ZONING AND PLANNING ORDINANCE

ORDINANCE NO. 72

AN ORDINANCE DIVIDING ALL THE AREA INSCRIBING A THREE-MILE RADIUS CENTERED AT THE INTERSECTION OF MAIN AND LAFAYETTE STREETS IN ANDOVER, KANSAS, EXCEPT THAT AREA WITHIN THE CITY LIMITS OF ANDOVER, KANSAS, AND THE AREA WITHIN SEDGWICK COUNTY, KANSAS, INTO ZONES OR DISTRICTS, AND REGULATING AND RESTRICTING THE LOCATION OF TRADES AND INDUSTRIES, AND THE LOCATION, ERECTION, ALTERATION AND REPAIR OF BUILDINGS DESIGNED FOR SPECIFIED USES, AND THE USES OF LAND WITHIN EACH DISTRICT, AND AUTHORIZING THE BOARD OF ZONING APPEALS TO GRANT EXCEPTIONS AND VARIATIONS FROM THE STRICT APPLICATION OF PROVISIONS OF THE ZONING ORDINANCE UNDER CERTAIN CONDITIONS.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BUTLER COUNTY, KANSAS:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ANDOVER, KANSAS:

SECTION 1. Use Districts or Zones. For the purpose of regulating and restricting the location, erection, alteration and repair of buildings designed for specific uses, and the uses of the land within each district or zone, all of the said area, is hereby divided into six (6) classes of use districts termed and designed respectively as: "Light Commercial," "Commercial," "Light Industrial," "Industrial," "Residential" and "Agricultural."

The "Light Commercial" districts shall be constituted and include the following tracts in said area: a four (4) acre square on each corner of the intersections at Kellogg and Andover Road, Central and Andover Road, Thirteenth Street and Andover Road, and Twenty-First Street and Andover Road.

The "Commercial" district may be any part of a "Light Commercial" district with direct access to a major trafficway.

The "Light Industrial" district shall be constituted and include the following tracts in said area: that tract bounded on the South by Thirteenth Street, on the West by Andover Road, then Northeastward along the Kansas Turnpike to where the turnpike intersects the Frisco Railroad, then Southeast to where the railroad intersects Thirteenth Street except commercial corner at Thirteenth Street and Andover Road.

The "Industrial" district shall constitute the following tract of land in said area: that tract at the Northwest corner of the Southwest Quarter of Section 7 a strip 600 Feet North and South on the South side of Frisco Railroad extending East to the Present Andover City Limits.

The "Residential" districts shall be constituted and include the following platted sub-divisions in said area: Easter Addition Section 18, Andover Park Section 17, Willowbrook Section 20, Southeast Quarter of Section 18 except 4 acres on corner which is Light Commercial, Southwest Quarter of Section 18, Hodge Tracts Section 18, that area South from Hodge Tracts to Quarter line, then back to Andover Road Section 18, Thomas Acres Section 20, Mecca Acres Section 30, Bales Acres Section 30, Southeast Quarter Section 30, Southwest Quarter Section 29, Lakeview Acres, Doolittle and McCandless Acres Section 29, Northwest portion of Marcel Acre Heights, Section 28, Fortney Acres Section 5, Sunset Hill Section 5.

The "Agricultural" district shall be constituted and include all of the remaining lots, blocks, farms, and sections of said area.

No building or premises shall be erected, used or altered or repaired except in conformity with the regulations herein prescribed for the respective use and area district in which such building or premises are located.

SECTION 2. Building Inspector. The Andover-~~xxxxxxxxxxx~~ Area Planning Commission shall appoint a building inspector to receive and examine Requests for Building Permits.

SECTION 3. Approval of Development Plats. The owner or owners of any tract of land which they propose to develop or sub-divide shall submit to the Andover-~~xxxxxxxxxxx~~ Area Planning Commission any proposed plan of such developments as provided by law.

SECTION 4. Building Permits. No one shall start erection, construction, reconstruction, conversion, alteration, enlargement,

extension, razing, or moving of any building or part thereof within the three-mile area before application has been made for a Building Permit therefor and the Building Permit granted, and no such permit shall be issued unless the plans, specifications and intended use conform in all respects to the provisions of this ordinance and any amendments thereto hereafter enacted. Each application for a building permit shall be accompanied by a plan in duplicate, drawn to scale, showing the dimensions of the lot to be built upon, the size and location of the building to be erected, and such other information as may be deemed necessary for the proper enforcement of this ordinance. One copy of such plan shall be returned to the owner when approved. Blank forms shall be provided by the enforcing officer for the use of those applying for such building permits. A careful record of all such applications and plans shall be kept in the office of the enforcing officer. A copy of all such building permits issued shall be sent to the Butler County Appraiser.

SECTION 5. Issuance of Building Permits. Action shall be taken upon any application for a building permit within ten (10) days, unless said Andover Area Planning Commission shall postpone action thereon for good cause shown which cause shall be entered in Minutes of said Andover Area Planning Commission and shall in any event, approve or disapprove any application within a maximum of thirty (30) days.

SECTION 6. Building Permit Fees. The fee for building permit shall be to-wit: Where the cost of construction or alteration or addition does not exceed $1,000.00, the fee shall be One Dollar ($1.00); where the cost is more than $1,000.00 and not over $1,500.00, the fee shall be One Dollar and Fifty Cents ($1.50); where the cost is more than $1,500.00 and not over $2,000.00, the fee shall be Two Dollars ($2.00); if the cost exceeds $2,000.00, the fee shall be at the rate of One Dollar ($1.00) per One Thousand Dollars ($1,000.00). All fees are to be paid at the time of issuance of permits.

SECTION 7. Definitions. Certain words in this Ordinance are defined for the purposes hereof as follows:

(a) A "non-conforming use" is one that does not comply with the regulations of the use district in which it is situated.

(b) "Public Notice" of a hearing or proceeding means thirty days notice of the time and place thereof printed in the official city newspaper.

(c) An "accessory use or building" is a use or building or portion of the principal building customarily incident to and located on the same lot with another use or building, including a private garage, private storage building or private shop.

(d) A "front yard" is an open unoccupied space on the same lot with the building, between the front line of the building and front line of the lot.

(e) A "Light Commercial district" is a district which permits the following and similar uses, all purely retail sales, service or storage such as banks, shops, laundries, theaters, service stations, restaurants, and employee limit being twenty (20) persons. All uses permitted in a residential district are permitted in a light commercial district.

(f) A "Commercial district" is a district which permits all the uses included for Light commercial, employee limit fifty (50) persons.

(g) A "Light Industrial district" is a district which permits only manufacturing except acid, alcohol, ammonia, asphalt, explosives, boilers, disinfectants, dyestuffs, animal by-products, poison gas, flour and other products which are obnoxious to one of the human senses and any product prohibited by law and should be separated from the public by a light commercial buffer zone.

(h) An "Industrial district" is a district which permits all manufacturing and wholesale storage in connection with manufacturing operations provided the use locations are approved by the Andover-Butler County Area Planning Commission. Acid manufacture, dead animal rendering, explosive manufacturing, slaughter houses and salvage operations are prohibited in all districts.

SECTION 8. Buildings in Light Commercial and Commercial Districts. No person shall construct or erect, place or move or cause to be constructed, erected, placed or moved upon any ground included in the "Light Commercial" districts as defined in Section 1 hereof, any building or structure or any addition to any building or structure unless the same be constructed of brick, concrete sheet metal, aluminum or other equally non-combustible material, and have an approved fire resistant roof, and provided that no wood frame building shall be constructed in the "Light Commercial" district, except dwellings. Quonset

type buildings and buildings with corrugated metal are prohibited.

SECTION 9. Light Industrial and Industrial Districts. No person shall construct, erect, place, or move any building into a Light Industrial or Industrial district which does not conform to State and National building codes or is considered hazardous or unsafe by the Andover-[illegible] Area Planning Commission.

SECTION 10. Building in Residential District. No person shall construct or erect, place or move or cause to be constructed, erected, placed or moved upon any ground included in the "Residential" district in said city as defined in Section 1 hereof, any buildings or structures except for the use of a private residence or a private garage, which residence shall contain at least 700 square feet of livable floor space, be of permanent construction, conforming with good building practices, and shall be constructed of materials and finished to substantially equal or better quality than the houses in the immediate neighborhood of such constructed or altered residence, and which garage shall not exceed 26 Feet by 32 Feet.

SECTION 11. Buildings in Agricultural Districts. No person shall construct or erect, place or move upon any ground included in the agricultural district any buildings or structures, or any additions to buildings or structures, except for agricultural purposes or residential use in connection with farm operations without first securing a building permit from the Andover-[illegible] Area Planning Commission.

SECTION 12. Use District Exceptions. The Andover-[illegible] Area Planning Commission may, in the event of property being platted which was undeveloped at the time this Ordinance was passed, and in other specific cases, after public notice and hearing and subject to such conditions and safeguards as the Andover-[illegible] Planning Commission

may establish, determine and interpret the application of the use district regulations herein established as follows:

(a) Permit the extension of a building or use into an adjoining use district immediately adjacent thereto but not more than 50 Feet beyond the boundary line of the district in which such building or use is authorized.

(b) Permit the extension of a non-conforming use or building existing upon the lot or tract occupied by such use or building at the time of the passage of this Ordinance.

(c) Permit in a use district any use deemed by the Andover Area Planning Commission in general keeping with the uses authorized in such district.

(d) Grant, in undeveloped sections of the city, temporary and conditional permits, for not more than two year periods, but not renewable, for structures and uses that do not conform to the regulations herein prescribed for the respective use districts in which they are to be located.

(e) Permit the location in any use district of any use, provided such use in such location will not, in the judgment of the Andover Area Planning Commission, substantially and permanently injure the appropriate use of neighboring property, providing the petitioning applicant for such permit files with the City Clerk the consents, duly acknowledged, of the owners of eighty percent (80%) of the area of the land deemed by the Andover Area Planning Commission to be immediately affected by the proposed use.

SECTION 13. Non-conforming Uses. A non-conforming use existing at the time of the passage of this ordinance may be continued, but shall not be extended except as authorized by the preceding section, provided that the extension of any use to any portion of a building, which portion was arranged or designed for such non-conforming use at the time of the passage of this ordinance, shall not be deemed the extension of a non-conforming use. A building, designed or devoted to a non-conforming use at the time of the passage of this ordinance, may not be re-constructed or structurally altered to an extent exceeding in the aggregate during any ten (10) year period, forty percent (40%) of the assessed value of the building unless the use of said building is changed to a conforming use. A non-conforming use may not be changed unless changed to a more conforming use of the district in which situated. A non-conforming use if changed to a conforming use may not thereafter be changed back to any

non-conforming use. A non-conforming use if changed to a more restricted non-conforming use may not thereafter be changed unless to a still more restricted use to conform to the use of the district.

SECTION 14. Front and Side Yards in Residential District. The depth of the front yard measured back from the front lot line of said lot shall be not less than thirty (30) Feet; and there shall be a side yard of not less than six (6) Feet in width on each side of any building except a detached garage, which shall be located entirely to the rear of the residence, and a side yard of not less than three (3) Feet in width on each side of any detached garage which shall be located entirely to the rear of the residence. Any building or buildings erected or constructed adjacent to or between other buildings or dwellings shall be in line with the side facing the street.

SECTION 15. Accessory uses in Residential District. A store, trade or business shall not be permitted as an accessory use except that the office of a physician, surgeon, dentist, musician or other professional person, or a cosmetologist, may be located in the dwelling or apartment used by such physician, surgeon, dentist, musician or other professional person, or cosmetologist, as his private residence. No sign exceeding two feet square in area containing the name and occupation of the occupant of the premises shall be permitted in any residential district. In a dwelling or apartment occupied as a private residence, one or more rooms may be rented or table board furnished provided no window display or sign board is used to advertise such use exceeding in size that described in this paragraph.

SECTION 16. No trailer parks shall be allowed within any districts without approval of the Andover ~~Rural County~~ Area Planning Commission.

SECTION 17. Public and Semi-public Uses. The following

uses may be located in any use district where they will not seriously injure the appropriate use of the neighboring property, provided their location is passed on and approved by the Andover-~~Butler County~~ Area Planning Commission:

(1) School, City Hall, Public Library, Community Building, or Public Playground.

(2) Public Auditorium, Church, Hospital.

(3) Lodge Hall, Public Recreation Building or Private Club, or Funeral Home.

SECTION 18. Buildings Destroyed by Fire. Nothing in this ordinance shall prevent the restoration of a building wholly or partly destroyed by fire, explosion, act of God, or act of the public enemy, subsequent to the passage of this ordinance or prevent a change of such existing use under the limitations in Sections 10 and 11, except in such part of this city where by ordinance fire resistant or fireproof structures are required.

SECTION 19. Completion and Restoration of Existing Buildings. Nothing herein contained shall require any change in the plans, specifications, construction or designated use of a building for which a building permit has been heretofore issued, and the construction of which shall have been diligently prosecuted within a reasonable time from the date of such permit.

SECTION 20. Area Building Inspector to Enforce. It shall be the duty of the area building inspector to examine applications for building permits and to make his recommendation to the Andover-~~Butler County~~ Area Planning Commission as to the issuance thereof, to inspect all construction and to determine whether such construction is in accordance with the written application for the permit, and to report all violations of this Ordinance to the Andover-~~Butler County~~ Area Planning Commission.

SECTION 21. Penalty for Violation. The owner or owners of any building or premises or part thereof where anything in

violation of this ordinance shall be placed, or shall exist or be maintained, and any architect, builder or contractor who may be employed to assist in the commission of any such violation and any person, or corporation, who shall violate or maintain any violation of any of the provisions of this ordinance, or shall fail to comply therewith, or who shall build in violation of any detailed statement or plans submitted thereunder, shall, for each and every violation or non-compliance, be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $500.00; and each day during which violation shall continue shall constitute a separate offense, provided, however, that nothing herein contained shall impose a limit or deprive the Andover-Butler County Area Planning Commission of any other remedy which might be available to it.

SECTION 22. Exceptions and Variances by Board of Zoning Appeals. The Appeals Board shall have power to grant exceptions and variances from the strict application of the provisions of the Zoning Ordinance, provided; however, that in the matter of granting exceptions and variances, the Board shall not assume jurisdiction unless it first finds that the following conditions are present:

(1) That the exception or variance desired arises from some condition which is not ordinarily found in the same Zoning District;

(2) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

(3) That the strict application of the terms of the Zoning Ordinance would constitute unnecessary hardship upon the property owner;

(4) That the exception or variance desired is not against the public interest.

Before the Appeals Board considers the granting of an exception or variance, notice shall be given by mail to all owners of property within a distance of 200 Feet of the property concerned, of the time, place and character of the proposed hearing.

SECTION 23. Off-Street Parking.

(a) All dwellings erected shall have a minimum of one (1)

off-street parking space on the lot.

(b) Any building erected, enlarged, or converted to be used as a two-family or more dwelling unit shall be provided with a minimum of one (1) parking space on the lot for each dwelling unit.

(c) Any variance granted in the residential district for buildings with other than residential use shall have parking space requirements as follows: for commercial buildings, a minimum of one (1) parking space for each 250 sq. Feet of floor area, for assembly buildings, one (1) parking space for each five (5) seats.

SECTION 24. Effective Dates: This resolution and ordinance shall be effective upon its passage and adoption by the Board of County Commissioners of Butler County, Kansas, and the Governing Body of the City of Andover acting separately, and after its publication once in the official county newspaper, and its publication once in the official newspaper of the City of Andover. A fully executed and attested copy shall be filed with the County Clerk of Butler County, Kansas and the City Clerk of the City of Andover, Kansas.

SECTION 25. Savings Clause. If this resolution and ordinance, or any part thereof, shall be held or determined to be unconstitutional, illegal, ultravires or void, the same shall not be held or construed to change or annul any provision hereof which may be legal or lawful.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF BUTLER COUNTY, KANSAS, this _____ day of _____ 1967, after due consideration of all members being present and voting as follows:

CHAIRMAN _____

_____

_____

DATED at El Dorado, Kansas, this _____ day of _____, 1967.

BOARD OF COUNTY COMMISSIONERS OF
BUTLER COUNTY, KANSAS

_____
CHAIRMAN

COMMISSIONER

COMMISSIONER

ATTEST:

COUNTY CLERK (SEAL)

Passed by the Governing Body, not less than two-thirds of the members-elect voting in favor thereof, the 11th day of March, 1967.

Hal Baker
MAYOR

ATTEST:

Theodora E. Clay
CITY CLERK