture.

- (c) Ammonia, bleaching powder or chlorine manufacture.
 - (d) Automobile or machine wrecking and salvage yards.
 - (e) Crematory.
 - (f) Disinfectants, cattle dips, exterminators or insecticides manufacture.
 - (g) Dyestuff manufacture.
 - (h) Fertilizer and industrial chemical manufacture.
 - (i) Fireworks or explosive manufacture or storage or the handling of explosives.
 - (j) Gas manufacture or storage (other than illuminating or heating)
 - (k) Gelatine, glue or size manufacture or process involving recovery from animal material.
 - (l) Incineration or other reduction of garbage.
 - (m) Junk yards, including the handling and baling of paper, rags, or junk of other description.
 - (n) The manufacture of cement, lime, gypsum or plaster of Paris.
 - (o) Pulp mills.
 - (p) Pyroxylin or celluloid manufacture, or explosive or inflammable cellulose or pyroxylin products manufacture.
 - (q) Stock yards.
 - (r) Tanning, curing or storage of raw hides or skins.
- (41) Other uses which in the judgement of the Planning Commission are of the same general character as those listed in Article 2, Part 8, Section 2 have been approved by formal action of the Planning Commission may be recommended to the Board of Appeals.

Section 3: Conditional Uses Permitted. The following uses are permitted in an M-2 District when authorized in accordance with the requirements of Article 3.

- (1) Governmental structure or use.
- (2) Drive-in Theater.

Section 4: Signs. In an M-2 District, identification and advertising signs accessory to the allowed use are permitted, except that none shall be located within one hundred (100) feet of a lot in a residential district, public park, or a school unless it meets the requirements for a business sign in a C-1 District.

Section 5: Lot Size. The lot size in an M-2 District shall be as follows:

- (1) The minimum lot area shall be five thousand (5,000) square feet.
- (2) The minimum lot width at the front building line shall be fifty (50) feet.
- (3) The minimum lot depth shall be one hundred (100) feet.

Section 6: Setback Requirements.

- (1) In an M-2 District, lots across a street from or abutting a residential zone shall have a minimum yard dimension of twenty-five (25) feet for that side of the lots facing the

residential district.

- (2) There shall be a minimum side yard of not less than ten (10) feet.
- (3) There shall be a minimum rear yard of not less than twenty-five (25) feet.

Section 7: Height of Buildings. In an M-2 District, no structure shall exceed a height of eighty-five (85) feet, except that within one hundred feet of a residential district, no structure shall exceed fifty (50) feet in height.

Section 8: Lot Coverage. In an M-2 District, buildings shall not occupy more than seventy (70) percent of the lot area except that not more than fifty (50) percent of the area of that part of the lot which is within one hundred (100) feet of a residential district shall be covered by buildings.

Section 9: Limitations on Use. In an M-2 District, the following conditions and limitations shall apply:

- (1) All business, service, repair, processings, storage, or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential zone by a sight obscuring fence permanently maintained at least six (6) feet in height.
- (2) Openings to structures on sides adjacent to or across a street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects on residential properties.
- (3) Motor vehicle, boat, or trailer rental, sales, or storage lots shall be drained and surfaced with crushed rock or pavement except in those portions of the lot maintained as landscape areas.
- (4) Yards abutting or across a street from a residential district shall be continuously maintained in lawn or other landscaping unless screened from the residential district as provided in Section 9.
- (5) Access points from a public road to properties in an M-2 District shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.
- (6) All Materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.
- (7) The emission of odorous gases or matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited.

PART 9 A-DISTRICT: AGRICULTURAL DISTRICT

Section 1: Description of District. This district is created to establish and protect areas within which agricultural uses may exist and prosper free from future intrusion from residential developments and other urban land uses. It is intended to avoid the operational conflicts which occur when farm and nonfarm residential uses become interspersed and to reduce the adverse pressures upon farm livelihood caused by speculative land values and consequent increases in property tax levies upon farmland.

Section 2: Uses Permitted Outright. The following uses and their accessory uses are permitted outright in the A District.

- (1) General Farming including dairying, livestock, and poultry raising, greenhouses and other similar uses, except that no buildings for the production of livestock or poultry shall be located within 600 feet of any boundary of a residential lot

other than that of the owner or lessee of said buildings producing livestock or poultry.

- (2) Single-family dwellings whose occupants are engaged in general farming.
- (3) Single-family dwellings whose lot size conforms to the regulations set forth in section 5, Part 9, Article 2.
- (4) Roadside stands selling produce from the farm operation on the premises.
- (5) Churches.
- (6) Agricultural processing facilities such as feed mills and simular operations.
- (7) Golf Courses.
- (8) Cemeteries.
- (9) Public Parks and recreational areas.
- (10) Public Utility substations for the transmission of natural gas or electricity.

Section 3: Conditional Uses Permitted.

- (1) Institutional and public uses.
- (2) Excavation of natural resources.
- (3) Commercial recreational areas.
- (4) Drive-in theatres.
- (5) Veterinary offices or animal hospital.
- (6) Mobile home.

Section 4: Signs.

The only type of signs permitted in the A District are name-plate signs; construction signs; real estate signs and business signs pertaining only to the sale of agricultural products produced on the premises. There shall be only one sign permitted for each structure or use being identified. The sign shall not exceed 50 square feet in size and the maximum height shall be 20 feet.

Section 5: Lot Size.

There shall be a minimum lot size of three (3) acres, and each lot shall have a minimum width of 200 feet, and/or, a minimum lot depth of 200 feet.

Section 6: Setback requirements

- (1) There shall be a minimum of fifty (50) feet for a front yard setback of a residential building.
- (2) There shall be a minimum of 75 feet for a front yard setback for a non-residential building.
- (3) There shall be no rear or side yard setback requirements.

Section 7: Height of Buildings

In an A District the height restrictions for residential buildings as set forth in Section 7, Part 1, Article 2, shall be utilized. There are no height restrictions on a non-residential building.

Section 8: Lot Coverage

There shall be no limitations as to lot coverage.

ARTICLE 3 CONDITIONAL USES

Section 1: Authorization to Grant or Deny Conditional Uses.

Uses designated in this ordinance as conditional uses permitted shall be permitted or enlarged or altered upon approval by the Board of Appeals following a recommendation of the Planning Commission if necessary, all in accordance with the standards and procedures specified in Article 3. In permitting a conditional use, the Board of Appeals may impose, in addition to the regulations and standards expressly specified by this Ordinance, other conditions found necessary to protect the best interest of the surrounding property or neighborhood or the city as a whole. These conditions may include requirements increasing the required lot size or yard dimensions, increasing street widths, controlling the location and number of vehicular access points to the property, increasing the number of off street parking and loading spaces required, limiting the number of signs, limiting the coverage of height of buildings because of obstruction to view and reduction of light and air to adjacent property, requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area, and requirements under which any future enlargement or alteration of the use shall be reviewed by the Board of Appeals and new conditions imposed. Change in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional existing prior to the effective date of this Ordinance, shall conform to all regulations pertaining to conditional uses.

Section 2: Application for a Conditional Use.

A request for a conditional use or modification of any existing conditional use may be initiated by a property owner or his authorized agent by filing an application with the City Clerk upon forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development, and by a fee of twenty-five Dollars (\$25.00). The Board of Appeals may require other drawings or material essential to an understanding of the proposed use and its relationship to surrounding properties.

Section 3: Public Hearing on a Conditional Use.

Before approving or disapproving a conditional use by the Board of Appeals, such conditional use shall be considered by the Board of Appeals at a public hearing held within forty-five (45) days after filing of the application. The City Clerk shall give notice of the hearing in the following manner:

- (1) By publication of a notice in a newspaper of general circulation in the City not less than twenty (20) days nor more than thirty (30) days prior to the date of the hearing.
- (2) By sending notices by mail not less than ten (10) days prior to the date of the hearing to the property owners within the area enclosed by lines parallel to and two hundred (200) feet from the exterior boundaries of the property involved, using for this purpose the name and address of owners as shown upon the records of the Register of Deeds of Cherokee County, Kansas. Failure to send notice to a person specified in this section or failure of a person to receive the notice shall not invalidate any proceedings in connection with the application for a conditional use.

Section 4: Recess of the Hearing by Board of Appeals.

The Board of Appeals may recess a hearing on a request for a conditional use in order to obtain additional information or to serve further notices upon other property owners or persons who it decides may be interested in the proposed conditional use. Upon recessing for this purpose, the Board of Appeals shall announce the time and date when the hearing will be resumed.

Section 5: Action on a Conditional Use.

The Board of Appeals shall either approve or disapprove a conditional use within sixty (60) days after an application is filed. If no action is taken within sixty (60) days, it shall be deemed to be disapproved. A file containing a written record of the action taken by the Board of Appeals with regard to conditional uses shall be maintained by the Board of Appeals.

Section 6: Notification of Action.

The City Clerk shall notify the applicant for a conditional use in writing of the Board of Appeals action within seven (7) days after the decision has been rendered.

Section 7: Standards Governing Conditional Uses.

A Conditional use shall ordinarily comply with the standards of the district concerned for uses permitted outright except as specifically modified in granting the conditional permit or as otherwise follows:

- (1) Setbacks. In any residential district, no yards provided shall be less than two-thirds (2/3) the height of the principal structure. In other districts, yards may be increased over those required for uses permitted outright when necessary to meet the general objective of conditional use control.
- (2) Height Exception. The height limitations of any district may be exceeded by a conditional use to a maximum permitted height of sixty (60) feet, provided that total floor area of the conditional use shall not exceed one and one-half (1 1/2) times the area of the site and provided that yards have a minimum width equal to at least two-thirds (2/3) of the height of the principal structure.
- (3) Limitations on access to lots and on openings to buildings. The Board of Appeal may limit or prohibit vehicular access from a conditional use to residential streets not designated as arterial streets on an officially adopted street plan, and it may limit or prohibit openings in sides of a building or structure permitted as a conditional use within fifty (50) feet of a residential district if such openings will cause glare, excessive noise, or other adverse effects on adjacent residential properties.
- (4) Signs permitted within the district or one indirectly illuminated or nonilluminated sign on each side of a conditional use abutting a street shall be permitted, whichever is less restrictive. A sign shall not exceed twenty (20) square feet in area, shall pertain to the conditional use, and may not be located in required yards.
- (5) Drive-in establishments, drive-in theaters. Access and egress drives serving drive-in establishments, including drive-in theaters, shall meet the requirements of Article 4 Section 3 for access and egress drives serving off street parking areas, and shall be reviewed with regard to adequacy and safety of vehicular and pedestrian circulation.
- (6) Automobile Service Stations. In addition to the other standards of this section, automobile service stations, when permitted as conditional uses shall meet the following requirements:

- (a) The maximum permitted lot size shall be ten thousand (10,000) square feet.
 - (b) Sales of merchandise shall be confined to items used for the maintenance and servicing of passenger cars.
 - (c) No automobile repairs other than incidental minor repairs, battery or tire changing shall be allowed on the property.
 - (d) A sight obscuring fence of not less than five (5) feet nor more than six (6) feet shall be provided between the station site and abutting residential property.
- (7) Schools.
- (a) Nursery schools shall provide and thereafter maintain outdoor play areas with a minimum area of one-hundred (100) square feet per child of total capacity. A sight obscuring fence at least four (4) feet but not more than six (6) feet in height shall be provided separating the play area from abutting lots.
 - (b) Primary schools shall provide one (1) acre of site area for each ninety (90) pupils or one (1) acre for each (3) classrooms, whichever is greater.
 - (c) Elementary schools shall provide one (1) acre of site area for each seventy-five (75) pupils or one (1) acre for each two and one-half (2½) classrooms, whichever is greater.
- (8) Utility substation or pumping substation. The Minimum lot size of the district in which a public utility facility is to be located may be waived only on finding that the waiver will not result in noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site in a residential district or in a C-1 district. Such uses shall be fenced and provided with landscaping as found necessary.
- (9) Dwellings. In no case shall the standards for a dwelling as a conditional use be less than the standards of an R-3 District.

ARTICLE 4 OFF-STREET PARKING AND LOADING

Section 1: Off Street Parking

At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure with any district in the City, off-street parking spaces shall be as provided in this section unless greater requirements are otherwise established. If parking spaces has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by Article 4, Section 1(2) - 1(7). Where square feet are specified, the area measured shall be the floor area primary to the functioning of the particular use of property and shall exclude stairwells; elevator shafts; hallways; ornamental balconies; space occupied by heating, air conditioning or other utility equipment; and space devoted to off-street parking or loading. The number of employees of a new or expanding business shall be estimated in a manner approved by the Board of Appeals and the number of employees of an established business shall be determined from an examination of the payroll. The following off-street parking requirements shall apply to all districts, except the C-1 District.

Use	Standard
(1) Residential uses.	
(a) One-two-and multi-family dwellings:	One (1) space per dwelling unit.
(b) Residential hotel rooming or boarding house.	Four (4) spaces per five (5) guest accommodations plus one (1) additional space for owner.
(2) Commerical Residential uses.	
(a) Hotel:	One (1) space per two (2) guest rooms plus one space per two (2) employees.
(b) Motel:	One (1) space per guest room or suite plus one (1) additional space for owner or manager.
(c) Club, Lodge:	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
(3) Institutions:	
(a) Welfare or correctional institutions.	One (1) space per five (5) beds for patients or inmates.
(b) Convalescent hospital, nursing home, sanitarium, rest home, home for aged:	One (1) space per two beds for patients or residents.
(c) Hospital:	Three spaces (3) per two (2) beds.
(4) Places of Public Assembly:	
(a) Church:	One (1) space per four (4) seats or eight (8) feet of bench length in the main auditorium.
(b) Library; reading room:	One (1) space per four hundred (400) feet of floor area plus one space per two (2) employees.
(c) Pre-school nursery; kindergarten:	Two (2) spaces per teacher.
(d) Elementary or Junior:	One (1) space per classroom plus one (1) space per administrative employee or one (1) space per four (4) seats or eight (8) feet of bench length in the auditorium or assembly room, whichever is greater.
(e) High School:	One (1) space per classroom plus one (1) space per administrative employee plus one (1) space for each six (6) students or one (1) space for four (4) seats or eight (8) feet of bench length in the main auditorium, whichever is greater.
(f) College; commercial school for adults:	One (1) space per five (5) seats in classrooms.
(g) Other auditoriums; meeting rooms:	One (1) space per four (4) seats or eight (8) feet of bench length.

(5) Commercial amusements.

- (a) Stadium, arena; theater: One (1) space per four (4) seats or eight (8) feet of bench length.
- (b) Bowling alley: Five (5) spaces per alley plus one (1) space per two (2) employees.
- (c) Dance hall; skating rink: One (1) space per one hundred (100) feet of floor area plus one (1) space per two (2) employees.

(6) Commercial.

- (a) Retail store except as provided in Article 4, Section 1, (6) (b): One (1) space per one hundred twenty-five (125) square feet of floor space.
- (b) Service or repair shop; retail store handling exclusively bulky merchandise such as automobiles and furniture: One (1) space per four hundred (400) square feet of floor area.
- (c) Bank; office (except medical and dental): One (1) space per four hundred (400) square feet of floor area plus one (1) space per two (2) employees.
- (d) Medical and dental clinic: One (1) space per two hundred (200) square feet of floor area plus one (1) space per two (2) employees.
- (e) Eating or drinking establishment: One (1) space per one hundred (100) square feet of floor area.
- (f) Mortuaries: One (1) space per four (4) seats or eight (8) feet of bench length in chapels.

(7) Industrial.

- (a) Storage warehouse; manufacturing establishment; air, rail or trucking freight terminal: One (1) space per employee.
- (b) Wholesale establishment: One (1) space per employee plus one (1) space per seven hundred (700) square feet of patron serving area.

Section 2: Off-Street Loading.

- (1) Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) students.
- (2) Merchandise, materials, or supplies. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this Ordinance shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

Section 3: General Provisions - Off-Street Parking and Loading.

- (1) The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance. Use of property in violation hereof shall be a violation of this Ordinance. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be unlawful and a violation of this Ordinance to begin or maintain such altered use until such time as the increased off-street parking or loading requirements are complied with.
- (2) Requirements for types of buildings and uses not specifically listed herein shall be determined by the Board of Appeals, after a report and recommendation from the Planning Commission, based upon the requirements of comparable uses listed.
- (3) In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.
- (4) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the building inspector in the form of deeds, leases, or contracts to establish the joint use.
- (5) Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than five hundred (500) feet from the building or use they are required to serve, measured in a straight line from the building.
- (6) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- (7) Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard but may be located within a required side or rear yard.
- (8) A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:
 - (a) Delineation of individual parking and loading spaces.
 - (b) Circulation area necessary to serve spaces.
 - (c) Access to streets and property to be served.
 - (d) Curb cuts.
 - (e) Dimensions, continuity, and substance of screening.
 - (f) Grading, drainage, surfacing and subgrading details.
 - (g) Delineation of obstacles to parking and circulation in finished parking area.

- (h) Specifications as to signs and bumper guards.
 - (i) Other pertinent details.
- (9) Design requirements for parking lots.
- (a) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all weather use and so drained as to avoid flow of water across sidewalks.
 - (b) Except for parking to serve residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight obscuring fence of not less than five (5) feet nor more than six (6) feet in height except where vision clearance is required.
 - (c) Parking spaces along the outer boundaries of a parking lot shall be contained by a curb at least four (4) inches high and set back a minimum of four (4) feet from the property line or by a bumper rail.
 - (d) Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling.
 - (e) Access aisles shall be of sufficient width for all vehicle turning and maneuvering.
 - (f) Except for single-family and duplex dwellings, groups more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
 - (g) Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than thirty (30) feet in width and shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives. Service drives on the same lot frontage shall be separated by a minimum length of curb of thirty (30) feet, provided that for every foot by which the lot frontage exceeds one hundred (100) feet, the minimum required length of curb shall be increased by one (1) foot, up to a maximum requirement of two hundred (200) feet. In the case of a corner lot, service drives shall be located not closer than thirty (30) feet to the intersecting street line. Service drives shall be located not closer than ten (10) feet to a side lot line, except that a common service drive to two adjacent properties with width not exceeding thirty (30) feet may be provided at the common lot line.
 - (h) Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points thirty (30) feet from their intersection.
 - (g) Completion time for parking lots. Required parking spaces shall be improved as required and made available for use before the final inspection is completed by the Building Inspector. An extension of time may be granted by the Building Inspector, providing a performance bond, or its equivalent, is posted equaling the cost to complete the improvements as estimated by the building inspector

provided the parking space is not required for immediate use. In the event the improvements are not completed ~~X~~ within one year's time, the bond or its equivalent shall be forfeited and the improvements thenceforth constructed under the direction of the city.

ARTICLE 5 SUPPLEMENTARY PROVISIONS

Section 1: District Boundaries.

Unless otherwise specified, district boundaries are lot lines or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a district divides a land parcel under a single ownership into two districts, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than twenty (20) feet. If the adjustment involves a distance of more than twenty (20) feet, the procedures for a district change shall be followed.

Section 2: General Provisions Regarding Accessory Uses.

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this Ordinance and shall comply with the following limitations:

- (1) Fences, which may be located within yards, shall not exceed the height three and one-half (3½) feet in height measured from the curb elevation in the front yard or in a vision clearance area.
- (2) A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.
- (3) A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house.
- (4) Regardless of the side yard requirements of the zone a side yard may be reduced to three feet for an accessory structure erected more than forty (40) feet from a street other than an alley provided the structure is detached from other buildings by five (5) feet or more and does not exceed a height of one story nor any area of seven hundred (700) square feet.

Section 3: Projections from Buildings.

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than three (3) feet into a required yard or into required open space as established by coverage standards.

Section 4: Maintenance of Minimum Ordinance Requirements.

No lot area, yard, or other open space, or required off-street parking or loading area existing on or after the effective date of this Ordinance shall be reduced in area, dimension, or size below the minimum required by this Ordinance, nor shall any lot area, yard, or other open space or off-street parking or loading area which is required by this Ordinance for one use be used as the lot area, yard, or other open space or off street parking or loading area requirement for any other use.

Section 5: General Exception to Lot Size Requirements.

If, at the time of passage of this Ordinance, a lot, or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district, and providing, if there is an area deficiency, residential use shall be limited to a single-family residence.

Section 6: Exceptions to Yard Requirements.

The following exception to the front yard requirement for a dwelling is authorized for a lot in any district. If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard for the lot need not exceed a depth of one-half way between the depth of the abutting lot and the required front yard depth.

Section 7: General Exception to Building Height Limitations.

The following type of structures or structural parts are not subject to the building height limitations of this Ordinance: chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, elevator shafts, and other similar projections.

Section 8: Access.

- (1) All lots shall abutt a street other than an alley for a width of at least thirty-five (35) feet.
- (2) Service drives to drive-in business establishments shall meet the requirements of Article 4, Section 9 (9) (a), (g) and (h).

Section 9: Vision Clearance.

Vision clearance areas shall be provided with the following distance establishing the size of the vision clearance area;

- (1) In a residential district, the minimum distance shall be thirty (30) feet at intersections except an alley which shall have ten (10) feet.
- (2) In all other districts, except a C-1 district, the minimum distance shall be fifteen (15) feet or, at intersections including an alley, ten (10) feet, except that when the angle or intersection between streets is less than thirty (30) degrees, the distance shall be twenty-five (25) feet.

Section 10: Zoning of annexed areas. Any territory hereafter annexed to the City of Galena shall, simultaneously with annexation, be referred to Planning and Zoning Commission for classification.

ARTICLE 6 NONCONFORMING USES AND STRUCTURES

Section 1: Continuation of Nonconforming Use or Structure. Subject to the provision of Article 6, Section 1 - 8, a nonconforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of this Ordinance is not an extension of a nonconforming use. A complete record of the location, value, nature and extent of all nonconforming uses shall be made and kept by the Planning Commission.

Section 2: Nonconforming Structure. A structure conforming as to use but nonconforming as to height, setback, or coverage may be altered or extended providing the alteration or extension does not result in a violation of this Ordinance.

Section 3: Discontinuance of a Nonconforming Use.

- (1) If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be for a conforming use.

- (2) If a nonconforming use not involving a structure is discontinued for a period of six (6) months, further use of the property shall be for a conforming use.

Section 4: Termination of Certain Nonconforming Uses.

- (1) A nonconforming use not involving a structure or one involving a structure having an assessed value of less than two hundred fifty dollars (\$250.00) shall be discontinued within two years from the date of passage of this Ordinance.
- (2) Notwithstanding any other provision of this Ordinance, any automobile wrecking yard or other junk yard in existence in any residential district at the date of enactment of this Ordinance shall at the expiration of three (3) years from such date become a prohibited and unlawful use and shall be discontinued.
- (3) A use which is nonconforming with respect to provision for screening shall provide screening within a period of two (2) years from the date of passage of this Ordinance.

Section 5: Change of Nonconforming Use. If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the district, and after change, it shall not be changed back again to the original nonconforming use.

Section 6: Destruction of a Nonconforming Use. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding fifty (50) percent of the cost of replacement of the building using new materials, a future structure or use on the property shall conform to the provisions of this Ordinance.

Section 7: Completion of Building. Nothing contained in this Ordinance shall require any change in the plans, construction, alteration, or designated use of a building for which a building permit has been issued and construction work has commenced prior to the adoption of this Ordinance, except that if the designated use will be nonconforming it shall, for the purpose of Article 6, Section 3 be a discontinued use if not in operation within two years of the date of issuance of the building permit.

Section 8: District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, Article 6, Sections 1 - 7 shall also apply to any nonconforming uses existing therein.

Section 9: Temporary use of Mobile and Travel Trailers.

A - Temporary use of house and travel trailers and mobile homes as living quarters for those persons temporarily deprived of the use of their permanent living quarters by fire, flood, tornado, windstorms or other catastrophe, shall be authorized subject to the following terms, conditions and limitations:

- (1) That said use of said trailer or mobile home shall be limited to the time required for repairs of said permanent living quarters provided that such period shall not exceed six (6) months.
- (2) That said trailer or mobile home shall be located during the period of said temporary use on the same lot as the said damaged permanent quarters.
- (3) That said permanent living quarters damaged by such catastrophe shall have been occupied as the permanent residence by the person or persons requesting temporary use of a trailer or mobile home as living quarters at the time of such catastrophe.
- (4) That persons so deprived of the use of their permanent living quarters and wishing to make use of a trailer or mobile home as temporary living quarters shall make written application to the Planning and Zoning Board. Said application shall set

forth the circumstances which necessitated such application.

- (5) That the Planning and Zoning Board may authorize the use of said temporary living quarters for a period not to exceed thirty (30) days. When it is evident that the time required to effect repairs on the permanent living quarters involved will exceed 30 days, the Planning and Zoning Board shall refer the application to the City Council, at a regularly scheduled Council meeting within the 30 day period, for their consideration and action.
- (6) That all other temporary uses must be approved by the Zoning and Planning Board and confirmed by the City Council.

ARTICLE 7 PLANNED DEVELOPMENTS

Section 1: Planned Developments. In view of the trend toward the development of group houses, planned neighborhoods, shopping centers or other planned developments intended for greater convenience or utility, which may necessitate variations from existing zoning classifications or regulations, such variations may be permitted, provided development plan shall be referred to the Planning Commission for study, public hearing and report to the City Council, and the City Council may approve or disapprove the development plan. If the City Council approves the plan, the City Council may authorize the issuance of building permits and certificates of occupancy.

ARTICLE 8 BOARD OF APPEALS

Section 1: Establishment. The Board of Zoning Appeals, hereinafter called the Board, shall consist of five (5) members appointed by the Mayor. The Board shall organize, adopt rules, hold meetings and keep records all as provided by law.

Section 2: Powers and Duties. The Board shall have the powers and duties prescribed by law and by this Ordinance, which are more particularly specified in Article 8, Section 3-5.

Section 3: Interpretations. The Board shall hear and make decisions upon the following:

- (1) Appeal from a decision by an official or agency charged with administering this Ordinance.
- (2) Questions involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- (3) Review and approve or disapprove conditional uses which shall be considered as exceptions under State Statutes.

Section 4: Variances. The Board of Appeals may authorize variances from the requirements of this Ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this Ordinance would cause an undue or unnecessary hardship except a variance shall be granted to allow the use of property for purposes not authorized within the district in which the proposed use would be located. In granting a variance the Board of Appeals may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purposes of this Ordinance. No variance shall be granted unless it can be shown that all of the following conditions exists:

- (1) Exceptional or extraordinary conditions applying to the property that do not apply generally to other properties in the same district or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control.
- (2) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same district or vicinity.

- (3) The authorization of the variance shall not be materially detrimental to the purposes of this Ordinance, be injurious to property in the district or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development plan or policy.
- (4) The variance requested is the minimum variance from the provisions and standards of this Ordinance which will alleviate the hardship.

Section 5: Procedure. The procedures to be followed by the Board of Appeals shall be as follows:

- (1) Written application for the approval of the variances referred to in Article 8, Section 2 - 3 shall be filed with the Board upon forms and in a manner prescribed by the Board. A fee of Twenty-five dollars (\$25.00) shall be paid to the City Clerk, or his agent upon the filing of each application for variance, for the purpose of defraying costs of the proceedings described herein. A written receipt shall be issued to the person making such payment, and records thereof shall be kept in such manner as prescribed by law. Such applications, which appeal decisions by the enforcing officer, shall be made within twenty (20) days of the date of such decision.
- (2) The Board shall hold a public hearing on each application for a variance. Applications must be accompanied with a certified list of property owners of record, and their addresses, if available, and if not available, then the addresses of the occupant of the premises, if tenanted, in all directions from the subject property, for a distance of twice the frontage of the property included in the application, provided no distance need be more than 1,000 feet, and cannot be less than 200 feet.
- (3) The Board shall make its findings and determination in writing within forty (40) days from the date of filing the application and shall forthwith transmit a copy thereof to the applicant.
- (4) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep records of its examinations and other official actions, which shall be a public record.
- (5) In approving applications for variances, the Board shall have authority to impose such conditions as it deems necessary to protect the best interests of the surrounding property or neighborhood.

ARTICLE 9 AMENDMENTS TO THE ZONING ORDINANCE

Section 1: Authorization to Initiate Amendments. An amendment to the text or the zoning map of this Ordinance may be initiated by the City Council, by the Planning Commission, or by application of a property owner or his authorized agent. The Planning Commission shall, within thirty (30) days after a hearing, recommend to the City Council approval, disapproval, or modification of the proposed amendment. The Planning Commission shall initially consider proposed amendments initiated by a property owner or his authorized agent only at the regularly scheduled meetings.

Section 2: Application and Fee. An application for amendment by a property owner or his authorized agent shall be filed with the City Clerk thirty (30) days prior to the Planning Commission meeting at which the proposal is to be considered. The application shall be accompanied by a fee of thirty dollars (\$30.00).

Section 3: Public Hearing on an Amendment. Before taking final action on a proposed amendment, the Planning Commission shall hold a public hearing thereon. After receipt of the report on the amendment from the Planning Commission, the Council takes appropriate action.

- (1) Notice of hearing. Notice of time and place of the public hearing before the Planning Commission and of the purpose of

the proposed amendment shall be given to the City Clerk in the following manner:

- (a) Prior to an amendment to the zoning map or text, a notice shall be published in a newspaper of general circulation in the city not less than twenty (20) days prior to the date of hearing and by mailing written notice not less than ten (10) days prior to the date of hearing to owners of property within the area enclosed by lines parallel to and two hundred (200) feet from the exterior boundaries of the property involved, using for this purpose the names and addresses of the owners as shown upon the records of the County Assessor. Where all property so located is under the same ownership, owners of property abutting that of the same ownership shall be notified in the same manner as provided in this Section.
 - (b) Failure to send notice to a person specified in this Section or failure of a person to receive the notice shall not invalidate any proceedings in connection with the proposed zone change.
- (2) Recess of hearing. The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed amendment. Upon recessing for this purpose, the Planning Commission shall announce the time and date when the hearing will be resumed.

Section 4: Approval of Amendment to Zoning Map. In granting an amendment to the zoning map, upon application by a property owner or his authorized agent, the City Council may require the dedication of additional street right-of-way where an officially adopted street plan indicates need for increased width or where the nature of the proposed development warrants increased street width, and the Council may require permanent screen strips or other devices to minimize conflict with residential land use.

Section 5: Records of Amendments. The City Clerk shall maintain a record of amendments to the text and map of this Ordinance in a form convenient for the use of the public.

ARTICLE 10 ADMINISTRATION, ENFORCEMENT AND INTERPRETATION

Section 1: Enforcement. The building inspector shall have the power and duty to enforce the provisions of this Ordinance. An appeal from a ruling of the building inspector shall be made to the Board of Appeals.

Section 2: Form of Petitions, Applications and Appeals.

All petitions, applications and appeals provided for in this Ordinance shall be made on forms provided for the purpose or as otherwise prescribed by the Administrator (Building Inspector) in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record. All applications for building and occupancy permits shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be used and/or built upon; the exact sizes and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure, or part thereof; the number of families to be accommodated, if any; and such other information as is needed to determine conformance with the provisions of this Ordinance and of the building code.

Section 3: Temporary Permits.

The building inspector shall issue temporary permits for buildings to be constructed and used for storage

incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots thereon.

Section 4: Time Limit on a Permit for a Conditional Use or a Variance.

A building permit for a conditional use or for a use involving a variance shall be void after six (6) months if no substantial construction has taken place.

Section 5: Interpretation.

The provisions of this Ordinance shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any provisions of this Ordinance are less restrictive than comparable conditions imposed by any other Ordinance, resolution or regulation, the provisions which are more restrictive shall govern.

Section 6: Severability.

The provisions of this ordinance are hereby declared to be severable. If any section, sentence, clause, or phrase of this Ordinance is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 7: Penalty.

The owner or owners of any building or buildings or premises or part thereof where anything in violation of this Ordinance exists or is placed or maintained; and any architect, builder, or contractor who assists in the commission of any such violation; and all persons or corporations who violate or maintain any violation of any of the provisions of this Ordinance or who fail to comply therewith or with any requirements thereof or who build in violation of any statement of plan submitted and approved thereunder shall, for each and every violation or non-compliance, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five dollars, (\$5.00) nor more than five hundred dollars, (\$500.00) for each offense. Every person violating or contributing in any way to the violation of any provision of this Ordinance shall be deemed guilty of a separate offense for each day during which such violation continues, and may be punished therefor as herein provided.

Section 8: Ordinance No. 881 is hereby repealed in its entirety and any other ordinance or section thereof in conflict herewith.

Section 9: That this ordinance shall be effective and in full force from and after its approval and publication in the official city newspaper, The Galena Sentinel-Times.

Passed by the Council this 18th day of May, 1982.

Approved by the Mayor:


Thomas L. Wade

ATTEST:


Barbara Wilkins, City Clerk

(SEAL)

VOTE 5 yeas
5 nays
Mayor cast the
deciding vote