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27-101 Conditional Uses - Purpose and Intent: The establishment of virtually all land uses except agricultural and traditional single-family residential, in most cases are not appropriate in the unincorporated portion of Ellis County; especially those land uses that are of an extremely sensitive nature due to the intensity or environmental impacts associated with the normal operation of the business or activity. However, it is recognized that it may be acceptable, on a case-by-case, site-by-site basis, to permit the development of such land uses where conditions warrant and adequate safeguards are taken to mitigate any of the potential problems associated with said development. Therefore, in order to develop any land use other than agricultural or traditional single-family residential in the unincorporated portion of Ellis County a Conditional Use Permit issued in accordance with these Regulations shall be required.

It is the intent of this Article to require a Conditional Use Permit for all proposed land uses, except those specifically prohibited herein or allowed as a permitted use in one of the established zoning districts. As such, it is acknowledged that any property owner may seek a Conditional Use Permit for any of the types of land uses indicated herein for any property within the unincorporated portion of Ellis County. The subsequent approval of such request by the Governing Body is a purely discretionary act that will be decided based upon the facts and circumstances discovered in the review of each application. There is no implied "right" for any person or landowner to obtain a Conditional Use Permit for any use on any property.

It is also the intent of this Article to allow the issuance of Conditional Use Permits that provides for more than one use on any property; provided the range or type of uses is clearly delineated within the Conditional Use Permit, the other relevant facts have been evaluated, and the approval is consistent with the spirit and intent of this Article and these Regulations. (For example: a Conditional Use Permit could be approved for a "strip shopping center" along a highway where transportation and adequate water and sewage disposal services are available. The Conditional Use Permit could indicate a range of "retail and/or service businesses" as being appropriate for this location and included in the Permit.)

27-102 Application of Conditional Uses: Before the location or establishment of any land use requiring a Conditional Use Permit, or before any change or use of the premises existing at the time of the effective date of these Regulations or permitted as herein provided is made, a Development Plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 20 of these Regulations.

The Planning Commission shall hold a public hearing following the provisions also outlined in Article 32 of these Regulations and shall review such Development Plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses; provided that the public health,

safety, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, that the transportation and utility services are appropriate for the level and intensity of the proposed development, and that necessary safeguards will be provided for the protection of surrounding property, persons, and of neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Article 20 of these Regulations.

27-103 Additions and Changes to Conditional Uses: All subsequent requests for additions and structural alterations to Conditional Uses approved by the Governing Body shall be considered in the same procedure as outlined in Section 27-102 herein.

27-104 Conditional Uses Enumerated: The following Conditional Uses are some of the uses that may be approved by the Governing Body as provided in this Article. Other land uses may also be permitted by Conditional Use Permit except those specifically listed as permitted uses in the zoning districts or as prohibited uses in these Regulations.

1. Airports, aviation fields, helio-ports, and/or landing fields, either publicly or privately held.
2. Bed and breakfast facility.
3. Buildings, structures or premises for public utility services or public service corporations; including but not limited to, water treatment plants, wastewater treatment plants, pump stations, filter beds, water towers, substations, electric transmission lines, reservoirs, and utility maintenance shops and yards.
4. Cemeteries, mausoleums or crematories for the disposal of the dead.
5. Churches and church-related facilities including camps, schools, retreat centers and similar facilities; publicly-owned and operated community buildings, art gallery, museums and libraries.
6. Commercial uses in a residential structure located in a residential district within the City of Schoenchen when, in the opinion of the City, the use will not be detrimental to the residential neighborhood by reason of the intensity of use. Sufficient restrictions, conditions and limitations may be imposed to maintain the residential character of the neighborhood.
7. Commercial and/or retail stores and activities in the unincorporated portion of Ellis County, Kansas, not otherwise prohibited by these Regulations.
8. Commercial Wind Energy Conversion System when located in the unincorporated portion of Ellis County subject to, in addition to the requirements set forth in Article 20 of these regulations and subject to the provisions thereof, the following:
 - A. Provide the name, address and telephone number of the developer, the project manager, the operational manager, all contractors authorized to work on the project, and the owner of the project if different from the developer.
 - B. The development plan required by these Regulations shall contain the following information:
 - (1) The nature and scope of the project, including a plot and development plan showing the location of the project, scale and north arrow, acreage of the site, physical dimensions and project boundaries, ingress and egress locations, location of proposed road crossings or right-of-way encroachments, storm water management and erosion control including 100-year floodplain

boundaries. Erosion control is further clarified in Section J.

(2) Location of all existing buildings, structures, dwellings, electrical transmission lines and facilities, and utilities, utility easements, underground pipelines and underground utilities within the project boundary and dwellings within one (1) mile of the project boundary.

(3) Information detailing the type, size, maximum and minimum height, rotor size, rotor material, color, rated power output, performance, safety and noise characteristics of each proposed wind turbine model, tower, and electrical transmission equipment. Provide tower/turbine details that assure the tower shall not be lattice type or other design that provide perches.

C. Provide information detailing anticipated volume and designated route for construction traffic, including oversized loads and heavy equipment, with proposed methods of assurance regarding maintenance and repair to public roads, bridges or culverts during construction. Provide information regarding the traffic control plan for designated routes or construction activities within road right-of-way in accordance with the Uniform Manual for Traffic Control Devices. Provide plans and drawings that detail construction details for installation of entrances, road crossings or right-of-way encroachment. Detail anticipated volume and routes for facility operational traffic.

D. Provide a Phase One Environmental Screening Report in accordance with industry standards.

~~E. Provide an accurate computer generated visual simulation from vantage points as agreed to by the developer and Ellis County staff.~~

~~E~~F. Provide a safety plan detailing expected public agency/emergency services support during emergencies.

~~F~~G. Provide a certificate of insurance, listing Ellis County as an additional insured, indicating coverage of General Liability of not less than five million dollars (\$5,000,000.00) per occurrence for contractors working within public right-of-way.

~~H~~G. Provide a decommission plan and land reclamation plan detailing recovery or removal of structures and underground installation specific to the proposed method of assurance regarding maintenance and repair to public roads, bridges or culverts during decommission process.

I. The facility shall meet the following design requirements [for Commercial Wind Energy Conversion Systems](#):

(1) Turbine blades shall have a minimum ground clearance of 40 feet at the lowest point of rotation and calculated for all directions.

(2) Each tower shall be setback from the nearest federal, state, rural secondary or minor collector road right of way and any other portion of a public county road that the Road and Bridge Department deems necessary a distance, measured from the center of the tower base to the nearest edge of the right of way, of not less than one and one-half (1.5) times its tip height. Each tower shall be setback from all other county road rights of way a distance, measured from

the center of the tower base to the nearest edge of the right of way, of not less than one and one-tenth (1.1) times its tip height. An official map with a list identifying the above described roads shall be kept at the County Clerk's Office and may be reviewed and revised at the discretion of the Governing Body. The setback provisions of this paragraph shall not apply to rights of way that have been abandoned or rights of way that the county does not plan to use.

- (3) Each tower shall be set back from dwellings existing on the date of the filing of the conditional use permit application a distance, measured from the center of its base, of not less than ~~ten (10) times its tip height~~ 1500 feet. For the purposes of this Article 27, the term "dwelling" means a building described in section 1-104 paragraph 68 of these regulations and which is adopted by a person, with lawful right of possession, as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered as the person's dwelling. The term dwelling shall not include any structure that has been abandoned and is no longer suitable for human habitation. The term "dwelling" shall include any partially constructed or refurbished building or portion thereof designed to be used for residential purposes even though temporarily uninhabitable, provided that said construction or refurbishing was commenced prior to the filing of the application for the conditional use permit to which the setback applies and further provided that continuous and diligent progress has been made toward completion of the construction or refurbishing since the commencement of construction or refurbishing activities. The owner of a dwelling may waive this setback requirement.

Each tower shall be set back from Village Districts, Rural Plats and Rural Developments existing on the date of the filing of the conditional use permit application a distance, measured from the center of its base, of not less than one and one-half (1.5) miles. For the purposes of this Article 27, Rural Plats and Rural Developments are defined as properties platted or subdivided for rural residential or suburban residential use and development in accordance with the Ellis County Subdivision regulations and in which a landowner has vested development rights as provided in Section 1-108 of those regulations. The terms Rural Plats and Rural Developments do not include "lot splits" as defined in Article 3 of the Subdivision Regulations. An official map identifying the above described incorporated cities, Village Districts, Rural Plats and Rural Developments shall be kept at the Ellis County Clerks Office. Each tower shall be set back from incorporated cities a distance, measured from the center of its base, of not less than three (3) miles.

- (4) Each tower shall be setback from existing overhead utilities a distance, measured from the center of its base, of not less than of one times its tip height plus 40 feet.
- (5) Each tower shall be setback from adjoining property not under lease by the developer for the wind energy project a distance, measured from the center of its base, of not less than one and one-half (1.5) times its tip height ~~from property lines to the east and west of the tower and three (3) times its tip height from property lines to the north and south of the tower.~~

- (6) Electrical lines shall be installed underground, except for connection from the project substation to the grid substation unless other extenuating factors, as determined by the zoning administrator, dictate aboveground installation.
- (7) Each tower shall be set back from all railroad rights of way a distance, measured from the center of the tower base to the nearest edge of the right of way, of not less than one and one-half (1.5) times its tip height.
- (8) Wind Turbines shall be painted a non-reflective color, which shall be identified in the development plan.
- (9) Towers shall not be artificially lighted beyond Federal Aviation Administration (FAA) requirements using red lighting. The Obstacle Collision Avoidance System (OCAS) shall be encouraged.
- (10) Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Commercial Wind Energy Conversion System. No such identification shall appear on the blades or other moving parts.
- (11) Access roads and other means of ingress and egress to a facility and construction area shall be constructed and maintained to provide maneuverability for service and emergency response vehicles.
- (12) Any wind turbine that is unused, without just cause, for a period of twelve (12) consecutive months or more shall be declared abandoned by the Zoning Administrator. Upon declaring a wind turbine abandoned the Zoning Administrator shall notify the responsible party in writing of the necessity of removing the tower and its appurtenances and of reclaiming the lands as provided in the decommission plan and land reclamation plan.

J. An Erosion Control Plan is required prior to the issuance of a zoning permit for the construction of the project. The Plan shall comply with all statutes, county and local ordinances to minimize the potential adverse impacts on wetlands, Class I and II streams and their banks and vegetation along those streams and wetlands, to minimize erosion or sedimentation, and control wind erosion of particulate matter (dust). The Plan shall include but is not be limited to the following practices:

Structures and access roads should use natural contours and avoid steep slopes where high cuts and fill are required. If fills are required, the fill shall be compacted to at least 90% density, and finished grades shall not exceed a gradient of 2:1. Cut slopes shall not exceed a gradient of 1.5:1.

The smallest practical area of land should be exposed for the shortest practical time during development. The amount of vegetation removed during construction shall be the minimum necessary to operate equipment. Areas where vegetation is removed during construction shall be replanted on the earliest date on which weather permits such planting.

Measures shall be used to prevent erosion by wind or surface water runoff until vegetation is

re-established on areas from which it is removed, such as seeding and sodding, stockpiling and reuse of topsoil, temporary use of straw, fabric cover or aggregate cover, diversions authorized by state permit, sediment basins and filters.

No soils shall remain un-stabilized for more than two days during the period from May 1 through September 30. From October 1 through April 30, no soils shall remain un-stabilized for more than seven days, as per Natural Resource Conservation Services (NCRS) recommendations and guidelines

Effective dust control measures must be utilized.

K. The notification area and the protest petition area for a Commercial Wind Energy Conversion System application shall be in accordance with Article 32 of these regulations and Kansas statutes, ~~except that 1,000 feet shall be changed to 2,000 feet.~~

L. Noise Management.

(1) The noise level caused by the operation of a Wind Energy Facility or Wind Turbine operations shall not exceed ~~sixty-five (65) forty (40)~~ decibels adjusted (dBA) when measured five (5) feet above ground level at any structure being used as a dwelling, school, hospital, church or public library on the date of the filing of the conditional use permit application.

(2) Upon receipt by the Zoning Administrator of a complaint regarding noise from an existing Wind Energy Conversion System project, which the Zoning Administrator determines to be reasonable, the project owner shall be required, at the project owner's expense, to have prepared, by an independent acoustical consultant, approved by the Zoning Administrator, an acoustical study that shall demonstrate compliance with the above noise standard on the basis of equivalent sound pressure levels. "Equivalent sound pressure levels" means the steady sound level that, over 10-minute measurement periods, would produce the same energy equivalence as the fluctuating sound level actually occurring.

M. An estimated timeline shall be established prior to commencement of the construction phase of the project stating the date construction is expected to begin and the date construction is expected to be completed.

9. Confined animal feeding operations including, but not limited to, commercial stockyards and/or feedlots and/or corporate farms, including hog, dairy and poultry, provided:

A. The development plan shall include a statement verifying compliance with the applicable provisions of Kansas statutes and Kansas Administrative Regulations in effect at the time of application.

B. All roads not a part of the primary highway system of the State of Kansas intended to be used by the applicant as a means of ingress and egress to the proposed facility shall be designated on the application. Final approval of the designated roads to be used shall be made a part of the Conditional Use Permit, if approved. A construction agreement between the applicant and Ellis County shall be required. Such agreement shall specify the standards to which such roads will be reconstructed, if

necessary. The responsibility of determining sufficiency of compliance with the road agreement shall be with Ellis County or its designee.

10. Contractor's shop and/or yard, including construction equipment and/or material storage areas.
11. Dwellings for resident night watchmen and caretakers employed on the premises of a business.
12. Fire stations.
13. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc.
14. Group Boarding Home, Licensed Group Day Care Home, Child Care Center, Licensed Day Care Home, Preschool, Detention Center, Family Day Care Home, or Residential Center, except as permitted by K.S.A. 12-736 as amended, provided:
 - A. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
 - B. A report from the Ellis County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operations.
 - C. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
 - D. When operated out of an existing or proposed residential structure, the following standards shall be met:
 - (1) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
 - (2) Outside play areas shall be fenced.
15. Heavy industrial uses, which are all industrial operations not permitted in the "I-2" Medium Industrial District, when located within the "I-2" Medium Industrial District in the City of Schoenchen, Kansas.
16. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing.
17. Hospital or clinic for large or small animals, provided such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.
18. Hotels, motels, and motor hotels.
19. Judicial centers, jails, penal or correctional institutions.
20. Junkyard.

21. Keeping of exotic birds and/or animals on any tract of land, whether in a building or not.
22. Kennels, either boarding or breeding, provided all kennel operations shall comply with the requirements of the State of Kansas.
23. Manufactured home and recreational vehicle sales and service, including display yard.
24. Manufactured home as a single-family dwelling on an individual lot within any single-family residential district within the City of Schoenchen.
25. Manufactured home parks, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of Ellis County.
26. Manufactured home subdivisions, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of Ellis County.
27. Manufacturing, processing, fabrication and assembling of any commodity except junk or salvage in unincorporated Ellis County, Kansas.
28. Mortuaries and attendant accessory activities and facilities.
29. Multi-family dwellings, including two-family dwellings, townhouses, garden apartments, condominiums; provided, consistent with single-family residential developments, the provision of adequate public water and sewer service, along with other public infrastructure, is necessary in order for development of said dwellings to be permitted.
30. Parks and playgrounds.
31. Quarrying, mining, and removal of sand, gravel, stone, coal or topsoil and the processing of the same, including asphalt and concrete plants, provided:
 - A. All quarries and mining operations and asphalt and concrete plants shall be screened by a method approved by the Governing Body when the same are within 1/4 mile of any residential dwelling.
 - B. The applicant shall provide an approvable method for dust abatement on all unpaved interior roads if any part of the operation is located within 1/4 mile of any residential dwelling.
 - C. All areas quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of 100 horizontal feet from any road right-of-way and 30 horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface. The setback areas may be used for the erection of berms or other screening features required by the Conditional Use Permit.
 - D. No building, equipment, quarry products or other materials shall be erected or stored within 100 feet of any property or right-of-way line.
 - E. All roads not a part of the primary highway system of the State of Kansas intended to be used by the applicant as a means of ingress and egress to the proposed facility shall be designated on the application. Final approval of the designated roads to be used

shall be made a part of the Conditional Use Permit, if approved. A construction and maintenance agreement between the applicant and Ellis County shall be required. Such agreement shall specify the standards to which such roads will be reconstructed, if necessary, and the standards to which such roads will be subsequently maintained by the owner/operator of the confined animal feeding operation. The agreement shall also specify the form, manner, timing, and frequency of maintenance and upkeep. The responsibility of determining sufficiency of compliance with the road agreement shall be with Ellis County or its designee.

F. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the proposed use of the site and a general plan of the proposed use. The reclamation plan submitted shall be binding only to the extent that said plan shows the intent of the applicant for reclamation. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however, the amended plan must be approved by the Governing Body before reclamation work may begin. Said approval of a revised reclamation plan shall require a public hearing under the same procedure as the original Conditional Use Permit.

32. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, commercial telecommunication towers, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:

A. Each tower shall be set back from all property lines a distance, measured from the center of its base, of not less than one and one-tenth (1.1) times the height of the tower. Each tower shall be setback from the nearest federal, state, rural secondary or minor collector road right of way and any other portion of a public county road that the Road and Bridge Department deems necessary a distance, measured from the center of the tower base to the nearest edge of the right of way, of not less than one and one-half (1.5) times its tip height. Each tower shall be setback from all other county road rights of way a distance, measured from the center of the tower base to the nearest edge of the right of way, of not less than one and one-tenth (1.1) times its tip height. An official map with a list identifying the above described roads shall be kept at the County Clerks Office and may be reviewed and revised at the discretion of the Governing Body.

B. Every commercial telecommunication tower shall be designed to provide co-location with a minimum of four (4) users.

C. No new commercial telecommunication tower location shall be approved unless the applicant shall show that there is not sufficient or usable space on existing or approved towers in the same service area. Such verification shall be in the form of written correspondence from the owner of such towers or structures of their unavailability. At a minimum, the service area for every tower shall be a minimum of three (3) miles from the tower location.

D. Any communication tower that is unused, without just cause, for a period of twelve (12) consecutive months or more shall be declared abandoned by the Zoning Administrator. Upon declaring a communication tower abandoned the Zoning Administrator shall notify the responsible party in writing of the necessity of removing the tower and its appurtenances and of reclaiming the lands as provided in the

decommission plan and land reclamation plan.

E. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation of the proposed use of the site upon the removal of the tower. The applicant shall also provide financial security in a form acceptable to the County to assure the reclamation of the property shall occur in conformance with the reclamation plan. Financial security provided to the landowner is sufficient, provided it names the County or City as well.

F. Towers shall not be artificially lighted beyond Federal Aviation Administration (FAA) requirements using red lighting. The Obstacle Collision Avoidance System (OCAS) shall be encouraged.

33. Recreational or sports-related activity or facility, whether publicly or privately owned.
34. Recreational vehicle park or campground, subject to the standards established in the Manufactured Home and Recreational Vehicle Code of Ellis County.
35. Riding academies, stables and/or show arenas, indoor or outdoor rodeo arenas and/or facilities.
36. Sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, or other such similar areas not prohibited by law.
37. Schools, preschools or kindergartens, either publicly or privately owned or operated.
38. Truck stops and/or truck terminals.
39. Zoos, commercial aquariums, or aviaries.
40. Any other use not specifically listed as a permitted and/or accessory use in any District in these Regulations, or as a prohibited use.

27-105 Continuance of a Conditional Use: A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of its original authorization, as long as all conditions placed on it are met. However, if that particular use ceases to exist for a period of six months, it will forfeit its Conditional Use Permit and will not be allowed to exist again unless a new application is made, a public hearing held, and a new Conditional Use Permit approved in conformance with the requirements of these Regulations.

27-106 Accessory Uses: Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof, and shall be on the premises of the main use.

27-107 Eligibility for Accessory Use: The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator.

27-108 Accessory Uses Allowed: Accessory uses shall be allowed; provided, said accessory uses shall be limited to those specified herein for the various zoning classifications:

1. In District "AG" Agricultural, the following, or similar accessory uses are allowed:

- a. Open or enclosed storage of farm materials, products or equipment, but not junk.
- b. Any and all farm buildings, including, but not limited to, barns, stables, sheds, toolrooms, shops, bins, tanks and silos.
- c. The use of a manufactured home as an accessory dwelling on land used for agricultural purposes when used by persons employed thereon, including their families. At no time shall a manufactured home or the land upon which it sits be intended and/or used as a rental unit in the "AG" District.
- d. Fuel storage, tanks and dispensing equipment for fuels used solely for a farming operation. No retail sales of such fuels shall be allowed as an accessory use.
- e. Wholesale or retail sales of agricultural products grown or raised on the premises or by the farm operator, or the sale of agricultural products such as seed dealers when done by the occupant of the premises.
- f. A hobby activity operated by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- g. Home occupations.
- h. Accessory buildings and uses commonly associated with residential activity including but not limited to, the following:

- Private garages
- Guest houses
- Home barbecue grills
- Small storage sheds
- Satellite dish antennas
- Accessory off-street parking and loading spaces

2. In District "RR" Rural Residential, "SR" Suburban Residential, "R-1" Single-Family Residential, and "V-1" Village District only the following accessory uses are allowed:

- a. Accessory buildings and uses commonly associated with residential activity including, but not limited to, the following:

- Accessory off-street parking and loading spaces
- Fences or walls
- Flag poles
- Gates or guard houses for subdivisions
- Guest houses
- Home barbecue grills
- Parabolic and satellite dish-type antennas
- Play equipment
- Private garages and carports
- Servant's quarters

Small storage sheds

Solar collectors
Swimming pools
Television and radio receiving antennas less than 50 feet in height

No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) Except in the "RR" Rural Residential and "SR" Suburban Residential Districts, the total floor area of all accessory buildings shall not exceed 900 square feet.

- b. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- c. In the "RR" Rural Residential District and "SR" Suburban Residential District on lots three (3) acres or larger, agricultural activities may be conducted as accessory activities, such as growing of crops, pasturage of animals, growing of hay, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site in either of the zoning districts.
- d. Home occupations such as, but not limited to, the following:

Accountant
Architect
Artist
Attorney
Author or writer
Clergyman
Counselor
Engineer
Home crafts
Insurance Agent
Photographer
Planner
Real Estate Agent
Seamstress/Dressmaker
Secretary/Typist

Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

The following conditions and restrictions shall apply to such customary home occupations:

- (1) The home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
- (2) No person other than members of the household living on the premises and one (1) outside person shall be employed.
- (3) Only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.

- (4) No display or storage of equipment or materials outside of a building or structure shall be permitted.
- (5) No equipment or machine is used in such activity that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
- (6) Off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.

3. In District "R-1A" Single-Family Residential, "R-1B" Single-Family Residential, and "RP-2" Planned Medium Density Residential District, only the following accessory uses are allowed:

A. Accessory buildings and uses commonly associated with residential activity including but not limited to, the following:

- 1) Accessory off-street parking and loading spaces
- 2) Fences or walls
- 3) Flag poles
- 4) Gates or guard houses for subdivisions
- 5) Guest houses
- 6) Home barbecue grills
- 7) Parabolic and satellite dish-type antennas
- 8) Play equipment
- 9) Private garages and carports
- 10) Servants quarters
- 11) Small storage sheds
- 12) Solar collectors
- 13) Swimming pools

B. Television and radio receiving antennas less than 50 feet in height

C. No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) The total floor area of all accessory buildings shall not exceed 900 square feet.

D. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.

E. Home occupations such as, but not limited to, the following:

- Accountant
- Architect
- Artist
- Attorney
- Author or writer
- Clergyman
- Counselor
- Engineer
- Home crafts
- Insurance Agent

Planner Photographer
 Real Estate Agent
 Salesman
 Seamstress/Dressmaker
 Secretary/Typist

Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

The following conditions and restrictions shall apply to such customary home occupations:

- 1) The home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
- 2) No person other than members of the household living on the premises and one (1) outside person shall be employed.
- 3) Only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
- 4) No display or storage of equipment or materials outside of a building or structure shall be permitted.
- 5) No equipment or machine is used in such activity that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
- 6) Off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.

4. In Districts "CP-0" Planned Commercial Office, "CP-1" Planned General Commercial, "CP-2" Planned Highway Service, and "CP-3" Planned Central Business District, only the following accessory uses are allowed:

- A. Awnings.
- B. Parking areas, loading areas, and/or private garages for motor vehicles.
- C. Exterior lighting, including floodlighting.
- D. Radio, television, and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
- E. Fences or walls, including security or screen fences or walls.
- F. Flagpoles, cooling towers and other similar uses.
- G. Food service and vending machines for tenants.
- H. Solar collectors.

I. Parabolic and satellite dish-type antennas.

J. Washing and other motor vehicle cleaning shall be permitted as an accessory use in service stations, provided such washing and cleaning shall not utilize more than two car stalls or more than 30 percent of the floor area in any one station, shall be a part of the main building, shall not be equipped to handle anything larger than a one ton truck, and shall not be open for use during hours when the service station is closed. Such washing and cleaning operation shall utilize the same entrance drives as the service station and may use coin-operated or attendant-operated equipment, but not continuous line or conveyor type washing equipment.

K. Material storage yards, in connection with retail sales of products sold on the premises, where storage is incidental to the approved occupancy of a building, provided all products and materials used or stored are in a completely enclosed building or enclosed by a masonry wall, fence or hedge no less than 6 feet in height. Storage of all materials and equipment shall not exceed the height of said wall or fence. Storage of motor vehicles used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment such as road-building or excavating equipment.

5. In Districts "IP-1" Planned Light Industrial, and "IP-2" Planned Medium Industrial, only the following accessory uses are allowed:

A. Awnings.

B. Parking areas, loading areas and/or private garages for motor vehicles.

C. Exterior lighting, including floodlighting.

D. Fences or walls, including security or screen fences or walls.

E. Loading equipment.

F. Parabolic and satellite dish-type antennas.

G. Radio, television and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.

H. Gate houses.

I. Employee recreation facilities

27-109 Specialty Accessory Uses: The following uses, activities, or items shall be the accessory uses or restrictions allowable:

1. Hotels, Motels, Motor Hotels: The following are accessory uses within a hotel, motel or motor hotel:

A. Restaurant

B. Health clubs, spas and exercise rooms

C. Clubs

D. Drinking establishments

E. Banquet rooms

- F. Notion counters
- G. Newspaper and magazine counters
- H. Vending machines
- I. Arcades
- J. Beauty and barber shops
- K. Flower and gift shops
- L. Swimming pools

Provided all except swimming pools are within the main building and designed to serve the occupants and patrons of the hotel, motel or motor hotel.

2. Hospitals: The following are accessory uses within a hospital:

- A. Residential quarters for staff and employees
- B. Nursing and convalescent quarters
- C. Storage and utility buildings
- D. Food service and vending machines
- E. Laundry and dry cleaning pickup and delivery
- F. Flower and gift shops
- G. Other similar services for hospital personnel, visitors and patients

3. Construction Sites: Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project. Other temporary structures may be placed for storage at construction sites, but must be removed upon completion of the construction. At no time shall the temporary structures be used or considered as advertising signs.

4. Fences or Walls: Fences or walls inside the City of Schoenchen only, subject to the following:

- A. Fences or walls may be constructed to a maximum height of eight (8) feet above the average grade subject to the restrictions of this Article. For all fences or walls greater than six (6) feet in height, where a new fence or wall is constructed or an existing fence or wall is being extended, a permit shall be obtained from the City. A fence permit shall also be required for the replacement or reconstruction of 50 percent (50%) or more of the linear feet of the entire existing fence. Any such replacement or reconstruction shall comply with all the provisions of this Article except setbacks. In determining the height of a fence, the material used in the fence posts shall not be considered.
- B. Fences or walls (including retaining walls) in any planned district shall be approved by the Ellis County Joint Planning Commission as part of the development plan prior to the issuance of any fence permit.
- C. Retaining walls may be permitted where they are reasonably necessary due to the topography of the lot, where the wall is located at least two (2) feet from any street right-of-way, and where the wall does not extend more than six (6) inches above the ground level of the land being retained.
- D. All fences or walls constructed prior to the adoption of these Regulations which do not meet the standards of this Article may be replaced and maintained resulting in a fence the same size, type and material; provided, however, that no fence shall be replaced or reconstructed in a manner which obstructs the sight distance triangles as defined in this Article.
- E. In all districts within the City of Schoenchen, the following restrictions and standards shall apply

to all fences and walls:

1) Location.

- a) Front yard. A fence or wall not more than three (3) feet in height may project into or enclose any required front yard or side yard to a depth from the street line equal to the required depth of the front yard.
- b) Rear yard. A fence or wall may be constructed on the rear property line on all lots whose rear lot lines abut another lot or a designated thoroughfare. However, no fence shall be permitted in any platted easement. In the case of a double frontage lot whose rear yard abuts a collector or local street, a fence or wall may be constructed no closer than fifteen (15) feet to the rear property line.
- c) Side yard. A fence or wall may be constructed on the side property line, except that no fence shall be closer than fifteen (15) feet to any collector or local street right-of-way. In addition, no fence shall be permitted in any platted easement.
- d) Corner lot. A fence or wall not more than three (3) feet in height may project into or enclose any required front or side yard along the street frontage of the lot.

2) Design Standards.

- a) All fences and walls shall be constructed with a finished side facing outward from the property. The posts and support beams shall be on the inside or shall be designed as an integral part of the finished surface.
- b) All fence segments abutting a designated thoroughfare, except on corner lots, shall provide one (1) gate opening per lot to allow access to the area between the fence and the edge of the street for maintenance and mowing.
- c) Spikes and Barbed Wire Fences. No person shall place or permit to be placed or remain on any fence or wall, within five (5) feet of any public street or sidewalk or less than six (6) feet above grade, any spikes or sharp pointed cresting, or any barbed wire, or other thing dangerous and liable to snag, tear, cut or otherwise injure anyone coming in contact therewith.
- d) Electric Fences. No person shall erect a fence containing uninsulated electric conductors that may be exposed to human contact anywhere within the City.
- e) Swimming Pools. Private swimming pools having a water depth of two (2) feet or more shall be separated from the remainder of the yard by a protective fence or other permanent structure at least four (4) feet in height. The protective enclosure shall be maintained by locked gates or entrances when the pool is not tended by a qualified and responsible person.

27-110 Accessory Building or Structure Use: Except in the "AG" Agricultural, no accessory building or structure shall be constructed upon a lot until the construction of the main building or structure has been actually commenced, and no accessory building or structure shall be used unless the main building or structure on the lot is also being used, unless permitted by Special Exception as provided herein.

27-111 Prohibited Uses: After the effective date of these Regulations:

1. No mobile home, as defined in these Regulations, shall be moved, relocated, or otherwise placed on any property in the unincorporated portion of Ellis County or within the City of Schoenchen, including within any Manufactured Home Park or Manufactured Home Subdivision.
2. No manufactured home or mobile home shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use, except when used as a permitted accessory use in this Article.
3. No mobile home or manufactured home originally built to be a single-wide unit shall be attached or connected to any other mobile home or manufactured home, or to any other structure or building. This shall not prohibit reasonable, aesthetically designed stoops, porches, decks, carports or the like from being built onto or adjacent to an approved manufactured home.
4. No recreational vehicle shall be used for dwelling purposes while a dwelling is being constructed on the same site, except as permitted by these Regulations under the issuance of an administrative permit.
5. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, or other similar use or activity, including as an accessory use to another principal use, unless such use or activity has been approved by the issuance of a Conditional Use Permit as provided within these Regulations.
6. No application for a Conditional Use Permit shall be considered and no Conditional Use Permit shall be issued for any person on any property which proposes as the only use the placement of an advertising sign or billboard. Further, an advertising sign or billboard permitted as an accessory structure in an approved Conditional Use Permit shall not be built, used or remain in use unless the principal use and/or structure on the property is first built and/or currently used. Upon the cessation of the principal use and/or structure on the property, the advertising sign or billboard shall lose its standing as an accessory structure and must be removed. At no time shall an advertising sign or billboard first established under these regulations gain standing as a non-conforming use since the placement and continued use of such advertising sign or billboard is accessory to another principal structure or use.