

ORDINANCE NO. 231

AN ORDINANCE OF THE CITY OF ELK RIVER, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ADOPTING A ZONING ORDINANCE FOR THE CITY; PROVIDING FOR THE FOLLOWING: A TITLE; FOR TRANSITION; AUTHORITY; DEFINITIONS; ADMINISTRATION; JURISDICTION; ZONING DISTRICTS; MINIMUM REQUIREMENTS; SEVERABILITY; OFFICIAL ZONING MAP; INTERPRETATION AND MEANING OF WORDS AND TERMS; CONDITIONAL USE PERMITS; NON-CONFORMING USES; APPEALS, VARIANCES AND ACTIONS BY AFFECTED PERSONS; REPEAL OF ORDINANCES IN CONFLICT; APPEALS, VARIANCES AND ACTIONS BY AFFECTED PERSONS; PROVIDING FOR ENFORCEMENT AND THAT VIOLATION OF THE ORDINANCE SHALL BE AN INFRACTION PUNISHABLE BY A FINE NOT TO EXCEED \$300 AND EACH DAY OF VIOLATION SHALL CONSTITUTE A SEPARATE VIOLATION; REGULATING LIVESTOCK; AND PROVIDING FOR THIS ORDINANCE TO BE EFFECTIVE UPON ITS PASSAGE APPROVAL AND PUBLICATION ACCORDING TO LAW.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELK RIVER HEREBY ORDAINS AS FOLLOWS:

SECTION 1. TRANSITION FROM PRIOR ZONING CODE:

1. The enactment of this Code shall not terminate or otherwise affect rights, variances, permits, and approvals acquired or authorized under prior Code.
2. Except as stated in herein, where any development permit or approval required by this Code and any Building Permit required by the City has been issued for the construction of a building or structure, and for an authorized use and occupancy of that use, in accordance with the law prior to the Effective Date, the building or structure may be completed in conformance with the approved plans and on the basis for which the development permit or approval and/or Building Permit had been issued, provided construction of the building or structure is commenced.

SECTION 2. ZONING CODE: The following is hereby adopted as the official zoning code for the City of Elk River.

ZONING CODE

ARTICLE I TITLE, INTERPRETATION, AND ENACTMENT

1.1. TITLE

This ordinance shall be known and may be cited to as the "Zoning Ordinance of the City of Elk River, Idaho."

1.2. AUTHORITY

This Zoning Ordinance is adopted pursuant to authority granted by Title 67, Chapter 65 of the Idaho Code and Article 12, Section 2 of the Idaho Constitution, as amended or subsequently codified.

1.3. DEFINITIONS

"Dwelling" means any building that contains one or two *dwelling units* used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

"Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The entities are: travel trailer, camping trailer, truck camper, fifth-wheel trailer, park model recreational vehicle and motor home. Must be hooked to power, and city water and sewer services

"Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

"Fifth-wheel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits, of gross trailer area not to exceed four hundred (400') square feet in the set-up mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

"Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

"Travel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as not to require special highway movement permits when towed by a motorized vehicle, and of gross trailer area less than three hundred twenty (320') square feet.

"Truck camper" means a portable unit constructed to provide temporary living quarters for recreational, camping or travel use, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

"Park model recreational vehicle" means a recreational vehicle that is designed to provide temporary accommodations for recreational, camping or seasonal use, is built on a single chassis, was originally mounted on wheels, has a gross trailer area not exceeding four hundred (400') square feet in the set-up mode and is certified by its manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Standard for Recreational Park Trailers, and includes park models, park trailers and recreational park trailers.

"Occasional RV Use" means a max limit of seven (7) days for RV's numbering more than what is allowed in the applicable residential zone. The occasional time frame is limited to: Memorial weekend, Fourth of July weekend, Elk River Days weekend and Labor Day weekend. Special circumstances can be accommodated by contacting City Hall.

"Residence" means a dwelling hooked up to city water and sewer services.

1.4. JURISDICTION

The territory over which the Mayor and the City Council has jurisdiction within the City of Elk River, Idaho shall be divided into zoning districts pursuant to this ordinance; that regulations pertaining to the erection, construction, reconstruction and use of structures and land shall be adopted as hereinafter set forth.

1.5. MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and the general welfare. Whenever the requirements of this ordinance conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive or that imposing the higher standards shall govern.

1.6. SEVERABILITY CLAUSE

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or 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 unconstitutional or invalid.

1.7. REPEAL OF CONFLICTING ORDINANCE--EFFECTIVE DATE

All ordinances or parts of ordinances in conflict with this zoning ordinance or inconsistent with the provisions of the ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect. This ordinance shall become effective from and after the date of its approval and adoption, as provided by law.

ARTICLE II ADMINISTRATION

2.1. GENERAL

For the purpose of carrying out provisions of this ordinance, an Administrator is hereby created.

For those provisions of this ordinance which specify duties and functions of "the Commission", such provision shall be executed by the City Council.

2.2. ADMINISTRATION

The Mayor shall be the Administrator of this ordinance. The City Clerk shall serve as the Deputy Administrator or whoever the city contracts to do such duties.

For the purpose of this ordinance, the administrator shall have the following duties:

1. Advise interested persons of the zoning ordinance provisions.
2. Notify the news media regarding matters of public interest.
3. Aid applicants in the preparation and expedition of required applications.
4. Issue zoning permits, notifications and such similar administrative duties.
5. Investigate all violations of this ordinance and notify, in writing, the person responsible for such violation (s), ordering the action necessary to correct such violations.
6. Assist the council in carrying out the provisions of this ordinance.

2.3. ADMINISTRATIVE PROCEDURES

1. Upon receipt of any application specified in Article V and Article VI, the City Council may determine to hold a public hearing and in that event shall follow the notification and public hearing requirements specified in Title 67, Idaho Code. The property owner must sign all applications in question. It shall be the applicant's responsibility to collect and turn into the City of Elk River as part of his/her application the names and addresses of all property owners within three hundred (300') feet of the property if such notification is required. The applicant shall reimburse the city any notice and notification expenses.
2. Applications for variances to the code shall be considered when they are not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in an unnecessary hardship because of the physical characteristics of the site. A variance shall not be considered a right or privilege and will

only be granted to the applicant if hardship is proven and it is not in conflict with the public interest. The applicant shall be required to provide proof of the following in their application:

- a. What physical characteristic of the site exists to cause a hardship?
- b. What hardship has been caused and why does it impose undue burdens upon the property owner?
- c. Evidence that the owner, or previous owners, through their own actions did not cause the hardship.

ARTICLE III ESTABLISHMENT AND PURPOSE OF ZONING DISTRICTS

3-1. GENERAL PURPOSE

The general purposes of the zoning ordinance are as follows:

1. To Protect and promote the public health, safety, morals, convenience, prosperity, and general welfare.
2. To avoid undue concentration of population.
3. To prevent the overcrowding of land.
4. To safeguard from fire, panic and other damages.
5. To lessen congestion in the streets.
6. To provide adequate light and air.
7. To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.
8. To protect the character and the social and economic stability of all facilities and activities from other facilities and activities which are unrelated or incompatible.
9. To promote an attractive urban environment, and to preserve the natural beauty of Elk River's setting.

3-2. GENERAL INTENT

The following zoning districts are hereby established. For the interpretation of this ordinance, the zoning districts have been formulated to realize the general purposes as set forth in this ordinance. In addition, the specific purpose of each zoning district shall be as stated:

- R-1 -- Residential Zone
- R-2 -- Moderate to High Density Residential Zone
- R-3 -- Medium Density Residential Zone
- C -- Commercial Zone
- I -- Industrial Zone
- CC -- Areas of Critical Concern
- FP -- Flood Plain Overlay Zone

3-3. ZONING DISTRICTS

3-3-1. LOW DENSITY RESIDENTIAL DISTRICT - (R-1)

- A. Intent:** To establish, develop and protect a quiet residential area limited to residential dwellings and free from other uses except those which are both compatible with and convenient to the residents of such district.

In the residential "R-1" zone, land and structures are considered one in the same for zoning purposes.

Hereafter in the "R-1" district, no building, structure or land shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this ordinance.

B. Uses Permitted Outright:

1. Single-Family residence.
2. Two-Family residences or equivalent dwelling unit allowed by special use permit.
3. Agricultural and forest uses, provided no products are sold to the public.
4. Home occupations, not exceeding the provisions of 1.1[1] of section C, Article III.
5. Mobile homes and/or manufactured homes on individual lots pursuant to provision 1.1[2] of section C, Article III.
6. Uses, buildings and structures that utilize electricity and/or water are accessory to a single family or duplex residence shall be serviced by the same electric and/or water meter as the single family or duplex residence.
7. Bed & Breakfast, Air BnB, or Boarding House with condition that adequate off-street parking be provided and use will not change the character of the neighborhood.
8. Recreational vehicles: 2 per lot allowed for 180 days. Anything over 180 days requires City Council approval.
9. Need to abide by setbacks and provide adequate parking for all vehicles, etc.

- C. Uses Permitted Conditionally:** The City Council may grant a Conditional Use Permit for any of the following buildings or uses in accordance with the procedures set forth in Article V of this ordinance:

1. Home occupations pursuant to provision 1.1[1] of section C, Article III, which exceeds the limitations stated.
2. Day Nursery
3. Churches
4. Schools
5. Multi-family dwellings
6. Hospital or Nursing Home
7. Medical or Dental Offices or Clinics
8. Public Facilities such as City infrastructure, Parks, Playgrounds and Utility Facilities

9. Any other uses not specifically mentioned but of a significantly similar nature may be considered for a conditional use permit after review of the application and approval of the City Council.

D. Building Standards: In this zone, no building or premises shall be hereafter erected or altered (unless otherwise provided in this chapter) except for one or more of the designated or permitted uses in accordance with the following standards:

1. The lot per dwelling unit and for all primary uses in a R-1 Zone shall be dependent on the city water supply and sewer system.
2. The lot area shall be a minimum of seventy-five hundred (7500') square feet.
3. The lot width shall be a minimum of fifty (50') feet.
4. The lot depth shall be a minimum of one hundred fifty (150') feet.
5. The front yard shall be a minimum of ten (10') feet from the property line.
6. Each side yard shall be a minimum of seven (7') feet from the property line.
7. A rear yard shall be a minimum of seven (7') feet from the property line.
8. A corner lot yard, on the side street, the setback shall be a minimum of ten (10') feet from the property line.
9. In all zones, which require a front yard, no obstruction to view in excess of three (3') feet in height, or under ten (10') feet in height shall be placed on any corner lot within a triangular area, from the street property line.
10. No minimum square footage for dwellings.

E. Parking Requirements: Two (2) off-street parking spaces shall be provided for each residence.

F. Building Heights: No building or structure shall exceed a height of thirty feet (30') measured at the shortest distance from the ground to the eaves.

G. Porta Potties

1. Only allowed with a building permit while building. Special circumstances can be accommodated by contacting City Hall and can be revoked at any time by City Hall.

H. Special Provisions within the "R-1" District

1. Home Occupations -

In-home Occupations:

1. No more than one person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of floor area of the dwelling unit shall be used in the conduct of home occupation. The home occupation may take place in an accessory building meeting all other city regulations.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding four (4') square feet in area, non-illuminated, and

- mounted flat against the wall of the principal building or accessory building.
4. No significant traffic shall be generated by such occupation and any need for parking generated by the conduct of such home occupation shall not be located in a required front yard and shall meet the off-street parking requirements as specified in this ordinance.
 5. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted other than a single-family residence or accessory building. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

I. Mobile Home/Manufactured Homes on Individual Lots:

1. Only one mobile home/manufactured home unit shall be permitted per individual lot.
2. Lot area shall conform to requirements with the "R-1" district.
3. Yard requirements shall meet minimum standards of the "R-1" district.
4. Mobile homes/manufactured homes shall be connected to and served by the same utility systems as providing service to conventionally-built residences in the "R-1" district.
5. Site and Unit Requirements: When applying for a manufactured housing installation permit, the following conditions must be met before an installation permit will be issued:
 - a. Permits shall not be issued for any manufactured home manufactured more than twenty (20) years old except under the following conditions
 - i. Considerations: In making its determination, the City Council shall consider at least the following criteria:
 - a. The mobile or manufactured home has been inspected and approved by the United States Department of Housing and Urban Development (HUD) and bears the seal of the department; and
 - b. Paint and/or siding has no voids greater than two inches, is in good repair or new, and is compatible with the types and styles of existing homes in the neighborhood; and
 - c. No broken or mismatched windows, i.e., vinyl, aluminum, wood, fiberglass; and
 - d. Has a perimeter foundation constructed of brick, concrete, concrete block or pressure treated wood, or is fully skirted with material having the same appearance.
6. Application: Applications for installation permits shall be in writing, signed by the applicant, and shall contain the following:
 - a. Pictures or illustrations which accurately represent the actual resemblance of the mobile or manufactured home.
 - b. Additional information as may be requested by the Building Official to determine whether the proposed installation will comply with legal requirements.

- J. Recreational Vehicle Parks:** Shall be allowed by conditional use permit in designated zones but only when such parks are constructed and maintained in accordance with the following

standards and conditions:

1. The park has been approved by the City prior to the issuance of a permit.
2. At least one side of the park shall abut on a public street.
3. All spaces shall be connected to the city water and sewer systems.
4. Each space shall be at least twenty-five feet wide and fifty feet long (25' X 50') and shall include off-street parking spaces as required by the standards code.
5. The maximum length of stay in a recreational vehicle park shall be one hundred eighty (180) days.
6. The boundaries of each space shall be clearly, distinctly, and permanently outlined.
7. The Recreational Vehicle Park may be completely surrounded by a fence, per city code.
8. Off-street parking shall be provided in accordance with the standards code.
9. Parks shall require sewer hookup.
10. An electrical outlet supply of at least one hundred ten (110) volts and at least thirty (30) amps shall be provided for each RV space.
11. The owner or operator of a park shall maintain the entire park in a neat and orderly manner. All installations and common areas required by this code shall be maintained in a good state of repair.
12. Points of ingress and egress shall be located and designed so as to provide safe and convenient access to and from the park and to eliminate congestion.
13. The construction, layout and operation of the park must be such that in the opinion of the City, property values in the surrounding area and the objectives and characteristics of the zone in which the park is located will be fully maintained.

K. Accessory Building:

1. No more than two (2) accessory buildings shall be allowed on one (1) residential lot.

3-3-2. HIGH DENSITY RESIDENTIAL DISTRICT - (R-2)

A. Intent: To establish, develop, and protect a moderate to high density, single-family residential zoning district which is limited to residential dwellings and free from other uses except those which are both compatible with and convenient to the residents of such districts.

B. Uses Permitted Outright:

1. Those uses permitted in R-1 Classification.
2. Public Facilities such as city infrastructure, parks, playgrounds and utility facilities.
3. Multi-family dwellings.

C. Building Standards: In this zone, no building or premises shall be hereafter erected or altered (unless otherwise provided in this chapter) except for one or more of the designated or permitted uses in accordance with the following standards:

1. The lot per dwelling unit and for all primary uses in a R-1 Zone shall be dependent on the city water supply and sewer system.
2. The lot area shall be a minimum of seventy-five hundred (7500') square feet.
3. The lot width shall be a minimum of fifty (50') feet.
4. The lot depth shall be a minimum of one hundred fifty (150') feet.
5. The front yard shall be a minimum of ten (10') feet from the property line.
6. Each side yard shall be a minimum of seven (7') feet from the property line.
7. A rear yard shall be a minimum of seven (7') feet from the property line.
8. A corner lot yard, on the side street, the setback shall be a minimum of ten (10') feet from the property line.
9. In all zones, which require a front yard, no obstruction to view in excess of three (3') feet in height, or under ten (10') feet in height shall be placed on any corner lot within a triangular area, from the street property line.
10. No minimum square footage for dwellings.

D. Multi-family Dwelling (three or more units):

1. Minimum lot sizes and yard requirements shall be:
 - a. Lot area shall be a minimum of seventy-five hundred (7500') square feet.
 - b. Lot width shall be a minimum of fifty feet (50').
 - c. The lot depth shall be a minimum of one hundred fifty (150') feet.
 - d. The front yard shall be a minimum of ten feet (10') from the property line.
 - e. Side yards shall be a minimum of seven feet (7') from the property line.
 - f. The rear yard shall have a rear yard setback of at least seven feet (7') from the property line.
 - g. A corner lot yard, on the side street, the setback shall be a minimum of ten (10') feet from the property line.
 - h. Parking requirements shall be two (2) off-street parking spaces for each dwelling unit.
 - i. No building or structure shall exceed a height of thirty feet (30') measured at the shortest distance from the ground to the eaves.
 - j. Shall meet all building standards set in 3-3-2.C.

E. Uses Permitted Conditionally:

1. Those uses permitted conditionally in the R-1 Classification.

3-3-3. MIXED USE RESIDENTIAL DISTRICT – (R-3)

A. Intent: To establish, develop, and protect a medium density, single family residential zoning district which is limited to residential dwellings and free from other uses except those which are both compatible with and convenient to the residents of such districts.

B. Uses Permitted Outright

1. Two dwellings as long as setbacks are met.
2. Mobile Home.
3. Those uses permitted in R-1 and R-2 Classification.

C. Building Standards

1. Minimum lot sizes and yard requirements shall be:
 - a. Lot depth shall be a minimum of one hundred fifty (150') feet.
 - b. Lot width shall be a minimum of one hundred fifty (150') feet.
 - c. Lot area shall be a minimum of one (1) acre.
 - d. The required setbacks for all buildings shall be ten (10') feet from the front property line, seven feet (7') from the rear property line, and seven (7') feet from the side property lines.
 - e. A corner lot yard, on the side street, the setback shall be a minimum of ten (10') feet from the property line.
 - f. In all zones, which require a front yard, no obstruction to view in excess of three (3') feet in height, or under ten (10') feet in height shall be placed on any corner lot within a triangular area, from the street property line.

D. Parking Requirements: Two (2) off-street parking spaces shall be provided for each residence.

E. Building Heights: No building or structure shall exceed a height of thirty feet (30') measured at the shortest distance from the ground to the eaves.

F. Special Provisions within the "R-3" District

1. Home Occupations -

In-home Occupations:

1. No more than one person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of floor area of the dwelling unit shall be used in the conduct of home occupation. The home occupation may take place in an accessory building meeting all other city regulations.
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal building or accessory building.
4. No significant traffic shall be generated by such occupation and any need for parking generated by the conduct of such home occupation shall not be located in a required front yard and shall meet the off-street parking requirements as specified in this ordinance.
5. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted other than a single-family residence or accessory building. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

G. Mobile Home/Manufactured Homes on Individual Lots

1. Mobile homes/manufactured homes shall be connected to and served by the same utility systems as providing service to conventionally-built residences in the "R-1" district.

H. Accessory Building

1. No more than two (2) accessory buildings shall be allowed on one (1) residential lot.

I. Mobile Home Parks with lots not subdivided into individual parcels:

1. A mobile home park's gross density on the site shall not exceed five (5) units per acre.
2. Must abide by listed setbacks.
3. The site, including mobile home stands, patios, structures, and all site improvements shall be harmoniously and efficiently organized in relation to topography, the shape of the plot, and the shape, size and position of structures and common facilities.
4. Mobile home parks shall be fitted to the terrain with minimum disturbance of the land. Favorable views or outlooks shall be emphasized by the plan.
5. Mobile home parks shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and so that such use will not change the essential character of the "R" district.
6. Mobile home parks shall not be constructed so as to pose a hazard or detriment to existing or future neighboring use.
7. Mobile home parks shall be served adequately by essential public facilities and services such as drainage, refuse disposal, and schools.
8. Mobile home parks shall have vehicular approaches to the property which shall be so designed as not to create an interference with traffic and surrounding public streets or roads.
9. Mobile home parks shall not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.
10. A request for a conditional use permit for a mobile home park shall include the following information:
 - a. A legal description of the premises upon which the mobile home park will be located.
 - b. A site plan in three (3) copies drawn to a scale of not less than one inch equals one hundred feet (100'). The Plan shall show the following:
 - the size and location of site;
 - the size, location and number of all mobile home spaces;
 - the location and width of all public streets adjacent to the mobile home park; and all roadways, driveways, and sidewalks within the park;
 - the location and number of sanitary conveniences, washrooms, laundries, and utility rooms;
 - the location and size of off-street parking areas and recreation areas;

- the location of service buildings and any other existing or proposed structures;
 - a general landscape plan showing any proposed fencing;
 - the location of fire hydrants;
 - typical street and walk sections;
 - water and sewer utility plans;
 - methods to be used for garbage disposal;
 - the location and details of street lighting and electrical utility systems;
 - a drainage plan;
 - plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home park;
 - any other information as deemed necessary to comply with legal requirements.
- c. The site plan shall be presented to and approved by the Environmental Services Division of the Department of Health and Welfare and the North Central Health District before the final approval of the application and granting of the permit by the City Council.
- d. Off-street parking for two (2) vehicles shall be provided for each mobile home space. Where a common parking area is provided, it shall be located within three hundred feet (300') of each mobile home space served. A paved or graveled driveway shall be provided to serve each mobile home space, and shall be a minimum ten feet (10') wide.
- e. The mobile home park site shall have at least two direct accesses to a public street or highway, and access roads shall be provided to each mobile home space. All streets and access-ways shall be constructed in accordance with specifications of the City and County regulations for like streets and access-ways on public ways.

3-3-4. COMMERCIAL DISTRICT - (C)

- A. Intent:** The purpose of the Commercial District is to accommodate and encourage further expansion and renewal in the historical core business area of the community and to establish and preserve a centralized district of commercial activities convenient and attractive for a wide range of retail uses, business, government and professional offices, and places of amusement in a setting conducive to and safe for pedestrian traffic.

In the commercial "C" zone, land and structures are considered one in the same for zoning purposes.

Hereafter in the "C" District no building, structure, or land shall be used and no building or structure shall be erected, altered, enlarged, or relocated therein which is designed or intended to be used for any use other than the following unless otherwise provided in this ordinance.

B. Uses Permitted Outright:

1. Automobile sales and services

2. Bakery
3. Beauty shop, barber shop, or other personal service business
4. Boat or house trailer sales and service
5. Bowling alley or other commercial amusement (indoor)
6. Building supply outlet
7. Business or professional office
8. Day Nursery
9. Bank/Savings & Loan/Credit Union
10. Frozen food locker
11. Laundry and dry cleaning establishments
12. Medical & Dental clinic
13. Motel or hotel
14. Restaurant/Bar/Drive-in Restaurant
15. Retail Stores and services
16. Food Store
17. Cabinet and furniture shop
18. Garden nursery
19. Service Stations
20. Government offices
21. Parks & Playgrounds
22. Utility facilities
23. City infrastructure
24. All uses allowed in the R-1, R-2 and R-3 Zones

C. Uses Permitted Conditionally: The City Council may grant a Conditional Use Permit for any of the following buildings or uses in accordance with the procedures set forth in Article V of this ordinance:

1. Farm or heavy equipment sales and service
2. Machine shop
3. Car wash
4. Public use
5. Semi-public use
6. Camp trailer park
 - a. Shall be allowed by conditional use permit in designated zones but only when such parks are constructed and maintained in accordance with the following standards and conditions:
 1. The park has been approved by the City prior to the issuance of a permit.
 2. At least one side of the park shall abut on a public street.
 3. All spaces shall be connected to the city water and sewer systems.
 4. Each space shall be at least twenty-five feet wide and fifty feet long (25' X 50') and shall include off-street parking spaces as required by the standards code.
 5. The maximum length of stay in a recreational vehicle park shall be one hundred eighty (180) days.
 6. The boundaries of each space shall be clearly, distinctly, and permanently outlined.

7. The Recreational Vehicle Park may be completely surrounded by a fence, per city code.
 8. Off-street parking shall be provided in accordance with the standards code.
 9. Parks shall require sewer hookup or self-contained units.
 10. An electrical outlet supply of at least one hundred ten (110) volts and at least thirty (30) amps shall be provided for each RV space.
 11. The owner or operator of a park shall maintain the entire park in a neat and orderly manner. All installations and common areas required by this code shall be maintained in a good state of repair.
 12. Points of ingress and egress shall be located and designed so as to provide safe and convenient access to and from the park and to eliminate congestion.
 13. The construction, layout and operation of the park must be such that in the opinion of the City, property values in the surrounding area and the objectives and characteristics of the zone in which the park is located will be fully maintained.
7. Veterinary clinic or kennel
 8. Church
 9. Hospital
 10. Other uses of a similar commercial nature
 11. Any other use not specifically listed in "permitted uses"

D. Building Standards: In this zone, no building or premises shall be hereafter erected or altered unless otherwise provided in this chapter, except for one or more of the above uses in accordance with the following standards. The following designated uses shall be permitted:

1. Be dependent on City water supply and sewer system.
2. The front setback shall be a minimum of ten (10') feet from the property line.
3. Each side setback shall be a minimum of seven (7') feet from the property line.
4. A rear setback shall be a minimum of seven (7') feet from the property line.
5. Accessory Buildings
6. Street access
7. Clear view of intersecting streets

E. Building Height: In the "C" district, no building or structure shall exceed a height of thirty feet (30') measured at the shortest distance from the ground to the eaves.

F. Signs: In the "C" district, signs shall be subject to the following restrictions:

1. Signs shall be limited to those identifying a business on the premises.
2. The total area of all signs shall not exceed one square foot for each lineal foot of lot frontage on the street.
3. No sign shall cast light on property in a residential zone.

G. Parking: The plan of the proposed parking area shall accompany an application for a building permit. The plan shall clearly indicate the proposed development and construction of the parking areas, showing that the adequate off-street parking will be

provided. Adequate lighting may be required.

- H. Sidewalks:** Sidewalks in the "C" district may be covered (must meet building codes), however, no structure shall be built above sidewalk cover. Sidewalks must remain ADA compatible.

3-3-5. INDUSTRIAL DESIGNATED USES - (I)

- A. Intent:** The intent of the Industrial Zone is to provide areas by zoning procedures and in accordance with the Comprehensive Plan, which encourages suitable areas in which industry may locate. The following uses shall be permitted:

1. All light industrial uses including manufacturing plants, processing plants and related uses.
2. Wholesale commercial businesses
3. Public Facilities

B. Uses Requiring Conditional Use Permits:

1. All heavy industrial uses
2. Airports
3. Junk Yards, Wrecking Yards
4. Landfills, recycling centers, incinerators, compost operations, and other solid waste facilities.
5. Any other uses not specifically mentioned but of a significant similar nature may be considered for a conditional use permit after review and approval of an application by the City Council.
6. Any other use not specifically listed in "permitted uses".
7. All uses allowed in R-1, R-2, R-3 and Commercial "C" zones.

C. Building Standards

In this zone, no building or premises shall be hereafter erected or altered (unless otherwise provided in this chapter) except for one or more of the designated or permitted uses in accordance with the following standards:

1. The lot per dwelling unit and for all uses in an "I" zone, shall be dependent on City water supply and sewer system. There shall not be a minimum lot size.
2. The front setback shall be a minimum of ten (10') feet from the property line.
3. Each side setback shall be a minimum of seven (7') feet from the property line.
4. A rear setback shall be a minimum of seven (7') feet from the property line.
3. Accessory use buildings shall not be constructed nearer than seven (7') feet from the side lot line and ten (10') feet from the front and rear lot line.
4. Water Supply/Sewage disposal, prior to building permits issued, the Industrial user shall satisfy the City that their activities will not burden the City water supply and provide for the proper treatment of discharge water in a manner to eliminate adverse effects upon the city sewer system and environment.
5. No lot shall be developed without access to a public street or road, built to such construction standards as set by the city. Should such street or road not be built to city

standards, it shall be the responsibility of the property owner whose property is being developed to improve the street to city standards.

3-3-6. AREAS OF CRITICAL CONCERN -“CC” & OVERLAY ZONE -“FP”

- A. Intent:** The intent of the “CC” zone is to designate special areas within the community. These are unique natural resource areas that must be protected from incompatible development and harmful impacts. The following designated uses shall be permitted:
1. Open Space
 2. Passive Recreation Activities

B. Uses Requiring Conditional Use Permit:

1. Any request for development of any kind within this zone may be required by the City Council to include an environmental study addressing the impact of such development on any of the following:
 - Unstable soils
 - Unique animal, wildlife, and plant like habitat
 - Particular or unique scenic value
 - Historical significance
 - Flood plains
 - Other factors as may be determined by the City Council to be unique or of critical concern

3-3-7. FLOOD PLAIN OVERLAY ZONE - “FP”

- A. Intent:** It is the intent of this zone to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed for:
1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water and erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 4. Controlling filling, grading, dredging; and
 5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.
- B. Application:** This overlay zone shall apply to all areas of special flood hazards within the jurisdiction of the City of Elk River. All developments within this overlay zone shall adhere to City Ordinance.

ARTICLE IV

PROVISIONS FOR OFFICIAL ZONING MAP AND INTERPRETATION AND MEANING OF WORDS OR TERMS

4-1. OFFICIAL ZONING MAP

1. The districts established in Article III of this ordinance are shown on the Official Zoning Map, together with all explanatory matter thereon, are hereby adopted as part of this ordinance. The Official Zoning Map shall be posted in City Hall and shall be available to the public during regular business hours.

4.2. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of and of the zoning districts as shown on the Official Zoning Map, the following shall apply:

1. Where district boundaries are indicated as approximately following the center line of street lines, highway right-of-way lines, streams, lakes, or other bodies of water, the center line shall be construed to be such boundary.
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
3. Where district boundaries are so indicated that they are approximately parallel to the center lines of street lines of streets, of the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map.

4.3. INTERPRETATION AND MEANING OF TERMS OR WORDS

For the purpose of this ordinance, certain terms or words used herein shall carry the interpretation of meaning as detailed on the master list of Zone Ordinance Definitions maintained with the Official Zoning Map in City Hall.

ARTICLE V

CONDITIONAL USES

5-1. GENERAL

1. It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of such

unique an special nature relative to location, size, method of operation, circulation, and public facilities that each specific use must be considered individually.

2. The City Council shall hold a public hearing on each conditional use permit application as specified in the listings of "Uses Permitted Conditionally" for the zoning district involved. The City Council may approve or deny a conditional use permit under the conditions as hereon specified and considering such additional safeguards as will uphold the intent of this ordinance.

5-2. CONTENTS OF APPLICATION FOR PERMIT

An application for a *Special Use Permit* shall be filed with the Administrator by at least one owner or lessee of the property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

1. Name, address, and phone number of applicant
2. Legal description of property
3. Description of existing use
4. Zoning District
5. Description of proposed conditional use
6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Council may require to determine if the proposed conditional use meets the intent and requirements of this ordinance.
7. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes, and vibration on adjoining property; and a discussion of the general compatibility with adjacent and other property; and a discussion of the general compatibility with adjacent and other properties in the district.

5-3. GENERAL STANDARDS APPLICABLE TO ALL CONDITIONAL USES

The City Council shall review the particular facts and circumstances of each proposed conditional use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. Will, in fact, constitute a conditional use as established in the listing of "uses permitted conditionally" for the zoning district involved.
2. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the zoning ordinance.
3. Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
4. Will not be hazardous or disturbing to existing or future neighboring uses.
5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal.

water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately and such services.

6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

5-4. SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

1. In granting any conditional use, the City Council may prescribe appropriate conditions, bonds and safeguards in conformity with this ordinance. Violations of such conditions, bonds, or safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this ordinance.

5-5. PROCEDURE FOR HEARING NOTICE

Prior to granting a conditional use permit, at least one (1) public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation or official mailing to each property owner and box-holder within the jurisdiction. Notice may also be made available to other newspapers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice shall also be provided to property owners and residents within three hundred feet (300') of the land being considered by mail, and any additional area that may be substantially impacted by the proposed conditional use as determined by the City Council.

5-6. ACTION BY THE CITY COUNCIL

1. Within thirty (30) days after the public hearing, the City Council shall either approve or disapprove the application as presented. If the application is approved or approved with modifications, the City Council shall direct the Administrator to issue a conditional use permit listing the specific conditions specified by the City Council for approval.
2. Upon granting of the conditional use permit, conditions may be attached to the permit including, but not limited to the following:
 - A. Minimizing adverse impact on other development.
 - B. Controlling the sequence and timing of development.
 - C. Controlling the duration of development.
 - D. Assuring the development is maintained properly.
 - E. Designating the exact location and nature of development.

- F. Requiring the provision for on-site or off-site public facilities or services.
 - G. Requiring more restrictive standards than those generally required in an ordinance.
3. Prior to granting a conditional use permit, studies may be required of the social, economic, fiscal, and environmental effects of the proposed conditional use. A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits. *A conditional use permit is not transferable from one parcel of land to another.*
4. Upon granting or denying an application, the City Council shall specify:
- A. The ordinance and standards used in evaluating the application;
 - B. The reasons for approval or denial; and
 - C. The actions, if any, that the applicant could take to obtain a permit.
5. The applicant or any affected person who appeared in person or in writing before the City Council may appeal the decision of the Council, provided the appeal is submitted to the Council within fifteen (15) days from notification of the Council's action.

5-7. NOTIFICATION TO APPLICANT

Within ten (10) days after a decision has been rendered, the Administrator shall provide the applicant with written notice of the action on the request.

5-8. REQUEST FOR RECONSIDERATION

Upon receipt of a request for reconsideration of the Council, the Council shall set a hearing date to consider all information, testimony, and the Council's minutes of the public hearing within thirty (30) days of the receipt of the request to reach a decision to uphold, conditionally uphold, or overrule the decision of the Council. The Council shall only overrule its previous decision by a favorable vote of one-half ($\frac{1}{2}$) plus one (1) of the full Council.

ARTICLE VI NON-CONFORMING USES

6-1. INTENT

It is the intent of this ordinance to permit non-conforming uses to continue until they are removed, but not to encourage their survival. It is further the intent of this ordinance that non-conforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

6-2. INCOMPATIBILITY OF NON-CONFORMING USES

Non-conforming uses are declared by this ordinance to be incompatible with permitted uses in the districts in which such use is located. A non-conforming use shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

6-3. AVOIDANCE OF UNDUE HARDSHIP

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently.

6-4. SINGLE NON-CONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lot must be in separate ownership (see Section E. below). This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

6-5. NON-CONFORMING LOTS OF RECORD OR IN COMBINATION

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an individual parcel for the purposes of this ordinance and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and are requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements stated in this ordinance.

6-6. NON-CONFORMING USES OF STRUCTURES OR STRUCTURES AND LAND IN COMBINATION

If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the

district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. No non-conforming use shall be extended to occupy any additional land area.
3. If no structural alterations are made, any non-conforming use of a structure or structure and land, may, upon the issuance of a conditional use permit by the Council, be changed to another non-conforming use provided that the Council shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Council may require appropriate conditions and safeguards in accordance with other provisions of this ordinance.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned for more than two (2) years, (except when government action impedes access to the premises), the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
6. Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

6-7. REPAIRS AND MAINTENANCE

On any non-conforming structure, or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official. The value of repairs shall not exceed fifty percent (50%) of the present market value of the structure.

6-8. USES UNDER CONDITIONAL USE PROVISIONS / NOT NON-CONFORMING USES

Any use which is permitted as a conditional use in a district under the terms of this ordinance shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

ARTICLE VII

APPEALS, VARIANCES AND ACTIONS BY AFFECTED PERSONS

7-1. GENERAL

The City Council shall consider administrative appeals where it is alleged that an error has been made by the Administrator and variances from the terms of this ordinance and request for hearing from affected persons.

7-2. ADMINISTRATIVE APPEALS

Appeals to the City Council concerning interpretation of administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the legislative authority affected by any decision of the Administrator. Such appeal shall be taken within twenty (20) days after the decision of the Administrator by filing with the Administrator and with the City Council a notice of appeal specifying the grounds upon which the appeal is being taken. The Administrator shall transmit to the Council all the papers constituting the record upon which the action appealed from was taken.

7-3. STAY OF PROCEEDINGS

An appeal stays all proceedings in furtherance of the action appealed from unless the Administrator, from whom the appeal is taken certifies to the Council after the notice of appeal is filed with him that by reason of facts stated in the application, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Council or by a court of record on application, on notice to the Administrator from whom the appeal is taken on due cause shown.

7-4. VARIANCE

The Council may authorize in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this ordinance would result in unnecessary hardship.

7-5. APPLICATION AND STANDARDS FOR VARIANCES

1. A variance from the terms of this ordinance shall not be granted by the Council unless and until a written application for a variance is submitted to the Administrator and the Council

containing the following:

- A. Name, address, and phone number of applicant(s).
- B. Legal description of property.
- C. Description of nature of variance requested.
- D. A narrative statement demonstrating that the requested variance conforms to the following standards:
 - That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - That special conditions and circumstances do not result from the actions of the applicant.
 - That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.

2. A variance shall not be granted unless the Council makes specific findings of fact based directly on the particular evidence presented to it which support conclusions that the above mentioned standards and conditions have been met by the applicant.

7-6. SUPPLEMENTARY CONDITIONS AND SAFEGUARDS

Under no circumstances shall the Council grant an appeal or variance to allow a use not permissible under the terms of this ordinance in the district involved or any use expressly or by implication prohibited by the terms of this ordinance in said district. In granting any appeal or variance, the Council may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this ordinance.

7-7. PUBLIC HEARING

Upon receipt of the application for an appeal or a variance, the Council shall hold a public hearing, publish notice in a newspaper and give written notice to all parties as required for conditional use permits. (See Article V, Section 5-5).

7-8. ACTION BY THE COUNCIL

1. Within thirty (30) days after the public hearing, the Council shall either approve, conditionally approve, or disapprove the request for appeal or variance.
2. Upon granting or denying an application, the Council shall specify:
 - The Ordinance and standards used in evaluating the application;
 - The reasons for approval or denial; and
 - The actions, if any, that the applicant could take to obtain a permit.

7-9. NOTIFICATION TO APPLICANT

Within ten (10) days after a decision has been rendered, the Administrator shall provide the applicant with written notice of the action on the request.

7-10. APPEAL TO BOARD/COUNCIL

Upon receipt of an appeal from the action of the Council, the Council shall set a hearing date to consider all information, testimony, and Council's minutes of the public hearing to reach a decision to uphold, conditionally uphold or overrule the decision. The Council shall only overrule its previous decision by a favorable vote of one-half ($\frac{1}{2}$) plus one (1) of the full Council.

7-11. REQUEST FOR HEARING BY AFFECTED PERSONS

1. An affected person shall mean one having an interest in real property which may be adversely affected by the issuance or denial of a permit authorizing development.
2. Any affected person may, at any time prior to final action on rezone, special use, or variance permit if no hearing has been held on the application, petition the Council, in writing, to hold a hearing as required in Article V, Section 5-5 thru 5-8, provided however, that if twenty (20) affected persons petition for a hearing, the hearing shall be held.
3. After a hearing, the Council may:
 - A. Grant or deny a permit; or
 - B. Delay such a decision for a definite period of time for further study or hearing.
4. An affected person aggrieved by a decision may within sixty (60) days after all remedies have been exhausted under local ordinances seek judicial review under the procedures provided by section 67-5215 (b) through (g) and 67-5216, Idaho Code.

ARTICLE VIII ENFORCEMENT

8-1. ZONING PERMITS REQUIRED

1. No building or other structure shall be erected, moved, added to, structurally altered, nor shall any building, structure, or land be established or changed in use without a permit therefore issued by the Administrator. Zoning permits shall be issued only in conformity with the provisions of this ordinance.
2. The following land use changes shall require a written application to the Administrator, accompanied by fees as set by resolution of the City Council:

- A. Changing of Zoning Boundaries (Rezone)
- B. Conditional Use Permit
- C. Variance
- D. Change to the Comprehensive Plan
- E. Vacating of Streets/Alleyways

8-2. CONTENTS OF APPLICATION

The application for zoning permit shall be signed by the owner of applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun or substantially completed within one (1) year. At a minimum, the application shall contain the following information:

1. Name, address, and phone number of applicant
2. Legal description of property
3. Existing use
4. Proposed use
5. Zoning district
6. Plan, drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration.
7. Building heights
8. Number of off-street parking spaces or loading berths
9. Number of dwelling units
10. Proposed sewer and water facilities
11. Such other matters as may be necessary to determine conformance with, and provide for, the enforcement of this ordinance.

8-3. APPROVAL OF ZONING PERMIT

Within thirty (30) days after the receipt of an application, the Administrator shall either approve or disapprove the application in conformance with the provisions of the ordinance. All zoning permits shall, however, be conditional upon the commencement of work within one (1) year. One (1) copy of the plans shall be returned to the applicant by the Administrator after the Administrator shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One (1) copy of the plans, similarly marked, shall be retained by the Administrator. The Administrator shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this ordinance.

8-4. EXPIRATION OF ZONING PERMIT

If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Administrator; and written notice thereof shall be given to the persons affected.

8-5. RECORD OF ZONING PERMITS AND CERTIFICATES OF OCCUPANCY

The Administrator shall maintain a record of all zoning permits and certificated of occupancy and copies shall be furnished upon request of any person.

8-6. FAILURE TO OBTAIN A ZONING PERMIT OR CERTIFICATE OF OCCUPANCY

Failure to obtain a zoning permit or certificate of occupancy shall be a violation of this ordinance.

8-7. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION, PLANS, AND CERTIFICATES

Zoning permits or certificates of occupancy issued on the basis of plans and applications approved by the Administrator authorizes only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this ordinance.

8-8. COMPLAINTS REGARDING VIOLATIONS

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this ordinance.

8-9. PENALTIES

The City Attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this ordinance. Penalties for failure to comply with or violate the provisions of this ordinance shall be as follows:

Violation of any of the provisions of this ordinance or failure to comply with any of its requirements shall constitute an infraction punishable by a fine not to exceed three hundred dollars (\$300). Each day of violation after notice shall constitute a separate violation. Any person who attempts to violate any of the provisions of this ordinance or attempts to fail to comply with any of its requirements, but fails, or is prevented or intercepted in the perpetration thereof shall be deemed in violation. Any person, firm or corporation violating any of the provisions of this ordinance or failing to comply with any of its requirements, upon conviction thereof shall be fined not more than five hundred dollars (\$500). Each day that such violation or failure to comply continues shall be deemed a separate offense. Nothing herein contained shall prevent the Council or any other public official or private citizen from taking such lawful action as is necessary to restrain, abate or prevent any violation of, or failure to comply with, any

provision of this ordinance or of the Idaho Code.

8-10. SCHEDULE OF FEES, CHARGES, AND EXPENSES

The Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals and other matters pertaining to the administration and enforcement of this ordinance requiring investigations, inspections, legal advertising, postage, and other expenses. The schedule of fees shall be posted in the office of the administrator and may be altered or amended only by the council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. Fees shall be established using one or more, but not limited to, the following:

1. Publication fees
2. Mailing fees - postage
3. Filing fees - City and County
4. Public hearing fees
5. Administration fees
 - a. Copies
 - b. Research
 - c. Communications
 - d. Time

ARTICLE IX LIVESTOCK

9-1. LIVESTOCK AND PASTURE STANDARDS

9-1-1. PURPOSE

The purpose of this Article is to provide standards for the keeping and raising of livestock. It is the intent of this chapter to encourage the use and protection of agricultural lands, maintain and enhance the city's rural lifestyle and minimize potential adverse effects on adjoining property from the establishment of incompatible uses relating to the keeping and raising of animals. The city recognizes and supports the right to maintain livestock in a manner consistent with accepted customs and standards in the agricultural district, and with a conditional use permit, the residential district. The city has determined that inconveniences or discomforts with farming activities shall not be considered a nuisance if operations are consistent with accepted customs and standards and the code sections set forth below.

9-1-2. ALLOWED ANIMALS

Farming includes the keeping of livestock. Where the keeping of livestock is permitted outright or as conditional use in a residential zone, the following standards shall apply:

- A. Poultry and rabbits. All poultry and rabbits must be confined on-site. Must adhere to city

setbacks;

- B. Animals shall be kept in such a manner as to not constitute a nuisance with respect to neighboring properties.

SECTION 3. EFFECTIVE DATE:

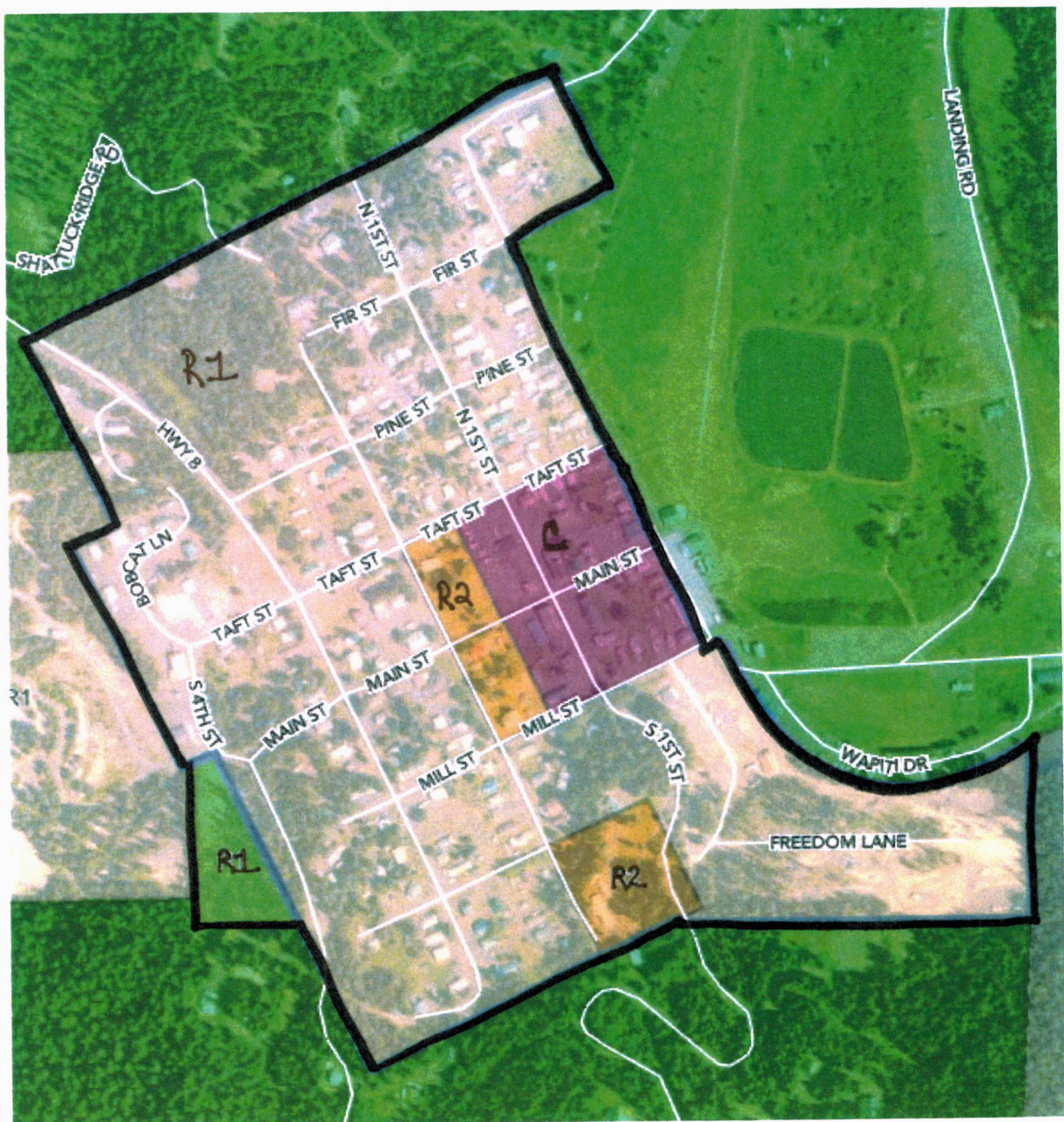
This ordinance shall become effective from and after the date of its passage, approval and publication, as provided by law. The foregoing Ordinance was passed by the City Council of the City of Elk River on the following date: DATED this 18th day of June, 2025.

Dave Brown
MAYOR

Attest:

Christina Britton
CITY CLERK





City of Elk River Zoning Map 2025

R1 

R2 

R3 

C 

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