

CITY OF ELLSWORTH ORDINANCE NO. 10

ZONING ORDINANCE OF ELLSWORTH

CONTENTS

PAGE NUMBER	ITEM
SECTION 1.	PURPOSES, SCOPE, INTERPRETATION AND SHORT TITLE
SECTION 2	DEFINITIONS
SECTION 3	CLASSIFICATION AND ESTABLISHMENT OF DISTRICTS
SECTION 4	REGULATIONS WITHIN THE ESTABLISHED DISTRICT
SECTION 5	GENERAL REGULATIONS
SECTION 6	PERFORMANCE STANDARDS
SECTION 7.	NON-CONFORMING USES
SECTION 8.	CONDITIONAL USE PERMITS
SECTION 9.	BOARD OF ZONING ADJUSTMENTS AND APPEALS
SECTION 10.	ENFORCEMENT
SECTION 11	AMENDMENT
SECTION 12.	PETITION FOR ADMENDMENT AND ADJUSTMENTS: FEES,
SECTION13.	VIOLATIONS AND PENALTIES
SECTION 14	VALIDITY
SECTION 15	REPEAL OF CONFLICTING ORDINANCES
SECTION 16	EFFECTIVE DATE

THE CITY OF ELLSWORTH DOES ORDAIN AS FOLLOWS:

SECTION 1. PURPOSES, SCOPE, INTERPRETATION AND SHORT TITLE.

Subd. 1. Purposes. This ordinance is enacted for the following purposes: Promote the health, safety, morals and general welfare of the inhabitants of the City of Ellsworth by lessening congestion in the streets, securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; conserving the value of properties; and encouraging the most appropriate use of land.

Subd. 2. Scope. From and after the effective date of this ordinance, the use of all land and every building or portion of land erected, altered with respect to height and area, added to, or relocated and every use within a building or use accessory thereto, in the City of Ellsworth shall be in conformity with the provisions of this ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, extended, or changed subject to the special regulations herein provided with respect to nonconforming properties or uses.

Subd. 3. Interpretation. In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this ordinance, the provisions of such statutes, other ordinances or regulations shall be controlling.

Subd. 4. Short Title. This ordinance shall be known and may be cited as the "Zoning Ordinance of Ellsworth".

SECTION 2. DEFINITIONS. For the purposes of this ordinance the terms defined in this Section have the meanings given them:

Accessory Building. A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.

Agricultural Use. An area, which is used for the production of farm crops.

Alley. A public thoroughfare less than thirty (30) feet in width which provides secondary access to abutting property.

Apartment. A part of a building consisting of a room or suite of rooms which is designed for, intended for or used as a residence for one family or an individual and is equipped with cooking facilities.

Apartment Building. Three (3) or more apartments grouped in one building.

Automobile Wrecking. See Junk Yards.

Building. Any structure for the shelter, support or enclosure of persons, animals, chattel or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building Height. The vertical distance from the average of the highest and lowest point of the portion of a lot covered by a building to the highest point of the roof.

Building Setback Line. A line within a lot or other parcel of land parallel to a public road, street, alley or highway right-of-way defining a portion of the lot between said setback line and said right-of-way, on which buildings or structures may not be placed.

Dwelling. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings, either permanently or transiently; a mobile home, house trailer or tent shall not be considered a dwelling for the purposes of this ordinance.

Dwelling, One Family. A building designed or occupied exclusively by one family.

Dwelling, Two Families. A building designed or occupied by two families.

Dwelling, Multiple Families. A building designed for or occupied by more than two families.

Family. Any number of individuals living together on the premises or a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel as commonly understood.

Floor Area. The sum of the gross horizontal area of the several floors of a building measured from the exterior wall, including basement and attached accessory buildings.

Garage, Private. A garage with a capacity of not more than four power driven vehicles for storage only and which is erected as an accessory building.

Garage, Public. Any premises except those described as a private garage used for the storage or care of power driven vehicles, or where any such vehicles are equipped for operation, repair, or kept for remuneration, hire or sale.

Home Occupation. Any gainful occupation meeting all of the following requirements when engaged in only by persons residing in their dwelling, when that occupation is conducted within the principal structure, when evidence of occupation is not visible from the street, no signs other than those permitted in residential district are present, no stock in trade is stored on the premises, over-the-counter retail sales are not involved, and entrance to the home occupation is gained from within the structure.

A professional person may use his residence for consultation, emergency treatment or performance of religious rites but not for the general practice of his profession when such general practice will involve the need for more than three parking spaces for the occupant and visitors. No accessory building or attached garage shall be used for such home occupation. Home occupations include professional offices, minor repair services, photo or art studio, dressmaking, teaching limited to three students at any one time, and similar uses; however a home occupation shall not be interpreted to include beauty or barber shops, tourist homes, restaurants or similar uses.

Hotel. Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in an individual room or apartment.

Junk Yard. Any building structures, premises or place within the corporate limits of the City of Ellsworth, Minnesota, at, upon or within which there is kept, stored or piled in quantities, whether temporarily, irregularly or continually, old, used or secondhand materials of any kind, including, but not limited to the following: clothing, paper, bottles, rubber materials, iron, brass or other scrap metals, furniture, used inoperative motor vehicles not currently licensed, parts of motor vehicles, agricultural or construction equipment or parts thereof, building materials, or any other article from which its worn conditions renders it practically useless for the purpose for which it was intended and for which it is commonly classified and referred to as junk.

Lot. One unit of a recorded plan or subdivision occupied or to be occupied by a building and its accessory buildings and including as a minimum such open spaces as are required under this ordinance and having frontage on a public street.

Lot Area. The lot area is the land area within the lot lines.

Lot, Corner. A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.

Lot Depth. The mean horizontal distance between the mean front street and the mean rear lot line. The greater frontage of a corner lot is its depth and its lesser frontage is its width.

Lot, Interior. A lot other than a corner lot.

Lot Line. The property line bounding a lot except that where any portion of a lot extends into the public right-of-way; the line of such public right-of-way shall be the lot line for application of this ordinance.

Lot Width. The horizontal distance between the side lot lines of a lot measured at the building setback line.

Mobile Home. A mobile home or house trailer is a trailer, or other vehicle, designed and constructed for dwelling purposes.

Premises. A lot, plot or tract of land with the required front, side and rear yards.

Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Story Half. That portion of a building under a gable, hip or gambrel roof the wall plates of which, on at least two opposite exterior walls, are not more than 2 feet above the floor of such story.

Structure. Anything constructed or erected; the use of which requires location on the ground or attachment to something having a location on the ground.

Structural Alterations. Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

Use. The purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is or may be occupied or maintained.

Use, Accessory. A use incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

Use, Conditional. A use classified as conditional which generally may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed, may create special problems such as excessive height, or bulk or abnormal traffic congestion.

Use, Non-Conforming. A use lawfully in existence on the effective date of this ordinance and not conforming to the regulations for the district in which it is situated except that such a use is not non-conforming if it would be authorized under Conditional User Permit where located.

Use, Permitted. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards of such districts.

Variance. A modification or variation of the provisions of this ordinance where it is determined that by reason of special and unusual circumstances as relating to a specific lot, that strict application of the ordinance would cause undue or unnecessary hardship, or that strict conformity with the provisions of this ordinance would be unreasonable, impractical or unfeasible under the circumstances.

Yard. Any space in the same lot with a building open and unobstructed from the ground to the sky.

Yard, Front. An open unoccupied space on the same plot with a building, extending the full width of the lot and situated between the lot line and the front of the building projected to the side lines of the lot.

Yard, Rear. An unoccupied open space except for accessory buildings on the same lot with a building between the rear lines of the building and the rear lines of the lot for full width of the lot.

Yard, Side. An open unoccupied space on the same lot with a building between the buildings and side line of the lot and extending the front yard to the rear yard.

SECTION 3. CLASSIFICATION AND ESTABLISHMENT OF DISTRICTS.

Subd. 1. Districts. For the purposes of this ordinance, the City of Ellsworth is hereby divided into classes of zoning districts which shall be designated as follows:

- A. Agricultural District for "A" District.
- B. Residential District or "R" District.
- C. Commercial District or "C" District.
- D. Industrial District or "I" District.

Subd. 2 Zoning Map. The location and boundaries of the districts established by this ordinance are set forth on the zoning map and said map is hereby made part of this ordinance, which map shall be known as the City of Ellsworth zoning map and all notations, references, and date shown thereon are hereby incorporated by reference into this ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the City Council to maintain this map and amendments thereto shall be recorded on the official zoning map kept on file and available to the public in the City Hall.

Subd. 3. District Boundaries. The boundaries between districts are unless otherwise indicated, either the center lines of streets, alleys or railroad right-of-ways, or such lines extended or lines parallel or perpendicular thereto. Where figures are shown on the zoning map between a street and a district boundary line, they indicate that the district boundary line runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise indicated.

SECTION 4. REGULATIONS WITHIN THE ESTABLISHED DISTRICT.

Subd. 1. Agricultural or "A" District .

A. Permitted Uses. The following uses shall be permitted in the Agricultural or "A" District:

1. Single family dwellings.
2. Agriculture, farming and truck gardening , farm buildings and the sale of produce grown only on the premises.
3. Churches, memorial buildings.
4. Public Schools and private schools having an equivalent curriculum.
5. Water supply and sewage treatment facilities, except that no building shall be located within forty feet of any lot line of an abutting lot in any Residential District.
6. Public administration buildings.
7. Parks and recreational areas owned and operated by governmental agencies.
8. Golf courses, country club, private swimming club, provided that no building shall be located within forty feet of any lot line of an abutting lot in any Residential District.
9. Home occupations.
10. Cemeteries.
11. Railroad right-of-ways, but not including railroad yards and shops.
12. Accessory uses customarily incidental to the above uses.

B. Conditional Uses. The following uses may be allowed in the Agricultural District by Conditional Use Permit:

1. Wind Energy Conversion Systems of 1kw nameplate rating or less.
2. Small Solar Energy systems with a Direct Current (DC) rated capacity of less than 100 kilowatts.
3. Airports.
4. Signs as regulated by the appropriate section herein.

C. Height, Yard and Area Regulations.

1. Height Regulations:
 - a. No height regulation shall be required for agricultural buildings.
 - b. No building other than agricultural buildings hereafter erected or altered, shall exceed two and one-half stories or 35 feet in height, except as may be permitted by the general regulations of this ordinance.
2. Front Yard Regulations:
 - a. There shall be no front yard having a depth of not less than 75 feet, except that the setback shall conform to County and State requirements when the lot abuts on a County, County State Aid or State Highway.
 - b. Where a lot is located at the intersection of two or more streets or roads, the front yard depth regulations are applicable on each street

side of each corner lot. No accessory buildings shall project beyond the front yard of either street.

3. Side Yard Regulations: There shall be a side yard on each side of the building having a width of not less than 20 feet.
 4. Rear Yard Regulations: There shall be a rear yard having a depth of not less than 25 percent of the depth of the lot.
 5. Lot Area Regulation: Every lot or tract of land upon which a single family dwelling is erected shall have an area not less than 22,500 square feet and an average width of not less than 150 feet, except that if a lot or tract has less area or width than herein required and was legally platted and was of record at the time of the passage of this ordinance, that lot may be used for any of the uses permitted in this Section.
- D. Additional Requirements. Additional regulations for the Agricultural District may be found in the Section covering general regulations.

Subd. 2. Residential or "R" District

- A. Permitted Uses. The following uses shall be permitted in the Residential District:
1. One family and two family dwellings.
 2. Parks and recreational areas owned and operated by a governmental agency.
 3. Public elementary and high schools, or private schools having an equivalent curriculum.
 4. Churches.
 5. Nursing homes or assisted living facilities.
 6. Accessory buildings and accessory uses customarily incident to the above uses, but not including home occupations or the conduct of business
- B. Conditional Uses. The following uses may be allowed in the Residential District by Conditional Use Permit.
1. Multiple family residences and public or private housing for the elderly.
 2. Public buildings, memorial buildings, and water supply buildings and structures.
 3. Hospitals and clinics.
 4. Boarding and lodging houses.
 5. Mobile homes provided that they are set on a permanent foundation.
 6. Signs as regulated in the appropriate section of this ordinance.
 7. Customary home occupations provided that:
 - a. Adequate off-street parking facilities are provided.
 - b. Not more than 25 percent of the gross floor area of residence is used for this purpose.
 - c. Only articles made or originating on the premises shall be sold on the premises.
 - d. No article for sale shall be displayed so as to be visible from any street.
 - e. No mechanical or electrical equipment is used if the operation of such equipment interferes with the desired quiet residential environment of the neighborhood.
- C. Height, Yard and Area Regulations.

1. Height Regulations: No building hereinafter erected or altered shall exceed two and one-half stories or thirty-five feet in height.
2. Front Yard Regulations:
 - a. There shall be a front yard a depth of not less than 30 feet unless 30 percent or more of the frontage of the same side of the street between two intersecting streets is improved with buildings having observed a greater or lesser depth of front yard in which instance no new building or portion thereof shall project beyond a straight line drawn between the point closest to the street line of the residence upon either side of the proposed structure, or if there be residences only upon one side, then beyond the straight line projected from the average front of the two nearest residences.
 - b. Where a lot is located at the intersections of two or more streets or roads, the front yard depth regulations are applicable on each street side of each corner lot. No accessory buildings shall project beyond the front yard of either street.
3. Side Yard Regulations:
 - a. There shall be a side yard on each side of the building having a width of not less than 10 feet.
 - b. The interior side yard for multiple dwellings when permitted by Conditional Use Permit shall be $\frac{3}{4}$ of the building height or 15 feet, whichever is greater.
4. Rear Yard Regulations: There shall be a rear yard having a depth of not less than 20 percent of the depth of the lot.
5. Lot Area Regulations:
 - a. Every lot on which a one family dwelling is erected shall have a minimum depth of 100 feet and a minimum street or road frontage of 50 feet and shall contain a minimum of 7500 square feet.
 - b. A lot on which there is erected a new two family dwelling shall have an area of not less than 20,000 square feet and an average width of not less than 100 feet with an average depth of not less than 125 feet except that parking requirements listed in this ordinance must be provided.
 - c. A lot on which there is erected a new multiple family dwelling shall contain an area of not less than 20,000 square feet for the first three units plus 2,000 square feet for each additional dwelling unit except the parking requirements listed in this ordinance must be provided and not more than 35 percent of a lot or a plot shall be occupied by buildings.
 - d. Two thousand square feet for each trailer or mobile home berth in a mobile home park is required.
 - e. A lot or parcel of land of record upon the effective date of this ordinance which is in the Residential District and which does not meet the requirements of this ordinance as to area, width or other open space may be utilized for single family detached dwelling purposes provided the measurements of such area, width or yard

space are within sixty percent of this requirements of this ordinance, but said lot or parcel shall not be more intensively developed.

D. Additional Requirements:

1. Additional regulations for the Residential District are set forth in general regulations section of this ordinance.

Subd. 3. Commercial or "C" District.

A. Permitted Uses. The following uses may be permitted in the Commercial District.

1. Any use permitted in the Residential District as regulated therein.
2. Automobile sales agency.
3. Automobile service stations for the sale of gasoline, oil and accessories, or auto repair.
4. Banks.
5. Barber and beauty shops.
6. Garage storage or other rental storage facilities.
7. Hotel, motel, lodging or boarding houses.
8. Mortuary.
9. Newspaper publishing, job printing establishment.
10. Outdoor vending machine.
11. Professional offices.
12. Restaurants and cafes.
13. Retail outlets for plumbing, heating, glazing, paper hanging, roofing, ventilating and electrical businesses.
14. Retail stores, sales or showrooms, office, agency or studios.
15. Self-service laundry.

B. Conditional Uses. The following uses may be permitted in the Commercial District by Conditional Use Permit.

1. Other business activities of the same general character as listed in Subd. A of this section.
2. Advertising and business signs as regulated in other sections of this ordinance.
3. Light industry which does not change the character of area.
4. Custom animal processing centers processing not more than 10 animal units (as defined by Minnesota Administrative Rule 7020.0300, as amended) on a daily basis.

C. Height, Yard and Lot Coverage Regulations:

1. Height Regulations: No building shall hereafter be erected to exceed 60 feet in height.
2. Front Yard Regulations: No front yard shall be required, except that any lot which is located adjacent to or across from a Residential District, the front yard shall be not less than 30 feet.
3. Side Yard Regulations: No side yard shall be required except that any lot which is located adjacent to or across from a Residential District shall have a side yard of not less than 10 feet.

4. Rear Yard Regulations: No rear yard shall be required except that on a lot which is located adjacent to or across from a Residential District, there shall be a rear yard of not less than 20 percent of the lot depth of any lot.
 - B. Additional Requirement. Additional requirements for the Commercial District are set forth in the general regulations listed in this ordinance.
- Subd. 4. Industrial or "I" District.
- A. Permitted Uses.
 1. Business or commercial establishments as provided in Subd. 3 and regulated therein.
 2. Wholesaling, all commodities except live animals.
 3. All fabricating, manufacturing, production, processing and storage of materials, goods and products, other than livestock, subject to the performance standards as set forth in this ordinance.
 4. Accessory uses incidental to the forgoing principal uses.
 - B. Conditional Uses. The following uses may be permitted in the Industrial District by Conditional Use Permit.
 1. Other uses of similar character to those listed in Subd. A of this section.
 2. The slaughter, production or processing of livestock.
 3. Signs, as regulated by other provisions in this ordinance.
 - C. Height, Yard, Area, Lot, Width and Lot Coverage Regulations:
 1. Height Regulations: No building shall hereafter be erected or structurally altered to exceed 75 feet in height.
 2. Front Yard Regulations: No front yard shall be required, except that on any lot which is located adjacent to or across the street from a Residential District, the front yard shall conform to the regulations governing a Residential District.
 3. Side Yard Regulations: No side yard shall be required except that buildings in an Industrial District which abut or are across the street from a Residential District shall conform to the side yard regulations of the Residential District.
 4. Rear Yard Regulations: No rear yard shall be required except that buildings in an Industrial District which abut or are across the street from a Residential District shall conform to the rear yard regulations of that Residential District.
 5. Lot Width Regulations: Every lot or tract shall have a width of not less than 10 feet abutting a public right-of-way.
 6. Lot Coverage Regulations: Not more than 50 percent of the total area of the lot shall be covered by buildings.
 - D. Additional Requirements. Additional requirements for all Industrial District are set forth in the general regulations listed in this ordinance.

SECTION 5. GENERAL REGULATIONS.

- Subd. 1. Height Regulations and Modifications.
- A. Public, semi-public or public service buildings, hospitals, institutions, schools or churches may be erected to a height not exceeding 60 feet in the districts in which they are permitted if the building is set back from each yard line at least one foot

- for each foot of additional building height above the height limit otherwise provided for the district in which the building is located.
- B. Height limitations as set forth elsewhere in this ordinance may be increased 100 percent when applied to the following:
1. Monuments.
 2. Flag poles.
 3. Cooling towers.
 4. Elevator penthouses.
- C. Height regulations as set forth elsewhere in this ordinance may be increased with no limitations when applied to the following:
1. Church domes; spires, belfries and roof ridges.
 2. Schools, colleges and university buildings.
 3. Chimneys or smokestacks.
 4. Television and radio broadcasting antenna.
 5. Fire towers
 6. Lofts, tanks.
 7. Water towers.
 8. Ornamental towers and spires.

Subd. 2. Area Regulations.

- A. No lot shall be so reduced so that the area of the lot or dimensions of the open spaces shall be smaller than herein prescribed.
- B. No dwelling shall hereafter be erected or altered unless there is direct access to it from a street or highway through an open space on the same lot. No building shall hereafter be erected or altered so as to close the present means of access to an existing dwelling or so as to diminish this means of access to a width less than the width of the existing dwelling.

Subd. 3. Yard Regulations. Measurements shall be taken from the nearest point of the wall of the building to the lot line in question, subject to the following qualifications:

- A. Cornices, canopies, eaves or fire escapes may extend into the required front yard a distance not exceeding 4 feet.
- B. A landing place, uncovered porch, or deck may extend into the required front yard a distance not exceeding 6 feet, if the floor is no higher than the entrance floor of the building. An open railing no higher than 3 feet may be placed around such place.
- C. The above enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch terrace, deck or outside stairway shall project into the required side yard distance, except on existing lots that are 50 feet or less in width, in such instance, these allowable architectural features may project into the required side yard a distance of two feet.
- D. A wall, fence or hedge may occupy part of the required front yard but no wall or fence more than 3 feet high shall be constructed without a conditional use permit.
- E. On corner lots, including agricultural area, nothing shall be placed in such a manner as to materially impede vision between a height of two and one-half feet and ten feet above the centerline grades of the intersecting streets to a distance such that a

clear line of vision is possible of the intersecting street from a distance of 50 feet from the intersection of the right-of-way lines.

- F. More than one institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such building, nor shall there be any changes in the area requirements.

Subd. 4. Accessory Uses and Buildings. The following accessory uses, in addition to those hereinbefore specified, shall be permitted in the Agricultural or Residential Districts if the accessory uses do not alter the character or the premises in respect to their permitted use:

- A. The operation of necessary facilities and equipment in connection with schools, colleges, universities, hospitals and other institutions permitted in that District.
- B. Recreation, refreshment and service buildings in public parks and playgrounds.
- C. Accessory buildings may be built in a required rear yard but such accessory buildings shall not be nearer to any side lot line than the required distance of the main building or to the main use of the premises to which the accessory building is incidental. Such accessory buildings shall not be nearer than 10 feet to any rear lot line or to any alley, nor shall any accessory building occupy more than 30 percent of the required rear yard.

Subd. 5. Off-Street Parking and Loading Requirements.

- A. Off-street parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required off-street parking spaces for the following uses shall be as follows:

- 1. Single family dwelling – one parking space. No garage shall be converted into living space unless other acceptable off-street parking space is provided.
- 2. Two family dwelling – one parking space for each family or dwelling unit.
- 3. Multiple dwelling – one and two-tenths (1.2) parking spaces per dwelling unit or apartment unit.
- 4. Boarding and lodging house - one parking space for each 2 persons for whom sleeping accommodations are provided.
- 5. Convalescent or nursing home – 1 parking space for each four beds for which sleeping accommodations are provided.
- 6. Hospitals – one parking space for each 2 hospital beds plus one space for each employee on the major shift.
- 7. Public park and recreation areas – five spaces for each acre of park, playground or playfield over two acres.
- 8. Churches – one parking space for each eight seats based on the design capacity of the main sanctuary.
- 9. Public junior and senior high schools or private school – one parking space for each classroom.
- 10. Municipal administration buildings, community center, public library, museum, art galleries, post office and other municipal service buildings –

five parking spaces plus one parking space for each 500 square feet of floor area over 1000 square feet of floor area.

11. Professional offices, medical and dental clinics and animal hospitals – four spaces plus one space for each 500 square feet of floor area over 1000 square feet of floor area.
 12. Office buildings – One space for each 500 square feet of floor area over 1000 square feet of floor area.
 13. Automobile service stations – two spaces for each service stall. Such parking space shall be in addition to space required for gas pump areas.
 14. Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials, sale, auto repair – one space for each 500 square feet of floor area.
 15. Drive-in restaurant – 10 spaces or one space for each 20 square feet of floor area whichever is less.
 16. Motel or motor hotel – one space for each rental room or suite.
 17. Enclosed skating rinks or dance hall – one space for each 200 square feet of floor area.
 18. Wholesale, business, storage, or warehouse establishments – one space for each employee of the major shift or one space for each 2000 square feet of gross floor area, whichever is greater, plus one off-street space for each company motor vehicle which is customarily kept on the premises.
 19. Manufacturing or processing plant – one off-street space for each employee on the major shift or one off-street space for each 350 square feet of gross floor area within the building, whichever is greater, plus one off-street space for each company motor vehicle when customarily kept on the premises.
 20. Uses not specifically mentioned – as determined by the City Council following review by the Planning Commission.
- B. Required Loading Areas: A loading permit designating proper loading areas and other necessary restrictions must be obtained from the City Council for any building of new construction or major alteration. The Council in granting such loading permit shall consider the traffic congestion and public safety affected thereby.

Subd. 6. Signs. All signs hereafter erected or maintained, except official, traffic and street signs, shall conform with the provisions of this subdivision.

- A. General Provisions. The following regulations shall apply to all signs hereinafter permitted in all districts:
1. Signs shall not be permitted within the public right-of-way or easement, except business signs where allowed may extend out from the building not exceeding 40 inches.
 2. All signs shall be constructed in a good, workmanlike manner and the copy thereof shall be neat and legible. The property immediately surrounding them shall be maintained in a clean and unoffensive condition free of unsightly growth and rubbish.
- B. Prohibited Signs. No signs shall be permitted:

1. In any location which would interfere with the view of any traveler on any roadway or of approaching vehicles or of traffic control devices or signs for a distance of 500 feet.
2. On rock, trees or other perennial plants or any public utility pole.
3. Containing a rotating beam or beams of light resembling an emergency vehicle.
4. Which simulates any official, directional or warning sign erected or maintained by the state, county, municipality or other governmental subdivision which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
5. Which casts a distracting or confusing ray of light onto or visible from a public roadway.
6. Which interferes with public utility facilities or the maintenance thereof.
7. Which obstructs a window, door, fire escape, stairway or opening essential to the provision of light, air ingress and egress from any building.
8. Within three hundred (300) feet of a church or school structure along a public roadway.
9. Which contains more than 2 surface areas or facings.

C. Exempt Signs. The following signs shall be exempt from the provisions of this section:

1. Signs which identify the business or activity conducted on the premises or advertise goods or services made and-or sold on the premises; provided, that they meet the setback requirements established for the use and do not contain a total combined surface in excess of 250 square feet, limited to 2 in number and located within the plot limits of the use.
2. Farm products signs; provided that they are located on the farm residence property and related to farm products, merchandise or services sold, produced, manufactured, or furnished on such farm; and provided further that no such devices shall exceed 20 square feet in area.
3. For sale or for rent signs upon real property and advertising the same as being for sale or for rent.
4. Directional signs; provided that they are of such design and meet such specifications as the County Highway Departments shall impose.
5. Signs which either identify personal property or residence and provided that they are affixed flat thereto and do not contain flashing lights.

SECTION 6. PERFORMANCE STANDARDS.

Subd. 1. Purpose – The performance standards established in this Section are designed to assure that neighboring land uses will be compatible. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated. Before any building permit is approved, the City Council shall determine whether the proposed use will conform to the performance standards. The developer or land owners shall supply data necessary to demonstrate such conformance. Such data may include the description of equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage, etc. it may be necessary for a developer or business to employ an independent testing organization to demonstrate that a given use will not exceed the performance standards.

Subd. 2. Residential features – No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, smoke, dust and particulate matter in such concentrations as to be detrimental to or endanger the public health, welfare, comfort or safety or cause injury to property or business.

Subd. 3. Glare – In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding shall not be directed not any adjoining property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

Subd. 4. Waste Material – Waste material shall not be washed into the public storm sewer system rather than the sanitary sewer system without first having received a permit to do so from the City. If said permit is not granted, a method of disposal shall be devised which will not require continuous land acquisition for permanent operation and will not cause a detrimental effect to the adjacent land. Should the waste be of a solid form rather than fluid, the storage area shall be so located and fenced as to be removed from the public view. In all districts, all waste material, except animal waste, debris; refuse; garbage; materials not currently in use for construction or otherwise regulated herein shall be kept in an enclosed building or properly contained in a close container for such purpose. The owner of vacant land shall be responsible for keeping such vacant land free of waste material and noxious weeds. Existing uses shall comply with the provision within six months following enactment of this ordinance. Passenger vehicles and trucks in an operative state shall not be parked in residential districts for a period exceeding 30 days; inoperative shall mean incapable of movement under their own power and in need of repairs. All exterior storage not included as a permitted accessory use, a permitted use, or otherwise permitted by provisions of this ordinance shall be considered refuse.

Subd. 5. Vibration – Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge, shall be prohibited if such vibrations are perceptible

beyond the lot line of the site on which the use is located. The standards shall not apply to vibrations created during the process of construction.

Subd. 6. Explosives – Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than four hundred feet away from any Residential or Commercial District line provided that this section shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or commercial purposes.

Subd. 7. Bulk Storage – (Liquid) – All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and other similar liquid shall require a conditional use permit in order that the City Council may have assurance that fire, explosion or water contamination hazards are not present that would be detrimental to the public health, safety and general welfare. For ground liquid storage tanks having a capacity in excess of 270 gallons the Council may require the development of diking around said tanks, suitably sealed, to hold the leakage capacity equal to 115 percent of the tank capacity. Any existing storage tank that, in the opinion of the Council, constitutes a hazard to the public safety shall discontinue operations within five years following the enactment of this ordinance.

Subd. 8. Drainage – No land shall be developed and no use shall be permitted that results in water run-off, flooding or erosion on adjacent properties. Such run-off shall be properly channeled into a storm drain, water course ponding area, or other suitable facility.

Subd. 9. Traffic control – The traffic generated by any use shall be channelized and controlled in a manner that will avoid congestion on public streets, safety hazards or excessive traffic through residential area. Traffic into and out of commercial and industrial uses or areas shall in all cases be forward moving with no backing onto streets or pedestrian ways., No access drive to any lot shall be located within 30 feet of any two intersecting street right-of-way lines.

Subd. 10. Radiation and Electrical Emissions – No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance, (except from domestic household appliances), adversely affecting the operation at any point of any equipment including but not limited to radio and television reception other than that of the creator of the disturbance.

Subd. 11. Water Supply – Private water supply sources and facilities shall be designed and constructed in accordance with State standards and regulations.

Subd. 12. Waste Disposal – On site, waste disposal system for domestic sewage or industrial wastes shall be designed, constructed and operated in accordance with State and Federal standards and requirements. Pre-treatment of industrial wastes prior to discharge to the municipal sewage system shall comply with City, State and Federal standards and regulations.

SECTION 7. NON-CONFORMING USES.

Subd. 1. Continuation. The lawful use of buildings or land existing at the effective date of this ordinance which does not conform to the provisions of this ordinance shall be discontinued within a reasonable period of amortization of the building. Uses of land which become non-conforming by reason of a subsequent change in this ordinance shall be discontinued within a reasonable period of amortization of the building. In no event shall the amortization period commencing with the completion or erection of the building, be more than:

- A. Three years for outdoor advertising structures (signs and billboards).
- B. Thirty years for buildings of ordinary wood frame construction.
- C. Forty years for buildings of wood and masonry construction.
- D. Fifty years for buildings of fireproof construction.

Subd. 2. Alterations – The lawful use of a building existing at the time of the adoption of this ordinance may be continued, although the use does not conform with the provisions hereof. If no structural alterations are made, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of the building has been changed to a more restricted use or to conforming use, such use shall not thereafter be changed to a less restricted use.

Subd. 3. Restoration – No building which has been damaged by fire, explosion, act of God, or the public enemy, to the extent of more than 50 percent of its value shall be restored except in conformity with the regulations of this ordinance.

Subd. 4. Discontinuance – In the event that a non-conforming use of any building or premises is discontinued or its normal operation stopped for a period of one year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

Subd. 5. Junk Yards – No junk yard may continue as a non-conforming use for more than one year after the effective date of this ordinance except that a junk yard may continue as a non-conforming use in a commercial or industrial district if within that period it is completely enclosed within a building or within a continuous solid fence of such height, not less than 8 feet in any case, and with such construction materials as shall be approved by the City Council, so as to screen completely the operation of the junk yard. No erection of any fence shall be allowed until the plans have been approved by the City Council.

Subd. 6. Residential Alterations – Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building.

Subd. 7. Normal Maintenance – Maintenance of a building or other structure contained or used for a non-conforming use may be permitted when it includes necessary non-structural repairs and incidental alteration which do not exceed or intensify the non-conforming building or use. Nothing in this ordinance shall prevent the placing of a structure in a safe condition when said structures is declared unsafe by the City.

SECTION 8. CONDITIONAL USE PERMITS.

Subd. 1. Application – Conditional use permits may be issued for any of the following:

- A. Any of the uses or purposes for which such permits are required or permitted by the provisions of this ordinance.
- B. Public utility or public service uses or public building in any district when found to be necessary for the public health, safety, convenience or welfare.
- C. Commercial excavating and storage of natural materials used for building or construction purposes, in any district
- D. To classify as a conforming use any non-conforming institutional use existing in any district at the time of the establishment of such district.
- E. To permit the location of any of the following uses in a district from which they are excluded by the provisions of this ordinance: airport, library, community center, church, hospital, nursing home, any institution of an educational, philanthropic or charitable nature, cemetery, or mausoleum.

Subd. 2. Procedure – Application for the issuance of a conditional use permit shall be made to the City Council, except that any proceedings to classify certain uses as conforming uses as provided in this section may be initiated by also making application to the City Council. The City Council may hold such hearings on the proposal to issue a conditional use permit as it may consider necessary, but a least one public hearing shall be held on any application for a use permit for the establishment of any use listed in Subd. 1(E) of this section. Following the hearing, the Council shall take action on whether or not to issue the permit, but it shall not recommend the granting of a permit unless it finds that the establishment, maintenance, or conducting of such use for which a conditional use permit is sought will not under the circumstances of the particular case be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the neighborhood of such use, or to the public welfare, or injurious to property or improvements in the neighborhood. It may designate conditions and require guarantees in the granting of use permits as it deems necessary and appropriate.

SECTION 9. BOARD OF ZONING ADJUSTMENT AND APPEALS.

Subd. 1. Creation and Membership – There is hereby created a Board of Adjustment and Appeals which shall consist of three members appointed by the Council as follows: Two citizens at large and one member selected by the Council from its own membership. Two members of the Board shall constitute a quorum, and all action by the Board requires the affirmative vote of the quorum. The Board shall serve without compensation. Its members shall serve from a term of two years beginning on the first day

of January and until their successors are appointed. The Board shall elect one of its own members as chairman and appoint a secretary who may, but need not, be one of its members.

Subd. 2. Powers and Duties – The Board of Zoning Adjustment and Appeals, subject to the approval and confirmation of the City Council, in each case as hereinafter provided, shall have the power to grant adjustments in the exceptions to any of the provisions of this ordinance to the extent of the following and no further:

- A. To vary or modify the strict application of any regulations or provisions contained in this ordinance in cases in which there are practical difficulties or unnecessary hardships in the way of such strict application.
- B. To permit the extension of a district where the boundary lines thereof divides a lot in one ownership at the time of the passage of this ordinance, but such extension of any district shall not exceed 100 feet.
- C. The Board of Zoning Adjustment and Appeals shall not recommend the granting of any application and the Council shall not grant any application unless they find the following facts. At the hearing the applicant shall present a statement and evidence in such form as the Board of Zoning Adjustment may require to show these facts:
 - 1. That there are special circumstances or conditions affecting land, building or use referred to in the application;
 - 2. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights;
 - 3. That the granting of the application will not materially affect the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

Subd. 3. Appeals – Any person, firm or corporation objecting to the ruling of any official or the City Council on administering the provisions of this ordinance shall have the right to appeal to the Board of Zoning Adjustment and Appeals.

Subd. 4. Procedure – Application for any adjustment permissible under the provisions of this Section shall be made to the City Council in the form of a written application for a building permit or for a permit to use the property or premises as set forth in the application. An application for an adjustment shall be accompanied by a payment of a fee of \$5.00, in addition to the regular building permit fee, if any. Upon receipt of an application, the City Council shall set a time and place for a public hearing before the Board of Zoning Adjustment and Appeals on such applications. At least ten days before the date of the hearing, notice of hearing shall be published once in the official newspaper.

The Board of Zoning Adjustment and Appeals shall thereupon make its recommendation upon the application to the City Council, with 30 days of the application.

In recommending any adjustment or variance under provisions of this Section, the Board of Zoning Adjustment and Appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially all objectives of the regulation provision to which the adjustment variance is granted, as to the public health, safety, comfort, convenience and general welfare.

No permit shall be issued under the provisions of this Section unless and until a recommendation of the Board of Zoning Adjustment and Appeals, as aforesaid, is approved and confirmed by the City Council. In reporting its recommendations the Board of Zoning Adjustment and Appeals shall report its findings with respect thereto and all facts in connection therewith, and shall specifically and fully set forth any adjustment and variance granted and the condition designated. Upon receipt of such report, the City Council by resolution shall either: a) approve and confirm the decision, with or without changes, whereupon the permit applied for may be issued; or b) refuse to approve and confirm the decision. In all cases in which adjustments or variances are granted under the provisions of this Section, the Board of Zoning Adjustment and Appeals and the City Council shall require such evidence and guarantees as it may deem necessary to insure compliance with the conditions designated in connection therewith.

SECTION 10. ENFORCEMENT.

Subd. 1. Zoning Administration – The City Council may establish the office of Zoning Administrator and may appoint such employee or employees of the City as it may deem proper. The City Council and Zoning Administrator, if so established and appointed, shall enforce this ordinance and shall perform the following duties:

- A. Issue occupancy and building permits, and make and maintain records thereof.
- B. Conduct inspections of buildings and use of land to determine compliance with the terms of this ordinance.
- C. Maintain permanent and current records of this ordinance, including but not limited to, all maps, amendments, conditional and special uses, variances, appeals, and applications therefore.
- D. Receive, file and forward all applications for appeals, variances, conditional or special uses or other matters to the designated official bodies.
- E. Institute in the name of the City, any appropriate actions or proceedings against the violator as provided for.
- F. Should there be an established and appointed Zoning Administrator, such persons should serve as an ex-officio non-voting member of the Planning Commission and Board of Zoning Adjustment and Appeals.

Subd. 2. Building Permits – Hereafter no person shall erect, alter, wreck, or move any building or part thereof without first securing a building permit therefore. No permit shall be required for an alteration costing less than \$400.00 or if no structural alteration of the building is involved.

Subd. 3. Application – Applications for a building permit shall be made to the City Council or Zoning Administrator, should there be one, on the blank forms to be furnished by the City. Each application for a permit to construct or alter a building shall be accompanied by the plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this ordinance or any other. The fee for a building permit shall be determined by resolution of the City Council. The Zoning

Administrator, should there be one, or the City Council in its absence shall issue the building permit only after determining that the building plans together with the application , comply with the terms of this ordinance.

SECTION 11. AMENDMENT. This ordinance may be amended whenever the public necessity the convenience and the general welfare require such amendment by the procedure specified as follows:

- A. An amendment may be initiated by the City Council or the Planning Commission, or by the petition of not less than fifty percent of the property owners affected by the proposed amendment and fifty percent of those property owners within 350 feet of the proposed change. An amendment not initiated by the planning Commission or the City Council shall be referred to the Commission or Council for study and report and the Council shall not act on the amendment until it has received the recommendation of the Planning Commission or until sixty days have elapsed from the date of reference of the amendment without report by the Commission.
- B. Before any amendment is adopted, the Planning Commission or City Council shall hold at least one public hearing thereon after a notice of the hearing has been published in the official newspaper at least ten days before the hearing. Following the hearing, the City Planning Commission, if there be one, shall make a report of its findings and recommendations on the proposed amendment and shall file copy with the City Clerk within sixty days after the hearing. Failure of the City Planning Commission to so report shall be deemed to be approval by the Commission of the proposed amendment.
- C. Upon the filing of such report or upon the expiration of such sixty days as aforesaid, the City Council may hold such public hearing upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the City Council may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if two-thirds of all members of the Council concur in its passage.

SECTION 12. PETITION FOR AMENDMENT AND ADJUSTMENTS: FEES

Subd. 1. Payment Required – Any person filing a petition requesting a variance from a Board of Adjustment and Appeals or an amendment of the zoning ordinance rezoning property or changing regulations within any use district shall pay a fee according to the schedule established by resolution of the City Council. The fee is payable at the time of filing of the petition and is not refundable.

Subd. 2. Contents of Petition – The petition shall give the street address of the land as to which the petition is made, contain the legal description of the property, state the mailing address of the owner or owners, and clearly described the structure to be built or altered if the petition is granted, or if the petition is for a change in any regulation of this ordinance, it shall state the change and the reasons therefore. The Planning Commission or City Council may require the petitioner to submit a certificate by a registered land surveyor verifying the front, rear and side yards, setbacks and all buildings situated on or adjacent to the property described in the petition.

SECTION 13. VIOLATIONS AND PENALTIES.

Subd. 1. Violations and Penalty – Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists enforcement of any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law for each offense or both, plus the costs of prosecution in either case. Each day that a violation is permitted to exist shall constitute a separate offense.

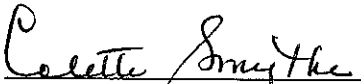
Subd. 2. Enforcing – In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the City Council or Zoning Administrator in addition to other remedies, may institute any proper action or proceeding in the name of the City of the Ellsworth and hereby shall have the powers of a police officer to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct or abate such violations to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.

SECTION 14. VALIDITY. Should any section or provision of this ordinance be declared by a court competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.


SECTION 15. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 16. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.


Colette Smythe, Mayor

ATTEST:


Dawn Huisman, City Clerk

Introduced: 3/6/2021

Passed : 3/6/2021

Published: 3/16/2021