

Kilkenny Zoning Ordinance

Kilkenny, MN

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**Completed by
The Minnesota Valley Council of Governments**

ZONING ORDINANCE

TABLE OF CONTENTS

| | <u>Page</u> |
|---|--------------------|
| PART 1. PURPOSES, INTERPRETATIONS, SHORT TITLE | 4 |
| 1.1 Purposes | 4 |
| 1.2 Scope | 4 |
| 1.3 Interpretation | 4 |
| 1.4 Short Title | 4 |
| 1.5 Rules and Definitions | 4 |
| PART 2. CLASSIFICATION OF DISTRICTS | 9 |
| 2.1 Districts | 9 |
| 2.2 Zoning Map | 9 |
| 2.3 General Provisions | 9 |
| PART 3. A-1, AGRICULTURAL RESIDENTIAL DISTRICT | 9 |
| 3.1 Purpose | 9 |
| 3.2 Permitted Uses | 10 |
| 3.3 Conditional Uses | 10 |
| 3.4 Height, Width, Yard, and Area Regulations | 10 |
| PART 4. R-1, LOW DENSITY RESIDENTIAL DISTRICT | 11 |
| 4.1 Permitted Uses | 11 |
| 4.2 Conditional Uses | 11 |
| 4.3 Height, Width, Yard, and Area Regulations | 12 |
| PART 5. R-2, HIGH DENSITY RESIDENTIAL DISTRICT | 13 |
| 5.1 Permitted Uses | 13 |
| 5.2 Conditional Uses | 14 |
| 5.3 Yard Regulations | 15 |
| PART 6. B-1, GENERAL BUSINESS DISTRICT | 15 |
| 6.1 Permitted Uses | 15 |
| 6.2 Conditional Uses | 15 |
| 6.3 Height, Yard, and Area Regulations | 16 |
| PART 7. M-1, INDUSTRIAL DISTRICT | 16 |
| 7.1 Permitted Uses | 16 |
| 7.2 Conditional Uses | 17 |
| 7.3 Height, Yard, and Area Regulations | 18 |

*Zoning Ordinance
Table of Contents (Cont'd)*

| | <u>Page</u> |
|--|--------------------|
| PART 8. SD - SHORELAND DISTRICT | 18 |
| 8.1 Permitted Uses | 18 |
| 8.2 Conditional Uses | 18 |
| 8.3 Permitted Accessory Uses | 19 |
| 8.4 Dimensional Regulations | 19 |
| PART 9. GENERAL REGULATIONS | 21 |
| 9.1 Accessory Uses | 21 |
| 9.2 Height Regulations | 21 |
| 9.3 Area Regulations | 22 |
| 9.4 Yard Regulations | 22 |
| 9.5 Accessory Buildings | 23 |
| 9.6 Off-Street Parking and Loading Space | 23 |
| 9.7 Signs | 25 |
| 9.8 Trucks and Trailers, and Campers | 26 |
| 9.9 Home Occupation Regulations | 27 |
| 9.10 Decks and Ramps for Handicap Access in the A-1, R-1, R-2 Districts..... | 27 |
| PART 10. NON-CONFORMING USES AND STRUCTURES | 28 |
| 10.1 Non-conforming Use | 28 |
| 10.2 Non.conforming Structure | 28 |
| PART 11. NON-CONFORMING USES | 28 |
| 11.1 Alterations | 28 |
| PART 12. VARIANCES | 29 |
| 12.1 Definition | 29 |
| 12.2 Application | 29 |
| 12.3 Hardships | 29 |
| 12.4 Public Hearing Notice | 30 |
| 12.5 Making Decisions | 30 |
| 12.6 Appeals | 30 |
| 12.7 Notices | 30 |
| 12.8 Stay of Proceedings | 30 |
| 12.9 Types of Accepted Appeals | 31 |
| PART 13. CONDITIONAL USE PERMITS | 31 |
| 13.1 Application | 31 |
| 13.2 Procedure | 32 |

| | |
|--|-----------|
| PART 14. BOARD OF ZONING ADJUSTMENT | 32 |
| 14.1 Creation and Membership | 32 |
| 14.2 Powers | 32 |
| 14.3 Appeals | 33 |
| 14.4 Procedure | 33 |
| | |
| PART 15. PLANNING COMMISSION | 34 |
| 15.1 Establishment of a Commission | 34 |
| 15.2 Membership | 34 |
| 15.3 Terms, Vacancies, Oath | 34 |
| 15.4 Officers | 34 |
| 15.5 Meetings, Records, and Reports | 34 |
| 15.6 Powers and Duties | 34 |
| 15.7 Zoning Ordinances: Public Hearings | 34 |
| 15.8 Plats: Approval | 34 |
| | |
| PART 16. AMENDMENT | 35 |
| 16.1 Purpose and Procedures | 35 |
| | |
| PART 17. ENFORCEMENT, VIOLATIONS AND PENALTIES | 35 |
| 17.1 Authority | 35 |
| 17.2 Zoning Permit | 35 |
| 17.3 Zoning Permit Application | 35 |
| 17.4 Violations | 36 |
| 17.5 Enforcement | 36 |
| | |
| PART 18. BUILDING AND CONSTRUCTING OF RESIDENTIAL SWIMMING POOLS AND SPAS | 36 |
| 18.1 Definitions | 36 |
| 18.2 Construction | 36 |
| 18.3 Fencing | 37 |
| 18.4 Permits | 37 |
| | |
| ZONING MAP | 38 |

ZONING ORDINANCE PART 1.

PURPOSES, INTERPRETATIONS, SHORT TITLE

1.1 Purposes. This Ordinance is enacted for the purpose of promoting the health, safety, morals, and general welfare of the inhabitants of the City of Kilkenny by the following: reducing congestion in the streets, securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewage, schools, parks, and other public requirements; conserving the value of properties; and encouraging the most appropriate use of land.

1.2 Scope. From and after the effective date of this ordinance, the use of all land and every building or portion of a building erected, moved in, altered within Kilkenny shall be in conformity with the provisions of this ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming.

1.3 Interpretation. In interpreting and applying the provisions of this ordinance, the maximum requirement for the promotion of the public health, safety, comfort, convenience, and general welfare shall be applied. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or restrictions, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

1.4 Short Title. This Ordinance shall be known and may be cited as the "Kilkenny Zoning Ordinance."

1.5 Rules and Definitions.

Subd. 1. Rules. Words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word *building* shall include the word *structure*; the word *lot* shall include the word *plot*; and the word *shall* is mandatory and the word *may* is permissive.

Subd. 2. Definitions. For the purpose of this Ordinance, certain terms and words are defined as follows:

Subd. 2.1 Accessory Building. A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building. The building shall not exceed ten (10) feet by twelve (12) feet and ten (10) feet to the peak.

Subd. 2.2 Alley. A public thoroughfare less than thirty (30) feet in width and providing secondary access to abutting property.

Subd. 2.3 Apartment. A part of a building consisting of a room or suite of rooms which is designed for, intended for, or used as a residence for one family or an individual, and equipped with cooking facilities.

Subd. 2.4 Apartment Building. Three (3) or more apartments grouped in one building.

Subd. 2.5 Automobile Wrecking. See Junk or Salvage Yards.

Subd. 2.6 Billboard. A structure upon which a sign is located which directs attention to a business, commodity, service, or entertainment which is located or provided elsewhere than upon the premises where such structure is located.

Subd. 2.7 Boarding House. Any dwelling other than a hotel or motel where meals, or meals and lodging, are regularly provided for compensation to five (5) or more persons, pursuant to previous arrangements and not to the public at large.

Subd. 2.8 Building. Any structure for the shelter, support or enclosure for persons, animals, chattel or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Subd. 2.9 Building Height. The vertical distance from the average of the highest and lowest point of that portion of a lot covered by a building to the highest point of the roof.

Subd. 2.10 Building Setback. The line of a building related to the property line.

Subd. 2.11 Community Building. A building owned by a group of people having a common interest, usually owned by a non-profit organization. An example of a community building is a church.

Subd. 2.12 Conditional Use. A land use or development as defined by this ordinance that would not be appropriate generally, but may be allowed with appropriate restrictions and/or conditions upon a finding that: (1) certain conditions as detailed in this ordinance exist; (2) the use or development conforms to fire comprehensive land use plan of the city; and (3) is compatible with the existing neighborhood.

Subd. 2.13 Curb Level. The curb level is the level of the established curb in front of the building measured at the center of such front.

Subd. 2.14 Dwelling. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings, permanently or transiently.

Subd. 2.15 Dwelling, One Family. A building designed for or occupied by one (1) family.

Subd. 2.16 Dwelling, Two Family. A building designed for or occupied by two (2) families.

Subd. 2.17 Dwelling, Multiple. A building designed for more than two (2) families.

Subd. 2.18 Family. One or more persons occupying a single housekeeping unit and using common cooking facilities provided that unless a majority of the members are related by blood or marriage, no such family shall contain over five (5) persons.

Subd. 2.19 Farming. The cultivation of the soil and all activities incident thereto and/or breeding, raising and sheltering of livestock.

Subd. 2.20 Garage, Private. A building designed and used for the storage of private passenger vehicles of the family or families resident in the principal building and in which no business, service, or industry is conducted.

Subd. 2.21 Garage, Public. Any structure except those described as a private garage used for the storage or care of power-driven vehicles, or where any such vehicles are equipped for operation, repair, or are kept for remuneration, hire, or sale.

Subd. 2.22 Home Occupation. An occupation carried on by an occupant of a dwelling as an accessory activity to the main residential use of the building, and meeting the following restrictions:

- (a) Not more than one person shall be employed other than residents of said building.
- (b) The occupation shall be conducted wholly within the dwelling or an accessory building.
- (c) Floor area devoted to the occupation shall not exceed twenty-five percent (25%) of the total ground area occupied by the buildings on the lot.

- (d) The occupation shall not be objectionable to adjacent residences due to noise, hours of operation, traffic, electrical interference, etc.
- (e) There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling.

Subd. 2.23 Junk or Salvage Yard. Land or building where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, robber products, glass products, lumber products, and products from wrecking of automobiles and other vehicles.

Subd. 2.24 Kennel. Any lot or premises on which three (3) or more dogs, more than four (4) months of age, are kept.

Subd. 2.25 Lot. For zoning purposes, as covered by this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or an officially approved private street permanently reserved as the principal means of access to abutting property, and may consist of:

- (a) A single lot of record.
- (b) A portion of a lot of record.
- (c) A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record.
- (d) A parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Subd. 2.26 Lot Coverage. The area of a lot occupied by the principal building or buildings and accessory buildings.

Subd. 2.27 Lot Depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line.

Subd. 2.28 Lot of Record. A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Le Sueur County or of a

parcel of land described by metes and bounds, the description of which has been recorded in the office of the County Recorder of Le Sueur County.

Subd. 2.29 Lot Types. A comer lot is defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a comer lot if straight lines drawn from the foremost points of the lot meet at an interior angle of less than 135 degrees. An interior lot is defined as a lot other than a comer lot with only one frontage on a street other than an alley. A through lot is defined as a lot other than a comer lot with frontage on more than one street other than an alley. Through lots with frontage on two streets may be referred to as double-frontage lots.

Subd. 2.30 Manufactured Home. A vehicle or residence on wheels, skids or rollers designed to be used for human habitation. Also termed a house trailer.

Subd. 2.31 Manufactured Home Park. A parcel of land under single ownership or control which has been planned and improved for the placement of two or more mobile homes.

Subd. 2.32 Narrowest Width Dimension. The narrowest width of a dwelling. This width shall not be less than twenty-two (22) feet and shall be applicable to seventy-five percent (75%) of the length of the dwelling.

Subd. 2.33 Non-Conforming Use. A use lawfully in existence on the effective date of this ordinance and not conforming to the regulations for the district in which it is situated.

Subd 2.34 Parking Space. An area nine (9) feet by nineteen (19) feet with acceptable ingress and egress.

Subd. 2.35 Public Owned Building. A building owned by a political subdivision. Examples are buildings owned by the city or the school district.

Subd. 2.36 Single Family Dwelling. See Dwelling, One Family.

Subd. 2.37 Story. That portion of a building included between the surface of a floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Subd. 2.38 Story, Half. That portion of a building under a gable, hip, or gambrel roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than two (2) feet above the floor of such story.

Subd. 2.39 Street. A public thoroughfare thirty (30) feet or more in width, affording a primary means of access to abutting property.

Subd. 2.40 Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

Subd. 2.41 Structural Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

Subd. 2.42 Use. The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

Subd. 2.43 Use, Accessory. A use incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

Subd. 2.44 Yard. Any space which is open and unobstructed from the ground to the sky and which is located on the same lot with a building.

Subd. 2.45 Yard, Front. An open, unoccupied space on the same lot with a building, extending the full width of the lot and situated between the street line and front of the building projected to the side lines of the lot.

Sub& 2.46 Yard, Rear. An unoccupied open space, except for accessory buildings, on the same lot with a building, between the rear lines of the building and the rear line of the lot, for the full width of the lot.

Subd. 2.47 Yard, Side. An open, unoccupied space on the same lot with a building, between the building and side line of the lot, and extending from the front yard to the rear yard.

PART 2.

CLASSIFICATION OF DISTRICTS

2.1 Districts. For the purpose of this ordinance, the City of Kilkenny is hereby designated as follows:

Subd. 1. Residential Districts. A-I Agricultural Residential; R-1 Low Density Residential District; R-2 High Density Residential District.

Subd. 2. Business District. B-1 General Business District

Subd. 3. Industrial District. M-1 Industrial District.

Subd. 4. Shoreland District SD Shoreland District

2.2 Zoning Map.

Subd. 1. The location and boundaries of the districts established by this ordinance are hereby set forth on the Zoning Map and said map is hereby made a part of this ordinance, which shall be known as the Kilkenny Zoning Map. Said map and all notations, reference, and date shown thereon incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein.

2.3 General Provisions.

Subd. 1. Amendments. It shall be the responsibility of the Zoning Administrator to maintain said map. Amendments to said zoning map shall be recorded thereon within thirty (30) days after official publication of amendments. The Kilkenny Zoning Map shall be kept on file in the City Clerk's office.

Subd. 2. **District Boundaries.** The boundaries between districts are, unless otherwise indicated, either the center line of streets, alleys, or such lines extended, or lines parallel or perpendicular thereto. Where figures are shown on the Kilkenny Zoning Map between a street and a district boundary line, they indicate that the district boundary line runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise indicated.

Subd. 3. Annexation. Any land annexed to the city shall be placed in the A-1 Agricultural Residential District until placed in another district by action of the City Council after recommendation of the City Planning Commission.

PART 3.

A-1 AGRICULTURAL RESIDENTIAL DISTRICT

3.1 Purpose. To recognize a district that is best suited for the transition between urban and agricultural use, to prevent unplanned, non-farm development, and to permit orderly and economic development of public services and utilities.

3.2 Permitted Uses. In an A-1 Agricultural Residential District, no building or land shall be used or divided, and no building shall be erected, converted, or structurally altered, unless otherwise provided herein, except for one or more of the following uses:

Subd. 1. Single family dwellings.

Subd. 2. Farming and truck gardening, including farm buildings, nurseries, greenhouses, horticulture, roadside stands, and other related agricultural activities, excluding livestock raising, livestock feedlots, and intensive poultry farming.

Subd. 3. Home occupations, as regulated in Section 8.10.

Subd. 4. Accessory buildings and accessory uses customarily incidental to the above uses.

3.3 Conditional Uses. The following uses may be allowed in the A-1 Agricultural Residential District by conditional use permit. Conditional use permits shall be procured as provided in Sections 11.1 and 11.2.

Subd. 1. Airports, cemeteries, gun clubs, curling rinks, and golf courses.

Subd. 2. Kennels and animal hospitals.

Subd. 3. Churches, schools, public owned buildings, and community buildings.

Subd. 4. Public owned parks and public owned playgrounds.

3.4 Height, Width, Yard, and Area Regulations.

Subd. 1. Height Regulations. No building hereafter erected or altered shall exceed two and one-half (2½) stories or thirty-five (35) feet in height, except as provided in Parts 10 and 11.

Subd. 2. Width Regulations. All structures used for residential occupancy shall have a minimum width of twenty-two (22) feet at its narrowest width dimension, and shall be affixed to a permanent foundation constructed of concrete block, poured concrete, or wood.

Subd. 3. Front Yard Regulations. There shall be a front yard having a depth of not less than fifteen (15) feet. Where a lot is located at the intersection of two (2) or more streets, the front yard depth regulations are applicable on each street side of each corner lot. No accessory building shall project beyond the front yard line of either street.

Subd. 4. Side Yard Regulations. There shall be a side yard, on each side of the building, having a width of not less than fifteen (15) feet.

Subd. 5. Rear Yard Regulations. There shall be a rear yard having a depth of not less than ten (10) feet.

Subd. 6. Lot Area Regulations. Every lot or tract of land upon which a single-family dwelling is erected shall have an area of not less than twenty-two thousand (22,000) square feet and an average width of not less than one hundred fifty (150) feet, except that if a lot or tract has less area or width than herein required and was legally platted and was of record at the time of the passage of this ordinance, that lot may be used for any of the uses permitted in this section.

PART 4.

R-1 LOW DENSITY RESIDENTIAL DISTRICT

4.1 Permitted Uses. In an R-1 Low Density Residential District, no building or land shall be used and no building shall be erected, structurally altered, converted, or enlarged unless otherwise provided herein, except for one or more of the following uses:

Subd. 1. Single family and two family dwellings.

Subd. 2. Parks and playgrounds owned or operated by public agencies.

Subd. 3. Farming, except raising livestock.

Subd. 4. Garage, Private (See Section 4.3, Subd. 7, for size limitation of garages.)

Subd. 5. Accessory buildings and accessory uses customarily incidental to the above uses.

4.2 Conditional Uses. The following uses may be allowed in an R-1 Low Density Residential District by conditional use permit. Conditional use permits shall be procured as provided in Sections 11.1 and 11.2:

- Subd. 1. Churches.
- Subd. 2. Community buildings that are not publicly owned.
- Subd. 3. Curling rink.
- Subd. 4. Golf courses.
- Subd. 5. Home occupations as regulated in Section 9.9
- Subd. 6. Multiple family residences.
- Subd. 7. Public buildings, memorial buildings, and water supply buildings or structures.
- Subd. 8. Public schools, elementary or high, or private schools having a curriculum equivalent to a public school.
- Subd. 9. Other uses of the same general character as those in Section 4.1.

4.3 Height, Width, Yard, and Area Regulations

Subd. 1. Height Regulations. No building hereafter erected or altered shall exceed two and one-half (2 %) stories or thirty-five (35) feet in height, except for the height of a garage, as regulated in Subd. 7, below.

Subd. 2. Width and Foundation Regulations.

(i). All new single family dwellings constructed shall have a minimum width of twenty-four (24) feet, in any of the classes of residence districts.

(ii). All new single family dwellings in i, above constructed shall have a foundation, in any of the classes of residence districts, described as follows:

(a). Constructed of concrete block, poured concrete or treated lumber.

(b). Constructed as to encompass the perimeter dimensions of the single family dwelling unit, ground level perimeter.

(c). The foundation shall be supported by footings. All structures shall have frost footings at a minimum of four (4) feet.

(iii.) All single family dwelling less than the twenty-four (24) feet limit must be at least fourteen (14) feet in width and depth, provided any manufactured home erected or placed after the effective date of this Ordinance shall meet the requirements of American Standard Association Code Provision A- 119.1 - 1968; American Standards for Installation in Manufactured Homes of Electrical Heating and Plumbing Systems, or Manufactured Home Manufacturers Association Manufactured Homes Standards for Plumbing and Heating and Electrical Systems; and all State, County, and City codes and regulations governing installation plumbing, heating mad electrical systems.

Subd. 3. Front Yard Regulations. There shall be a front yard having a depth of not less than fifteen (15) feet. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each skeet side of each comer lot. No accessory buildings shall project beyond the front yard line of either street.

Subd. 4. Side Yard Regulations. There shall be a side yard, on each side of the building, having a width of not less than three (3) feet.

Subd. 5. Rear Yard Regulations. There shall be a rear yard having a depth of not less than three (3) feet.

Subd. 6. Lot Area Regulations. A lot on which there is erected a single-family 12 dwelling shall contain an area of not less than seven thousand (7,000) square feet and an average width of not less the sixty (60) feet in at the front setback line. These dimensions do not pertain to lots recorded prior to January 1,200 I, Their lot area dimensions shall remain the same as when they were officially recorded. A lot on winch there is erected a new two-family dwelling shall have an area of not less than eight thousand (8,000) square feet and an average width of not less than one hundred (100) feet. A lot on winch there is erected a new multiple family dwelling shall contain an area of not less than ten thousand (10,000) square feet for the first two units, plus two thousand (2,000) square feet for each additional dwelling unit.

Subd. 7. Size Regulation for Garages. The total height of a garage shall not be over twenty five (25) feet in height at the peak.

PART 5.

R-2 HIGH DENSITY RESIDENTIAL 4-L DISTRICT

5.1 Permitted Uses. In an R-2 High Density Residential District, no building or land shall be used and no building shall be erected, structurally altered, converted or enlarged unless otherwise provided herein, except for one or more of the following uses:

Subd. 1. All uses permitted in Section 4.1, provided such uses comply with regulations established in Section 4.3.

Subd. 2. Manufactured homes in manufacture home parks provided that:

(i) The land occupied by the park is maintained in single ownership or control and no individual lot is transferred to other ownership.

(ii) The owner presents plans and specifications for the proposed park in a form suitable for making the determination required herein.

(iii) Access to the manufactured home park is from a major street.

(iv) The proposed site contains not less than one acre, and has no more than five (5) mobile home spaces per gross acre.

(v) The park and all manufactured homes within comply with appropriate general ordinances and health and sanitary regulations.

(vi) The park is suitably located for community facilities, including water supply, sewage disposal, schools, shopping facilities and services, and police and fire protection.

(vii) The site is suitable for the purpose intended so far as soil, ground water level, drainage, and topography are concerned.

(viii) The location of the park will not be detrimental to the adjacent properties, and fencing and screening shall be provided where required by the Planning Commission and City Council.

(ix) Lot sizes shall not be less than five thousand (5,000) square feet.

Subd. 3. Manufactured homes on private land lots provided that:

- (i) The occupant of the home must own the lot on which it is located.
- (ii) The developer presents plans and specifications for the proposed development that are suitable for the making of the determination required herein.
- (iii) Access to individually owned property sites and parks is from a major street.
- (iv) The proposed site contains not less than two (2) acres and has not more than five (5) manufactured homes per gross acre.
- (v) That all manufactured homes comply with appropriate ordinances and health and sanitary regulations.
- (vi) The development is suitably located for community facilities, including water supply, sewage disposal, schools, shopping facilities, police and fire protection.
- (vii) The site is suitable for the purpose for which it is intended so far as soil, ground water level, drainage, and topography are concerned.
- (viii) The location of the park will not be detrimental to the adjacent properties, and screening or fencing will be provided as the Planning Commission and City Council may dictate.
- (ix) Minimum lot size shall be not less than six thousand (6,000) square feet.
- (x) Each lot must have a width of not less than one hundred (100) feet.
- (xi) Each lot must have a front yard setback of not less than twenty (20) feet, side yard of eight (8) feet, and rear yard of ten (10) feet.
- (xii) No building may be closer than eight (8) feet to any other building.
- (xiii) All units will have skirting within sixty (60) days of their placement.
- (xiv) All units must be tied down with approved tie downs.

5.2 Conditional Uses. The following uses may be allowed in an R-2 High Density Residential District by conditional use permits. Conditional use permits shall be procured as provided in Sections 11.1 and 11.2.

Subd. 1. Cemeteries, gun clubs, and curling rinks.

Subd. 2. Public owned buildings, memorial buildings, community build'rags, and meter supply buildings or structures.

Subd. 3. Other uses of the same general character as those in Section 5.1.

5.3 Yard Regulations

Subd. 1. Front Yard Regulations. There shall be a front yard having a depth of not

less than fifteen (15) feet. Where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of each corner lot. No accessory buildings shall project beyond the front yard line of either street.

Subd. 2. Side Yard Regulations. There shall be a side yard, on each side of the building, having a width of not less than three (3) feet.

Subd. 3. Rear Yard Regulations. There shall be a rear yard having a depth of not less than three (3) feet.

PART 6.

B-1 GENERAL BUSINESS DISTRICT

6.1 Permitted Uses. The following uses shall be permitted in the B-1 General Business District:

Subd. 1. Accessory uses customarily incidental to the uses permitted in this section.

Subd. 2. Retail, wholesale trades.

Subd. 3. Repair and maintenance services.

Subd. 4. Offices, professional services.

Subd. 5. Eating and drinking establishments.

Subd. 6. Amusement establishments.

Subd. 7. Hotels and motels.

Subd. 8. Churches or places of religious worship and or services.

Subd. 9. Community and government buildings.

6.2 **Conditional Uses.** The following uses may be allowed in B-1 General Business District by conditional use permits. Conditional use permits shall be procured as provided in Sections 11.1 and 11.2.

Subd. 1. Car and implement sales.

Subd. 2. Light assembly production.

Subd. 3. Gas stations and auto repair, excluding salvage yards.

Subd. 4. Lumber yards, and warehousing.

Subd. 5. Single and multi-family dwellings.

Subd. 6. Utility structures.

Subd. 7. Public parks and campgrounds/resorts.

Subd. 8. Other business activities of the same general character as indicated in Section 6.1.

6.3 Height, Yard, and Area Regulations.

Subd. 1. **Height Regulations.** No building shall hereafter be erected or structurally altered to exceed forty-five (45) feet in height.

Subd. 2. **Front Yard Regulations.** In the B-I General Business District, no front yard shall be required, except no building shall be located closer than thirty (30) feet to the street where a Residential District is located across the street from the applicable lot.

Subd. 3. **Side Yard Regulations.** In the B-1 General Business District, no side yard shall be required, except no building shall be located within twenty (20) feet of any side lot line abutting any Residential District.

Subd. 4. **Rear Yard Regulations.** In the B-1 General Business District, no rear yards shall be required, except no building shall be located closer than twenty (20) feet to any rear lot line abutting any Residential District.

PART 7.

M-I INDUSTRIAL DISTRICT

7.1 Permitted Uses. The following uses shall be permitted in the M-1 Industrial District:

- Subd. 1. Accessory use customarily incidental to uses permitted in this section.
- Subd. 2. Custom shop for making articles or products sold at retail on the premises.
- Subd. 3. Laboratory, research and testing.
- Subd. 4. Laundry and dry cleaning establishments.
- Subd. 5. Manufacture of crates, boxes, baskets, furniture, veneers, cabinet work, and similar wood items.
- Subd. 6. Manufacture of fabrics, clothing, pillows, mattresses, rugs, hosiery, and millinery.
- Subd. 7. Manufacture and storage of food products, bakery, candy, ice cream, dairy, poultry, vegetable processing and canning, but excluding slaughtering.
- Subd. 8. Manufacture of metal products such as bolts, nuts, screws, rivets, tools, dies, ornamental iron, sheet metal, electrical appliances and hardware products.
- Subd. 9. Manufacture of plastic or fiberglass items.
- Subd. 10. Nursery stock, growing, handling, crating, and sorting.
- Subd. 11. Office building directly related to any part of the above uses.
- Subd. 12. Plumbing, heating, glazing, painting, paperhanging, roofing, ventilating, and electrical contractors, blacksmith shop, carpentry, soldering and welding shop.
- Subd. 13. Storage or warehouse.
- Subd. 14. Wholesale business establishments.
- Subd. 15. Yard for storage, sale, and distribution of building materials.

7.2 Conditional Uses. The following uses may be allowed in the M-1 Industrial District by conditional use permits. Conditional use permits shall be procured as provided in Sections 11.1 and 11.2:

- Subd. 1. All uses permitted in Section 7.1.
- Subd. 2. Agricultural chemicals and fertilizer storage structures.

- Subd. 3. Apartments-first floor, related to industrial structures.
- Subd. 4. Building material sales and storage.
- Subd. 5. Cartage and express facilities and freight terminals.
- Subd. 6. Electric light or power generation station.
- Subd. 7. Elevators, grain storage structures, and grain drying systems.
- Subd. 8. Monument works.
- Subd. 9. Slaughter houses and livestock sales yard.
- Subd. 10. Other industrial uses of the same general character as listed in Section 7.1.
- Subd. 11. All other industries which may be classified heavy industry.

7.3 Height, Yard, and Area Regulations.

Subd. 1. Height Regulations. No building shall hereafter be erected or structurally altered to exceed a height of more than forty (40) feet above ground level to the roof. Air conditioning or dust collecting equipment on the top of roofs shall be no more than twenty-five (25) feet higher than the roof level.

Subd. 2. Yard Regulations. There shall be a front yard having a depth of not less than thirty (30) feet. There shall be a side yard on each side of a building, each having a depth of not less than ten (10) feet, except where abutting a Residential District, in which case the side yard shall not be less than twenty (20) feet. There shall be a rear yard having a depth of not less than twenty (20) feet of the lot, except where abutting a Residential District, in which case the rear yard shall not be less than forty (40) feet.

PART 8.

SD - SHORELAND DISTRICT

8.1 Permitted Uses. The following uses shall be permitted within the SD Shoreland District

Subd. 1. Agriculture, including crop production and pasturing utilizing agricultural best management practices, existing feedlots as of June 18, 1996 and agricultural

storage buildings within established farm building sites.

Subd. 2. Sensitive resource management of nature areas, hiking trails, wildlife preserves, or designated official wetland areas and forest preserves owned or operated by governmental agencies.

Subd. 3. Forest management, as per Section 9, General Regulations.

Subd. 4. One (1) single family dwelling per existing building site.

8.2 Conditional Uses. The following uses may be permitted in the SD Shoreland District as Conditional Uses:

Subd. 1. Home Occupations.

Subd. 2. Excavation of minerals.

Subd. 3. Water supply tanks or buildings, reservoirs, commercial wells, gas regulator stations, electric substations or transmission lines greater than 35KV, railroad right-of-way, but not including railroad yards, public sewage treatment facilities and other similar essential public utility and service structures.

Subd. 4. Parks, recreational areas and historic sites.

Subd. 5. Grading or filling on steep slopes involving movement of more than fifty (50) cubic yards of material that is not in connection with another permitted use, or within shore or bluff impact zones involving movement of more than (10) cubic yards of material. Excavation or filling activities required for maintenance or improvement of public roads is exempt.

Subd. 6. Temporary dwellings at a maximum of one (1) per lot that will be occupied for more than one (1) year.

Subd. 7. Bed and Breakfast Inns.

8.3 Permitted Accessory Uses.

Subd. 1. Other accessory uses customarily incidental to the uses permitted in Subdivision 8.1 and 8.2, above.

Subd. 2. Private swimming pools when completely enclosed within a fence which extends from the ground to a height of five (5) feet.

Subd. 3. Accessory buildings as specified in 9.5 of this Ordinance.

8.4 Dimensional Regulations.

Subd. 1. Lot Area.

A. Lakes: On Natural Environment (NE) and Recreational Development (RD) Lakes the minimum lot area (in square feet) and minimum lot width (at setback lines from OHW) for sewered, riparian (riparian is land contiguous to the bank of a stream, the shore of a lake, or the edge of a wetland) and nonriparian lots shall be as follows (in feet):

| | RIPARIAN LOTS* | | NONRIPARIAN LOTS* | |
|-------------------------|----------------|--------------|-------------------|--------------|
| | <u>Area</u> | <u>Width</u> | <u>Area</u> | <u>Width</u> |
| NE Lake | | | | |
| Single Family structure | 40,000 | 125 | 20,000 | 125 |
| Duplex structure | 70,000 | 225 | 35,000 | 220 |
| Triplex structure | 100,000 | 325 | 52,000 | 315 |
| Fourplex structure | 130,000 | 425 | 65,000 | 410 |
| RD Lake | | | 80,000 | 200 |

* *These dimensions are for any development after the effective date of this Ordinance.*

B. Rivers: On rivers, or streams classified as agricultural, transitional or tributary the minimum lot area (in square feet and minimum lot width and depth standards (in feet) shall be the same as required in the underlying Zoning District.

| | <u>Area</u> | <u>Width</u> | <u>Depth</u> |
|--|-------------|--------------|--------------|
| Conservancy (C) | 217,800 | 400 | 400 |
| Agriculture (A) | 65,340 | 200 | 300 |
| Agriculture/ Residential (AR) | 65,340 | 200 | 300 |

C. Lot Coverage: All buildings, including accessory buildings, shall not cover more than twenty-five (25) percent of a lot in this district.

D. Public Utilities: If public utilities are available to the property, it will be required to connect to these utilities when new, approved development takes place.

Subd. 2. Placement of Structures on Lots.

Minimum setback requirements from the Ordinary High Water Line are as follows:

- | | | |
|----|-------------------------------------|----------|
| 1. | Structures with a sewer connection | 75 feet |
| 2. | Structures with no sewer connection | 100 feet |
| 3. | Side Yard | 50 feet |
| 4. | Rear Yard | 50 feet |
| 5. | Road Right-of-Ways | |
| | a. State/Federal | 50 feet |
| | b. County | 50 feet |
| | c. Township/Private | 20 feet |

Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. No accessory buildings shall project beyond the front yard or either road.

Subd. 3. Shoreland Alterations. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

A. Vegetation Alterations.

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas are exempt from the vegetation alteration standards that follow.

2. Removal or alteration of vegetation, except for agricultural and forest management uses are allowed subject to the following:

- a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intrusive

vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use in an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

1. the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduces;
2. along rivers, existing shading of water surfaces is preserved; and
3. the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

PART 9.

GENERAL REGULATIONS

9.1 Accessory Uses. The following accessory uses, in addition to those herein before specified shall be permitted in any Residential District, if the accessory uses do not alter the character of the premises in respect to their use for the purpose permitted in the district:

Subd. 1. The renting of rooms or the providing of table board in a dwelling as an incidental use to that of its occupancy as a dwelling of the character permitted in the respective district, but not to the extent of constituting a hotel as defined in this ordinance, unless permitted in the district.

Subd. 2. The operation of necessary facilities and equipment in connection with schools, colleges, universities, hospitals, and other institutions permitted in the district.

Subd. 3. Recreation, refreshments, and service buildings in public parks and playgrounds.

9.2 Height Regulations.

Subd. 1. Where the average slope of a lot is greater than one (1) foot rise or fall in seven (7) feet of horizontal distance from the established street elevation at the property line, one (1) story in addition to the number permitted in the district in which the lot is situated shall be permitted on the downhill side of any building.

Subd. 2. In any district with a height limit of less than fifty (50) feet, public and semi-public buildings, schools and churches, hospitals, and other institutions permitted in the district may be erected to a height not exceeding fifty (50) feet. The front, rear, and side yards shall be increased one (1) foot for each one (1) foot by which the building exceeds the height limit herein before established for such district.

Subd. 3. Height limitations as set forth elsewhere in this ordinance may be increased by one hundred percent (100%) when applied to the following:

- (i) Cooling towers.
- (ii) Elevator pen houses.
- (iii) Flag poles.
- (iv) Monuments.

Subd. 4. Height regulations as set forth elsewhere in this ordinance may be increased with no limitation when applied to the following, provided a conditional use permit is issued to increase height:

- (i) Chimneys or smokestacks.
- (ii) Church domes, spires, belfries and roof ridges.
- (iii) Grain elevators.
- (iv) Schools, colleges, and university buildings.
- (v) Television and radio broadcasting antennae.

9.3 Area Regulations.

Subd. 1. No lot shall be so reduced that the area of the lot or dimensions of the open spaces shall be smaller than herein prescribed.

Subd. 2. No dwelling shall hereafter be erected or altered unless there is direct access to it from a street or highway through an open space on the same lot. No building shall hereafter be erected or altered so as to close the present means of access to an existing dwelling or so as to diminish this means to a width less than the width of the existing dwelling.

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

Subd. 1. Cornices, canopies, or eaves may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.

Subd. 2. Fire escapes may extend into the required front yard a distance not exceeding four (4) feet, six (6) inches.

Subd. 3. A landing place or uncovered porch may extend into the required front yard a distance not exceeding six (6) feet. An open railing no higher than three (3) feet may be placed around such place.

Subd. 4. The above enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance except on existing lots that are fifty (5) feet or less in width; in such instance, allowable architectural features may project into the required side yard a distance of two (2) feet.

Subd. 5. A wall, fence, or hedge shall not exceed three (3) feet: in height in the required front yard, or seven (7) feet in height in the required side and rear yards. Any wall or fence exceeding three (3) feet in height, shall maintain a three (3) foot setback from a lot line unless:

(i) Mutual agreement can be demonstrated with abutting property owners.

(ii) Maintenance easement agreement can be drafted and agreed to by both affected parties.

(iii) Mutual ownership and responsibility agreements can be drafted and demonstrated to the City Council.

Subd. 6. In the districts where filling stations are allowed, pumps and pump islands

may be located within a required yard provided they are not less than fifteen (15) feet from any street right-of-way lines.

Subd. 7. The required front yard of a corner lot shall not contain any wall, fence or other structure, tree, shrub or other growth which may cause danger to traffic on a street or public road by obscuring the view.

Subd. 8. In determining the depth of rear yard for any building where the rear yard opens into the alley, one-half (1/2) the width of the alley, but not exceeding ten (10) feet, may be considered as a portion of the rear yard.

9.5 Accessory Buildings.

Subd. 1. Where an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this ordinance applicable to the main building. An accessory building shall not be closer than five (5) feet to the main building unless attached to and made a part of the main building, except as otherwise provided in this section. A garage or building larger than ten (10) feet by twelve (12) feet shall be considered a dwelling for purposes of side and rear yard regulations and requirements.

Subd. 2. A detached accessory building not over one (1) story and not exceeding ten (10) feet in height may occupy not to exceed thirty percent (30%) of the area of any rear yard. No detached accessory building shall be located within five (5) feet of any rear lot line or side lot lines. Accessory buildings shall be located only in the rear yard.

9.6 Off-Street Parking and Loading Space.

Subd. 1. Required Number of Off-Street Parking Spaces. Not less than one (1) off-street parking space, consisting of three hundred (300) square feet located behind the established building line, with access from a street or alley, shall be provided on any lot on which a main building is hereafter erected. The following types of uses shall provide additional off-street parking space, as indicated, which parking space shall have proper access from a street or alley and shall be located on the lot on which such use is situated:

(i) Assembly or Exhibition Hall Without Fixed Seats. One (1) parking space for each one hundred (100) square feet of floor space.

(ii) Auditorium, Theater, or Other Places of Public Assemblage. A minimum of one (1) space for every six (6) seats.

- (iii) Boarding and Lodging House. One (1) space for each two (2) persons.
- (iv) Bowling Alley. Five (5) spaces for each bowling lane.
- (v) Churches. One (1) space for each three (3) seats in the nave.
- (vi) Convalescent or Nursing Home. One space for each four (4) beds.
- (vii) Drive-In Restaurants or Similar Use. A minimum of twenty (20) spaces.
- (viii) Dwelling. Multiple. One and one-half (1.5) spaces for each apartment unit.
- (ix) Dwelling, Two Family. One (1) space for each family.
- (x) Filling Stations. Four (4) parking spaces, plus two (2) spaces for each service stall. Such parking spaces shall not include the parking spaces required for gas pump areas.
- (xi) Golf Course, Golf Club House, Country Club, or Public Swimming Pool. Twenty (20) spaces, plus one (1) for each three hundred (300) feet of floor area in principal structure.
- (xii) Hospital. One (1) space for each three (3) hospital beds, plus one (1) space for each two (2) employees on the major shift.
- (xiii) Hotel, Motel, or Tourist Cabin Court. One (1) space for each rental room or suite.
- (xiv) Manufacturing and Warehouse Buildings. One (1) parking space for each three (3) employees, based on peak employment of the largest shift, but no less than one (1) space for every one thousand (1,000) square feet of floor space. Such space shall be considered required open space associated with the permitted use unless otherwise stated. It shall not be reduced or encroached upon in any manner after the use is established. Where such space cannot be reasonably provided on the same lot with the principal use, the City Council, with the approval of the City Planning Commission, may permit such space to be located on other off-street property if the space is within three hundred (300) feet of the permitted use, measured along lines or public access, unless specifically waived by the City Council. Off-street parking facilities existing at the effective date of this ordinance shall not subsequently be reduced to an amount less than that required under tiffs

ordinance for a similar new building or use. Off-street parking facilities provided to comply with the provisions of this ordinance shall not subsequently be reduced below the requirements of this ordinance. In computing the number of such parking spaces required, the following rules shall govern: Floor space shall mean the gross floor area of the specific use. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the City Planning Commission.

(xv) Office Building, Medical or Dental Clinic. Four (4) parking spaces, plus one (1) additional parking space for each five hundred (500) square feet of floor space area over one thousand (1,000) square feet.

(xvi) Public Senior or Junior High School. Ten (10) spaces for each classroom.

(xvii) Restaurant in the B-1 Highway District, Cafe or Tea Room or Similar Use. One (1) space for each two hundred (200) square feet of floor space.

(xviii) Stores and Other Establishments in a B-1 Highway Business District. Except as otherwise specified herein, shall have a minimum of one (1) space for each two hundred (200) square feet of floor space.

Subd. 2. Required Loading Areas. In any commercial or industrial district, space for loading of vehicles shall be provided on the same lot for every building used or designed to be used for commercial or industrial purposes. One (1) loading space at least ten (10) feet by twenty-five (25) feet shall be provided for each twenty thousand (20,000) square feet of floor area in the building. No building or part thereof in a B-1 General Business District, or an M-1 Industrial District, heretofore erected which is used for any of the uses specified for the district, shall hereafter be enlarged or extended without providing off-street parking and loading space as provided for in this subdivision.

9.7 Signs.

Subd. 1. Any signs hereafter erected or maintained shall conform with the provisions of this section and any other ordinance or regulation of the city.

Subd. 2. Use and Location Regulation. The following types of signs, and no other, shall be permitted:

(i) Official traffic and street signs.

(ii) In Residential Districts, only non-commercial signs, such as professional name signs indicating the name and profession, trespassing signs, signs indicating the private nature of a driveway or premise shall be permitted, provided that the area on one side of any such sign shall not exceed two (2) square feet.

(iii) Identification signs for schools, churches, hospitals, or similar institutions, and for clubs, lodges, farms, estates, or similar uses, are permitted provided that the area on one side of any such sign shall not exceed twelve (12) square feet.

(iv) Real estate signs, including signs advertising the sale or rental of premises, are permitted provided the area on one side of any such signs shall not exceed six (6) square feet. Signs indicating the location and direction of premises in the process of development are permitted, provided the area on one side of any such sign shall not exceed twenty-four (24) square feet.

(v) Temporary signs of contractors, architects, mechanics, and artisans are permitted, provided that such signs shall be removed promptly upon completion of the work and further provided that such signs shall not exceed twenty-four (24) square feet in area.

(vi) Business or industrial signs may be erected and maintained in conjunction with a commercial or industrial use, provided:

(a) That the area on one side of all such signs erected on one street frontage of any one premises shall not exceed fifty (50) square feet, unless authorized by a conditional use permit issued by the City Council.

(b) Such sign, except a directional sign, is erected only on the premises on which the use to which the sign relates is conducted.

(vii) Billboards shall be permitted in B-1, General Business District, and M-1 Industrial District provided they are included as part of the permitted aggregate sign space for that use.

Subd. 3. General Restrictions. The following restrictions shall apply to all permitted sign users:

(i) No sign shall be of such a nature or placed in such a position that it will cause danger to traffic on a street.

(ii) In districts requiring a front yard setback, no sign other than official traffic signs shall be erected within the lines of any street.

(iii) Except by conditional use permit which may be issued by the City Council, illuminated signs shall be permitted in the commercial and industrial districts only. The City retains the right to regulate the intensity of such lights and require that the lights be turned out or down at certain times.

(iv) No sign shall be of a flashing, intermittent type or moving illumination type except an official traffic signal.

(v) In districts where there is no required building setback, no sign shall project more than forty-eight (48) inches over a sidewalk, and must be at least seven (7) feet above the sidewalk, except signs shall be permitted on marquees if height of letters do not exceed twenty-four (24) inches.

(vi) No signs shall violate the front, side or rear yard requirements of the district in which it is placed.

(vii) Signs which do not conform to the regulations herein set forth shall be declared a non-conforming use and as such shall be subject to the provisions of Part 9 of this Ordinance.

9.8 Trucks and Trailers, and Campers.

Subd. 1. No trucks in excess of three quarter (3/4) ton rated capacity and no tractor or semi-trailer shall be parked, stored, or repaired on public streets in any of the Residential Districts, except for trucks making normal deliveries.

Subd. 2. No tracks, tractors, implements, or merchandise may be stored or displayed for sale within the right-of-way of any public street or thoroughfare.

Subd. 3. No campers, trailers, boats, or recreation vehicles shall be stored on public right-of-ways. A camper, trailer, boat, or recreation vehicle left unattended for seventy-two (72) hours shall be considered stored on a public right-of-way.

9.9 Home Occupation Regulations. Occupations may be carried on in dwellings located in Residential Districts provided that the occupation meets the following criteria:

(i) No more than one full-time person (working an average of 40 hours or more per week) shall be employed other than the resident of said dwelling.

(ii) The occupation shall be conducted wholly within the dwelling or an accessory building.

(iii) Floor area devoted to the occupation shall not exceed twenty-five percent (25%) of the total ground area occupied by buildings on the lot.

(iv) The occupation shall not be objectionable to adjacent residences due to noise, hours of operation, traffic, electrical interference, etc.

(v) There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling.

9.10 Decks and Ramps for Handicap Access in the A-1, R-1, and R-2 Districts. The following regulations shall apply to decks and ramps for handicap access in the A-1, R-1, and R-2 Districts:

Subd. 1. Uncovered ramps constructed for the purpose of providing handicap access, provided that the ramp has a railing no higher than thirty-six (36) inches and does not extend nearer than five (5) feet to the front lot line, shall not be considered as encroachments in required front yards.

Subd. 2. Uncovered ramps constructed for the purpose of providing handicap access which do not extend nearer than three (3) feet to the side lot line shall not be considered encroachments in required side yards.

Subd. 3. Attached decks not more than two (2) feet above grade (exclusive of any railing), or uncovered ramps constructed for the purpose of providing handicap access, provided that the deck or the ramp shall be set back at least ten (10) feet from the rear lot line, shall not be considered encroachments in required rear yards.

Subd. 4. Attached uncovered decks higher than two (2) feet above grade constructed for the purpose of providing handicap access that are set back at least fifteen (15) feet from the rear lot line shall not be considered encroachments in required rear yards.

Subd. 5. Decks and ramps shall be included in the calculations for lot coverage.

Subd. 6. All of the preceding permitted setback encroachments shall not be construed to allow encroachment into an easement of record.

PART 10.

NON-CONFORMING USES AND STRUCTURES.

10.1 Non-conforming Use. Any structure devoted in whole or in part to, or that is accessory to, a nonconforming use that is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the assessed market value, shall not be restored unless the use of such structure shall thereafter conform to the use regulations of this Zoning Ordinance.

10.2 Non-conforming Structure. Any nonconforming structure that is damaged or destroyed by any means not within the control of the owner thereof, to any extent, may be repaired or restored; provided, however, that no such repair or restoration shall be allowed that would increase the degree of any non-conformity existing prior to such damage or destruction.

PART 11.

NON-CONFORMING USES ALTERATIONS.

11.1. Alterations.

Subd. 1. The unlawful use of a building existing at the time of the adoption of this ordinance may be continued, although such use does not conform to the provisions hereof. A nonconforming use of a building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

Subd. 2. Discontinuance. In the event that a non-conforming use of any building or premises is discontinued or its normal operation stopped for a period of one (1) year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

Subd. 3. Junk Yards or Salvage Yards. A junk yard or salvage yard may continue as a non-conforming use in an Industrial District if it is completely enclosed within a building, fence, living screen planting or other device of such height so as to screen completely enclosed within a building, fence, living screen planting or other device of such height so as to screen completely the operations of the junk yard. Plans of such building or device shall be approved by the City Planning Commission and the City Council before it is erected or put into place.

Subd. 4. Signs. Signs pertaining to or advertising products sold on the premises of a non-conforming building or use may be continued only when the non-conforming

use is permitted to continue. Such signs must not be expanded in number, area, height, or illumination. New signs not to exceed thirty-five (35) square feet in aggregate area may be erected only after all other signs existing at the time of the adoption of this ordinance have been removed. New signs in conformity with the above may have illumination on one face of the sign, but flashing, intermittent or moving illumination is not permitted.

Subd. 5. Residential Alterations. Alterations may be made to a residential building containing non-conforming residential units when they will improve the habitability of such units, provided however, that they do not increase the number of dwelling units in the building.

Subd. 6. Normal Maintenance. Maintenance of a building or other structure containing or used for a non-conforming use will be permitted when it includes necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.

PART 12.

VARIANCES

12.1 Definition. A variance is an adjustment by the Board of Adjustment (the City Council, per section 12 of this Ordinance) of the literal provisions of the Zoning Ordinance in cases where the literal provisions would cause hardship because of physical circumstances unique to an individual property. Variances are limited to height, bulk, density, and yard requirements. They should be the exception rather than the rule. The Department of Natural Resources must be informed of all variance requests in the Floodplain and Shoreland District.

12.2 Application. Application for a variance shall be made to the Zoning Administrator in the form of a written application. No non-conforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance. The applicant shall present a statement and adequate evidence showing what hardship exists.

12.3 Hardships. State statute defines valid hardships and they are defined as follows:

- (i). Circumstances that do not allow the reasonable use of the property.
- (ii). The hardship cannot be created by the landowner.
- (iii). The plight of the landowner is unique to the property.

- (iv). The variance, if granted, will not alter the essential character of the locality.
- (v) Economic hardship alone shall not constitute a hardship if reasonable use of the property exists under the ordinance.

Failure to meet the standards for hardships outlined above shall result in denial of the variance request.

12.4 Public Hearing Notice. When a variance application is received, the time and place for a public hearing before the Zoning Board of Adjustment shall be set. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper for the City and as well as sent 1st class mail to property owners within three hundred fifty (350) feet of the subject property. Notice of such hearings shall be posted at the City Hail and in one other public place at least ten (10) days prior to the public hearing. The notice shall describe the particular variance, date time and place of hearing. County tax records shall be deemed sufficient for the location or certification of ownership of said adjacent properties.

12.5 Making Decisions. Within a reasonable time after the hearing, the Board of Adjustment shall make its order deciding the matter and serve a copy of such order upon the applicant or the petitioner by mail.

12.6 Appeals. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the jurisdiction affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board of Adjustment, by filing with the administrative official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

12.7 Notices. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

12.8 Stay of Proceedings. An appeal stays all proceedings in furtherance of the actions appealed from, unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with them. That by reason of facts stated h~ the certificate. 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 Board of Adjustment or by a court of record on application, on notice to the Administrative Official from whom the appeal is taken and on due cause shown.

12.9 Types of Accepted Appeals. Appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an Administrative Officer in the enforcement of this Ordinance.

Requests for a variance from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.

In granting any variance, the Board of Adjustment 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 variance is granted, shall be deemed a violation of this Ordinance and shall be punishable under Section 15 of this Ordinance.

The Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, in whole or in part or may modify the order, requirements, decision or determination appealed from and may such order, requirements, decision or determination as ought to be made and to that end shall have powers of the administrative official from whom may appeal is taken.

The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirements, decision or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation of this Ordinance.

PART 13

CONDITIONAL USE PERMITS

13.1 Application. Conditional use permits may be issued for any of the following:

Subd. 1. Any of the uses or purposes for which such permits are required or permitted by the provisions of this ordinance.

Subd. 2. Public utility or public service uses or public building or Community buildings in any district when found to be necessary for the public health, safety, convenience, or welfare.

Subd. 3. Commercial excavating and storage of natural materials used for building

or construction purposes, in any district.

Subd. 4. To classify as a conforming use any non-conforming institutional use existing in any district at the time of the establishment of such district.

Subd. 5. To permit file location of any of the following uses in a district from which they are excluded by the provisions of this ordinance: airport, library, community center, church, hospital, any institution of an educational, philanthropic or charitable nature, cemetery or mausoleum.

13.2 Procedure. Application for the issuance of conditional use permit shall be made to the City Planning Commission. Any proceedings to classify certain uses as conforming uses as provided in this section may be initiated by either such application or by the City Planning Commission. The application for the issuance of a conditional use permit shall be accompanied by a fee as determined by the City Council. The City Planning Commission may hold such hearings on the proposal to issue a conditional use permit as it may consider necessary, but at least one public hearing shall be held on any application for a use permit for the establishment of any use listed in Section 11.1, Subd. 5. Following the hearing, the City Planning Commission shall make a report upon the proposal to the Council and shall recommend to the Council whatever action it deems advisable. The City Planning Commission shall not recommend the granting of a permit unless it finds that the establishment, maintenance, or conducting of the use for which a use permit is sought will not under the circumstances of the particular case be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the neighborhood of such use, or to the public welfare, or injurious to property or improvements in the neighborhood. The City Planning Commission may designate conditions and require guarantees in the granting of use permits in the same manner provided in Part 12, for the granting of adjustments by the City Council.

When a conditional use permit application is received, the time and place for a public hearing before the City Planning Commission shall be set. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper for the City and as well as sent 1st class mail to property owners within three hundred fifty (350) feet of the subject property. Notice of such hearings shall be posted at the City Hall and in one other public place at least ten (10) days prior to the public hearing.

Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in the connection therewith.

PART 14.

BOARD OF ZONING ADJUSTMENT

14.1 Creation and Membership. A Board of Zoning Adjustment (the "Board") is hereby established and vested with such administrative authority as is hereinafter provided. The Board shall consist of the City Council

The Board of Adjustment shall keep a public record of its transactions, findings, and determinations.

14.2 Powers. The Board in each case as hereinafter provided shall have the power to grant adjustments in and exceptions to any of the provisions of this ordinance to the extent of the following and no further:

Subd. 1. To vary or modify the strict application of any of the regulations or provisions contained in this ordinance in cases in which there are practical difficulties or unnecessary hardships resulting from strict application.

Subd. 2. To permit the extension of a district where fire boundary line thereof divides a lot in one ownership at the time of the passage of this ordinance, but such extension of any district shall not exceed one hundred (100) feet.

Subd. 3. The Board shall not recommend, and the Council shall not grant, any application unless they find that the applicant has presented a statement and evidence, in such form as the Board may require, sufficient to show the following facts:

(i) That there are special circumstances or conditions affecting the land, building or use referred to in the application.

(ii) That the granting of the application is necessary for the preservation and enjoyment of substantial property rights.

(iii) That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

14.3 Appeals. Any person, firm, or corporation objecting to the ruling of any official on the administration of the provisions of this ordinance shall have the right to appeal to the Board.

14.4 Procedure. Application for any adjustment permissible under the provisions of this section shall be made to the Zoning Administrator in the form of a written application for a building permit or for a permit to use the property or premises as set forth in the application. An application for an adjustment shall be accompanied by payment of a fee, in addition to the regular building permit fee, if any. The fee for the adjustment shall be determined by the City Council. Upon receipt of an application, the Zoning Administrator shall set a time and place for a public hearing before the Board on such application. At least ten (10) days before the date of hearing, a notice of the hearing shall be published once in the official newspaper.

The Board shall make its recommendation upon the application to the City Council within fifteen (15) days of the application.

In recommending any adjustment or variance under the provisions of this section, the Board shall designate such conditions as will, in its opinion, secure substantially the objectives of the regulation or provision to which the adjustment or variance is granted, with respect to light, air, and the public health, safety, comfort, convenience, and general welfare.

No permit shall be issued under the provisions of this section unless and until a recommendation of the Board is approved and confirmed by the City Council. In reporting its recommendation to the City Council, the Board shall report all facts within its possession regarding the application for adjustment and its findings with respect to the application. The Board shall also specifically and fully set forth any adjustment or variance granted and any conditions designated. Upon receipt of such report, the City Council either shall by resolution approve and confirm the decisions (with or without changes) or shall refuse to approve and confirm the decision. In all cases in which adjustments or variances are granted under the provisions of this section, the Board and the City Council shall require such evidence and guarantees as they may deem necessary to insure compliance with the conditions designated in connection therewith.

PART 15

PLANNING COMMISSION.

15.1 Establishment of a Commission. A city planning commission for the City of Kilkenny has been established by City Ordinance as authorized by Minnesota Statutes, Section 462.354, Subdivision 1.

15.2 Membership. The City Planning Commission shall consist of five (5) voting members. The City Council shall select one member of the commission from its own membership, and the other four voting members shall be appointed and may be removed by the Council.

15.3 Terms, Vacancies, Oath. Of the members of the commission first appointed, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. Both original and successive appointees shall hold their offices until their successors are appointed and qualified. The terms of ex-officio members shall correspond to their respective official tenures. Vacancies during the term shall be filled by the Council for the unexpired portion of the term. Every appointed member shall before entering upon the discharge of their duties take an oath that they will faithfully discharge the duties of their office. All members shall serve without compensation.

15.4 Officers. The Commission shall elect a chair from among its appointed members for a term of one year; and the Commission may create and fill such other offices as it may determine necessary. The City Clerk shall act as secretary of the Planning Commission, but shall not be a member.

15.5 Meetings, Records, and Reports. The Commission shall hold meetings as called by the chair with notice as required for special meetings of the Council. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which record shall be public record. Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council.

15.6 Powers and Duties. The Planning Commission shall have the powers and duties given planning agencies generally by statute and local ordinance. After the Commission has prepared and adopted a Comprehensive Plan, the Commission shall periodically, but at least one every four years, review the Comprehensive Plan, any ordinances and any Capital Improvements Program the Council has adopted to implement the Plan. The Commission shall, to the extent it deems necessary, revise the Comprehensive Plan, adopt the amendments or the new Comprehensive Plan, and recommend it to the Council in accordance with the law. The Commission shall recommend to the Council any amendments it deems desirable to the Capital Improvement Program and any ordinance implementing the Plan.

15.7 Zoning Ordinances: Public Hearings. No zoning ordinance or amendment shall be adopted by the Council until a public hearing has been held thereon by the Planning Commission upon notice as provided in Minnesota Statutes, Section 462.357, Subdivision 3.

15.8 Plats: Approval. Any subdivision plat submitted to the Council for approval shall, prior to final approval, be referred to the Planning Commission for review and recommendation. Any plat so referred shall be returned to the Council by the Commission with its recommendations within that period is deemed to have satisfied the requirements of this section.

PART 16.

AMENDMENT

16.1 Purpose and Procedures. This ordinance may be amended whenever file public necessity and convenience and file general welfare require such amendment. This ordinance shall be amended by the procedure specified as follows:

Subd. 1. An amendment may be initiated by the City Council or the City Planning Commission, or by the verified petition of not less than fifty percent (50%) of the property owners affected by the proposed amendment and fifty percent (50%) of those property owners within three hundred (300) feet of the boundaries of file proposed change.

Subd. 2. Before any amendment is adopted, the City Planning Commission shall hold at least one public hearing thereon after a notice of the hearing has been published in the official newspaper at least ten (10) days before the hearing. Following the hearing, the City Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the City Clerk within thirty (30) days after the hearing. Failure of file Planning Commission to so report shall be deemed to be approval of the proposed amendment.

Subd. 3. Upon the filing of such report or upon the expiration of thirty (30) days, file City Council may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the City Council may adopt the amendment of any part thereof in such form as it deems advisable. The amendment shall be effective only if at least four-fifths (4/5) of all the members of the Council concur on its passage.

PART 17

ENFORCEMENT, VIOLATIONS AND PENALTIES

17.1 Authority. The City Clerk shall serve as Zoning Administrator. It shall be the duty of the City Clerk to enforce this ordinance through the proper legal channels.

17.2 Zoning Permit. Hereafter, no person shall erect, alter, wreck, or move any building or part thereof without first securing a zoning permit therefore.

17.3 Zoning Permit Application. Application for a zoning permit shall be made to the City Clerk on blank forms to be furnished by the City, Each application for a permit to

construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications for any kind of zoning permit shall contain such other information as may be deemed necessary for the proper enforcement of this ordinance or any other. The fee for a zoning permit shall be determined by the City Council. The City Clerk shall issue the zoning permit only after determination that the building plans, together with the application, comply with the terms of this ordinance. Zoning permits expire one (1) year after date of issue.

17.4 Violations. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any of the provisions of this ordinance shall be guilty of a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.

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

PART 18.

BUILDING AND CONSTRUCTION OF RESIDENTIAL SWIMMING POOLS AND SPAS

18.1. Definitions.

Subd. 1. Residential swimming pools shall be defined as any constructed pool, permanent or portable, which is intended for non-commercial use as a swimming pool by owner families and their guests and which is over twenty-four (24) inches in depth and has a surface area exceeding two hundred (200) square feet.

Subd. 2. Spa shall be defined as a unit primarily designed for therapeutic use which is not drained, cleaned, or refilled for each individual. It may include, but not be limited to, hydrojet circulation, hot water, cold water mineral baths, air induction bubbles, or any combination thereof. Industry terminology for a spa includes, but is not limited to, therapeutic pool, hydrotherapy pool, whirlpool, hot spa, etc.

18.2 Construction.

Subd. 1. Utility Lines. Pools and spas shall not be located beneath utility lines or over underground utility lines of any type.

Subd. 2. Setback. No person shall build, situate or install a pool or spa within ten (10) feet of any side or rear lot line, nor within six (6) feet of any principal structure nor with in any required front yard.

Subd. 3. Portable Fence. While being constructed, the pool or spa must be fenced with a portable fence, such as snow fence, of not less than four (4) feet in height.

18.3 Fencing.

Subd. 1. Minimum Height. All outdoor pools hereafter constructed shall be completely enclosed by a fence or wall of the non-climbing type so as to be impenetrable by toddlers, afford no external handholds or footholds, and a minimum of four (4) feet in height.

Subd. 2. Self-Closing. All outdoor fence openings or outdoor points of entry into the pool area shall be equipped with self-closing and self-latching devices. The opening between the bottom of the fence and the ground or other surface shall not be more than three (3) inches.

Subd. 3. Latchable Cover. All outdoor spas shall have either a fence as described in Subdivisions 1 and 2, or a latchable cover. The cover shall be constructed of a material impenetrable by toddlers.

18.4 Permits. No person shall construct, alter, or renovate a pool or spa without a building permit.