

NOTICE OF THE ADOPTION OF THE KITTSON COUNTY ZONING ORDINANCE

NOTICE IS HEREBY GIVEN that the Kittson County Board of Commissioners did, on May 16th, 2017, adopt the changes in the Kittson County Zoning Ordinance. The public hearing opened at 9:02 a.m. and ended at 9:28 a.m.

Provisions in the adopted regulations include changes in the Percy Lakeside Subdivision setbacks. A copy of the regulations is on file in the Kittson County Zoning Administrators office for public inspection. This notice shall serve as a summary of the regulations as provided for in Minnesota Statutes 331A.01 and is published in accordance with Minnesota Statutes 375.51.

Dated at Hallock, Minnesota this 17th day of May, 2017

Lane Nordin
Kittson County Zoning Administrator

A NOTICE IS HEREBY GIVEN that a public hearing will be held in front of the Kittson County Board of Commissioners on Tuesday, May 16, 2017 at 9:00 a.m. in the Kittson County Board of Commissioners room at the Kittson County Courthouse, 410 South Fifth Street, Hallock MN. At the public hearing, Lane Nordin will present the proposed changes in the Kittson County Ordinance. The changes will be made for the Percy Township Lakeside Subdivision. The setbacks will be more suited for the size of the lakeside lots and the placement of the streets. These changes will benefit landowners that are wanting to build and it will also make the permitting process go smoothly.

The location that is subject at the hearing will be the Percy Township Lakeside Subdivision and is legally described as follows:

Section – 33 Twp – 161 Range – 046 LAKESIDE SUB PERCY LOTS Blocks 1-14

Any persons interested may attend and be heard at the time of this public hearing. Any persons who have written objections to file who will not be present at the hearing must file their written objections with the Zoning Administrator not later than 1:00 p.m. on Monday, May 15, 2017.

Lane Nordin
Kittson County Zoning Administrator
410 South Fifth Street
Hallock MN 56728

Kittson County, Minnesota

**KITTSON COUNTY ZONING AND
SUBDIVISION REGULATIONS**

THESE AMENDED ZONING AND SUBDIVISION REGULATIONS ARE ADOPTED FEBRUARY 4th, 2014 TO ENCOURAGE GROWTH OF BUSINESS AND COMMERCE, TO EXPAND EMPLOYMENT THROUGHOUT THE COUNTY, TO PROMOTE THE SAFE AND ORDERLY USE OF LANDS AND TO PROMOTE THE HEALTH, SAFETY AND GENERAL WELFARE OF THE PEOPLE OF THE COUNTY BY:

1. CONTROLLING CONGESTION OF ROADS, HIGHWAYS AND POPULAR AREAS.
2. DISCOURAGING LAND USES WHICH ARE NOT COMPATIBLE WITH LAND TYPE, NEIGHBORING USES, PUBLIC OR ENVIRONMENTAL SAFETY.
3. FOSTERING CONSERVATION OF LAND VALUES AND RESOURCES.
4. FACILITATING EFFICIENCY IN PLANNING FOR TRANSPORTATION, WATER, SEWERAGE AND OTHER PUBLIC NEEDS.
5. INSURING FAIR AND ACCURATE MONITORING OF LAND IMPROVEMENTS FOR TAXATION PURPOSES.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF KITTSON ORDAINS:

SECTION 1. TITLE

This resolution shall be known and may be cited and referred to as the "Kittson County Zoning Regulations."

SECTION 2. (RESERVED)

SECTION 3. SCOPE: INTERPRETATION

3.1 Scope. From and after the effective date of these Regulations, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in

the County of Kittson, including that area within the incorporated municipalities acting pursuant to M.S.A. §394.32, shall be in conformity with the provisions of these Regulations. Any existing building or structure or any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, or changed subject to the special regulations herein provided with respect to nonconforming properties or uses.

3.2 Interpretation. In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the public health, safety, comfort, convenience and general welfare. Where the provisions of these Regulations impose greater restrictions than those of any statute, other resolution or regulation, the provisions of these Regulations shall be controlling. Where the provisions of any statute, other resolution or regulation impose greater restrictions than these Regulations, the provisions of such statute, other resolution or regulation shall be controlling.

SECTION 4. RULES AND DEFINITIONS

4.1 Rules. For the purpose of these Regulations, 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 not discretionary.

4.2 Definitions. For the purpose of these Regulations, certain terms and words are defined as follows:

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

Agricultural - Farming, ranching, greenhouses, nurseries, truck gardens, sod farms, orchards and apiaries; the harvesting of timber or wood for sale.

Block - is an area of land which a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

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

Building Height - The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point

of the roof for flat roofs; to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Commercial-Industrial - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods or services; or for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Community Water and Sewer Systems - Utility systems serving a group of buildings, lots, or an area of the County with the design and construction of such utility systems as approved by the County Engineering Department or like agency.

Conditional Use Permit - A conditional use permit is a relaxation of the terms of these Zoning Regulation as applied to the use or uses of a particular property, where the proposed use would not be appropriate generally or without restriction throughout the zoning district but which, if controlled, as to the number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as conditional use permits, if specific provision for such conditional use permit is made in these Regulations.

Corner Lot - A lot situated at the junction of and fronting on two (2) or more streets.

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

Depth of Rear Yard - The mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists, otherwise a rear lot line.

Dwelling - Any building or part thereof which is designed or used exclusively for residential purposes by one (1) or more human beings either permanently or transiently.

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

Dwelling, Multi-Family - A building designed for or occupied exclusively by not more than four families.

Easement - A grant by a property owner for the use of a strip of land for the purpose of constructing and maintain utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

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

Final Plat - A drawing or a map of a subdivision, meeting all the requirements of the county and in such form as required by the County for purposes of recording.

Floor Area - The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.

Home Occupation - A business or industry which provides home owners and residential renters with an opportunity to conduct a small scale commercial use within a home (or an accessory building on lands adjacent to the home) which they occupy.

Improvement - Any change to a building or structure which is not a routine, general repair.

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

Lot Area - The land area within the lot's lines.

Lot Area Per Family - The lot area per family is the lot area required by these Regulations to be provided for each family in a dwelling.

Lot, Double Frontage - An interior lot having frontage on two (2) streets.

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

Lot Lines - The lines bounding a lot as defined herein. When a lot line abuts a street, avenue, park or other public property except an alley, such line shall be known as a street line, and when a lot line butts on an alley, it shall be known as an alley line.

Lot Width - The width of a lot is its own mean width measured at right angles.

Mobile Home - Any occupied vehicle used or so constructed as to permit it being used as a conveyance on the public streets or highways and duly licensed as such, and shall include: self-propelled or non-self-propelled vehicles so designed, constructed, reconstructed or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one (1) or more persons. Nothing in this definition shall be construed so as to include prefabricated, precut residences or those manufactured in sections or parts away from the site and transported thereto for erection, provided that when completely erected, said prefabricated, precut or manufactured residences shall be on a permanent foundation and in all respects comply with the 2007 Minnesota State Building Code.

Mobile Home Park - Any premises where one or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for one or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles or enclosure used or intended for use or intended wholly or in a part, for the accommodation of automobile transients.

Municipally Incorporated Area - All areas, within the boundary limits of an incorporated city, including subsequently annexed areas.

Persons - Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Plot - A tract other than one (1) unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as a home site and improved or intended to be improved by the erection thereon of a dwelling and accessory buildings and having a frontage upon a public street or upon a thoroughfare or upon a highway or upon a traveled or used road and including as a minimum such open spaces as required under this Ordinance.

Preliminary Plat - A tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.

Premises - A lot or plot with the required front, side and rear yards for a dwelling.

Road - a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

Routine, General Repair - Any activity that will alter or restore to a new or usable condition worn or deteriorated items of construction. Items of routine, general repair include: Interior painting; exterior painting; siding repair; roofing repair/replacement; window repair/partial replacement; floor covering repair/replacement; foundation repair; soffit repair; fascia repair; light fixture repair/replacement; rain gutter/down spout repair/replacement; entrance/storm-door repair/replacement; chimney repair; wall coverings repair/replacement; plumbing fixture repair/ replacement; range hood repair or replacement; smoke alarms installation/replacement.

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

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

Structure - Anything constructed or erected, the use of which require location on the ground or attachment to something having or location on the ground.

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

Subdivision - A described tract of land which is to be or has been divided into ten or more lots or parcels, any of which resultant parcels is less than two and one-half (2½) acres in area and one hundred fifty (150) feet in width, for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term includes re-subdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

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.

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.

Variance - A variance is a relaxation of the terms of the Zoning Regulations as applied to the physical conditions of a structure and/or

property where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Regulations would result in unnecessary and undue hardship. As used in these Regulations, a variance is authorized for height, area, and size of structure, or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

SECTION 5 (RESERVED)

SECTION 6. PERMITTED USES, VARIANCES CONDITIONAL USES AND STANDARDS

6.1 Permitted Uses (all Areas of The County Except As Otherwise Specified)

For purposes of this title, the County is divided into two general areas: Closed Landfill Restricted Zone and Other Lands. No real property shall be used within Kittson County except for one (1) or more of the following permitted uses:

- A. **Agricultural Uses** - only within areas outside of municipally incorporated areas of the county.
- B. **Commercial and Industrial Uses** - only within municipally incorporated areas of the county.
- C. **Single family dwellings** - only outside commercial and industrial areas.
- D. **Multi-family dwellings** - only outside commercial and industrial areas.
- E. **Public administration buildings, police and fire stations, and other public service buildings, except those customarily considered commercial or industrial** - within any area of the County.
- F. **Public educational institutions, or private educational institutions having an equivalent curriculum** - within any area of the County.
- G. **Parks and recreational areas owned or operated by governmental agencies** - only within residential or agricultural areas of the County.
- H. **Churches** - only within agricultural/residential areas of the County.
- I. **Tracks located within railroad rights-of-ways, but not including railroad yards and railroad buildings.**

J. **Accessory uses including roadways and parking lots customarily incidental to the principal use.**

K. **Home Occupations** - Home occupations are allowed without permit in lands outside municipal limits. For lands within municipal limits, home occupations must follow the criteria contained within this Ordinance.

6.1.1 All areas within Kittson County which lie outside the limits of a municipality and also lie outside the limits of a Closed Landfill Restricted Zone are zoned for residential or agricultural uses, and any other use requires a conditional use permit. All areas within municipalities, which municipalities have not enacted a zoning ordinance, are zoned for residential, commercial or industrial uses.

6.1.2 Closed Landfill Restricted Zone (CLR): This zone is intended to apply to former landfills and adjacent lands which are managed under the Closed Landfill Program of the Minnesota Pollution Control Agency (MPCA). The purpose of the zone is to limit uses of land both actively filled and related lands, to minimal uses in order to protect the land from human activity where response action systems are in place. This zone shall only apply to the former landfill and pertinent adjacent lands (the limits of which are defined by the MPCA). This zone shall apply whether the landfill is in public (State, MPCA, County, City, Township), Indian tribal, or private ownership.

A. **Permitted Uses** – Uses allowed in this zone include outdoor equipment or small buildings used in concert with gas extraction systems (i.e. gas to energy systems), other response action systems, monitoring wells or any other equipment designed to protect, monitor or otherwise ensure the integrity of the landfill monitoring or improvement systems. Fences and gates shall be allowed under these provisions.

B. **Accessory Uses** – Accessory uses shall be limited to installation, operation and maintenance of equipment to support permitted uses.

C. **Conditional Uses** – Conditional uses shall be limited to passive uses to protect the integrity of the landfill area and to protect any person from hazards associated with the landfill. The landfill shall be planted in cover crops and shall be maintained by the MPCA.

Any proposed conditional use must be approved by the commissioner of the Minnesota Pollution Control Agency (MPCA) and the County of Kittson. Such approved use shall not disturb or threaten to disturb the integrity of the landfill cover, liners, and other components of any containment system, or the function of any monitoring system that exists upon the described property.

D. **Prohibited Uses and Structures** – All other uses and structures not specifically allowed as conditional uses, or that cannot be considered as accessory uses, shall be prohibited in the CLR Zone.

6.2 Variances. Within Kittson County all non-conforming structures and/or properties, as determined by the Zoning Administrator, are required to obtain a variance as set forth in Section 7.

6.26 Conditional Use Permits. Within Kittson County, all uses of property, except permitted uses as defined and allowed under Section 6.1 of the Zoning Regulations, shall at the discretion of the Zoning Administrator be required to obtain a Conditional Use Permit as set forth in Section 7.

6.3 Height, Yard, Area and Lot Dimension Regulations. No enclosed structure, except those permitted in the Closed Landfill Restricted Zone, shall be built within the Methane Area of Concern or of the Ground Water Area of Concern as set forth on the attached MPCA's Appendix C and D. In Other Lands, all buildings or structures hereafter erected or structurally altered and all land uses shall hereafter be in conformance with the following requirements:

| <u>Class of Use</u> | Max Building Height FT | Min Lot Area Per DU (sq ft) | Min Lot Width FT | Min Lot Depth FT | Min Front Yard FT | Min Side Yard Interior Lot FT | Min Side Yard Corner Lot FT | Min Rear Yard FT |
|---|------------------------|-----------------------------|------------------|------------------|-------------------|-------------------------------|-----------------------------|---|
| Agriculture | 60 | - | - | - | 30 | 10 | 20 | - |
| Resi w/ public or community sewer/water | 30 | 6250 | 50 | 125 | 30 | 5 | 20 | 15 |
| With public water or private cistern only | 30 | 14,000 | 100 | 140 | 30 | 10 | 20 | 40 |
| With public sewer only | 30 | 14,000 | 100 | 140 | 30 | 10 | 20 | 40 |
| With on-lot water and sewer facilities | 30 | 21,000 | 150 | 140 | 30 | 10 | 20 | 40 |
| Commercial | 60 | - | - | - | 0 | 0 | 20 | 15 |
| Industrial | 60 | - | - | - | 0 | 0 | 20 | 15 |
| Only Percy Lakeside Subdivision setbacks | 30 | 4000 | 40 | 100 | 30 | 10 | 20 | 10 (Towards Service Alley Ways, 2 nd , 4 th and 6 th Streets). |

¹The height limitations contained in these Regulations shall not apply to silos used for storage of agricultural produce on agricultural property, spires, belfries, cupolas, antennas, water tanks, ventilators, domes, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

² DU=dwelling unit

³A minimum front yard setback of one hundred and thirty (130) feet shall be provided from the center line of all U.S. highways and state highways, county state aid highways, county and township roads and highways. In all other cases, the required setback shall be measured from the road right-of-way boundary.

6.4 Off-Street Parking and Loading Regulations.

6.4.1 Minimum Size Regulations. Except as required for accessible parking, each space shall contain a minimum area of not less than two hundred and fifty (250) square feet including access drives, a width of not less than eight and one-half (8 1/2) feet, and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. Each loading space shall contain a minimum area of not less than five hundred (500) square feet.

6.4.2 Accessible Parking. Every business and government entity that provides off street parking for customers and/or employees must have reserved accessible parking spaces for mobility impaired persons according to the following table:

| Parking Spaces Available | Accessible Spaces | Reserved For Vans |
|--------------------------|----------------------------------|-------------------|
| 1 – 25 | 1* | 1* |
| 26 – 50 | 2 | 1 |
| 51 – 75 | 3 | 1 |
| 76 – 100 | 4 | 1 |
| 101 – 150 | 5 | 1 |
| 151 – 200 | 6 | 1 |
| 201 – 300 | 7 | 1 |
| 301 – 400 | 8 | 1 |
| 401 – 500 | 9 | 1 |
| 501 – 1000 | 2% of Total Spaces | 1 For Every 8 |
| 1001 – Over | 20 plus 1 For Each 100 Over 1000 | 1 For Every 8 |

* One in every eight spaces must be for a van. If only one space is required it must be for a van.

Each space must be 8 feet wide with a 5 foot wide access aisle. If the space is van accessible the access aisle must be 8 feet wide.

Parking spaces must be located closest to the accessible entrance to the building. If there are curbs between the parking space and the entrance the curb must be cut. Parking spaces must be of a hard surface (paved) and the surface must be level.

There must be a sign including the universal sign for accessibility and the fine for unauthorized use for each reserved spot. The sign can be attached to a building or placed on a post. The sign must be visible when a vehicle is parked in the space. The lines marking the space must be painted blue.

6.4.3 Required Number of Off-Street Parking Spaces. Off-street parking area of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided. The minimum number of required off-street parking spaces for the following uses shall be as follows:

- (1) Single-Family Dwelling - One (1) parking space. No garage shall be converted into living space unless other acceptable off-street parking space is provided.
- (2) Multiple Family Dwelling - One (1) parking space for each family or swelling unit.
- (3) Hospitals and Nursing Homes - Ten (10) plus one per bed.
- (4) Churches - One (1) parking space for each four (4) seats based on the design capacity of the main sanctuary.
- (5) Public Administration Buildings and Other Public Service Buildings Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area in the principal structure.
- (6) Professional Offices, Medical and Dental Clinics, and Animal Hospital Four (4) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet of floor area.
- (7) Office Buildings - Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000)

square feet of floor area.

- (8) Shopping Center - Where several business uses are grouped together according to a general development plan, off-street automobile parking shall be provided in a ratio of not less than one (1) square foot of gross parking area for each one (1) square foot of gross floor area; separate off-street parking space shall be provided for loading and unloading.
- (9) Automobile Service Station - Four (4) parking spaces plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.
- (10) Auto Sales, Trailer Sales, Marine and Boat Sales, Implement Sales, Garden Supply Store, Building Materials Sale, Auto Repair – Six (6) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000 square feet).
- (11) Bowling Alley - Five (5) parking spaces for each bowling lane.
- (12) Drive-In Restaurant - Fifteen (15) parking spaces or one (1) space for each forty (40) square feet of floor area, whichever is greater.
- (13) Motel or Motor Hotel - One (1) parking space for each rental room or suite.
- (14) Miniature Golf Course, Archery Range, or Golf Driving Range – ten (10) parking spaces; golf course, one (1) parking space per hole.
- (15) Restaurant, Cafe, Nightclub, Tavern or Bar - One (1) parking space for each two hundred (200) square feet of floor area.
- (16) Skating Rink or Dance Hall - One (1) parking space for each three hundred (300) square feet of floor area.
- (17) Retail Stores and Service Establishments - One (1) off-street parking space for each one hundred (100) square feet of floor area, plus one (1) space for each employee on the major shift or one (1) off- street parking space for each five hundred (500) feet of gross floor area within the building, whichever is greater.
- (18) Wholesale Business Establishments - One (1) off-street parking space for each employee on the major shift or one (1) space for each two thousand (2,000) square feet of gross floor area, whichever is greater, plus one (1) off-street parking space for each company motor vehicle.

- (19) Storage or Warehouse Establishments - One (1) off-street parking space for each two (2) employees on the major shift or one (1) space for each two thousand (2,000) square feet of floor area, whichever is larger, plus one (1) space for each company motor vehicle.
- (20) Manufacturing or Processing Plant - One (1) off-street parking space for each employee on the major shift or one (1) off-street parking space for each seven hundred (700) square feet of gross floor area within the building, whichever is the greater, plus one (1) space for each company motor vehicle.

6.4.4 Required Loading Areas. Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements of each use.

6.4.5 Access.

- (1) Parking and loading space shall have proper access from a public right-of-way.
- (2) The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard. Frontage roads or service roads may be required when, in the opinion of the county Planning Commission, such service roads are necessary to maintain maximum traffic safety.

6.4.6 Fences and Planting Screens. Off-street parking and loading areas near or adjoining residential property shall be screened by a fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan and such fence or landscaping shall be installed as a part of the initial construction.

6.5 Signs and Fences.

- A. All advertising signs, including billboards, shall be considered commercial structures for the purposes of these Regulations, and as such, shall require a conditional use permit prior to construction.
- B. Advertising sign structures shall be limited to not more than one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) per each additional one hundred (100) feet of additional lot frontage. Such structure may not contain more than two (2) signs per facing nor exceed fifty-five (55) feet in total length. No advertising sign may be erected within one hundred (100) feet of adjoining residential property. Signs shall

be set back a minimum distance of 130 feet from the center line of any street, road or highway, provided that it shall be the policy of this County to grant a variance for placement of a sign no closer than ten feet (10) to the right of way of the road authority, provided the person or entity seeking the variance can make a showing of no danger to the traveling public.

- C. Lighted signs and other lighting shall be directed in a manner that will not disturb neighboring residential properties, or create a hazard or nuisance.
- D. Fences shall be set back no less than two (2) feet from the nearest property line or road authority right-of-way.

6.6 Utilities; Drainage. Adequate utilities, drainage and other utility facilities shall be provided.

6.7 Additional Requirements. Adequate measures shall be taken to prevent or control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance.

6.8 Mobile Homes and Mobile Home Parks. Mobile Homes. No mobile home shall be parked and occupied in any district outside an approved mobile home park for more than nine (90) days without a building permit.

6.9 Home Occupations.

- A. **Permitted Use:** Single family dwellings, apartments, and private residential garages may be used for a home occupation. The use of a single-family dwelling, apartment, or private residential garage for a home occupation shall be clearly incidental and subordinate to the principal use of the residential structure.
- B. **Area Requirements:** The area to be used for the home occupation shall not exceed one-third of the main floor area of a dwelling unit or apartment, and shall not exceed one-half of the main floor area of a private residential garage.
- C. **Owners/Managers:** Only members of the family residing on the premises shall own or manage the home occupation.
- D. **Fees:** An initial application to the Zoning Administrator for a home occupation permit shall be free. If the permit is denied, and the applicant requests hearing before the Board of Adjustment, the fee shall be the same as that set forth in Section 7.2 of this Ordinance.
- E. **Entrance and Exit:** The home occupation shall use the existing entrance and

exit.

- F. **Outside Storage:** There shall be no outside storage, except by permit.
- G. **Performance Characteristics:** Home occupation shall not adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, light, heat, vibration, excess traffic, or electrical interference.
- H. **Procedure:** Home occupation permits shall: (1) be obtained prior to starting the home occupation; (2) be issued or denied by the zoning administrator; (3) be reviewed prior to any change in business type, or any expansion of the size, structure or nature of the business; (4) be terminated if: (a) the use has been discontinued for a period exceeding sixty (60) consecutive days; or if (b) the Board of Adjustment finds violations of the conditions imposed by this subdivision; or if (c) the Board of Adjustment finds the occupation has become a danger to the public health, safety, morals, or general welfare; or (d) when the home occupation has expanded beyond the criteria set forth at 6.9, B. above, so the use is commercial or industrial, in which case the conditional use permit shall be required.

SECTION 7. APPEALS.

7.1 Creation, Members, Terms, Meetings, Rules. A Board of Adjustment is hereby established and shall consist of three (3) members and one (1) alternate, each to be appointed by the County Board of Commissioners for the effective date of this resolution, removable for just cause as defined in the Kittson County Employee Handbook by the appointing authority upon written notice and opportunity for hearing. Vacancies shall be filled by the appointing board for the unexpired term of any member whose term becomes vacant.

The members of the Board shall select one of their number as Chairman and another as Vice Chairman, who shall act as Chairman in the Chairman's absence, and the third member shall be the Secretary of the Board and keep a record of all proceedings. All shall serve one (1) year and until their successors have been selected. Meetings of the Board shall be held at the call of the Chairman, or the Zoning Administrator, and at such other times as the Board shall determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt from time to time, subject to the approval of the County Board, such rules and regulations as it may deem necessary, to carry the appropriate provisions of these regulations into effect.

7.2 Appeals to Board, Record of Appeal, Hearing and Stays.

The provisions of this section apply to all appeals to the Board of Adjustment as set forth in Sections 7.40, 7.45 and 7.48 below. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of an officer administering this ordinance. Such appeal shall be taken within 15 days, as provided by the rules of the Board of Adjustment by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that, by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise 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 officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

Whenever an appeal is brought to the Board of Adjustment, the Zoning Administrator shall serve written notice by U.S. Mail on all land owners having property within one-quarter (1/4) mile of the property at issue. Said written notice shall be made by mailing notice to the last recorded address for each owner as listed on the County Treasurer's most recent tax statement for said property. Failure of any property owner to receive such notification shall not invalidate the proceedings. Notification shall be by first class mail. In addition, notice must be published in the County's official newspaper prior to six (6) days before the date of the hearing.

Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which a conditional use permit, variance or home occupation permit is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property, at the courthouse, and in one (1) other public place at least fifteen (15) days prior to the public hearing.

Hearings before the Board of Adjustment must be recorded or transcribed, and all documents received by the Board or created or sent by the Zoning Administrator, including notices of hearings, shall be marked as exhibits and retained as part of the record of the proceedings.

Every applicant for a variance or conditional use permit shall pay, as their application fee, the mileage and other expenses associated with convening the Board of Adjustment, together with a one-time additional fee of \$150.00, which additional fee shall cover any and all future review hearings before the Board of Adjustment concerning that permit.

7.3 Powers and Jurisdiction Relating to Administrative Review. The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or other regulation referenced in this ordinance.

7.4 Powers and Jurisdiction Relating to Variances

- A. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the Ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit and caprice.
- B. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
- C. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted, demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structure, or buildings in the same district.
- D. Non-conforming use of neighboring lands, structures, or buildings in the same district, and permitted or non-conforming use of lands, structures or buildings in other districts shall not alone be considered grounds for the

issuance of a variance.

- E. Notice of public hearing shall be given as set forth in 7.20 above; the public hearing shall be held. Any party may appear in person, or by agent or by attorney; the Board of Zoning Adjustment shall make written findings that the requirements of this section have been met by the applicant for a variance; the Board of Adjustment shall further make a written finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the Board of Adjustment shall further make a written finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

- F. 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 Resolution and punishable under Section 12 of this Ordinance. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing variance to determine if, more likely than not, the holder of the variance is in full compliance with any conditions set by the Board of Adjustment at the time the variance was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the variance is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the variance or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written findings supporting its decision must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.45 Powers and Jurisdiction Relating to Conditional Use Permits - The Board of Adjustments shall have the power where a use is proposed that would not normally be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare, to authorize, upon an application and hearing relating to the property, a conditional use permit from the strict application of permitted uses.

- A. When considering an application for conditional use permit, the Board of Adjustment shall consider the following criteria:

- i. whether, given the nature of the land, the requested use is compatible with general welfare, public health and safety.
 - ii. whether the requested use will not create an unreasonably excessive burden on the existing roads or other utilities.
 - iii. whether the requested use is compatible with the surrounding area and will not significantly depreciate nearby properties.
 - iv. whether the structure and the use have an appearance that will not have an unreasonably adverse effect on nearby properties.
 - v. whether the requested use is consistent with the purposes of these Kittson County Zoning and Subdivision Regulations.
 - vi. whether the requested use will not create an unreasonably adverse affect because of noise, odor, glare, or general unsightliness, for nearby property owners.
 - vii. whether the requested use is reasonably related to the existing land uses and environment.
 - viii. whether there are no apparent unreasonable health risks posed to neighbors or to the public in general.
 - ix. whether, after reviewing the above criteria, the applicant has demonstrated that, more likely than not, the proposed use, if controlled as to the number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.
- B. In granting a conditional use permit or the alteration of an existing conditional use permit, the Board of Adjustment may impose, in addition to the standards and requirements expressly specified in these Zoning Regulations, additional conditions considered necessary to protect the best interests of the surrounding community as a whole.
- C. Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which conditional use permit is sought or his agent shall be notified by mail. Notice of hearing shall be posted on the property for which conditional use permit is sought, at the courthouse and in one (1) other public place at least fifteen (15) days prior to the public hearing.

- D. If the Board of Adjustment, in granting a conditional use permit, prescribes appropriate conditions and safeguards in conformity with these Zoning Regulations, the violation of such conditions and safeguards when made a part of the terms of the conditional use permit is a violation of this resolution and punishable under Section 12 of this Ordinance.
- E. A public hearing shall be held. Any party may appear in person, or by agent or by attorney. The Board of Adjustment shall make written findings whether the requirements of this Section have been met by the applicant for a conditional use permit, and make written findings whether the reasons set forth in the application or justify denial or the granting of the conditional use permit. The Board of Adjustment, in its discretion, may determine what conditions, if any, shall be applied to the use to decrease any possible adverse affects.
- F. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing conditional use permit to determine if, more likely than not, the holder of the conditional use permit is in full compliance with any conditions set by the Board of Adjustment at the time conditional use permit was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the conditional use permit is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the conditional use permit, or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written findings supporting its decision must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.48 Powers and Jurisdiction-Related to Home Occupations: The Zoning Administrator, and the Board of Adjustment, shall have the power to provide home owners and residential renters the opportunity to conduct a small-scale, commercial use within a home or accessory building they occupy.

- A. When reviewing the decision of the Zoning Administrator concerning a home occupation permit, the Board of Adjustment shall consider each criteria set forth in Section 6. 9, A through H set forth above.
- B. In granting a home occupation permit or the alteration of an existing home occupation permit, additional conditions may imposed, in addition to the standards and requirements expressly specified in these Zoning Regulations, necessary to protect the best interests of the surrounding community as a whole.

- C. A Home Occupation Permit shall not be granted unless a written application for home occupation permit is submitted, demonstrating that, more likely than not, the proposed use shall not adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, heat, light, vibration, excess traffic, or electrical interference. Non-conforming neighborhood structures or buildings, or non-permitted uses of neighborhood structures or buildings, or the location of other home occupations, shall not alone be considered grounds for the issuance of a home occupation permit.
- D. If a decision concerning a home occupation permit is brought before the Board of Adjustment, then the provisions of Section 7.20 apply in addition to the provisions of this Section.
- E. A public hearing shall be held. Any party may appear in person, or by agent or by attorney. The Board of Adjustment shall make written findings whether the requirements of this Section have been met by the applicant for a home occupation permit, and make written findings supporting the reasons set forth in the application to justify denial or the granting of the home occupation permit. The Board of Adjustment shall further make a written finding as to whether the home occupation does adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, heat, light, vibration, excess traffic or electrical interference. In addition, the Board of Adjustment shall set forth what conditions, if any, shall be applied to the home occupation permit to decrease any possible adverse effects.
- F. If the Board of Adjustment, in granting a home occupation permit, prescribes appropriate conditions and safeguards in conformity with these Zoning Regulations, the violation of such conditions and safeguards when made a part of the terms of the home occupation permit is a violation of this resolution and punishable under Section 12 of this Ordinance.
- G. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing home occupation permit to determine if, more likely than not, the holder of the home occupation permit is in full compliance with any conditions set by the Board of Adjustment at the time home occupation permit was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the home occupation permit is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the home occupation permit, or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written

findings supporting the same must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.5 Board of Adjustment Has Powers of Administrative Officer on Appeals; Reversing Decision of Administrative Officer. In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the officer from whom the appeal is taken.

The concurring vote of two (2) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination by any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variation in this Resolution.

7.6 Appeals to County Board. Any person or persons, aggrieved by a decision of the Board of Adjustment (or any action of the Zoning Administrator not subject to review by the Board of Adjustment) may appeal to the County Board by notice of appeal filed with the County Board. All hearings and deliberations of the County Board shall be recorded or transcribed, and all exhibits, notices and submissions shall be retained, to preserve an accurate record of the appeal before the County Board.

- A. The decision of the Board of Adjustment becomes final if a Notice of Appeal is not filed with the County Auditor within fifteen (15) days after the date on which the written decision of the Zoning Administrator or Board of Adjustment is mailed or delivered to those affected by the decision.
- B. Standing - Appeal may be made by any person or group of persons directly affected by the Board of Adjustment's decision or the Zoning Administrator's decision. The County Board shall agree to hear the appeal of those who have standing, unless it finds that the appeal is untimely, meritless, trivial, or brought solely for the purpose of delay.
- C. Parties to the appeal are the appellant, the Zoning Administrator, and any other persons required to receive notice and who have standing with regard to the decision of the Board of Adjustment.
- D. If the Board of Adjustment has made formal findings contemporaneously with its decision, and if there is an accurate record or transcript of the proceedings or all persons with standings have stipulated to the essential facts, and if the proceedings were fairly conducted, the County Board will

base its review strictly on the record. If there is no adequate or complete record of the proceedings below, the County Board shall hear the matter de novo.

- E. The appellant must file with the County Administrator a notice of appeal together with a copy or written summary of the decision being appealed and an affidavit that a copy of the notice of appeal has also been mailed or delivered to the Zoning Administrator. Upon receiving the notice of appeal, the County Administrator shall request a complete record of the proceedings below from the Zoning Administrator, and at the next regular meeting of the County Board, the County Board shall review said materials and issue a decision with regard to persons entitled to standing and the appropriate scope of appeal. At the same meeting, the County Board shall set a time for hearing the appeal, to take place no later than fourteen (14) days after a determination is made on the issues of standing and the scope of appeal. If de novo review is not granted, no testimony will be taken at the appeal hearing, and no new evidence shall be submitted, and the Board may, in its discretion, limit the length and scope of oral presentation and/or briefs submitted by each party.
- F. When review is based on the record alone, then the County Board will affirm the Board of Adjustment's decision or the Zoning Administrator's decision if the findings below are not clearly erroneous, if the law has been correctly applied to the facts, if the Board or Administrator did not clearly abuse its discretionary authority, and if the Board or Administrator made no procedural errors prejudicial to a party.
- G. When the County Board grants a de novo hearing, then it shall:
 - 1. Hear upon written notice pursuant to Section 7.2 and according to the deadlines as set forth in Paragraph C above;
 - 2. Apply the criteria set forth in Section 7.40 for Variances, Section 7.45 for Conditional Use Permits, and Section 7.48 for Home Occupation Permits, when considering the merits of any application;
 - 3. Maintain a true and accurate record of the proceedings, either by electronic recording or by court reporting and retain all written exhibits and notices in an orderly fashion; and
 - 4. Issue appropriate written findings (after a full and fair hearing) as set forth above in Section 7.40, 7.45 and 7.48 respectively, prescribing any appropriate conditions or safeguards it deems necessary, and issuing the same according to Paragraph H. below.

- H. Following the hearing, the County Board shall issue its written findings and a written order within fifteen (15) days and have the County Administrator serve the same by United States mail on any appellant or respondent, and on the Zoning Administrator, either personally or by counsel.

7.7 Appeals to a Court of Record. Any person or persons, aggrieved by a decision of the County Board, may appeal to the District Court.

SECTION 8. SUBDIVISION REGULATIONS

8.1 Application of Regulations. Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of these Regulations shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into ten (10) or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the re-subdivision or re-platting of land or lots. Division of land into tracts larger than two and one half (2 1/2) acres in area and one hundred and fifty (150) feet in smallest dimension shall be exempt from the requirements of this Resolution.

8.2 Approvals Necessary for Acceptance of Subdivision Plats. Before any plat shall be recorded or be of any validity, it shall have been approved by the County Planning Commission and by the Board of County Commissioners as having fulfilled the requirements of these Regulations.

8.3 Preliminary Plat.

8.3.1 Procedures.

- (1) Copies of the preliminary plat shall be submitted to the County Engineer and the County Planning Commission at least ten (10) days prior to the Commission meeting at which consideration is requested. Approval or disapproval of a preliminary plat shall be conveyed to the subdivider in writing within ten (10) days after the meeting of the Planning Commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Commission.
- (2) The County Engineer shall review the preliminary plat and prior to the Commission meeting, submit a report to the County Planning Commission concerning the Engineering feasibility of the proposed plat and its conformance with the requirements of these Regulations.

- (3) After review and approval of the preliminary plat by the county Planning Commission, such preliminary plat, together with the recommendations of the Planning Commission shall be submitted to the Board of County Commissioners for approval. Approval or disapproval of the preliminary plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the Board of County Commissioners at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Board.
- (4) The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat. This approval of the preliminary plat shall be effective for a period of one (1) year, unless an extension is granted by the Board of County Commissioners. The subdivider may file a final plat limited to such portion of the preliminary plat which he proposes to record and develop at the time, provided that such portion must conform to all requirements of these Regulations. If some portion of the final plat has not been submitted for approval within this period, a preliminary plat must again be submitted to the County Planning Commission and the Board of County Commissioners for approval.

8.3.2 Data Required.

The preliminary plat shall contain the following information:

- (1) Proposed name of subdivision. Names shall not duplicate or too closely resemble names of existing subdivisions.
- (2) Location of boundary line in relation to a known section, quarter section, or quarter-quarter section lines and any adjacent corporate boundaries, comprising a legal description of the property.
- (3) Names and addresses of the developer and the designer making the plat.
- (4) Scale of plat, not less than one (1) inch to one hundred (100) feet.
- (5) Date and north point.
- (6) Existing condition.

- (a) The location and width of proposed streets, roadways, alleys and easements.
- (b) The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas and power lines.
- (c) Layout, numbers and approximate dimensions of lots and the number or letter of each block.
- (d) Location and size of proposed parks, playgrounds, churches, or school sites or other special uses of land to be considered for dedication to public use, or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.
- (e) Building setback lines with dimensions.
- (f) Indications of any lots on which a use other than residential is proposed by the subdivider.
- (g) The zoning districts, if any, on and adjacent to the tract.

8.3.3 Supplementary Requirements

Upon request of the County Planning Commission, supplementary information shall be submitted; such supplementary information may include the following:

- (1) Topography with contour intervals of not more than five (5) feet related to United States Geological Survey datum; also the location of water course, ravines, bridges, lakes, wooded areas, approximate acreage, and other such features as may be pertinent to subdivision.
- (2) A copy of the profile for each proposed street, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown.
- (3) Vicinity sketch, at a legible scale, to show the relation of the plat to its

surroundings.

8.4 Final Plat

8.4.1 Procedures

After the preliminary plat has been approved, the final plat may be submitted for approval as follows:

- (1) Copies of the final plat shall be submitted to the County Engineer and County Planning Commission at least ten (10) days prior to the Planning Commission meeting at which consideration is requested. Approval or disapproval of the final plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the County Planning Commission, at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Commission.
- (2) The County Engineer shall review the final plat and prior to the Commission meeting submit a report to the County Planning Commission regarding the conformance of the proposed final plat to the approved preliminary plat and the requirements of these regulations.
- (3) After review and approval of the final plat by the County Planning Commission, such final plat, together with the recommendations of the Planning Commission shall be submitted to the County Board for consideration. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, roads, easements and other public ways, and open spaces deducted to public purposes. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Board of County Commissioners and reported to the person or persons applying for such approval.

8.4.2 Data Required

The final plat prepared for recording purposes shall be prepared in accordance with provisions of Minnesota State statutes and shall contain

the following information:

- (1) Name of subdivision (not to duplicate or too closely approximate the name of any existing subdivision).
- (2) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must be mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in five thousand (5,000).
- (3) The location of survey control monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half (1/2) inch or larger in diameter extending at least three (3) feet below the finished grade.

In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

- (4) Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.
- (5) Lots shall be numbered clearly. If blocks are shown to be numbered or lettered, these should be shown clearly in the center of the block.
- (6) The exact locations, widths, and names of all streets to be dedicated.

- (7) Location and width of all easements to be dedicated.
- (8) Boundary lines and description of boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use.
- (9) Name and address of developer and surveyor making the plat.
- (10) Scale of plat (the scale to be shown graphically and in feet per inch), date and north point.
- (11) Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements."
- (12) Statement dedicating all streets, roads, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

8.4.3 Certifications Required on Final Plats

- (1) Notarized certification by owner and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.
- (2) Notarized certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.
- (3) Certification showing that all taxes and special assessments due on the property have been paid in full.
- (4) Space for certificates of approval to be filled in by the signatures of the Chairman of the County Planning Commission and the County Board of Commissioners.

8.5 Design Standards

8.5.1 Blocks

Block lengths shall normally not exceed thirteen hundred and twenty (1,320) feet.

8.5.2 Streets and Roads

- (1) Streets normally shall connect with streets already dedicated, or provide for future connections to adjoining unsubdivided tracts.
- (2) Cul-de-sacs may be permitted when conditions justify their use. Cul-de-sacs shall normally not be longer than five hundred (500) feet in length, including the terminal turn-around. The required terminal shall be nearly circular in shape and have a minimum diameter of one hundred (100) feet.
- (3) The minimum angle of intersection of streets shall be eighty (80) degrees.
- (4) Wherever the proposed subdivision contains or is adjacent to the right-of-way of a state or Federal highway, a marginal access service street approximately parallel and adjacent to the boundary of such right-of-way may be required.
- (5) Dedication of half streets will not be approved, except where it is essential to the reasonable development of the subdivision.
- (6) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of proposed future street system for the unsubdivided portion may be required.
- (7) For all public streets and roads hereafter dedicated and accepted, the right-of-way widths shall not be less than the minimum dimensions for each classification as follows:

| | |
|------------------------------|---------|
| Minor residential street | 60 feet |
| Marginal access service road | 50 feet |

- (8) Minor street or driveway access to state and Federal highways shall not be permitted at intervals of less than six hundred (600) feet.

8.5.3 Lots

- (1) Corner lots shall have additional width to permit appropriate building setback from both streets.

- (2) Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- (3) Every lot must have at least the minimum required frontage on a public dedicated street.

8.5.4 Easements

Where appropriate, easements for utilities or drainage may be required. Easements shall be of a width suitable for the intended uses.

8.6 Required Improvements. Before a final plat is approved, the subdivider shall give satisfactory assurance of the installation of improvements as required by the Board of County Commissioner.

SECTION 9. ADMINISTRATION: LAND USE PERMITS

9.1 Zoning Administrator. The Board of County Commissioners shall appoint such employee or employees of the County and/or such other persons, including authorized city clerks, as it may deem proper to act as zoning administrator or deputy zoning administrators. It shall be the duty of the zoning administrator and authorized deputies to administer and enforce these regulations through the proper legal channels; issue land use permits and maintain records thereof; and provide a source of public information relative to this Ordinance.

9.2 Compliance with Regulations. No person shall erect, alter, wreck, or move any building or part thereof or make any improvement to land without first securing a land use permit therefor. No permit shall be required for an improvement if that improvement does not increase the number of bedrooms in an existing dwelling, nor does it change the footprint of an existing dwelling or structure, unless the improvement or use involves the following:

1. Demolition sites.
2. Disposal of contaminated soil
3. Landfills
4. Wetlands
5. Underground tanks
6. Digging or filling a well

The addition or expansion of decks and/or exterior stairs are considered changes to the footprint of an existing dwelling or structure.

9.3 Land Use Permits. Application for a land use permit shall be made to the zoning Administrator on blank forms to be furnished by the county. Applications for any kind of land use 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 land use permit shall be \$50.00 for lands not in the floodplain and not considered shoreland, and \$100.00 for lands within the floodplain or designated as shoreland, except that from time to time these fees may be amended or changed by the County Board of Commissioners based on a formula related to the cost of administration. The Zoning Administrator shall issue the building permit after determining that the building plans, together with the application, comply with the requirements of this Ordinance and that the applicant has no zoning violations outstanding or delinquent property taxes.

9.4 After-the-Fact Land Use Permits. Any landowner who violates this Ordinance, shall pay the following fees:

| | |
|---|------------|
| Deck or Shed <150 sq. ft. | \$250.00 |
| Deck or Shed >150 sq. ft. (includes detached garages) | \$500.00 |
| Addition to Existing Home <600 sq. ft. | \$300.00 |
| Addition to Existing Home >600 sq. ft. | \$600.00 |
| Cabin (Unfinished) | \$250.00 |
| New Home <1000 sq. ft. (included older home moved to new location) | \$300.00 |
| New Home <1000 sq. ft.(includes new home with attached garage) | \$300.00 |
| New Home >1001 to 2500 sq. ft. (includes older home moved to new locations) | \$600.00 |
| New Home >1001 to 2500 sq. ft. (includes new home with attached garage) | \$600.00 |
| New Home >2501 sq. ft. (included older home moved to new location) | \$900.00 |
| New Home >2501 sq. ft. (includes new home with attached garage) | \$900.00 |
| Grain Bin <4000 bushels | \$400.00 |
| Grain Bin >4000 bushels | \$800.00 |
| Agriculture Building <5000 sq. ft. | \$500.00 |
| Agriculture Building >5000 sq. ft. | \$1,000.00 |
| Addition to Existing Agriculture Building | \$500.00 |
| Commercial and Industrial Building | \$1,000.00 |
| Addition to Existing Commercial and Industrial Building | \$500.00 |

9.5 Builders and Contractors. Sections 9.2, 9.3, and 9.4 apply equally to all persons, including but not limited to, property owners, renters, builders or contractors, and volunteers. This Ordinance specifically contemplates that prior to proceeding, any builder or contractor will verify the existence of a permit if the same has been obtained

by an owner or renter, and that likewise, owners or renters will verify the existence of a permit if the same has been obtained by a builder or contractor. A copy of the approved permit must be posted at the proposed construction site before construction begins.

SECTION 10. NON-CONFORMING USES

10.1 Continuation. For lands within municipalities, which municipalities have allowed zoning authority to be vested in Kittson County on or before June 5, 2007, the lawful use of buildings or land existing on the date zoning authority was vested in Kittson County, may continue, but not be expanded, even though such use does not conform with the provisions of this ordinance. The lawful use of buildings or land outside of municipalities existing on January 1, 1995, may continue, but not be expanded although such use does not conform with the provisions of this ordinance. 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 restricted use.

10.2 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 nine (9) months, the use of the same shall thereafter conform to the regulations of this ordinance.

SECTION 11. AMENDMENTS

This Resolution may be amended whenever the public necessity and convenience and the general welfare require such amendment after a duly advertised hearing held by the County Planning Commission.

SECTION 12. ENFORCEMENT

12.1 Violation a Misdemeanor. When any person intentionally performs an act prohibited or declared unlawful, fails to act when such failure is prohibited or declared unlawful, fails to take action when said action is required, or fails to take action to abate the existence of a violation within the specified time period when ordered or notified to do so by the county, that person violates the section, subdivision, paragraph, or provision of this ordinance within which such act or action is prohibited, declared unlawful, or required, and upon conviction thereof, shall be punished for a misdemeanor. A separate offense shall be deemed committed upon each day that the Kittson County Courthouse is normally open for business during or on which a violation occurs or continues. All violations of this ordinance shall be prosecuted by the County Attorney.

12.1.2 Citations. Whenever the County determines that there is probable

cause to believe that an intentional violation of this ordinance has been committed by any person, a citation may be issued to the person alleged to have committed the violation.

12.1.2.1 Forms of Citations. Citations shall be in a form designated by the County and approved by the County Attorney.

12.1.2.2 Issuance. The citation shall be issued to the person to be charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

12.2 Equitable Relief. In the event of a violation or a threat of violation of this ordinance, the County Attorney may take appropriate action to enforce this ordinance, including application for injunctive relief, action to compel performance or other appropriate action in court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.

12.3 Civil Action. If a person fails to comply with the provisions of this ordinance, the County may recover costs incurred for corrective action, including reasonable attorney's fees, in a civil action in any court of competent jurisdiction.

12.4 Rules of Construction. In construing this ordinance, the following rules of construction are to govern, unless their observance would be inconsistent with the obvious intent of the County, or contrary to the context of the ordinance.

12.4.1 Indemnification. This ordinance shall not be construed to hold the County or any officer or employee of the County, responsible for any damage to persons or property by reason of inspections or re-inspections authorized by the provisions of this ordinance, or by reason of the approval of disapproval of equipment or licensing herein, nor for any action in connection with the inspection or control of solid waste or refuse or in connection with any other official duties.

12.4.2 Severability. It is hereby declared to be the intention of the Board that the provisions of this ordinance be severable as follows:

12.4.2.1 Ordinance Provisions. If any court of competent jurisdiction shall adjudge any provisions of this ordinance to be invalid, such judgment shall not affect any other provisions of the ordinance not specifically included in said judgment.

12.4.2.2 Structures, Sites and Operations. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular structure, site or operation,

such judgment shall not affect the application of said provision to any other structure, site or operation not specifically included in said judgment.

12.4.3 Ordinance Remedies and Provisions Cumulative. Each right or remedy conferred on or reserved to the County under this ordinance is cumulative in and in addition to every other right or remedy provided for in this ordinance. The provisions in this ordinance are in addition to all other laws and ordinances passed, or which may be passed hereafter, covering any subject matter in this ordinance. Additional local, state and federal laws and rules regulating or restricting land use in Kittson County for which permits or licenses in addition to a building permit may be required include those pertaining to:

Feedlots, individual sewage treatment systems, wetlands, shorelands, flood plains, wells, waste disposal, lands affected by city and airport zoning ordinances, lands adjacent to railroad, public and public-utility lands and rights-of-way, advertising signs, noxious weeds.

12.4.4 Meanings. Words of male gender shall include the female and neuter, the singular shall include the plural and the plural shall include the singular.

SECTION 13. COUNTY ZONING CONTROL AREAS.

The County has, by adoption of this ordinance, established and has determined the boundaries of county zoning control areas to be all areas within the County except: NO EXCEPTIONS.

The Board may terminate, re-establish, enlarge, revise, or alter the county zoning control area so established by amendment of this ordinance.

SECTION 14. DATE OF EFFECT

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

APPROVED BY: KITTSOON COUNTY BOARD OF COUNTY COMMISSIONERS

Passed and approved on May 16th, 2017.



Chairman

ATTEST:



County Administrator

Recommended by: THE COUNTY PLANNING COMMISSION

5/16/17
Date



Zoning Administrator

**NOTICE OF THE ADOPTION OF THE ZONING REGULATIONS FOR
KITTSOON COUNTY**

NOTICE IS HEREBY GIVEN that the Kittson County Board of Commissioners did, on June 5, 2007, adopt the Kittson County Zoning Regulations for Kittson County, and did rescind the Kittson County Zoning and Subdivision Regulations dated 7/12/71 and amendments thereto dated 4/12/73, 11/5/73, 8/8/75 and 12/20/94.

Provisions in the adopted regulations include permitted uses, conditional use permits, variances, standards, subdivision regulations, administration, appeals, and enforcement. A copy of the regulations is on file in the office of the Kittson County Auditor and the Kittson County Zoning Administrator for public inspection. This notice shall serve as a summary of the regulations as provided for in Minnesota Statutes 331A.01 and is published in accordance with Minnesota Statutes 375.51.

Dated at Hallock, Minnesota this 11th day of June, 2007.

Holly Anderson
Kittson County Zoning Administrator

NOTICE OF THE ADOPTION OF THE KITTSON COUNTY ZONING ORDINANCE

NOTICE IS HEREBY GIVEN that the Kittson County Board of Commissioners did, on May 16th, 2017, adopt the changes in the Kittson County Zoning Ordinance. The public hearing opened at 9:02 a.m. and ended at 9:28 a.m.

Provisions in the adopted regulations include changes in the Percy Lakeside Subdivision setbacks. A copy of the regulations is on file in the Kittson County Zoning Administrators office for public inspection. This notice shall serve as a summary of the regulations as provided for in Minnesota Statutes 331A.01 and is published in accordance with Minnesota Statutes 375.51.

Dated at Hallock, Minnesota this 17th day of May, 2017

Lane Nordin
Kittson County Zoning Administrator

A NOTICE IS HEREBY GIVEN that a public hearing will be held in front of the Kittson County Board of Commissioners on Tuesday, May 16, 2017 at 9:00 a.m. in the Kittson County Board of Commissioners room at the Kittson County Courthouse, 410 South Fifth Street, Hallock MN. At the public hearing, Lane Nordin will present the proposed changes in the Kittson County Ordinance. The changes will be made for the Percy Township Lakeside Subdivision. The setbacks will be more suited for the size of the lakeside lots and the placement of the streets. These changes will benefit landowners that are wanting to build and it will also make the permitting process go smoothly.

The location that is subject at the hearing will be the Percy Township Lakeside Subdivision and is legally described as follows:

Section – 33 Twp – 161 Range – 046 LAKESIDE SUB PERCY LOTS Blocks 1-14

Any persons interested may attend and be heard at the time of this public hearing. Any persons who have written objections to file who will not be present at the hearing must file their written objections with the Zoning Administrator not later than 1:00 p.m. on Monday, May 15, 2017.

Lane Nordin
Kittson County Zoning Administrator
410 South Fifth Street
Hallock MN 56728

Kittson County, Minnesota

**KITTSON COUNTY ZONING AND
SUBDIVISION REGULATIONS**

THESE AMENDED ZONING AND SUBDIVISION REGULATIONS ARE ADOPTED FEBRUARY 4th, 2014 TO ENCOURAGE GROWTH OF BUSINESS AND COMMERCE, TO EXPAND EMPLOYMENT THROUGHOUT THE COUNTY, TO PROMOTE THE SAFE AND ORDERLY USE OF LANDS AND TO PROMOTE THE HEALTH, SAFETY AND GENERAL WELFARE OF THE PEOPLE OF THE COUNTY BY:

1. CONTROLLING CONGESTION OF ROADS, HIGHWAYS AND POPULAR AREAS.
2. DISCOURAGING LAND USES WHICH ARE NOT COMPATIBLE WITH LAND TYPE, NEIGHBORING USES, PUBLIC OR ENVIRONMENTAL SAFETY.
3. FOSTERING CONSERVATION OF LAND VALUES AND RESOURCES.
4. FACILITATING EFFICIENCY IN PLANNING FOR TRANSPORTATION, WATER, SEWERAGE AND OTHER PUBLIC NEEDS.
5. INSURING FAIR AND ACCURATE MONITORING OF LAND IMPROVEMENTS FOR TAXATION PURPOSES.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF KITTSON ORDAINS:

SECTION 1. TITLE

This resolution shall be known and may be cited and referred to as the "Kittson County Zoning Regulations."

SECTION 2. (RESERVED)

SECTION 3. SCOPE: INTERPRETATION

3.1 Scope. From and after the effective date of these Regulations, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in

the County of Kittson, including that area within the incorporated municipalities acting pursuant to M.S.A. §394.32, shall be in conformity with the provisions of these Regulations. Any existing building or structure or any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, or changed subject to the special regulations herein provided with respect to nonconforming properties or uses.

3.2 Interpretation. In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the public health, safety, comfort, convenience and general welfare. Where the provisions of these Regulations impose greater restrictions than those of any statute, other resolution or regulation, the provisions of these Regulations shall be controlling. Where the provisions of any statute, other resolution or regulation impose greater restrictions than these Regulations, the provisions of such statute, other resolution or regulation shall be controlling.

SECTION 4. RULES AND DEFINITIONS

4.1 Rules. For the purpose of these Regulations, 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 not discretionary.

4.2 Definitions. For the purpose of these Regulations, certain terms and words are defined as follows:

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

Agricultural - Farming, ranching, greenhouses, nurseries, truck gardens, sod farms, orchards and apiaries; the harvesting of timber or wood for sale.

Block - is an area of land which a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

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

Building Height - The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point

of the roof for flat roofs; to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Commercial-Industrial - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods or services; or for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Community Water and Sewer Systems - Utility systems serving a group of buildings, lots, or an area of the County with the design and construction of such utility systems as approved by the County Engineering Department or like agency.

Conditional Use Permit - A conditional use permit is a relaxation of the terms of these Zoning Regulation as applied to the use or uses of a particular property, where the proposed use would not be appropriate generally or without restriction throughout the zoning district but which, if controlled, as to the number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as conditional use permits, if specific provision for such conditional use permit is made in these Regulations.

Corner Lot - A lot situated at the junction of and fronting on two (2) or more streets.

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

Depth of Rear Yard - The mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists, otherwise a rear lot line.

Dwelling - Any building or part thereof which is designed or used exclusively for residential purposes by one (1) or more human beings either permanently or transiently.

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

Dwelling, Multi-Family - A building designed for or occupied exclusively by not more than four families.

Easement - A grant by a property owner for the use of a strip of land for the purpose of constructing and maintain utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

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

Final Plat - A drawing or a map of a subdivision, meeting all the requirements of the county and in such form as required by the County for purposes of recording.

Floor Area - The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.

Home Occupation - A business or industry which provides home owners and residential renters with an opportunity to conduct a small scale commercial use within a home (or an accessory building on lands adjacent to the home) which they occupy.

Improvement - Any change to a building or structure which is not a routine, general repair.

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

Lot Area - The land area within the lot's lines.

Lot Area Per Family - The lot area per family is the lot area required by these Regulations to be provided for each family in a dwelling.

Lot, Double Frontage - An interior lot having frontage on two (2) streets.

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

Lot Lines - The lines bounding a lot as defined herein. When a lot line abuts a street, avenue, park or other public property except an alley, such line shall be known as a street line, and when a lot line butts on an alley, it shall be known as an alley line.

Lot Width - The width of a lot is its own mean width measured at right angles.

Mobile Home - Any occupied vehicle used or so constructed as to permit it being used as a conveyance on the public streets or highways and duly licensed as such, and shall include: self-propelled or non-self-propelled vehicles so designed, constructed, reconstructed or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one (1) or more persons. Nothing in this definition shall be construed so as to include prefabricated, precut residences or those manufactured in sections or parts away from the site and transported thereto for erection, provided that when completely erected, said prefabricated, precut or manufactured residences shall be on a permanent foundation and in all respects comply with the 2007 Minnesota State Building Code.

Mobile Home Park - Any premises where one or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for one or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles or enclosure used or intended for use or intended wholly or in a part, for the accommodation of automobile transients.

Municipally Incorporated Area - All areas, within the boundary limits of an incorporated city, including subsequently annexed areas.

Persons - Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Plot - A tract other than one (1) unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as a home site and improved or intended to be improved by the erection thereon of a dwelling and accessory buildings and having a frontage upon a public street or upon a thoroughfare or upon a highway or upon a traveled or used road and including as a minimum such open spaces as required under this Ordinance.

Preliminary Plat - A tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.

Premises - A lot or plot with the required front, side and rear yards for a dwelling.

Road - a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

Routine, General Repair - Any activity that will alter or restore to a new or usable condition worn or deteriorated items of construction. Items of routine, general repair include: Interior painting; exterior painting; siding repair; roofing repair/replacement; window repair/partial replacement; floor covering repair/replacement; foundation repair; soffit repair; fascia repair; light fixture repair/replacement; rain gutter/down spout repair/replacement; entrance/storm-door repair/replacement; chimney repair; wall coverings repair/replacement; plumbing fixture repair/ replacement; range hood repair or replacement; smoke alarms installation/replacement.

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

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

Structure - Anything constructed or erected, the use of which require location on the ground or attachment to something having or location on the ground.

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

Subdivision - A described tract of land which is to be or has been divided into ten or more lots or parcels, any of which resultant parcels is less than two and one-half (2½) acres in area and one hundred fifty (150) feet in width, for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term includes re-subdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

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.

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.

Variance - A variance is a relaxation of the terms of the Zoning Regulations as applied to the physical conditions of a structure and/or

property where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Regulations would result in unnecessary and undue hardship. As used in these Regulations, a variance is authorized for height, area, and size of structure, or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

**SECTION 5
(RESERVED)**

**SECTION 6. PERMITTED USES, VARIANCES
CONDITIONAL USES AND STANDARDS**

6.1 Permitted Uses (all Areas of The County Except As Otherwise Specified)

For purposes of this title, the County is divided into two general areas: Closed Landfill Restricted Zone and Other Lands. No real property shall be used within Kittson County except for one (1) or more of the following permitted uses:

- A. **Agricultural Uses** - only within areas outside of municipally incorporated areas of the county.
- B. **Commercial and Industrial Uses** - only within municipally incorporated areas of the county.
- C. **Single family dwellings** - only outside commercial and industrial areas.
- D. **Multi-family dwellings** - only outside commercial and industrial areas.
- E. **Public administration buildings, police and fire stations, and other public service buildings, except those customarily considered commercial or industrial** - within any area of the County.
- F. **Public educational institutions, or private educational institutions having an equivalent curriculum** - within any area of the County.
- G. **Parks and recreational areas owned or operated by governmental agencies** - only within residential or agricultural areas of the County.
- H. **Churches** - only within agricultural/residential areas of the County.
- I. **Tracks located within railroad rights-of-ways, but not including railroad yards and railroad buildings.**

J. **Accessory uses including roadways and parking lots customarily incidental to the principal use.**

K. **Home Occupations** - Home occupations are allowed without permit in lands outside municipal limits. For lands within municipal limits, home occupations must follow the criteria contained within this Ordinance.

6.1.1 All areas within Kittson County which lie outside the limits of a municipality and also lie outside the limits of a Closed Landfill Restricted Zone are zoned for residential or agricultural uses, and any other use requires a conditional use permit. All areas within municipalities, which municipalities have not enacted a zoning ordinance, are zoned for residential, commercial or industrial uses.

6.1.2 Closed Landfill Restricted Zone (CLR): This zone is intended to apply to former landfills and adjacent lands which are managed under the Closed Landfill Program of the Minnesota Pollution Control Agency (MPCA). The purpose of the zone is to limit uses of land both actively filled and related lands, to minimal uses in order to protect the land from human activity where response action systems are in place. This zone shall only apply to the former landfill and pertinent adjacent lands (the limits of which are defined by the MPCA). This zone shall apply whether the landfill is in public (State, MPCA, County, City, Township), Indian tribal, or private ownership.

A. **Permitted Uses** – Uses allowed in this zone include outdoor equipment or small buildings used in concert with gas extraction systems (i.e. gas to energy systems), other response action systems, monitoring wells or any other equipment designed to protect, monitor or otherwise ensure the integrity of the landfill monitoring or improvement systems. Fences and gates shall be allowed under these provisions.

B. **Accessory Uses** – Accessory uses shall be limited to installation, operation and maintenance of equipment to support permitted uses.

C. **Conditional Uses** – Conditional uses shall be limited to passive uses to protect the integrity of the landfill area and to protect any person from hazards associated with the landfill. The landfill shall be planted in cover crops and shall be maintained by the MPCA.

Any proposed conditional use must be approved by the commissioner of the Minnesota Pollution Control Agency (MPCA) and the County of Kittson. Such approved use shall not disturb or threaten to disturb the integrity of the landfill cover, liners, and other components of any containment system, or the function of any monitoring system that exists upon the described property.

D. **Prohibited Uses and Structures** – All other uses and structures not specifically allowed as conditional uses, or that cannot be considered as accessory uses, shall be prohibited in the CLR Zone.

6.2 Variances. Within Kittson County all non-conforming structures and/or properties, as determined by the Zoning Administrator, are required to obtain a variance as set forth in Section 7.

6.26 Conditional Use Permits. Within Kittson County, all uses of property, except permitted uses as defined and allowed under Section 6.1 of the Zoning Regulations, shall at the discretion of the Zoning Administrator be required to obtain a Conditional Use Permit as set forth in Section 7.

6.3 Height, Yard, Area and Lot Dimension Regulations. No enclosed structure, except those permitted in the Closed Landfill Restricted Zone, shall be built within the Methane Area of Concern or of the Ground Water Area of Concern as set forth on the attached MPCA's Appendix C and D. In Other Lands, all buildings or structures hereafter erected or structurally altered and all land uses shall hereafter be in conformance with the following requirements:

| <u>Class of Use</u> | Max Building Height FT | Min Lot Area Per DU (sq ft) | Min Lot Width FT | Min Lot Depth FT | Min Front Yard FT | Min Side Yard Interior Lot FT | Min Side Yard Corner Lot FT | Min Rear Yard FT |
|---|------------------------|-----------------------------|------------------|------------------|-------------------|-------------------------------|-----------------------------|---|
| Agriculture | 60 | - | - | - | 30 | 10 | 20 | - |
| Resi w/ public or community sewer/water | 30 | 6250 | 50 | 125 | 30 | 5 | 20 | 15 |
| With public water or private cistern only | 30 | 14,000 | 100 | 140 | 30 | 10 | 20 | 40 |
| With public sewer only | 30 | 14,000 | 100 | 140 | 30 | 10 | 20 | 40 |
| With on-lot water and sewer facilities | 30 | 21,000 | 150 | 140 | 30 | 10 | 20 | 40 |
| Commercial | 60 | - | - | - | 0 | 0 | 20 | 15 |
| Industrial | 60 | - | - | - | 0 | 0 | 20 | 15 |
| Only Percy Lakeside Subdivision setbacks | 30 | 4000 | 40 | 100 | 30 | 10 | 20 | 10 (Towards Service Alley Ways, 2 nd , 4 th and 6 th Streets). |

¹The height limitations contained in these Regulations shall not apply to silos used for storage of agricultural produce on agricultural property, spires, belfries, cupolas, antennas, water tanks, ventilators, domes, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

²DU=dwelling unit

³A minimum front yard setback of one hundred and thirty (130) feet shall be provided from the center line of all U.S. highways and state highways, county state aid highways, county and township roads and highways. In all other cases, the required setback shall be measured from the road right-of-way boundary.

6.4 Off-Street Parking and Loading Regulations.

6.4.1 Minimum Size Regulations. Except as required for accessible parking, each space shall contain a minimum area of not less than two hundred and fifty (250) square feet including access drives, a width of not less than eight and one-half (8 1/2) feet, and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. Each loading space shall contain a minimum area of not less than five hundred (500) square feet.

6.4.2 Accessible Parking. Every business and government entity that provides off street parking for customers and/or employees must have reserved accessible parking spaces for mobility impaired persons according to the following table:

| Parking Spaces Available | Accessible Spaces | Reserved For Vans |
|--------------------------|----------------------------------|-------------------|
| 1 – 25 | 1* | 1* |
| 26 – 50 | 2 | 1 |
| 51 – 75 | 3 | 1 |
| 76 – 100 | 4 | 1 |
| 101 – 150 | 5 | 1 |
| 151 – 200 | 6 | 1 |
| 201 – 300 | 7 | 1 |
| 301 – 400 | 8 | 1 |
| 401 – 500 | 9 | 1 |
| 501 – 1000 | 2% of Total Spaces | 1 For Every 8 |
| 1001 – Over | 20 plus 1 For Each 100 Over 1000 | 1 For Every 8 |

* One in every eight spaces must be for a van. If only one space is required it must be for a van.

Each space must be 8 feet wide with a 5 foot wide access aisle. If the space is van accessible the access aisle must be 8 feet wide.

Parking spaces must be located closest to the accessible entrance to the building. If there are curbs between the parking space and the entrance the curb must be cut. Parking spaces must be of a hard surface (paved) and the surface must be level.

There must be a sign including the universal sign for accessibility and the fine for unauthorized use for each reserved spot. The sign can be attached to a building or placed on a post. The sign must be visible when a vehicle is parked in the space. The lines marking the space must be painted blue.

6.4.3 Required Number of Off-Street Parking Spaces. Off-street parking area of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided. The minimum number of required off-street parking spaces for the following uses shall be as follows:

- (1) Single-Family Dwelling - One (1) parking space. No garage shall be converted into living space unless other acceptable off-street parking space is provided.
- (2) Multiple Family Dwelling - One (1) parking space for each family or swelling unit.
- (3) Hospitals and Nursing Homes - Ten (10) plus one per bed.
- (4) Churches - One (1) parking space for each four (4) seats based on the design capacity of the main sanctuary.
- (5) Public Administration Buildings and Other Public Service Buildings Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area in the principal structure.
- (6) Professional Offices, Medical and Dental Clinics, and Animal Hospital Four (4) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet of floor area.
- (7) Office Buildings - Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000)

square feet of floor area.

- (8) Shopping Center - Where several business uses are grouped together according to a general development plan, off-street automobile parking shall be provided in a ratio of not less than one (1) square foot of gross parking area for each one (1) square foot of gross floor area; separate off-street parking space shall be provided for loading and unloading.
- (9) Automobile Service Station - Four (4) parking spaces plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.
- (10) Auto Sales, Trailer Sales, Marine and Boat Sales, Implement Sales, Garden Supply Store, Building Materials Sale, Auto Repair – Six (6) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000 square feet).
- (11) Bowling Alley - Five (5) parking spaces for each bowling lane.
- (12) Drive-In Restaurant - Fifteen (15) parking spaces or one (1) space for each forty (40) square feet of floor area, whichever is greater.
- (13) Motel or Motor Hotel - One (1) parking space for each rental room or suite.
- (14) Miniature Golf Course, Archery Range, or Golf Driving Range – ten (10) parking spaces; golf course, one (1) parking space per hole.
- (15) Restaurant, Cafe, Nightclub, Tavern or Bar - One (1) parking space for each two hundred (200) square feet of floor area.
- (16) Skating Rink or Dance Hall - One (1) parking space for each three hundred (300) square feet of floor area.
- (17) Retail Stores and Service Establishments - One (1) off-street parking space for each one hundred (100) square feet of floor area, plus one (1) space for each employee on the major shift or one (1) off-street parking space for each five hundred (500) feet of gross floor area within the building, whichever is greater.
- (18) Wholesale Business Establishments - One (1) off-street parking space for each employee on the major shift or one (1) space for each two thousand (2,000) square feet of gross floor area, whichever is greater, plus one (1) off-street parking space for each company motor vehicle.

- (19) Storage or Warehouse Establishments - One (1) off-street parking space for each two (2) employees on the major shift or one (1) space for each two thousand (2,000) square feet of floor area, whichever is larger, plus one (1) space for each company motor vehicle.
- (20) Manufacturing or Processing Plant - One (1) off-street parking space for each employee on the major shift or one (1) off-street parking space for each seven hundred (700) square feet of gross floor area within the building, whichever is the greater, plus one (1) space for each company motor vehicle.

6.4.4 Required Loading Areas. Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements of each use.

6.4.5 Access.

- (1) Parking and loading space shall have proper access from a public right-of-way.
- (2) The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard. Frontage roads or service roads may be required when, in the opinion of the county Planning Commission, such service roads are necessary to maintain maximum traffic safety.

6.4.6 Fences and Planting Screens. Off-street parking and loading areas near or adjoining residential property shall be screened by a fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan and such fence or landscaping shall be installed as a part of the initial construction.

6.5 Signs and Fences.

- A. All advertising signs, including billboards, shall be considered commercial structures for the purposes of these Regulations, and as such, shall require a conditional use permit prior to construction.
- B. Advertising sign structures shall be limited to not more than one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) per each additional one hundred (100) feet of additional lot frontage. Such structure may not contain more than two (2) signs per facing nor exceed fifty-five (55) feet in total length. No advertising sign may be erected within one hundred (100) feet of adjoining residential property. Signs shall

be set back a minimum distance of 130 feet from the center line of any street, road or highway, provided that it shall be the policy of this County to grant a variance for placement of a sign no closer than ten feet (10) to the right of way of the road authority, provided the person or entity seeking the variance can make a showing of no danger to the traveling public.

- C. Lighted signs and other lighting shall be directed in a manner that will not disturb neighboring residential properties, or create a hazard or nuisance.
- D. Fences shall be set back no less than two (2) feet from the nearest property line or road authority right-of-way.

6.6 Utilities; Drainage. Adequate utilities, drainage and other utility facilities shall be provided.

6.7 Additional Requirements. Adequate measures shall be taken to prevent or control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance.

6.8 Mobile Homes and Mobile Home Parks. Mobile Homes. No mobile home shall be parked and occupied in any district outside an approved mobile home park for more than nine (90) days without a building permit.

6.9 Home Occupations.

- A. **Permitted Use:** Single family dwellings, apartments, and private residential garages may be used for a home occupation. The use of a single-family dwelling, apartment, or private residential garage for a home occupation shall be clearly incidental and subordinate to the principal use of the residential structure.
- B. **Area Requirements:** The area to be used for the home occupation shall not exceed one-third of the main floor area of a dwelling unit or apartment, and shall not exceed one-half of the main floor area of a private residential garage.
- C. **Owners/Managers:** Only members of the family residing on the premises shall own or manage the home occupation.
- D. **Fees:** An initial application to the Zoning Administrator for a home occupation permit shall be free. If the permit is denied, and the applicant requests hearing before the Board of Adjustment, the fee shall be the same as that set forth in Section 7.2 of this Ordinance.
- E. **Entrance and Exit:** The home occupation shall use the existing entrance and

exit.

- F. **Outside Storage:** There shall be no outside storage, except by permit.
- G. **Performance Characteristics:** Home occupation shall not adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, light, heat, vibration, excess traffic, or electrical interference.
- H. **Procedure:** Home occupation permits shall: (1) be obtained prior to starting the home occupation; (2) be issued or denied by the zoning administrator; (3) be reviewed prior to any change in business type, or any expansion of the size, structure or nature of the business; (4) be terminated if: (a) the use has been discontinued for a period exceeding sixty (60) consecutive days; or if (b) the Board of Adjustment finds violations of the conditions imposed by this subdivision; or if (c) the Board of Adjustment finds the occupation has become a danger to the public health, safety, morals, or general welfare; or (d) when the home occupation has expanded beyond the criteria set forth at 6.9, B. above, so the use is commercial or industrial, in which case the conditional use permit shall be required.

SECTION 7. APPEALS.

7.1 Creation, Members, Terms, Meetings, Rules. A Board of Adjustment is hereby established and shall consist of three (3) members and one (1) alternate, each to be appointed by the County Board of Commissioners for the effective date of this resolution, removable for just cause as defined in the Kittson County Employee Handbook by the appointing authority upon written notice and opportunity for hearing. Vacancies shall be filled by the appointing board for the unexpired term of any member whose term becomes vacant.

The members of the Board shall select one of their number as Chairman and another as Vice Chairman, who shall act as Chairman in the Chairman's absence, and the third member shall be the Secretary of the Board and keep a record of all proceedings. All shall serve one (1) year and until their successors have been selected. Meetings of the Board shall be held at the call of the Chairman, or the Zoning Administrator, and at such other times as the Board shall determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt from time to time, subject to the approval of the County Board, such rules and regulations as it may deem necessary, to carry the appropriate provisions of these regulations into effect.

7.2 Appeals to Board, Record of Appeal, Hearing and Stays.

The provisions of this section apply to all appeals to the Board of Adjustment as set forth in Sections 7.40, 7.45 and 7.48 below. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of an officer administering this ordinance. Such appeal shall be taken within 15 days, as provided by the rules of the Board of Adjustment by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that, by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise 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 officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

Whenever an appeal is brought to the Board of Adjustment, the Zoning Administrator shall serve written notice by U.S. Mail on all land owners having property within one-quarter (1/4) mile of the property at issue. Said written notice shall be made by mailing notice to the last recorded address for each owner as listed on the County Treasurer's most recent tax statement for said property. Failure of any property owner to receive such notification shall not invalidate the proceedings. Notification shall be by first class mail. In addition, notice must be published in the County's official newspaper prior to six (6) days before the date of the hearing.

Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which a conditional use permit, variance or home occupation permit is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property, at the courthouse, and in one (1) other public place at least fifteen (15) days prior to the public hearing.

Hearings before the Board of Adjustment must be recorded or transcribed, and all documents received by the Board or created or sent by the Zoning Administrator, including notices of hearings, shall be marked as exhibits and retained as part of the record of the proceedings.

Every applicant for a variance or conditional use permit shall pay, as their application fee, the mileage and other expenses associated with convening the Board of Adjustment, together with a one-time additional fee of \$150.00, which additional fee shall cover any and all future review hearings before the Board of Adjustment concerning that permit.

7.3 Powers and Jurisdiction Relating to Administrative Review. The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or other regulation referenced in this ordinance.

7.4 Powers and Jurisdiction Relating to Variances

- A. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the Ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit and caprice.
- B. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
- C. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted, demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structure, or buildings in the same district.
- D. Non-conforming use of neighboring lands, structures, or buildings in the same district, and permitted or non-conforming use of lands, structures or buildings in other districts shall not alone be considered grounds for the

issuance of a variance.

- E. Notice of public hearing shall be given as set forth in 7.20 above; the public hearing shall be held. Any party may appear in person, or by agent or by attorney; the Board of Zoning Adjustment shall make written findings that the requirements of this section have been met by the applicant for a variance; the Board of Adjustment shall further make a written finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the Board of Adjustment shall further make a written finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

- F. 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 Resolution and punishable under Section 12 of this Ordinance. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing variance to determine if, more likely than not, the holder of the variance is in full compliance with any conditions set by the Board of Adjustment at the time the variance was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the variance is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the variance or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written findings supporting its decision must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.45 Powers and Jurisdiction Relating to Conditional Use Permits - The Board of Adjustments shall have the power where a use is proposed that would not normally be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare, to authorize, upon an application and hearing relating to the property, a conditional use permit from the strict application of permitted uses.

- A. When considering an application for conditional use permit, the Board of Adjustment shall consider the following criteria:

- i. whether, given the nature of the land, the requested use is compatible with general welfare, public health and safety.
 - ii. whether the requested use will not create an unreasonably excessive burden on the existing roads or other utilities.
 - iii. whether the requested use is compatible with the surrounding area and will not significantly depreciate nearby properties.
 - iv. whether the structure and the use have an appearance that will not have an unreasonably adverse effect on nearby properties.
 - v. whether the requested use is consistent with the purposes of these Kittson County Zoning and Subdivision Regulations.
 - vi. whether the requested use will not create an unreasonably adverse affect because of noise, odor, glare, or general unsightliness, for nearby property owners.
 - vii. whether the requested use is reasonably related to the existing land uses and environment.
 - viii. whether there are no apparent unreasonable health risks posed to neighbors or to the public in general.
 - ix. whether, after reviewing the above criteria, the applicant has demonstrated that, more likely than not, the proposed use, if controlled as to the number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.
- B. In granting a conditional use permit or the alteration of an existing conditional use permit, the Board of Adjustment may impose, in addition to the standards and requirements expressly specified in these Zoning Regulations, additional conditions considered necessary to protect the best interests of the surrounding community as a whole.
- C. Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which conditional use permit is sought or his agent shall be notified by mail. Notice of hearing shall be posted on the property for which conditional use permit is sought, at the courthouse and in one (1) other public place at least fifteen (15) days prior to the public hearing.

- D. If the Board of Adjustment, in granting a conditional use permit, prescribes appropriate conditions and safeguards in conformity with these Zoning Regulations, the violation of such conditions and safeguards when made a part of the terms of the conditional use permit is a violation of this resolution and punishable under Section 12 of this Ordinance.
- E. A public hearing shall be held. Any party may appear in person, or by agent or by attorney. The Board of Adjustment shall make written findings whether the requirements of this Section have been met by the applicant for a conditional use permit, and make written findings whether the reasons set forth in the application or justify denial or the granting of the conditional use permit. The Board of Adjustment, in its discretion, may determine what conditions, if any, shall be applied to the use to decrease any possible adverse affects.
- F. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing conditional use permit to determine if, more likely than not, the holder of the conditional use permit is in full compliance with any conditions set by the Board of Adjustment at the time conditional use permit was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the conditional use permit is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the conditional use permit, or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written findings supporting its decision must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.48 Powers and Jurisdiction-Related to Home Occupations: The Zoning Administrator, and the Board of Adjustment, shall have the power to provide home owners and residential renters the opportunity to conduct a small-scale, commercial use within a home or accessory building they occupy.

- A. When reviewing the decision of the Zoning Administrator concerning a home occupation permit, the Board of Adjustment shall consider each criteria set forth in Section 6. 9, A through H set forth above.
- B. In granting a home occupation permit or the alteration of an existing home occupation permit, additional conditions may imposed, in addition to the standards and requirements expressly specified in these Zoning Regulations, necessary to protect the best interests of the surrounding community as a whole.

- C. A Home Occupation Permit shall not be granted unless a written application for home occupation permit is submitted, demonstrating that, more likely than not, the proposed use shall not adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, heat, light, vibration, excess traffic, or electrical interference. Non-conforming neighborhood structures or buildings, or non-permitted uses of neighborhood structures or buildings, or the location of other home occupations, shall not alone be considered grounds for the issuance of a home occupation permit.
- D. If a decision concerning a home occupation permit is brought before the Board of Adjustment, then the provisions of Section 7.20 apply in addition to the provisions of this Section.
- E. A public hearing shall be held. Any party may appear in person, or by agent or by attorney. The Board of Adjustment shall make written findings whether the requirements of this Section have been met by the applicant for a home occupation permit, and make written findings supporting the reasons set forth in the application to justify denial or the granting of the home occupation permit. The Board of Adjustment shall further make a written finding as to whether the home occupation does adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, heat, light, vibration, excess traffic or electrical interference. In addition, the Board of Adjustment shall set forth what conditions, if any, shall be applied to the home occupation permit to decrease any possible adverse effects.
- F. If the Board of Adjustment, in granting a home occupation permit, prescribes appropriate conditions and safeguards in conformity with these Zoning Regulations, the violation of such conditions and safeguards when made a part of the terms of the home occupation permit is a violation of this resolution and punishable under Section 12 of this Ordinance.
- G. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing home occupation permit to determine if, more likely than not, the holder of the home occupation permit is in full compliance with any conditions set by the Board of Adjustment at the time home occupation permit was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the home occupation permit is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the home occupation permit, or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written

findings supporting the same must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.5 Board of Adjustment Has Powers of Administrative Officer on Appeals; Reversing Decision of Administrative Officer. In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the officer from whom the appeal is taken.

The concurring vote of two (2) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination by any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variation in this Resolution.

7.6 Appeals to County Board. Any person or persons, aggrieved by a decision of the Board of Adjustment (or any action of the Zoning Administrator not subject to review by the Board of Adjustment) may appeal to the County Board by notice of appeal filed with the County Board. All hearings and deliberations of the County Board shall be recorded or transcribed, and all exhibits, notices and submissions shall be retained, to preserve an accurate record of the appeal before the County Board.

- A. The decision of the Board of Adjustment becomes final if a Notice of Appeal is not filed with the County Auditor within fifteen (15) days after the date on which the written decision of the Zoning Administrator or Board of Adjustment is mailed or delivered to those affected by the decision.
- B. Standing - Appeal may be made by any person or group of persons directly affected by the Board of Adjustment's decision or the Zoning Administrator's decision. The County Board shall agree to hear the appeal of those who have standing, unless it finds that the appeal is untimely, meritless, trivial, or brought solely for the purpose of delay.
- C. Parties to the appeal are the appellant, the Zoning Administrator, and any other persons required to receive notice and who have standing with regard to the decision of the Board of Adjustment.
- D. If the Board of Adjustment has made formal findings contemporaneously with its decision, and if there is an accurate record or transcript of the proceedings or all persons with standings have stipulated to the essential facts, and if the proceedings were fairly conducted, the County Board will

base its review strictly on the record. If there is no adequate or complete record of the proceedings below, the County Board shall hear the matter de novo.

- E. The appellant must file with the County Administrator a notice of appeal together with a copy or written summary of the decision being appealed and an affidavit that a copy of the notice of appeal has also been mailed or delivered to the Zoning Administrator. Upon receiving the notice of appeal, the County Administrator shall request a complete record of the proceedings below from the Zoning Administrator, and at the next regular meeting of the County Board, the County Board shall review said materials and issue a decision with regard to persons entitled to standing and the appropriate scope of appeal. At the same meeting, the County Board shall set a time for hearing the appeal, to take place no later than fourteen (14) days after a determination is made on the issues of standing and the scope of appeal. If de novo review is not granted, no testimony will be taken at the appeal hearing, and no new evidence shall be submitted, and the Board may, in its discretion, limit the length and scope of oral presentation and/or briefs submitted by each party.

- F. When review is based on the record alone, then the County Board will affirm the Board of Adjustment's decision or the Zoning Administrator's decision if the findings below are not clearly erroneous, if the law has been correctly applied to the facts, if the Board or Administrator did not clearly abuse its discretionary authority, and if the Board or Administrator made no procedural errors prejudicial to a party.

- G. When the County Board grants a de novo hearing, then it shall:
 - 1. Hear upon written notice pursuant to Section 7.2 and according to the deadlines as set forth in Paragraph C above;

 - 2. Apply the criteria set forth in Section 7.40 for Variances, Section 7.45 for Conditional Use Permits, and Section 7.48 for Home Occupation Permits, when considering the merits of any application:

 - 3. Maintain a true and accurate record of the proceedings, either by electronic recording or by court reporting and retain all written exhibits and notices in an orderly fashion; and

 - 4. Issue appropriate written findings (after a full and fair hearing) as set forth above in Section 7.40, 7.45 and 7.48 respectively, prescribing any appropriate conditions or safeguards it deems necessary, and issuing the same according to Paragraph H. below.

- H. Following the hearing, the County Board shall issue its written findings and a written order within fifteen (15) days and have the County Administrator serve the same by United States mail on any appellant or respondent, and on the Zoning Administrator, either personally or by counsel.

7.7 Appeals to a Court of Record. Any person or persons, aggrieved by a decision of the County Board, may appeal to the District Court.

SECTION 8. SUBDIVISION REGULATIONS

8.1 Application of Regulations. Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of these Regulations shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into ten (10) or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the re-subdivision or re-platting of land or lots. Division of land into tracts larger than two and one half (2 1/2) acres in area and one hundred and fifty (150) feet in smallest dimension shall be exempt from the requirements of this Resolution.

8.2 Approvals Necessary for Acceptance of Subdivision Plats. Before any plat shall be recorded or be of any validity, it shall have been approved by the County Planning Commission and by the Board of County Commissioners as having fulfilled the requirements of these Regulations.

8.3 Preliminary Plat.

8.3.1 Procedures.

- (1) Copies of the preliminary plat shall be submitted to the County Engineer and the County Planning Commission at least ten (10) days prior to the Commission meeting at which consideration is requested. Approval or disapproval of a preliminary plat shall be conveyed to the subdivider in writing within ten (10) days after the meeting of the Planning Commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Commission.
- (2) The County Engineer shall review the preliminary plat and prior to the Commission meeting, submit a report to the County Planning Commission concerning the Engineering feasibility of the proposed plat and its conformance with the requirements of these Regulations.

- (3) After review and approval of the preliminary plat by the county Planning Commission, such preliminary plat, together with the recommendations of the Planning Commission shall be submitted to the Board of County Commissioners for approval. Approval or disapproval of the preliminary plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the Board of County Commissioners at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Board.
- (4) The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat. This approval of the preliminary plat shall be effective for a period of one (1) year, unless an extension is granted by the Board of County Commissioners. The subdivider may file a final plat limited to such portion of the preliminary plat which he proposes to record and develop at the time, provided that such portion must conform to all requirements of these Regulations. If some portion of the final plat has not been submitted for approval within this period, a preliminary plat must again be submitted to the County Planning Commission and the Board of County Commissioners for approval.

8.3.2 Data Required.

The preliminary plat shall contain the following information:

- (1) Proposed name of subdivision. Names shall not duplicate or too closely resemble names of existing subdivisions.
- (2) Location of boundary line in relation to a known section, quarter section, or quarter-quarter section lines and any adjacent corporate boundaries, comprising a legal description of the property.
- (3) Names and addresses of the developer and the designer making the plat.
- (4) Scale of plat, not less than one (1) inch to one hundred (100) feet.
- (5) Date and north point.
- (6) Existing condition.

- (a) The location and width of proposed streets, roadways, alleys and easements.
- (b) The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas and power lines.
- (c) Layout, numbers and approximate dimensions of lots and the number or letter of each block.
- (d) Location and size of proposed parks, playgrounds, churches, or school sites or other special uses of land to be considered for dedication to public use, or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.
- (e) Building setback lines with dimensions.
- (f) Indications of any lots on which a use other than residential is proposed by the subdivider.
- (g) The zoning districts, if any, on and adjacent to the tract.

8.3.3 Supplementary Requirements

Upon request of the County Planning Commission, supplementary information shall be submitted; such supplementary information may include the following:

- (1) Topography with contour intervals of not more than five (5) feet related to United States Geological Survey datum; also the location of water course, ravines, bridges, lakes, wooded areas, approximate acreage, and other such features as may be pertinent to subdivision.
- (2) A copy of the profile for each proposed street, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown.
- (3) Vicinity sketch, at a legible scale, to show the relation of the plat to its

surroundings.

8.4 Final Plat

8.4.1 Procedures

After the preliminary plat has been approved, the final plat may be submitted for approval as follows:

- (1) Copies of the final plat shall be submitted to the County Engineer and County Planning Commission at least ten (10) days prior to the Planning Commission meeting at which consideration is requested. Approval or disapproval of the final plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the County Planning Commission, at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Commission.
- (2) The County Engineer shall review the final plat and prior to the Commission meeting submit a report to the County Planning Commission regarding the conformance of the proposed final plat to the approved preliminary plat and the requirements of these regulations.
- (3) After review and approval of the final plat by the County Planning Commission, such final plat, together with the recommendations of the Planning Commission shall be submitted to the County Board for consideration. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, roads, easements and other public ways, and open spaces deducted to public purposes. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Board of County Commissioners and reported to the person or persons applying for such approval.

8.4.2 Data Required

The final plat prepared for recording purposes shall be prepared in accordance with provisions of Minnesota State statutes and shall contain

the following information:

- (1) Name of subdivision (not to duplicate or too closely approximate the name of any existing subdivision).
- (2) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must be mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in five thousand (5,000).
- (3) The location of survey control monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half (1/2) inch or larger in diameter extending at least three (3) feet below the finished grade.

In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

- (4) Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.
- (5) Lots shall be numbered clearly. If blocks are shown to be numbered or lettered, these should be shown clearly in the center of the block.
- (6) The exact locations, widths, and names of all streets to be dedicated.

- (7) Location and width of all easements to be dedicated.
- (8) Boundary lines and description of boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use.
- (9) Name and address of developer and surveyor making the plat.
- (10) Scale of plat (the scale to be shown graphically and in feet per inch), date and north point.
- (11) Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements."
- (12) Statement dedicating all streets, roads, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

8.4.3 Certifications Required on Final Plats

- (1) Notarized certification by owner and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.
- (2) Notarized certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.
- (3) Certification showing that all taxes and special assessments due on the property have been paid in full.
- (4) Space for certificates of approval to be filled in by the signatures of the Chairman of the County Planning Commission and the County Board of Commissioners.

8.5 Design Standards

8.5.1 Blocks

Block lengths shall normally not exceed thirteen hundred and twenty (1,320) feet.

8.5.2 Streets and Roads

- (1) Streets normally shall connect with streets already dedicated, or provide for future connections to adjoining unsubdivided tracts.
- (2) Cul-de-sacs may be permitted when conditions justify their use. Cul-de-sacs shall normally not be longer than five hundred (500) feet in length, including the terminal turn-around. The required terminal shall be nearly circular in shape and have a minimum diameter of one hundred (100) feet.
- (3) The minimum angle of intersection of streets shall be eighty (80) degrees.
- (4) Wherever the proposed subdivision contains or is adjacent to the right-of-way of a state or Federal highway, a marginal access service street approximately parallel and adjacent to the boundary of such right-of-way may be required.
- (5) Dedication of half streets will not be approved, except where it is essential to the reasonable development of the subdivision.
- (6) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of proposed future street system for the unsubdivided portion may be required.
- (7) For all public streets and roads hereafter dedicated and accepted, the right-of-way widths shall not be less than the minimum dimensions for each classification as follows:

| | |
|------------------------------|---------|
| Minor residential street | 60 feet |
| Marginal access service road | 50 feet |

- (8) Minor street or driveway access to state and Federal highways shall not be permitted at intervals of less than six hundred (600) feet.

8.5.3 Lots

- (1) Corner lots shall have additional width to permit appropriate building setback from both streets.

- (2) Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- (3) Every lot must have at least the minimum required frontage on a public dedicated street.

8.5.4 Easements

Where appropriate, easements for utilities or drainage may be required. Easements shall be of a width suitable for the intended uses.

8.6 Required Improvements. Before a final plat is approved, the subdivider shall give satisfactory assurance of the installation of improvements as required by the Board of County Commissioner.

SECTION 9. ADMINISTRATION: LAND USE PERMITS

9.1 Zoning Administrator. The Board of County Commissioners shall appoint such employee or employees of the County and/or such other persons, including authorized city clerks, as it may deem proper to act as zoning administrator or deputy zoning administrators. It shall be the duty of the zoning administrator and authorized deputies to administer and enforce these regulations through the proper legal channels; issue land use permits and maintain records thereof; and provide a source of public information relative to this Ordinance.

9.2 Compliance with Regulations. No person shall erect, alter, wreck, or move any building or part thereof or make any improvement to land without first securing a land use permit therefor. No permit shall be required for an improvement if that improvement does not increase the number of bedrooms in an existing dwelling, nor does it change the footprint of an existing dwelling or structure, unless the improvement or use involves the following:

1. Demolition sites.
2. Disposal of contaminated soil
3. Landfills
4. Wetlands
5. Underground tanks
6. Digging or filling a well

The addition or expansion of decks and/or exterior stairs are considered changes to the footprint of an existing dwelling or structure.

9.3 Land Use Permits. Application for a land use permit shall be made to the zoning Administrator on blank forms to be furnished by the county. Applications for any kind of land use 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 land use permit shall be \$50.00 for lands not in the floodplain and not considered shoreland, and \$100.00 for lands within the floodplain or designated as shoreland, except that from time to time these fees may be amended or changed by the County Board of Commissioners based on a formula related to the cost of administration. The Zoning Administrator shall issue the building permit after determining that the building plans, together with the application, comply with the requirements of this Ordinance and that the applicant has no zoning violations outstanding or delinquent property taxes.

9.4 After-the-Fact Land Use Permits. Any landowner who violates this Ordinance, shall pay the following fees:

| | |
|---|------------|
| Deck or Shed <150 sq. ft. | \$250.00 |
| Deck or Shed >150 sq. ft. (includes detached garages) | \$500.00 |
| Addition to Existing Home <600 sq. ft. | \$300.00 |
| Addition to Existing Home >600 sq. ft. | \$600.00 |
| Cabin (Unfinished) | \$250.00 |
| New Home <1000 sq. ft. (included older home moved to new location) | \$300.00 |
| New Home <1000 sq. ft.(includes new home with attached garage) | \$300.00 |
| New Home >1001 to 2500 sq. ft. (includes older home moved to new locations) | \$600.00 |
| New Home >1001 to 2500 sq. ft. (includes new home with attached garage) | \$600.00 |
| New Home >2501 sq. ft. (included older home moved to new location) | \$900.00 |
| New Home >2501 sq. ft. (includes new home with attached garage) | \$900.00 |
| Grain Bin <4000 bushels | \$400.00 |
| Grain Bin >4000 bushels | \$800.00 |
| Agriculture Building <5000 sq. ft. | \$500.00 |
| Agriculture Building >5000 sq. ft. | \$1,000.00 |
| Addition to Existing Agriculture Building | \$500.00 |
| Commercial and Industrial Building | \$1,000.00 |
| Addition to Existing Commercial and Industrial Building | \$500.00 |

9.5 Builders and Contractors. Sections 9.2, 9.3, and 9.4 apply equally to all persons, including but not limited to, property owners, renters, builders or contractors, and volunteers. This Ordinance specifically contemplates that prior to proceeding, any builder or contractor will verify the existence of a permit if the same has been obtained

by an owner or renter, and that likewise, owners or renters will verify the existence of a permit if the same has been obtained by a builder or contractor. A copy of the approved permit must be posted at the proposed construction site before construction begins.

SECTION 10. NON-CONFORMING USES

10.1 Continuation. For lands within municipalities, which municipalities have allowed zoning authority to be vested in Kittson County on or before June 5, 2007, the lawful use of buildings or land existing on the date zoning authority was vested in Kittson County, may continue, but not be expanded, even though such use does not conform with the provisions of this ordinance. The lawful use of buildings or land outside of municipalities existing on January 1, 1995, may continue, but not be expanded although such use does not conform with the provisions of this ordinance. 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 restricted use.

10.2 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 nine (9) months, the use of the same shall thereafter conform to the regulations of this ordinance.

SECTION 11. AMENDMENTS

This Resolution may be amended whenever the public necessity and convenience and the general welfare require such amendment after a duly advertised hearing held by the County Planning Commission.

SECTION 12. ENFORCEMENT

12.1 Violation a Misdemeanor. When any person intentionally performs an act prohibited or declared unlawful, fails to act when such failure is prohibited or declared unlawful, fails to take action when said action is required, or fails to take action to abate the existence of a violation within the specified time period when ordered or notified to do so by the county, that person violates the section, subdivision, paragraph, or provision of this ordinance within which such act or action is prohibited, declared unlawful, or required, and upon conviction thereof, shall be punished for a misdemeanor. A separate offense shall be deemed committed upon each day that the Kittson County Courthouse is normally open for business during or on which a violation occurs or continues. All violations of this ordinance shall be prosecuted by the County Attorney.

12.1.2 Citations. Whenever the County determines that there is probable

cause to believe that an intentional violation of this ordinance has been committed by any person, a citation may be issued to the person alleged to have committed the violation.

12.1.2.1 Forms of Citations. Citations shall be in a form designated by the County and approved by the County Attorney.

12.1.2.2 Issuance. The citation shall be issued to the person to be charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

12.2 Equitable Relief. In the event of a violation or a threat of violation of this ordinance, the County Attorney may take appropriate action to enforce this ordinance, including application for injunctive relief, action to compel performance or other appropriate action in court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.

12.3 Civil Action. If a person fails to comply with the provisions of this ordinance, the County may recover costs incurred for corrective action, including reasonable attorney's fees, in a civil action in any court of competent jurisdiction.

12.4 Rules of Construction. In construing this ordinance, the following rules of construction are to govern, unless their observance would be inconsistent with the obvious intent of the County, or contrary to the context of the ordinance.

12.4.1 Indemnification. This ordinance shall not be construed to hold the County or any officer or employee of the County, responsible for any damage to persons or property by reason of inspections or re-inspections authorized by the provisions of this ordinance, or by reason of the approval of disapproval of equipment or licensing herein, nor for any action in connection with the inspection or control of solid waste or refuse or in connection with any other official duties.

12.4.2 Severability. It is hereby declared to be the intention of the Board that the provisions of this ordinance be severable as follows:

12.4.2.1 Ordinance Provisions. If any court of competent jurisdiction shall adjudge any provisions of this ordinance to be invalid, such judgment shall not affect any other provisions of the ordinance not specifically included in said judgment.

12.4.2.2 Structures, Sites and Operations. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular structure, site or operation,

such judgment shall not affect the application of said provision to any other structure, site or operation not specifically included in said judgment.

12.4.3 Ordinance Remedies and Provisions Cumulative. Each right or remedy conferred on or reserved to the County under this ordinance is cumulative in and in addition to every other right or remedy provided for in this ordinance. The provisions in this ordinance are in addition to all other laws and ordinances passed, or which may be passed hereafter, covering any subject matter in this ordinance. Additional local, state and federal laws and rules regulating or restricting land use in Kittson County for which permits or licenses in addition to a building permit may be required include those pertaining to:

Feedlots, individual sewage treatment systems, wetlands, shorelands, flood plains, wells, waste disposal, lands affected by city and airport zoning ordinances, lands adjacent to railroad, public and public-utility lands and rights-of-way, advertising signs, noxious weeds.

12.4.4 Meanings. Words of male gender shall include the female and neuter, the singular shall include the plural and the plural shall include the singular.

SECTION 13. COUNTY ZONING CONTROL AREAS.

The County has, by adoption of this ordinance, established and has determined the boundaries of county zoning control areas to be all areas within the County except: NO EXCEPTIONS.

The Board may terminate, re-establish, enlarge, revise, or alter the county zoning control area so established by amendment of this ordinance.

SECTION 14. DATE OF EFFECT

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

APPROVED BY: KITTSON COUNTY BOARD OF COUNTY COMMISSIONERS

Passed and approved on May 16th, 2017.


Chairman

ATTEST:


County Administrator

Recommended by: THE COUNTY PLANNING COMMISSION

5/16/17
Date


Zoning Administrator

NOTICE OF A PUBLIC HEARING

Notice is hereby given that a public hearing will be held on Tuesday, June 5, 2007, at 9 a.m. by the Kittson County Board of Commissioners in the Kittson County Courthouse upstairs meeting room for the purpose of hearing all written or oral comments on the proposed amended Kittson County Zoning Ordinance. Provisions in the proposed regulations include permitted uses, conditional use permits, variances, standards, subdivision regulations, administration, appeals, and enforcement. A copy of the proposed regulation is on file in the office of the Kittson County Auditor and the Kittson County Zoning Administrator for public inspection.

Holly Anderson
Kittson County Zoning Administrator

**NOTICE OF THE ADOPTION OF THE ZONING REGULATIONS FOR
KITTSOON COUNTY**

NOTICE IS HEREBY GIVEN that the Kittson County Board of Commissioners did, on June 5, 2007, adopt the Kittson County Zoning Regulations for Kittson County, and did rescind the Kittson County Zoning and Subdivision Regulations dated 7/12/71 and amendments thereto dated 4/12/73, 11/5/73, 8/8/75 and 12/20/94.

Provisions in the adopted regulations include permitted uses, conditional use permits, variances, standards, subdivision regulations, administration, appeals, and enforcement. A copy of the regulations is on file in the office of the Kittson County Auditor and the Kittson County Zoning Administrator for public inspection. This notice shall serve as a summary of the regulations as provided for in Minnesota Statutes 331A.01 and is published in accordance with Minnesota Statutes 375.51.

Dated at Hallock, Minnesota this 11th day of June, 2007.

Holly Anderson
Kittson County Zoning Administrator

A000179992

OFFICE OF COUNTY RECORDER
KITTSOON COUNTY, MINNESOTA

FILED AND RECORDED ON
06/14/2007 09:00AM

PAGES: 40
REC FEE: \$0.00

JANICE KLEIN
KITTSOON COUNTY RECORDER
BY *Buster Hultgren* DEPUTY

CERTIFICATE

I, Marilyn Gustafson, County Auditor-Treasurer of the County of Kittson, State of Minnesota, hereby certify that the Kittson County Board of Commissioners did, on June 5, 2007, amend the Kittson County Zoning Regulations for Kittson County, and did rescind the Kittson County Zoning and Subdivision Regulations dated 12/20/94.

WITNESS my hand and seal at Hallock Minnesota, this 14th day of June, 2007.



Marilyn Gustafson
Marilyn Gustafson
Kittson County Auditor-Treasurer

**2007 AMENDED
KITTSOON COUNTY ZONING REGULATIONS**

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Kittson County, Minnesota

**KITTSON COUNTY ZONING AND
SUBDIVISION REGULATIONS**

THESE AMENDED ZONING AND SUBDIVISION REGULATIONS ARE ADOPTED JUNE 5, 2007 TO ENCOURAGE GROWTH OF BUSINESS AND COMMERCE, TO EXPAND EMPLOYMENT THROUGHOUT THE COUNTY, TO PROMOTE THE SAFE AND ORDERLY USE OF LANDS AND TO PROMOTE THE HEALTH, SAFETY AND GENERAL WELFARE OF THE PEOPLE OF THE COUNTY BY:

1. CONTROLLING CONGESTION OF ROADS, HIGHWAYS AND POPULAR AREAS.
2. DISCOURAGING LAND USES WHICH ARE NOT COMPATIBLE WITH LAND TYPE, NEIGHBORING USES, PUBLIC OR ENVIRONMENTAL SAFETY.
3. FOSTERING CONSERVATION OF LAND VALUES AND RESOURCES.
4. FACILITATING EFFICIENCY IN PLANNING FOR TRANSPORTATION, WATER, SEWERAGE AND OTHER PUBLIC NEEDS.
5. INSURING FAIR AND ACCURATE MONITORING OF LAND IMPROVEMENTS FOR TAXATION PURPOSES.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF KITTSON ORDAINS:

SECTION 1. TITLE

This resolution shall be known and may be cited and referred to as the "Kittson County Zoning Regulations."

SECTION 2. (RESERVED)

SECTION 3. SCOPE: INTERPRETATION

3.1 Scope. From and after the effective date of these Regulations, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the County of Kittson, including that area within the incorporated municipalities acting pursuant to M.S.A. §394.32, shall be in conformity with the provisions of these Regulations. Any existing building or structure or any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, or changed subject to the special regulations herein provided with respect to nonconforming properties or uses.

3.2 Interpretation. In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the public health, safety, comfort, convenience and general welfare. Where the provisions of these Regulations impose greater restrictions than those of any statute, other resolution or regulation, the provisions of these Regulations shall be controlling. Where the provisions of any statute, other resolution or regulation impose greater restrictions than these Regulations, the provisions of such statute, other resolution or regulation shall be controlling.

SECTION 4. RULES AND DEFINITIONS

4.1 Rules. For the purpose of these Regulations, 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 not discretionary.

4.2 Definitions. For the purpose of these Regulations, certain terms and words are defined as follows:

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

Agricultural - Farming, ranching, greenhouses, nurseries, truck gardens, sod farms, orchards and apiaries; the harvesting of timber or wood for sale.

Block - is an area of land which a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

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

Building Height - The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Commercial-Industrial - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods or services; or for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Community Water and Sewer Systems - Utility systems serving a group of buildings, lots, or an area of the County with the design and construction of such utility systems as approved by the County Engineering Department or like agency.

Conditional Use Permit - A conditional use permit is a relaxation of the terms of these Zoning Regulation as applied to the use or uses of a particular property, where the proposed use would not be appropriate generally or without restriction throughout the zoning district but which, if controlled, as to the number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as conditional use permits, if specific provision for such conditional use permit is made in these Regulations.

Corner Lot - A lot situated at the junction of and fronting on two (2) or more streets.

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

Depth of Rear Yard - The mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists, otherwise a rear lot line.

Dwelling - Any building or part thereof which is designed or used exclusively for residential purposes by one (1) or more human beings either permanently or transiently.

Dwelling, One Family - A building designed for or occupied exclusively by one

family.

Dwelling, Multi-Family - A building designed for or occupied exclusively by not more than four families.

Easement - A grant by a property owner for the use of a strip of land for the purpose of constructing and maintain utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

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

Final Plat - A drawing or a map of a subdivision, meeting all the requirements of the county and in such form as required by the County for purposes of recording.

Floor Area - The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.

Home Occupation - A business or industry which provides home owners and residential renters with an opportunity to conduct a small scale commercial use within a home (or an accessory building on lands adjacent to the home) which they occupy.

Improvement – Any change to a building or structure which is not a routine, general repair.

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

Lot Area - The land area within the lot's lines.

Lot Area Per Family - The lot area per family is the lot area required by these Regulations to be provided for each family in a dwelling.

Lot, Double Frontage - An interior lot having frontage on two (2) streets.

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

Lot Lines - The lines bounding a lot as defined herein. When a lot line abuts a street, avenue, park or other public property except an alley, such line shall be known as a street line, and when a lot line butts on an alley, it shall be known as an alley line.

Lot Width - The width of a lot is its own mean width measured at right angles.

Mobile Home - Any occupied vehicle used or so constructed as to permit it being used as a conveyance on the public streets or highways and duly licensed as such, and shall include: self-propelled or non-self-propelled vehicles so designed, constructed, reconstructed or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one (1) or more persons. Nothing in this definition shall be construed so as to include prefabricated, precut residences or those manufactured in sections or parts away from the site and transported thereto for erection, provided that when completely erected, said prefabricated, precut or manufactured residences shall be on a permanent foundation and in all respects comply with the Uniform Building Code, 1970 Edition and Amendments thereto, recommended by the International Conference of Building Officials.

Mobile Home Park - Any premises where one or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for one or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles or enclosure used or intended for use or intended wholly or in a part, for the accommodation of automobile transients.

Municipally Incorporated Area - All areas, within the boundary limits of an incorporated city, including subsequently annexed areas.

Persons - Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Plot - A tract other than one (1) unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as a home site and improved or intended to be improved by the erection thereon of a dwelling and accessory buildings and having a frontage upon a public street or upon a thoroughfare or upon a highway or upon a traveled or used road and including as a minimum such open spaces as required under this Ordinance.

Preliminary Plat - A tentative drawing or map of a proposed subdivision meeting

requirements herein enumerated.

Premises - A lot or plot with the required front, side and rear yards for a dwelling.

Road - a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designed as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

Routine, General Repair - Any activity that will alter or restore to a new or usable condition worn or deteriorated items of construction. Items of routine, general repair include: Interior painting; exterior painting; siding repair; roofing repair/replacement; window repair/partial replacement; floor covering repair/replacement; foundation repair; soffit repair; fascia repair; light fixture repair/replacement; rain gutter/down spout repair/replacement; entrance/storm-door repair/replacement; chimney repair; wall coverings repair/replacement; plumbing fixture repair/ replacement; range hood repair or replacement; smoke alarms installation/replacement.

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

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

Structure - Anything constructed or erected, the use of which require location on the ground or attachment to something having or location on the ground.

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

Subdivision - A described tract of land which is to be or has been divided into ten or more lots or parcels, any of which resultant parcels is less than two and one-half (2½) acres in area and one hundred fifty (150) feet in width, for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term includes re-subdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

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.

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.

Variance - A variance is a relaxation of the terms of the Zoning Regulations as applied to the physical conditions of a structure and/or property where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Regulations would result in unnecessary and undue hardship. As used in these Regulations, a variance is authorized for height, area, and size of structure, or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

SECTION 5 (RESERVED)

**SECTION 6. PERMITTED USES, VARIANCES
CONDITIONAL USES AND STANDARDS**

6.1 Permitted Uses (all Areas of The County Except As Otherwise Specified)

No real property shall be used within Kittson County except for one (1) or more of the following permitted uses:

- A. **Agricultural Uses** - only within areas outside of municipally incorporated areas of the county.
- B. **Commercial and Industrial Uses** - only within municipally incorporated areas of the county.
- C. **Single family dwellings** - only outside commercial and industrial areas.
- D. **Multi-family dwellings** - only outside commercial and industrial areas.
- E. **Public administration buildings, police and fire stations, and other public service buildings, except those customarily considered commercial or industrial** - within any area of the County.
- F. **Public educational institutions, or private educational institutions having an equivalent curriculum** - within any area of the County.
- G. **Parks and recreational areas owned or operated by governmental agencies** - only within residential or agricultural areas of the County.

- H. **Churches** - only within agricultural/residential areas of the County.
- I. Tracks located within railroad rights-of-ways, but not including railroad yards and railroad buildings.
- J. Accessory uses including roadways and parking lots customarily incidental to the principal use.
- K. **Home Occupations.** Home occupations are allowed without permit in lands outside municipal limits. For lands within municipal limits, home occupations must follow the criteria contained within this Ordinance.

6.1.1 All areas within Kittson County which lie outside the limits of a municipality are zoned for residential or agricultural uses, and any other use requires a conditional use permit. All areas within municipalities, which municipalities have not enacted a zoning ordinance, are zoned for residential, commercial or industrial uses.

6.20 Variances. Within Kittson County all non-conforming structures and/or properties, as determined by the Zoning Administrator, are required to obtain a variance as set forth in Section 7.

6.26 Conditional Use Permits. Within Kittson County, all uses of property, except permitted uses as defined and allowed under Section 6.1 of the Zoning Regulations, shall at the discretion of the Zoning Administrator be required to obtain a Conditional Use Permit as set forth in Section 7.

6.3 Height, Yard, Area and Lot Dimension Regulations. All buildings or structures hereafter erected or structurally altered and all land uses shall hereafter be in conformance with the following requirements:

| Class of use | Maximum Bldg. Height' (feet) | Minimum Lot Area Per DU ² (Sq. Ft.) | Minimum Lot Width (Feet) | Minimum Lot Depth (Feet) | Minimum Front Yard (Feet) | Minimum Side Yard Interior Lot (Ft.) | Minimum Side Yard Corner Lot (Ft.) | Minimum Rear Yard (Feet) |
|---|------------------------------|--|--------------------------|--------------------------|---------------------------|--------------------------------------|------------------------------------|--------------------------|
| Agricultural | 60 | – | – | – | 30 ³ | 10 | 20 | – |
| Residential - with public sewer & water | 30 | 6,250 | 50 | 125 | 30 ³ | 5 | 20 | 15 |
| -with public water or private cistern only | 30 | 14,000 | 100 | 140 | 30 ³ | 10 | 20 | 40 |
| - with public sewer only | 30 | 14,000 | 100 | 140 | 30 ³ | 10 | 20 | 40 |
| - with on-lot water and sewer facilities | 30 | 21,000 | 150 | 140 | 30 ³ | 10 | 20 | 40 |
| Commercial | 60 | – | – | – | <u>0</u> | <u>0</u> | <u>20</u> | <u>15</u> |
| Industrial | 60 | – | – | – | <u>0</u> | <u>0</u> | <u>20</u> | <u>15</u> |

¹ The height limitations contained in these Regulations shall not apply to silos used for storage of agricultural produce on agricultural property, spires, belfries, cupolas, antennas, water tanks, ventilators, domes, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

² Dwelling Unit = DU.

³ A minimum front yard setback of one hundred and thirty (130) feet shall be provided from the center line of all U.S. highways and state highways, county state aid highways, county and township roads and highways. In all other cases, the required setback shall be measured from the road right-of-way boundary.

⁴ A minimum side yard of fifty (50) feet shall be provided where lot or plot abuts agricultural or residential property. No building shall be erected under, or within 25 ft. (horizontal) of a power line exceeding 220 volts.

6.4 Off-Street Parking and Loading Regulations.

6.4.1 Minimum Size Regulations. Except as required for accessible parking, each space shall contain a minimum area of not less than two hundred and fifty (250) square feet including access drives, a width of not less than eight and one-half (8 1/2) feet, and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. Each loading space

shall contain a minimum area of not less than five hundred (500) square feet.

6.4.2 Accessible Parking. Every business and government entity that provides off street parking for customers and/or employees must have reserved accessible parking spaces for mobility impaired persons according to the following table:

| Parking Spaces Available | Accessible Spaces | Reserved For Vans |
|--------------------------|----------------------------------|-------------------|
| 1-25 | 1* | 1* |
| 25-50 | 2 | 1 |
| 51-75 | 3 | 1 |
| 76-100 | 4 | 1 |
| 101-150 | 5 | 1 |
| 151-200 | 6 | 1 |
| 201-300 | 7 | 1 |
| 301-400 | 8 | 1 |
| 401-500 | 9 | 1 |
| 500-1000 | 2% of Total Spaces | 1 For every 8 |
| 1001-Over | 20 plus 1 for Each 100 Over 1000 | 1 for Every 8 |

* One in every eight spaces must be for a van. If only one space is required it must be for a van.

Each space must be 8 feet wide with a 5 foot wide access aisle. If the space is van accessible the access aisle must be 8 feet wide.

Parking spaces must be located closest to the accessible entrance to the building. If there are curbs between the parking space and the entrance the curb must be cut. Parking spaces must be of a hard surface (paved) and the surface must be level.

There must be a sign including the universal sign for accessibility and the fine for unauthorized use for each reserved spot. The sign can be attached to a building or placed on a post. The sign must be visible when a vehicle is parked in the space. The lines marking the space must be painted blue.

6.4.3 Required Number of Off-Street Parking Spaces. Off-street parking area of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided. The minimum number of required off-street parking spaces for the following uses shall be as follows:

- (1) Single-Family Dwelling - One (1) parking space. No garage shall be converted into living space unless other acceptable off-street parking space is provided.
- (2) Multiple Family Dwelling - One (1) parking space for each family or dwelling unit.
- (3) Hospitals and Nursing Homes - Ten (10) plus one per bed.
- (4) Churches - One (1) parking space for each four (4) seats based on the design capacity of the main sanctuary.
- (5) Public Administration Buildings and Other Public Service Buildings - Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area in the principal structure.
- (6) Professional offices, Medical and Dental Clinics, and Animal Hospital - Four (4) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet of floor area.
- (7) Office Buildings - Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet of floor area.
- (8) Shopping Center - Where several business uses are grouped together according to a general development plan, off-street automobile parking shall be provided in a ratio of not less than one (1) square foot of gross parking area for each one (1) square foot of gross floor area; separate off-street parking space shall be provided for loading and unloading.
- (9) Automobile Service Station - Four (4) parking spaces plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.
- (10) Auto Sales, Trailer Sales, Marine and Boat Sales, Implement Sales,

Garden Supply Store, Building materials Sale, Auto Repair - Six (6) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000 square feet).

- (11) Bowling Alley - Five (5) parking spaces for each bowling lane.
- (12) Drive-In Restaurant - Fifteen (15) parking spaces or one (1) space for each forty (40) square feet of floor area, whichever is greater.
- (13) Motel or Motor Hotel - One (1) parking space for each rental room or suite.
- (14) Miniature Golf Course, Archery Range, or Golf Driving Range - ten (10) parking spaces; golf course, one (1) parking space per hole.
- (15) Restaurant, Café, Nightclub, Tavern or Bar - One (1) parking space for each two hundred (200) square feet of floor area.
- (16) Skating Rink or Dance Hall - One (1) parking space for each three hundred (300) square feet of floor area.
- (17) Retail Stores and Service Establishments - One (1) off-street parking space for each one hundred (100) square feet of floor area, plus one (1) space for each employee on the major shift or one (1) off-street parking space for each five hundred (500) feet of gross floor area within the building, whichever is greater.
- (18) Wholesale Business Establishments - One (1) off-street parking space for each employee on the major shift or one (1) space for each two thousand (2,000) square feet of gross floor area, whichever is greater, plus one (1) off-street parking space for each company motor vehicle.
- (19) Storage or Warehouse Establishments - One (1) off-street parking space for each two (2) employees on the major shift or one (1) space for each two thousand (2,000) square feet of floor area, whichever is larger, plus one (1) space for each company motor vehicle.
- (20) Manufacturing or Processing Plant - One (1) off-street parking space for each employee on the major shift or one (1) off-street parking space for each seven hundred (700) square feet of gross floor area within the building, whichever is the greater, plus one (1) space for each company

motor vehicle.

6.4.4 Required Loading Areas. Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements of each use.

6.4.5 Access.

- (1) Parking and loading space shall have proper access from a public right-of-way.
- (2) The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard. Frontage roads or service roads may be required when, in the opinion of the county Planning Commission, such service roads are necessary to maintain maximum traffic safety.

6.4.6 Fences and Planting Screens. Off-street parking and loading areas near or adjoining residential property shall be screened by a fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan and such fence or landscaping shall be installed as a part of the initial construction.

6.5 Signs and Fences.

- A. All advertising signs, including billboards, shall be considered commercial structures for the purposes of these Regulations, and as such, shall require a conditional use permit prior to construction.
- B. Advertising sign structures shall be limited to not more than one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) per each additional one hundred (100) feet of additional lot frontage. Such structure may not contain more than two (2) signs per facing nor exceed fifty-five (55) feet in total length. No advertising sign may be erected within one hundred (100) feet of adjoining residential property. Signs shall be set back a minimum distance of 130 feet from the center line of any street, road or highway, provided that it shall be the policy of this County to grant a variance for placement of a sign no closer than ten feet (10') to the right of way of the road authority, provided the person or entity seeking the variance can make a showing of no danger to the traveling public.
- C. Lighted signs and other lighting shall be directed in a manner that will not

disturb neighboring residential properties, or create a hazard or nuisance.

- D. Fences shall be set back no less than two (2) feet from the nearest property line or road authority right-of-way.

6.6 Utilities; Drainage. Adequate utilities, drainage and other utility facilities shall be provided.

6.7 Additional Requirements. Adequate measures shall be taken to prevent or control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance.

6.8 Mobile Homes and Mobile Home Parks. Mobile Homes. No mobile home shall be parked and occupied in any district outside an approved mobile home park for more than nine (90) days without a building permit.

6.9 Home Occupations.

- A. **Permitted Use:** Single family dwellings, apartments, and private residential garages may be used for a home occupation. The use of a single-family dwelling, apartment, or private residential garage for a home occupation shall be clearly incidental and subordinate to the principal use of the residential structure.
- B. **Area Requirements:** The area to be used for the home occupation shall not exceed one-third of the main floor area of a dwelling unit or apartment, and shall not exceed one-half of the main floor area of a private residential garage.
- C. **Owners/Managers:** Only members of the family residing on the premises shall own or manage the home occupation.
- D. **Fees:** An initial application to the Zoning Administrator for a home occupation permit shall be free. If the permit is denied, and the applicant requests hearing before the Board of Adjustment, the fee shall be the same as that set forth in Section 7.2 of this Ordinance.
- E. **Entrance and Exit:** The home occupation shall use the existing entrance and exit.
- F. **Outside Storage:** There shall be no outside storage, except by permit.

- G. **Performance Characteristics:** Home occupation shall not adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, light, heat, vibration, excess traffic, or electrical interference.
- H. **Procedure:** Home occupation permits shall: (1) be obtained prior to starting the home occupation; (2) be issued or denied by the zoning administrator; (3) be reviewed prior to any change in business type, or any expansion of the size, structure or nature of the business; (4) be terminated if: (a) the use has been discontinued for a period exceeding sixty (60) consecutive days; or if (b) the Board of Adjustment finds violations of the conditions imposed by this subdivision; or if (c) the Board of Adjustment finds the occupation has become a danger to the public health, safety, morals, or general welfare; or (d) when the home occupation has expanded beyond the criteria set forth at 6.9, B. above, so the use is commercial or industrial, in which case the conditional use permit shall be required.

SECTION 7. APPEALS.

7.1 Creation, Members, Terms, Meetings, Rules. A board of Adjustment is hereby established and shall consist of three (3) members, each to be appointed by the County Board of commissioners for the effective date of this resolution, removable for just cause as denied in the Kittson County Employee Handbook by the appointing authority upon written notice and opportunity for hearing. Vacancies shall be filled by the appointing board for the unexpired term of any member whose term becomes vacant.

The members of the Board shall select one of their number as Chairman and another as Vice-Chairman, who shall act as Chairman in the Chairman's absence, and the third member shall be the Secretary of the Board and keep a record of all proceedings. All shall serve one (1) year and until their successors have been selected. Meetings of the Board shall be held at the call of the Chairman, or the zoning Administrator, and at such other times as the Board shall determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt from time to time, subject to the approval of the County Board, such rules and regulations as it may deem necessary, to carry the appropriate provisions of these

regulations into effect.

7.2 Appeals to Board, Record of Appeal, Hearing and Stays. The provisions of this section apply to all appeals to the Board of Adjustment as set forth in Sections 7.40, 7.45 and 7.48 below. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of an officer administering this ordinance. Such appeal shall be taken within 15 days, as provided by the rules of the Board of Adjustment by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that, by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise 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 officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

Whenever appeal is brought to the Board of Adjustment, the Zoning Administrator shall serve written notice by U.S. Mail on all land owners having property within one-quarter (1/4) mile of the property at issue. Said written notice shall be made by mailing notice to the last recorded address for each owner as listed on the County Treasurer's most recent tax statement for said property. Failure of any property owner to receive such notification shall not invalidate the proceedings. Notification shall be by first class mail. In addition, notice must be published in the County's official newspaper prior to six (6) days before the date of the hearing.

Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which a conditional use permit, variance or home occupation permit is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property, at the courthouse, and in one (1) other public place at least fifteen (15) days prior to the public hearing.

Hearings before the Board of Adjustment must be recorded or transcribed, and all documents received by the Board or created or sent by the Zoning Administrator, including notices of hearings, shall be marked as exhibits and retained as part of the record of the proceedings.

Every applicant for a variance or conditional use permit shall pay, as their application fee, the mileage and other expenses associated with convening the Board of Adjustment, together with a one-time additional fee of \$150.00, which additional fee shall cover any and all future review hearings before the Board of Adjustment concerning that permit.

7.3 Powers and Jurisdiction Relating to Administrative Review. The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or other regulation referenced in this ordinance.

7.40 Powers and Jurisdiction Relating to Variances

- A. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the Ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit and caprice.
- B. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
- C. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted, demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting

the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structure, or buildings in the same district.

- D. Non-conforming use of neighboring lands, structures, or buildings in the same district, and permitted or non-conforming use of lands, structures or buildings in other districts shall not alone be considered grounds for the issuance of a variance.
- E. Notice of public hearing shall be given as set forth in 7.20 above; the public hearing shall be held. Any party may appear in person, or by agent or by attorney; the Board of Zoning Adjustment shall make written findings that the requirements of this section have been met by the applicant for a variance; the Board of Adjustment shall further make a written finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the Board of Adjustment shall further make a written finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- F. 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 Resolution and punishable under Section 12 of this Ordinance. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing variance to determine if, more likely than not, the holder of the variance is in full compliance with any conditions set by the Board of Adjustment at the time the variance was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the variance is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the variance or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written findings supporting its decision must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.45 Powers and Jurisdiction Relating to Conditional Use Permits - The Board of Adjustments shall have the power where a use is proposed that would not normally be

appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare, to authorize, upon an application and hearing relating to the property, a conditional use permit from the strict application of permitted uses.

- A. When considering an application for conditional use permit, the Board of Adjustment shall consider the following criteria:
- i. whether, given the nature of the land, the requested use is compatible with general welfare, public health and safety.
 - ii. whether the requested use will not create an unreasonably excessive burden on the existing roads or other utilities.
 - iii. whether the requested use is compatible with the surrounding area and will not significantly depreciate nearby properties.
 - iv. whether the structure and the use have an appearance that will not have an unreasonably adverse effect on nearby properties.
 - v. whether the requested use is consistent with the purposes of these Kittson County Zoning and Subdivision Regulations.
 - vi. whether the requested use will not create an unreasonably adverse affect because of noise, odor, glare, or general unsightliness, for nearby property owners.
 - vii. whether the requested use is reasonably related to the existing land uses and environment.
 - viii. whether there are no apparent unreasonable health risks posed to neighbors or to the public in general.
 - ix. whether, after reviewing the above criteria, the applicant has demonstrated that, more likely than not, the proposed use, if controlled as to the number, area, location or relation to the neighborhood, would not diminish the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare.
- B. In granting a conditional use permit or the alteration of an existing conditional

use permit, the Board of Adjustment may impose, in addition to the standards and requirements expressly specified in these Zoning Regulations, additional conditions considered necessary to protect the best interests of the surrounding community as a whole.

- C. Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which conditional use permit is sought or his agent shall be notified by mail. Notice of hearing shall be posted on the property for which conditional use permit is sought, at the courthouse and in one (1) other public place at least fifteen (15) days prior to the public hearing.
- D. If the Board of Adjustment, in granting a conditional use permit, prescribes appropriate conditions and safeguards in conformity with these Zoning Regulations, the violation of such conditions and safeguards when made a part of the terms of the conditional use permit is a violation of this resolution and punishable under Section 12 of this Ordinance.
- E. A public hearing shall be held. Any party may appear in person, or by agent or by attorney. The Board of Adjustment shall make written findings whether the requirements of this Section have been met by the applicant for a conditional use permit, and make written findings whether the reasons set forth in the application or justify denial or the granting of the conditional use permit. The Board of Adjustment, in its discretion, may determine what conditions, if any, shall be applied to the use to decrease any possible adverse affects.
- F. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing conditional use permit to determine if, more likely than not, the holder of the conditional use permit is in full compliance with any conditions set by the Board of Adjustment at the time conditional use permit was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the conditional use permit is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the conditional use permit, or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written findings supporting its decision must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.48 Powers and Jurisdiction-Related to Home Occupations: The Zoning Administrator, and the Board of Adjustment, shall have the power to provide home owners

and residential renters the opportunity to conduct a small-scale, commercial use within a home or accessory building they occupy.

- A. When reviewing the decision of the Zoning Administrator concerning a home occupation permit, the Board of Adjustment shall consider each criteria set forth in Section 6.9, A through H set forth above.
- B. In granting a home occupation permit or the alteration of an existing home occupation permit, additional conditions may imposed, in addition to the standards and requirements expressly specified in these Zoning Regulations, necessary to protect the best interests of the surrounding community as a whole.
- C. A Home Occupation Permit shall not be granted unless a written application for home occupation permit is submitted, demonstrating that, more likely than not, the proposed use shall not adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, heat, light, vibration, excess traffic, or electrical interference. Non-conforming neighborhood structures or buildings, or non-permitted uses of neighborhood structures or buildings, or the location of other home occupations, shall not alone be considered grounds for the issuance of a home occupation permit.
- D. If a decision concerning a home occupation permit is brought before the Board of Adjustment, then the provisions of Section 7.20 apply in addition to the provisions of this Section.
- E. A public hearing shall be held. Any party may appear in person, or by agent or by attorney. The Board of Adjustment shall make written findings whether the requirements of this Section have been met by the applicant for a home occupation permit, and make written findings supporting the reasons set forth in the application to justify denial or the granting of the home occupation permit. The Board of Adjustment shall further make a written finding as to whether the home occupation does adversely affect the residential character of the dwelling or neighborhood by the emission of smoke, noise, odor, water, dust, gases, refuse, heat, light, vibration, excess traffic or electrical interference. In addition, the Board of Adjustment shall set forth what conditions, if any, shall be applied to the home occupation permit to decrease any possible adverse effects.
- F. If the Board of Adjustment, in granting a home occupation permit, prescribes

appropriate conditions and safeguards in conformity with these Zoning Regulations, the violation of such conditions and safeguards when made a part of the terms of the home occupation permit is a violation of this resolution and punishable under Section 12 of this Ordinance.

- G. If requested by the Zoning Administrator or the County Board, the Board of Adjustment shall meet and review an existing home occupation permit to determine if, more likely than not, the holder of the home occupation permit is in full compliance with any conditions set by the Board of Adjustment at the time home occupation permit was first granted. The Board of Adjustment shall hold a hearing as outlined in Section 7.2 above, and as outlined in this Section. If the Board of Adjustment determines that it is more likely than not that the holder of the home occupation permit is out of compliance with the conditions originally set, the Board of Adjustment may, in its discretion, revoke the home occupation permit, or grant the holder of the permit additional time to mitigate the violation and bring the property into compliance. Written findings supporting the same must be made. Any appeal of the Board's decision shall be conducted pursuant to Section 7.6 and 7.7 herein.

7.5 Board of Adjustment Has Powers of Administrative Officer on Appeals; Reversing Decision of Administrative Officer. In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the officer from whom the appeal is taken.

The concurring vote of two (2) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination by any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variation in this Resolution.

7.6 Appeals to County Board. Any person or persons, aggrieved by a decision of the Board of Adjustment (or any action of the Zoning Administrator not subject to review by the Board of Adjustment) may appeal to the County Board by notice of appeal filed with the County Board. All hearings and deliberations of the County Board shall be recorded or transcribed, and all exhibits, notices and submissions shall be retained, to preserve an accurate record of the appeal before the County Board.

- A. The decision of the Board of Adjustment becomes final if a Notice of Appeal is not filed with the County Auditor within fifteen (15) days after the date on which the written decision of the Zoning Administrator or Board of

Adjustment is mailed or delivered to those affected by the decision.

- B. Standing - Appeal may be made by any person or group of persons directly affected by the Board of Adjustment's decision or the Zoning Administrator's decision. The County Board shall agree to hear the appeal of those who have standing, unless it finds that the appeal is untimely, meritless, trivial, or brought solely for the purpose of delay.
- C. Parties to the appeal are the appellant, the Zoning Administrator, and any other persons required to receive notice and who have standing with regard to the decision of the Board of Adjustment.
- D. If the Board of Adjustment has made formal findings contemporaneously with its decision, and if there is an accurate record or transcript of the proceedings or all persons with standings have stipulated to the essential facts, and if the proceedings were fairly conducted, the County Board will base its review strictly on the record. If there is no adequate or complete record of the proceedings below, the County Board shall hear the matter de novo.
- E. The appellant must file with the County Auditor a notice of appeal together with a copy or written summary of the decision being appealed and an affidavit that a copy of the notice of appeal has also been mailed or delivered to the Zoning Administrator. Upon receiving the notice of appeal, the County Auditor shall request a complete record of the proceedings below from the Zoning Administrator, and at the next regular meeting of the County Board, the County Board shall review said materials and issue a decision with regard to persons entitled to standing and the appropriate scope of appeal. At the same meeting, the County Board shall set a time for hearing the appeal, to take place no later than fourteen (14) days after a determination is made on the issues of standing and the scope of appeal. If de novo review is not granted, no testimony will be taken at the appeal hearing, and no new evidence shall be submitted, and the Board may, in its discretion, limit the length and scope of oral presentation and/or briefs submitted by each party.
- F. When review is based on the record alone, then the County Board will affirm the Board of Adjustment's decision or the Zoning Administrator's decision if the findings below are not clearly erroneous, if the law has been correctly applied to the facts, if the Board or Administrator did not clearly abuse its discretionary authority, and if the Board or Administrator made no procedural errors prejudicial to a party.

G. When the County Board grants a de novo hearing, then it shall:

1. Hear upon written notice pursuant to Section 7.2 and according to the deadlines as set forth in Paragraph C above;
2. Apply the criteria set forth in Section 7.40 for Variances, Section 7.45 for Conditional Use Permits, and Section 7.48 for Home Occupation Permits, when considering the merits of any application:
3. Maintain a true and accurate record of the proceedings, either by electronic recording or by court reporting and retain all written exhibits and notices in an orderly fashion; and
4. Issue appropriate written findings (after a full and fair hearing) as set forth above in Section 7.40, 7.45 and 7.48 respectively, prescribing any appropriate conditions or safeguards it deems necessary, and issuing the same according to Paragraph H. below.

H. Following the hearing, the County Board shall issue its written findings and a written order within fifteen (15) days and have the County Auditor serve the same by United States mail on any appellant or respondent, and on the Zoning Administrator, either personally or by counsel.

7.7 Appeals to a Court of Record. Any person or persons, aggrieved by a decision of the County Board, may appeal to the District Court.

SECTION 8. SUBDIVISION REGULATIONS

8.1 Application of Regulations. Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of these Regulations shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into ten (10) or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the re-subdivision or re-platting of land or lots. Division of land into tracts larger than two and one half (2½) acres in area and one hundred and fifty (150) feet in smallest dimension shall be exempt from the requirements of this Resolution.

8.2 Approvals Necessary for Acceptance of Subdivision Plats. Before any plat shall be recorded or be of any validity, it shall have been approved by the County Planning Commission and by the Board of county Commissioners as having fulfilled the requirements of these Regulations.

8.3 Preliminary Plat.

8.3.1 Procedures.

- (1) Copies of the preliminary plat shall be submitted to the county Engineer and the county Planning commission at least ten (10) days prior to the commission meeting at which consideration is requested. Approval or disapproval of a preliminary plat shall be conveyed to the subdivider in writing within ten (10) days after the meeting of the Planning commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Commission.
- (2) The County Engineer shall review the preliminary plat and prior to the Commission meeting, submit a report to the County Planning Commission concerning the Engineering feasibility of the proposed plat and its conformance with the requirements of these Regulations.
- (3) After review and approval of the preliminary plat by the county Planning Commission, such preliminary plat, together with the recommendations of the Planning commission shall be submitted to the Board of County Commissioners for approval. Approval or disapproval of the preliminary plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the Board of county commissioners at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Board.
- (4) The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat. This approval of the preliminary plat shall be effective for a period of one (1) year, unless an extension is granted by the Board of County Commissioners. The subdivider may file a final plat limited to such portion of the preliminary plat which he proposes to record and develop at the time, provided that such portion must conform to all requirements of these Regulations. If some portion of the final plat has not been submitted for approval within this period, a preliminary plat must again be submitted to the County Planning Commission and the Board of County Commissioners for approval.

8.3.2 Data Required.

The preliminary plat shall contain the following information:

- (1) Proposed name of subdivision. Names shall not duplicate or too closely resemble names of existing subdivisions.
- (2) Location of boundary line in relation to a known section, quarter section, or quarter-quarter section lines and any adjacent corporate boundaries, comprising a legal description of the property.
- (3) Names and addresses of the developer and the designer making the plat.
- (4) Scale of plat, not less than one (1) inch to one hundred (100) feet.
- (5) Date and north point.
- (6) Existing condition.
 - (a) The location and width of proposed streets, roadways, alleys and easements.
 - (b) The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas and power lines.
 - (c) Layout, numbers and approximate dimensions of lots and the number or letter of each block.
 - (d) Location and size of proposed parks, playgrounds, churches, or school sites or other special uses of land to be considered for dedication to public use, or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.
 - (e) Building setback lines with dimensions.
 - (f) Indications of any lots on which a use other than residential is proposed by the subdivider.
 - (g) The zoning districts, if any, on and adjacent to the tract.

8.3.3 Supplementary Requirements

Upon request of the county Planning commission, supplementary information shall be submitted; such supplementary information may include the following:

- (1) Topography with contour intervals of not more than five (5) feet related to United States Geological Survey datum; also the location of water course, ravines, bridges, lakes, wooded areas, approximate acreage, and other such features as may be pertinent to subdivision.
- (2) A copy of the profile for each proposed street, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown.
- (3) Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings.

8.4 Final Plat

8.4.1 Procedures

After the preliminary plat has been approved, the final plat may be submitted for approval as follows:

- (1) Copies of the final plat shall be submitted to the county Engineer and County Planning Commission at least ten (10) days prior to the Planning Commission meeting at which consideration is requested. Approval or disapproval of the final plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the County Planning commission, at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Commission.
- (2) The County Engineer shall review the final plat and prior to the Commission meeting submit a report to the County Planning Commission regarding the conformance of the proposed final plat to the approved preliminary plat and the requirements of these regulations.
- (3) After review and approval of the final plat by the county Planning Commission, such final plat, together with the recommendations of the

Planning Commission shall be submitted to the county Board for consideration. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, roads, easements and other public ways, and open spaces deducted to public purposes. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Board of county commissioners and reported to the person or persons applying for such approval.

8.4.2 Data Required

The final plat prepared for recording purposes shall be prepared in accordance with provisions of Minnesota State statutes and shall contain the following information:

- (1) Name of subdivision (not to duplicate or too closely approximate the name of any existing subdivision).
- (2) Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in five thousand (5,000).
- (3) The location of survey control monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half (1/2) inch or larger in diameter extending at least three (3) feet below the finished grade.

In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

- (4) Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.
- (5) Lots shall be numbered clearly. If blocks are shown to be numbered or lettered, these should be shown clearly in the center of the block.
- (6) The exact locations, widths, and names of all streets to be dedicated.
- (7) Location and width of all easements to be dedicated.
- (8) Boundary lines and description of boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use.
- (9) Name and address of developer and surveyor making the plat.
- (10) Scale of plat (the scale to be shown graphically and in feet per inch), date and north point.
- (11) Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements."
- (12) Statement dedicating all streets, roads, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

8.4.3 Certifications Required on Final Plats

- (1) Notarized certification by owner and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.
- (2) Notarized certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.

- (3) Certification showing that all taxes and special assessments due on the property have been paid in full.
- (4) Space for certificates of approval to be filled in by the signatures of the Chairman of the County Planning Commission and the County Board of Commissioners.

8.5 Design Standards

8.5.1 Blocks

Block lengths shall normally not exceed thirteen hundred and twenty (1,320) feet.

8.5.2 Streets and Roads

- (1) Streets normally shall connect with streets already dedicated, or provide for future connections to adjoining unsubdivided tracts.
- (2) Cul-de-sacs may be permitted when conditions justify their use. Cul-de-sacs shall normally not be longer than five hundred (500) feet in length, including the terminal turn-around. The required terminal shall be nearly circular in shape and have a minimum diameter of one hundred (100) feet.
- (3) The minimum angle of intersection of streets shall be eighty (80) degrees.
- (4) Wherever the proposed subdivision contains or is adjacent to the right-of-way of a state or Federal highway, a marginal access service street approximately parallel and adjacent to the boundary of such right-of-way may be required.
- (5) Dedication of half streets will not be approved, except where it is essential to the reasonable development of the subdivision.
- (6) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion may be required.

- (7) For all public streets and roads hereafter dedicated and accepted, the right-of-way widths shall not be less than the minimum dimensions for each classification as follows:

| | |
|------------------------------|---------|
| Minor residential street | 60 feet |
| Marginal access service road | 50 feet |

- (8) Minor street or driveway access to state and Federal highways shall not be permitted at intervals of less than six hundred (600) feet.

8.5.3 Lots

- (1) Corner lots shall have additional width to permit appropriate building setback from both streets.
- (2) Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- (3) Every lot must have at least the minimum required frontage on a public dedicated street.

8.5.4 Easements

Where appropriate, easements for utilities or drainage may be required. Easements shall be of a width suitable for the intended uses.

8.6 Required Improvements. Before a final plat is approved, the subdivider shall give satisfactory assurance of the installation of improvements as required by the Board of County Commissioner.

SECTION 9. ADMINISTRATION: LAND USE PERMITS

9.1 Zoning Administrator. The Board of County Commissioners shall point such employee or employees of the County and/or such other persons, including authorized city clerks, as it may deem proper to act as zoning administrator or deputy zoning administrators. It shall be the duty of the zoning administrator and authorized deputies to administer and enforce these regulations through the proper legal channels; issue land use permits and maintain records thereof; and provide a source of public information relative to this Ordinance.

9.2 Compliance with Regulations. No person shall erect, alter, wreck, or move

any building or part thereof or make any improvement to land without first securing a land use permit therefor. No permit shall be required for an improvement if that improvement does not increase the number of bedrooms in an existing dwelling, nor does it change the footprint of an existing dwelling or structure, unless the improvement or use involves the following:

1. Demolition sites.
2. Disposal of contaminated soil
3. Landfills
4. Wetlands
5. Underground tanks
6. Digging or filling a well

The addition or expansion of decks and/or exterior stairs are considered changes to the footprint of an existing dwelling or structure.

9.3 Land Use Permits. Application for a land use permit shall be made to the zoning Administrator on blank forms to be furnished by the county. Applications for any kind of land use 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 land use permit shall be \$20.00 for lands not in the floodplain and not considered shoreland, and \$50.00 for lands within the floodplain or designated as shoreland, except that from time to time these fees may be amended or changed by the County Board of Commissioners based on a formula related to the cost of administration. The Zoning Administrator shall issue the building permit after determining that the building plans, together with the application, comply with the requirements of this Ordinance.

9.4 After-the-Fact Land Use Permits. Any landowner who violates this Ordinance, and then seeks a land use permit after-the-fact, shall pay the following fees:

- A. If payment is made to the Zoning Administrator within seven (7) working days of written notice of the violation, the sum of \$100.00;
- B. If payment is made at any time after seven (7) working days of written notice of violation, but within ninety (90) calendar days of the date of written notice of the violation, the sum of \$250.00.
- C. If payment is made to the Zoning Administrator at any time after ninety (90) calendar days of the date of written notice of the violation, the sum of \$500.00.

9.5 Builders and Contractors. Sections 9.2, 9.3, and 9.4 apply equally to all persons, including but not limited to, property owners, renters, builders or contractors, and volunteers. This Ordinance specifically contemplates that prior to proceeding, any builder or contractor will verify the existence of a permit if the same has been obtained by an owner or renter, and that likewise, owners or renters will verify the existence of a permit if the same has been obtained by a builder or contractor.

SECTION 10. NON-CONFORMING USES

10.1 Continuation. For lands within municipalities, which municipalities have allowed zoning authority to be vested in Kittson County on or before June 5, 2007, the lawful use of buildings or land existing on the date zoning authority was vested in Kittson County, may continue, but not be expanded, even though such use does not conform with the provisions of this ordinance. The lawful use of buildings or land outside of municipalities existing on January 1, 1995, may continue, but not be expanded although such use does not conform with the provisions of this ordinance. 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 restricted use.

10.2 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 nine (9) months, the use of the same shall thereafter conform to the regulations of this ordinance.

SECTION 11. AMENDMENTS

This Resolution may be amended whenever the public necessity and convenience and the general welfare require such amendment after a duly advertised hearing held by the County Planning Commission.

SECTION 12. ENFORCEMENT

12.1 Violation a Misdemeanor. When any person intentionally performs an act prohibited or declared unlawful, fails to act when such failure is prohibited or declared unlawful, fails to take action when said action is required, or fails to take action to abate the existence of a violation within the specified time period when ordered or notified to do so by the county, that person violates the section, subdivision, paragraph, or provision of this ordinance within which such act or action is prohibited, declared unlawful, or required, and upon conviction thereof, shall be punished for a misdemeanor. A separate offense shall be deemed committed upon each day that the Kittson County Courthouse is normally open for business during or on which a violation occurs or continues. All violations of this ordinance shall be prosecuted by the County Attorney.

12.1.2 Citations. Whenever the county determines that there is probable cause to believe that an intentional violation of this ordinance has been committed by any person, a citation may be issued to the person alleged to have committed the violation.

12.1.2.1 Forms of Citations. Citations shall be in a form designated by the County and approved by the County Attorney.

12.1.2.2 Issuance. The citation shall be issued to the person to be charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

12.2 Equitable Relief. In the event of a violation or a threat of violation of this ordinance, the County Attorney may take appropriate action to enforce this ordinance, including application for injunctive relief, action to compel performance or other appropriate action in court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.

12.3 Civil Action. If a person fails to comply with the provisions of this ordinance, the County may recover costs incurred for corrective action, including reasonable attorney's fees, in a civil action in any court of competent jurisdiction.

12.4 Rules of Construction. In construing this ordinance, the following rules of construction are to govern, unless their observance would be inconsistent with the obvious intent of the County, or contrary to the context of the ordinance.

12.4.1 Indemnification. This ordinance shall not be construed to hold the County or any officer or employee of the County, responsible for any damage to persons or property by reason of inspections or re-inspections authorized by the provisions of this ordinance, or by reason of the approval or disapproval of equipment or licensing herein, nor for any action in connection with the inspection or control of solid waste or refuse or in connection with any other official duties.

12.4.2 Severability. It is hereby declared to be the intention of the Board that the provisions of this ordinance be severable as follows:

12.4.2.1 Ordinance Provisions. If any court of competent jurisdiction shall adjudge any provisions of this ordinance to be invalid, such judgment shall not affect any other provisions of the ordinance not

specifically included in said judgment.

12.4.2.2 Structures, sites and Operations. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular structure, site or operation, such judgment shall not affect the application of said provision to any other structure, site or operation not specifically included in said judgment.

12.4.3 Ordinance Remedies and Provisions Cumulative. Each right or remedy conferred on or reserved to the County under this ordinance is cumulative in and in addition to every other right or remedy provided for in this ordinance. The provisions in this ordinance are in addition to all other laws and ordinances passed, or which may be passed hereafter, covering any subject matter in this ordinance. Additional local, state and federal laws and rules regulating or restricting land use in Kittson County for which permits or licenses in addition to a building permit may be required include those pertaining to:

Feedlots, individual sewage treatment systems, wetlands, shorelands, flood plains, wells, waste disposal, lands affected by city and airport zoning ordinances, lands adjacent to railroad, public and public-utility lands and rights-of-way, advertising signs, noxious weeds.

12.4.4 Meanings. Words of male gender shall include the female and neuter, the singular shall include the plural and the plural shall include the singular.

SECTION 13. COUNTY ZONING CONTROL AREAS.

The County has, by adoption of this ordinance, established and has determined the boundaries of county zoning control areas to be all areas within the County except: NO EXCEPTIONS.

The Board may terminate, re-establish, enlarge, revise, or alter the county zoning control area so established by amendment of this ordinance.

SECTION 14. DATE OF EFFECT

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

APPROVED BY: KITTSON COUNTY BOARD OF COUNTY COMMISSIONERS

Passed and approved this 5th day of June, 2007.



Chairman

ATTEST:



Auditor/Clerk

Recommended by: THE COUNTY PLANNING COMMISSION

Date: June 5, 2007



Chairman

NOTICE
OF THE ADOPTION OF THE ZONING REGULATIONS
FOR KITTSON COUNTY

NOTICE IS HEREBY GIVEN That the Kittson County Board of Commissioners did, on December 20, 1994, adopt the Kittson County Zoning Regulations for Kittson County, and did rescind the Kittson County Zoning and Subdivision Regulations dated 7/12/71 and amendments thereto dated 4/12/73, 11/5/73 and 8/8/75.

Provisions in the adopted regulations include permitted uses, variances, requirements of permit applications, standards, subdivision regulations, enforcement and appeals. A copy of the regulations are on file in the office of the County Auditor and the Kittson County Zoning Administrator for public inspection. This notice shall serve as a summary of the regulations as provided for in Minnesota Statutes 331A.01 and is published in accordance with Minnesota Statutes 375.51.

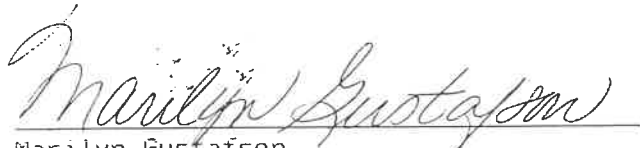
Dated at Hallock, Minnesota this 27th day of December, 1994.

Marilyn Gustafson
Kittson County Auditor

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held on Tuesday, December 6, 1994, at 1:00 PM by the Kittson County Board of Commissioners in the Kittson County Courthouse meeting room for the purpose of hearing all written or oral comments on the proposed amended Kittson County Zoning Regulations for Kittson County. Provisions in the proposed regulations include permitted uses, variances, standards, enforcement, and appeals. A copy of the proposed regulation is on file in the office of the Kittson County Auditor and the Kittson County Zoning Administrator for public inspection.

Dated at Hallock, Minnesota this 15th day of November, 1994.


Marilyn Gustafson
Kittson County Auditor

0162029

CERTIFICATE

I, Marilyn Gustafson, County Auditor of the County of Kittson, State of Minnesota, hereby certify that the Kittson County Board of Commissioners did, on December 20, 1994, adopt the Kittson County Zoning Regulations for Kittson County, and did rescind the Kittson County Zoning and Subdivision Regulations dated 7/12/71 and amendments thereto dated 4/12/73, 11/5/73 and 8/8/75.

WITNESS my hand and seal at Hallock Minnesota, this 14th day of November, 1995.





Marilyn Gustafson
Kittson County Auditor

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KITTSOON COUNTY, MINNESOTA

KITTSOON COUNTY ZONING AND SUBDIVISION REGULATIONS

ZONING AND SUBDIVISION REGULATIONS TO PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE PEOPLE OF KITTSOON COUNTY, BY:

1. CONTROLLING CONGESTION OF ROADS, HIGHWAYS AND POPULAR AREAS.
2. DISCOURAGING LAND USES WHICH ARE NOT COMPATIBLE WITH LAND TYPE, NEIGHBORING USES, PUBLIC OR ENVIRONMENTAL SAFETY.
3. FOSTERING CONSERVATION OF LAND VALUES AND RESOURCES.
4. FACILITATING EFFICIENCY IN PLANNING FOR TRANSPORTATION, WATER, SEWERAGE AND OTHER PUBLIC NEEDS.
5. INSURING FAIR AND ACCURATE MONITORING OF LAND IMPROVEMENTS FOR TAXATION PURPOSES.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF KITTSOON ORDAINS:

SECTION 1. TITLE

This Resolution shall be known and may be cited and referred to as the "Kittson County Zoning Regulations."

SECTION 2. (RESERVED)

SECTION 3. SCOPE: INTERPRETATION

3.1 Scope. From and after the effective date of these Regulations, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the County of Kittson, including that area within the incorporated municipalities acting pursuant to M.S.A. Section 394.32, shall be in conformity with the provisions of these Regulations. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, or changed subject to the special regulations herein provided with respect to nonconforming properties or uses.

3.2 Interpretation. In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of these Regulations impose greater restrictions than those of any statute, other resolution or regulation, the provisions of these Regulations shall be controlling. Where the

provisions of any statute, other resolution or regulation impose greater restrictions than these Regulations, the provisions of such statute, other resolution or regulation shall be controlling.

SECTION 4. RULES AND DEFINITIONS

4.1 Rules. For the purpose of these Regulations, 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 not discretionary.

4.2 Definitions. For the purpose of these Regulations, certain terms and words are defined as follows:

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

Agricultural - Farming, ranching, greenhouses, nurseries, truck gardens, sod farms, orchards and apiaries; the harvesting of timber or wood for sale.

Block - is an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

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

Building Height - The vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Commercial-Industrial - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods or services; or for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Community Water and Sewer Systems - Utility systems serving a group of buildings, lots, or an area of the County

with the design and construction of such utility systems as approved by the County Engineering Department or like agency.

Corner Lot - A lot situated at the junction of and fronting on two (2) or more streets.

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

Depth of Rear Yard - The mean horizontal distance between the rear line of the building and the center line of an alley, where an alley exists, otherwise a rear lot line.

Dwelling - Any building or part thereof which is designed or used exclusively for residential purposes by one (1) or more human beings either permanently or transiently.

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

Dwelling, Multi-family - A building designed for or occupied exclusively by not more than four families.

Easement - A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

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

Final Plat - A drawing or a map of a subdivision, meeting all the requirements of the County and in such form as required by the County for purposes of recording.

Floor Area - The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls including basements and attached accessory buildings.

Improvement - Any change to a building or structure which is not a routine, general repair.

Lot - One unit of a recorded plat or subdivision occupied or

to be occupied by a building and its accessory buildings and including, as a minimum, such open spaces as are required under these Regulations and having frontage on a public street.

Lot Area - The land area within the lot's lines.

Lot Area Per Family - The lot area per family is the lot area required by these Regulations to be provided for each family in a dwelling.

Lot, Double Frontage - An interior lot having frontage on two (2) streets.

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

Lot Lines- The lines bounding a lot as defined herein. When a lot line abuts a street, avenue, park or other public property except an alley, such line shall be known as a street line, and when a lot line abuts on an alley, it shall be known as an alley line.

Lot Width - The width of a lot is its own mean width measured at right angles.

Mobile Home - Any occupied vehicle used or so constructed as to permit it being used as a conveyance on the public streets or highways and duly licensed as such, and shall include: self-propelled or non-self-propelled vehicles so designed, constructed, reconstructed or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one (1) or more persons. Nothing in this definition shall be construed so as to include prefabricated, precut residences or those manufactured in sections or parts away from the site and transported thereto for erection, provided that when completely erected, said prefabricated, precut or manufactured residences shall be on a permanent foundation and in all respects comply with the Uniform Building Code, 1970 Edition and Amendments thereto, recommended by the International Conference of Building Officials.

Mobile Home Park - Any premises where one or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public, parking space for one or more mobile homes for living or sleeping purposes, and which include any buildings, structures, vehicles or enclosure used or intended for use or intended wholly or in a part, for the accommodation of automobile transients.

Municipally Incorporated Area - All areas within the boundary limits of an incorporated city, including subsequently annexed areas.

Persons - Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Plot - A tract other than one (1) unit of a recorded plat or subdivision and occupied and used or intended to be occupied and used as a home site and improved or intended to be improved by the erection thereon of a dwelling and accessory buildings and having a frontage upon a public street or upon a thoroughfare or upon a highway or upon a traveled or used road and including as a minimum such open spaces as required under this Ordinance.

Preliminary Plat - A tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.

Premises - A lot or plot with the required front, side and rear yards for a dwelling.

Road - A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

Routine, general repair - Any activity that will alter or restore to a new or usable condition worn or deteriorated items of construction. Items of routine, general repair include: Interior painting; exterior painting; siding repair; roofing repair/replacement; window repair/partial replacement; floor covering repair/replacement; foundation repair; soffit repair; fascia repair; light fixture repair/replacement; rain gutter/downspout repair/replacement; entrance/storm-door repair/replacement; chimney repair; wall coverings repair/replacement; plumbing fixture repair/replacement; range hood repair or replacement; smoke alarms installation/replacement.

Special Exception - A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled, as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such

zoning district as special exceptions, if specific provision for such special exception is made in this Ordinance.

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

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

Structure - Anything constructed or erected, the use of which require location on the ground or attachment to something having a location on the ground.

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

Subdivision - A described tract of land which is to be or has been divided into ten or more lots or parcels, any of which resultant parcels is less than two and one-half ($2\frac{1}{2}$) acres in area and one hundred fifty (150) feet in width, for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

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.

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.

Variance - A variance is a relaxation of the terms of the zoning regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Regulations would result in unnecessary and undue hardship. As used in these Regulations, a variance is authorized only for height, area, and size of structure, or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall

a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

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

Yard, Front - A yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest line of the building.

Yard, Rear - An open space unoccupied 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.

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

SECTION 5. (RESERVED)

SECTION 6. PERMITTED USES, VARIANCES AND STANDARDS

6.1 Permitted Uses (all areas of the county except as otherwise specified). No real property shall be used within Kittson County except for one (1) or more of the following permitted uses:

- A. Agricultural uses - only within areas outside of municipally incorporated areas of the county.
- B. Commercial and industrial uses - only within municipally incorporated areas of the county.
- C. Single family dwellings.
- D. Multi-family dwellings.
- E. Public administration buildings, police and fire stations, and other public service buildings, except those customarily considered commercial or industrial.
- F. Public educational institutions, or private educational institutions having an equivalent curriculum.
- G. Parks and recreational areas owned or operated by governmental agencies.
- H. Churches.

- I. Tracks located within railroad rights-of-ways, but not including railroad yards and railroad buildings.
- J. Accessory uses including roadways and parking lots customarily incidental to the principal use.

6.2 Variances. Within Kittson County all uses, except permitted uses, shall at the discretion of the Zoning Administrator, be required to obtain a variance as set forth in Section 7.

6.3 Height, Yard, Area, and Lot Dimension Regulations. All buildings or structures hereafter erected or structurally altered and all land uses shall hereafter be in conformance with the following requirements:

| Class of Use | Maximum Bldg. Height ¹ (feet) | Minimum Lot Area Per DU ² (Sq. Ft.) | Minimum Lot Width (Feet) | Minimum Lot Depth (Feet) | Minimum Front Yard (Feet) | Minimum Side Yard Interior Lot (Ft.) | Minimum Side Yard Corner Lot (Ft.) | Minimum Rear Yard (Feet) |
|---|--|--|--------------------------|--------------------------|---------------------------|--------------------------------------|------------------------------------|--------------------------|
| Agricultural | 60 | -- | -- | -- | 30 ³ | 10 | 20 | -- |
| Residential | | | | | | | | |
| - with public or community sewer & water | 30 | 6,250 | 50 | 125 | 30 ³ | 5 | 20 | 40 |
| - with public water or private cistern only | 30 | 14,000 | 100 | 140 | 30 ³ | 10 | 20 | 40 |
| - with public sewer only | 30 | 14,000 | 100 | 140 | 30 ³ | 10 | 20 | 40 |
| - with on-lot water and sewer facilities | 30 | 21,000 | 150 | 140 | 30 ³ | 10 | 20 | 40 |
| Commercial | 60 | -- | -- | -- | 30 ³ | 15 ⁴ | 30 | 50 |
| Industrial | 60 | -- | -- | -- | 30 ³ | 15 ⁴ | 30 | 50 |

¹The height limitations contained in these Regulations shall not apply to silos used for storage of agricultural produce on agricultural property, spires, belfries, cupolas, antennas, water tanks, ventilators, domes, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

²Dwelling Unit = DU.

³A minimum front yard setback of one hundred and thirty (130) feet shall be provided from the center line of all U.S. Highways and State Highways, County State Aid Highways, County and Township Roads and Highways. In all other cases, the required setback shall be measured from the road right-of-way boundary.

⁴A minimum side yard of fifty (50) feet shall be provided where

lot or plot abuts agricultural or residential property. No building shall be erected under, or within 25 ft. (horizontal) of a power line exceeding 220 volts.

6.4 Off-street Parking and Loading Regulations.

6.4.1 Minimum Size Regulations. Except as required for accessible parking, each space shall contain a minimum area of not less than two hundred and fifty (250) square feet including access drives, a width of not less than eight and one-half (8½) feet, and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives. Each loading space shall contain a minimum area of not less than five hundred (500) square feet.

6.4.2 Accessible Parking. Every business and government entity that provides off street parking for customers and/or employees must have reserved accessible parking spaces for mobility impaired persons according to the following table:

| Parking Spaces Available | Accessible Spaces | Reserved For Vans |
|--------------------------|----------------------------------|-------------------|
| 1 - 25 | 1* | 1* |
| 26 - 50 | 2 | 1 |
| 51 - 75 | 3 | 1 |
| 76 - 100 | 4 | 1 |
| 101 - 150 | 5 | 1 |
| 151 - 200 | 6 | 1 |
| 201 - 300 | 7 | 1 |
| 301 - 400 | 8 | 1 |
| 401 - 500 | 9 | 1 |
| 500 - 1000 | 2% of Total Spaces | 1 For Every 8 |
| 1001 - Over | 20 Plus 1 For Each 100 Over 1000 | 1 For Every 8 |

* One in every eight spaces must be for a van. If only one space is required it must be for a van.

Each space must be 8 feet wide with a 5 foot wide access aisle. If the space is van accessible the access aisle must be 8 feet wide.

Parking spaces must be located closest to the accessible entrance to the building. If there are curbs between the parking space and the entrance the curb must be cut. Parking spaces must be of a hard surface (paved) and the surface must be level.

There must be a sign including the universal sign for accessibility and the fine for unauthorized use for each reserved spot. The sign can be attached to a building or placed on a post. The sign must be visible when a vehicle is parked in the space. The lines marking the space must be painted blue.

6.4.3 Required Number of Off-Street Parking Spaces.

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

- (1) Single-Family Dwelling - One (1) parking space. No garage shall be converted into living space unless other acceptable off-street parking space is provided.
- (2) Multiple Family Dwelling - One (1) parking space for each family or dwelling unit.
- (3) Hospitals and Nursing Homes - Ten (10) plus one per bed.
- (4) Churches - One (1) parking space for each four (4) seats based on the design capacity of the main sanctuary.
- (5) Public Administration Buildings and Other Public Service Buildings - Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area in the principal structure.
- (6) Professional Offices, Medical and Dental Clinics, and Animal Hospital - Four (4) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet of floor area.
- (7) Office Buildings - Ten (10) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet of floor area.
- (8) Shopping Center - Where several business uses are grouped together according to a general development plan, off-street automobile parking shall be provided in a ratio of not less than one (1) square foot of gross parking area for each one (1) square foot of gross floor area; separate off-

street parking space shall be provided for loading and unloading.

- (9) Automobile Service Station - Four (4) parking spaces plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas.
- (10) Auto Sales, Trailer Sales, Marine and Boat Sales, Implement Sales, Garden Supply Store, Building Materials Sale, Auto Repair - Six (6) parking spaces plus one (1) parking space for each five hundred (500) square feet of floor area over one thousand (1,000) square feet.
- (11) Bowling Alley - Five (5) parking spaces for each bowling lane.
- (12) Drive-in Restaurant - Fifteen (15) parking spaces or one (1) space for each Forty (40) square feet of floor area, whichever is greater.
- (13) Motel or Motor Hotel - One (1) parking space for each rental room or suite.
- (14) Miniature Golf Course, Archery Range, or Golf Driving Range - Ten (10) parking spaces; golf courses, one (1) parking space per hole.
- (15) Restaurant, Cafe, Nightclub, Tavern or Bar - One (1) parking space for each two hundred (200) square feet of floor area.
- (16) Skating Rink or Dance Hall - One (1) parking space for each three hundred (300) square feet of floor area.
- (17) Retail Stores and Service Establishments - One (1) off-street parking space for each one hundred (100) square feet of floor area, plus one (1) space for each employee on the major shift or one (1) off-street parking space for each five hundred (500) feet of gross floor area within the building, whichever is greater.
- (18) Wholesale Business Establishments - One (1) off-street parking space for each employee on the major shift or one (1) space for each two thousand (2,000) square feet of gross floor area, whichever is greater, plus one (1) off-street parking space for each company motor vehicle.

- (19) Storage or Warehouse Establishments - One (1) off-street parking space for each two (2) employees on the major shift or one (1) space for each two thousand (2,000) square feet of floor area, whichever is larger, plus one (1) space for each company motor vehicle.
- (20) Manufacturing or Processing Plant - One (1) off-street parking space for each employee on the major shift or one (1) off-street parking space for each seven hundred (700) square feet of gross floor area within the building, whichever is the greater, plus one (1) space for each company motor vehicle.

6.4.4 Required Loading Areas. Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements of each use.

6.4.5 Access.

- (1) Parking and loading space shall have proper access from a public right-of-way.
- (2) The number and width of access drives shall be so located as to minimize traffic congestion and abnormal traffic hazard. Frontage roads or service roads may be required when, in the opinion of the County Planning Commission, such service roads are necessary to maintain maximum traffic safety.

6.4.6 Fences and Planting Screens. Off-street parking and loading areas near or adjoining residential property shall be screened by a fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan and such fence or landscaping shall be installed as a part of the initial construction.

6.5 Signs.

- A. All advertising signs, including billboards, shall be considered commercial structures for the purposes of these Regulations, and as such, shall require a special use permit prior to construction.
- B. Advertising sign structures shall be limited to not more than one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) per each additional one hundred (100) feet of additional lot

frontage. Such structure may not contain more than two (2) signs per facing nor exceed fifty-five (55) feet in total length. No advertising sign may be erected within one hundred (100) feet of adjoining residential property.

- C. Lighted signs and other lighting shall be directed in a manner that will not disturb neighboring residential properties, or create a hazard or a nuisance.

6.6 Utilities; Drainage. Adequate utilities, drainage and other utility facilities shall be provided.

6.7 Additional Requirements. Adequate measures shall be taken to prevent or control offensive odor, fumes, dust, noise and vibration so that none of these will constitute a nuisance.

6.8 Mobile Homes and Mobile Home Parks. Mobile Homes. No mobile home shall be parked and occupied in any district outside an approved mobile home park for more than ninety (90) days without a building permit.

SECTION 7. APPEALS, VARIANCES AND SPECIAL EXCEPTIONS

7.1 Creation, Members, Term, Meetings, Rules. A Board of Adjustment is hereby established and shall consist of three (3) members, each to be appointed by the County Board of Commissioners for the effective date of this resolution, removable for just cause as defined in the Kittson County Employee Handbook by the appointing authority upon written notice and opportunity for hearing. Vacancies shall be filled by the appointing board for the unexpired term of any member whose term becomes vacant.

The members of the Board shall select one of their number as Chairman and another as Vice-Chairman, who shall act as Chairman in the Chairman's absence, and the third member shall be the Secretary to the Board and keep a record of all proceedings. All shall serve one (1) year and until their successors have been selected. Meetings of the Board shall be held at the call of the Chairman, or the Zoning Administrator, and at such other times as the Board shall determine. Such Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt from time to time, subject to the approval

of the County Board, such rules and regulations as it may deem necessary, to carry the appropriate provisions of these regulations into effect.

7.2 Appeals to Board, Record of Appeal, Hearing and Stays. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected by any decision of an officer administering this ordinance. Such appeal shall be taken within 15 days, as provided by the rules of the Board of Adjustment by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise 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 officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

7.3 Powers and Jurisdiction Relating to Administrative Review. The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or other regulation referenced in this ordinance.

7.4 Powers and Jurisdiction Relating to Variances. The Board of Adjustment shall have the power, where, the strict application of any regulation under this Ordinance would result in exceptional and undue hardships upon a property owner, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

A. No such variance shall be authorized by the Board of

Adjustment unless it finds that the strict application of the Ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit and caprice.

- B. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerned or the intended use of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
- C. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted, demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structure, or buildings in the same district.
- D. Non-conforming use of neighboring lands, structures, or buildings in the same district, and permitted or non-conforming use of lands, structures or buildings in other districts shall not alone be considered grounds for the issuance of a variance.
- E. Notice shall be given at least fifteen (15) days in advance of public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which special exception is sought, at the Courthouse and in one (1) other public place at least fifteen (15) days prior to the public hearing.

- F. Notice of public hearing shall be given as in 7.4 above; the public hearing shall be held. Any party may appear in person, or by agent or by attorney; the Board of Zoning Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance; the Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- G. 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 Resolution and punishable under Section 12 of this Ordinance.

7.5 Board of Adjustment Has Powers of Administrative Officer on Appeals; Reversing Decision of Administrative Officer. In exercising the abovementioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of two (2) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination by any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to effect any variation in this Resolution.

7.6 Appeals to County Board. Any person or persons, aggrieved by a decision of the Board of Adjustment or any action of the Zoning Administrator not subject to review by the Board of Adjustment may appeal to the County Board by notice of appeal filed with the County Board in accordance with the Kittson County Administrative Review Policy.

7.7 Appeals to a Court of Record. Any person or persons, aggrieved by a decision of the County Board may appeal to the District Court.

SECTION 8. SUBDIVISION REGULATIONS

8.1 Application of Regulations. Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of these Regulations shall be prepared, presented for approval, and recorded as herein prescribed. The Regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into ten (10) or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the resubdivision or replatting of land or lots. Division of land into tracts larger than two and one half ($2\frac{1}{2}$) acres in area and one hundred and fifty (150) feet in smallest dimension shall be exempt from the requirements of this Resolution.

8.2 Approvals Necessary for Acceptance of Subdivision Plats. Before any plat shall be recorded or be of any validity, it shall have been approved by the County Planning Commission and by the Board of County Commissioners as having fulfilled the requirements of these Regulations.

8.3 Preliminary Plat.

8.3.1 Procedure

- (1) Copies of the preliminary plat shall be submitted to the County Engineer and the County Planning Commission at least ten (10) days prior to the Commission meeting at which consideration is requested. Approval or disapproval of a preliminary plat shall be conveyed to the subdivider in writing within ten (10) days after the meeting of the Planning Commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Commission.
- (2) The County Engineer shall review the preliminary plat and prior to the Commission meeting, submit a report to the County Planning Commission concerning the Engineering feasibility of the proposed plat and its conformance with the requirements of these Regulations.
- (3) After review and approval of the preliminary plat by the County Planning Commission, such preliminary plat, together with the recommendations of the Planning Commission shall be submitted to the Board of County Commissioners for approval. Approval or disapproval of the

preliminary plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the Board of County Commissioners at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Board.

- (4) The approval of the preliminary plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the preparation of the final plat. This approval of the preliminary plat shall be effective for a period of one (1) year, unless an extension is granted by the Board of County Commissioners. The subdivider may file a final plat limited to such portion of the preliminary plat which he proposes to record and develop at the time, provided that such portion must conform to all requirements of these Regulations. If some portion of the final plat has not been submitted for approval within this period, a preliminary plat must again be submitted to the County Planning Commission and the Board of County Commissioners for approval.

8.3.2 Data Required

The preliminary plat shall contain the following information:

- (1) Proposed name of subdivision. Names shall not duplicate or too closely resemble names of existing subdivision.
- (2) Location of boundary lines in relation to a known section, quarter section, or quarter-quarter section lines and any adjacent corporate boundaries, comprising a legal description of the property.
- (3) Names and addresses of the developer and the designer making the plat.
- (4) Scale of plat, not less than one (1) inch to one hundred (100) feet.
- (5) Date and north point.
- (6) Existing conditions.
 - (a) The location and width of proposed streets,

roadways, alleys and easements.

- (b) The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas, and power lines.
- (c) Layout, numbers and approximate dimensions of lots and the number or letter of each block.
- (d) Location and size of proposed parks, playgrounds, churches, or school sites or other special uses of land to be considered for dedication to public use, or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.
- (e) Building setback lines with dimensions.
- (f) Indications of any lots on which a use other than residential is proposed by the subdivider.
- (g) The zoning districts, if any, on and adjacent to the tract.

8.3.3 Supplementary Requirements

Upon request of the County Planning Commission, supplementary information shall be submitted; such supplementary information may include the following:

- (1) Topography with contour intervals of not more than five (5) feet related to United States Geological Survey datum; also the location of water courses, ravines, bridges, lakes, wooded areas, approximate acreage, and other such features as may be pertinent to subdivision.
- (2) A copy of the profile for each proposed street, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown.
- (3) Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings.

8.4 Final Plat

8.4.1 Procedures

After the preliminary plat has been approved, the final plat may be submitted for approval as follows:

- (1) Copies of the final plat shall be submitted to the County Engineer and County Planning Commission at least ten (10) days prior to the Planning Commission meeting at which consideration is requested. Approval or disapproval of the final plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the County Planning Commission, at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Commission.
- (2) The County Engineer shall review the final plat and prior to the Commission meeting submit a report to the County Planning Commission regarding the conformance of the proposed final plat to the approved preliminary plat and the requirements of these regulations.
- (3) After review and approval of the final plat by the County Planning Commission, such final plat, together with the recommendations of the Planning Commission shall be submitted to the County Board for consideration. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, roads, easements or other public ways, and open spaces dedicated to public purposes. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Board of County Commissioners and reported to the person or persons applying for such approval.

8.4.2 Data Required

The final plat prepared for recording purposes shall be prepared in accordance with provisions of Minnesota State statutes and shall contain the following information:

- (1) Name of subdivision (not to duplicate or too closely approximate the name of any existing subdivision).
- (2) Location by section, township, range, county and

state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in five thousand (5,000).

- (3) The location of survey control monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half ($\frac{1}{2}$) inch or larger in diameter extending at least three (3) feet below the finished grade.

In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

- (4) Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.
- (5) Lots shall be numbered clearly. If blocks are to be numbered or lettered, these should be shown clearly in the center of the block.
- (6) The exact locations, widths, and names of all streets to be dedicated.
- (7) Location and width of all easements to be dedicated.
- (8) Boundary lines and description of boundary lines of any areas other than streets and alleys which

are to be dedicated or reserved for public use.

- (9) Name and address of developer and surveyor making the plat.
- (10) Scale of plat (the scale to be shown graphically and in feet per inch), date and north point.
- (11) Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements".
- (12) Statement dedicating all streets, roads, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

8.4.3 Certifications Required On Final Plats

- (1) Notarized certification by owner and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.
- (2) Notarized certification by a registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.
- (3) Certification showing that all taxes and special assessments due on the property have been paid in full.
- (4) Space for certificates of approval to be filled in by the signatures of the Chairman of the County Planning Commission and the County Board of Commissioners.

8.5 Design Standards

8.5.1 Blocks

Block lengths shall normally not exceed thirteen hundred and twenty (1320) feet.

8.5.2 Streets and Roads

- (1) Streets normally shall connect with streets

already dedicated, or provide for future connections to adjoining unsubdivided tracts.

- (2) Cul-de-sacs may be permitted when conditions justify their use. Cul-de-sacs shall normally not be longer than five hundred (500) feet in length, including the terminal turn-around. The required terminal shall be nearly circular in shape and have a minimum diameter of one hundred (100) feet.
- (3) The minimum angle of intersection of streets shall be eighty (80) degrees.
- (4) Wherever the proposed subdivision contains or is adjacent to the right-of-way of a State or Federal Highway, a marginal access service street approximately parallel and adjacent to the boundary of such right-of-way may be required.
- (5) Dedication of half streets will not be approved, except where it is essential to the reasonable development of the subdivision.
- (6) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion may be required.
- (7) For all public streets and roads hereafter dedicated and accepted, the right-of-way widths shall not be less than the minimum dimensions for each classification as follows:

| | |
|------------------------------|---------|
| Minor residential street | 60 feet |
| Marginal access service road | 50 feet |
- (8) Minor street or driveway access to State and Federal Highways shall not be permitted at intervals of less than six hundred (600) feet.

8.5.3 Lots

- (1) Corner lots shall have additional width to permit appropriate building setback from both streets.
- (2) Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
- (3) Every lot must have at least the minimum required frontage on a public dedicated street.

8.5.4 Easements

Where appropriate, easements for utilities or drainage may be required. Easements shall be of a width suitable for the intended uses.

8.6 Required Improvements. Before a final plat is approved, the subdivider shall give satisfactory assurance of the installation of improvements as required by the Board of County Commissioners.

SECTION 9. ADMINISTRATION: LAND USE PERMITS

9.1 Zoning Administrator. The Board of County Commissioners shall appoint such employee or employees of the County and/or such other persons, including authorized city clerks, as it may deem proper to act as zoning administrator or deputy zoning administrators. It shall be the duty of the zoning administrator and authorized deputies to administer and enforce these regulations through the proper legal channels; issue land use permits and maintain records thereof; and provide a source of public information relative to this Ordinance.

9.2 Compliance with Regulations. No person shall erect, alter, wreck, or move any building or part thereof or make any improvement to land without first securing a land use permit therefor. No permit shall be required for an improvement valued at less than one thousand dollars (\$1000.00) or for fence improvements valued at less than \$3.00 per foot if no change in use is involved unless the use involves:

1. Demolition sites.
2. Disposal of contaminated soil
3. Landfills
4. Wetlands
5. Underground tanks
6. Digging or filling a well

9.3 Land Use Permits. Application for a land use permit shall be made to the Zoning Administrator on blank forms to be furnished by the County. Applications for any kind of land use 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 land use permit shall be based on a formula related to cost of administration as set by the Board of County Commissioners. The Zoning Administrator shall issue the building permit after determining that the building plans, together with the application, comply with the requirements of this Ordinance.

SECTION 10. NON-CONFORMING USES

10.1 Continuation. The lawful use of buildings or land

existing on January 1, 1995, may be continued, but not expanded, although such use does not conform with the provisions of this ordinance. 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 restricted use.

10.2 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 nine (9) months, the use of the same shall thereafter conform to the regulations of this ordinance.

SECTION 11. AMENDMENTS

This Resolution may be amended whenever the public necessity and convenience and the general welfare require such amendment after a duly advertised hearing held by the County Planning Commission.

SECTION 12. ENFORCEMENT

12.1 Violation a Misdemeanor. When any person intentionally performs an act prohibited or declared unlawful, fails to act when such failure is prohibited or declared unlawful, fails to take action when such action is required, or fails to take action to abate the existence of a violation within the specified time period when ordered or notified to do so by the County, that person violates the section, subdivision, paragraph, or provision of this ordinance within which such act or action is prohibited, declared unlawful, or required, and upon conviction thereof, shall be punished for a misdemeanor. A separate offense shall be deemed committed upon each day that the Kittson County Courthouse is normally open for business during or on which a violation occurs or continues. All violations of this ordinance shall be prosecuted by the County Attorney.

12.1.2 Citations. Whenever the County determines that there is probable cause to believe that a intentional violation of this ordinance has been committed by any person, a citation may be issued to the person alleged to have committed the violation.

12.1.2.1 Form of Citations. Citations shall be in a form designated by the County and approved by the County Attorney.

12.1.2.2 Issuance. The citation shall be issued to the person to be charged with the violation, or in the case of a corporation or municipality, to any officer or agent expressly or impliedly authorized to accept such issuance.

12.2 Equitable Relief. In the event of a violation or a threat of violation of this ordinance, the County Attorney may

take appropriate action to enforce this ordinance, including application for injunctive relief, action to compel performance or other appropriate action in court, if necessary, to prevent, restrain, correct or abate such violations or threatened violations.

12.3 Civil Action. If a person fails to comply with the provisions of this ordinance, the County may recover costs incurred for corrective action, including reasonable attorney's fees, in a civil action in any court of competent jurisdiction.

12.4 Rules of Construction. In construing this ordinance, the following rules of construction are to govern, unless their observance would be inconsistent with the obvious intent of the County, or contrary to the context of the ordinance.

12.4.1 Indemnification. This ordinance shall not be construed to hold the County or any officer or employee of the County, responsible for any damage to persons or property by reason of inspections or re-inspections authorized by the provisions of this ordinance, or by reason of the approval or disapproval of equipment or licensing herein, nor for any action in connection with the inspection or control of solid waste or refuse or in connection with any other official duties.

12.4.2 Severability. It is hereby declared to be the intention of the Board that the provisions of this ordinance be severable as follows:

12.4.2.1 Ordinance Provisions. If any court of competent jurisdiction shall adjudge any provisions of this ordinance to be invalid, such judgment shall not affect any other provisions of the ordinance not specifically included in said judgment.

12.4.2.2 Structures, Sites, and Operations. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular structure, site, or operation, such judgment shall not affect the application of said provision to any other structure, site, or operation not specifically included in said judgment.

12.4.3 Ordinance Remedies and Provisions Cumulative. Each right or remedy conferred on or reserved to the County under this ordinance is cumulative in and in addition to every other right or remedy provided for in this ordinance. The provisions in this ordinance are in addition to all other laws and ordinances passed, or which may be passed hereafter, covering any subject matter in this ordinance. Additional local, state and federal laws and rules regulating or restricting land use in Kittson County for which permits or licenses in addition to a building permit may be required include those pertaining to:

Feedlots, individual sewage treatment systems, wetlands, shorelands, flood plains, wells, waste disposal, lands affected by city and airport zoning ordinances, lands adjacent to railroad, public and public-utility lands and rights-of-way, advertising signs, noxious weeds.

12.4.4 Meanings. Words of male gender shall include the female and neuter, the singular shall include the plural and the plural shall include the singular.

SECTION 13. COUNTY ZONING CONTROL AREAS.

The County has, by adoption of this ordinance, established and has determined the boundaries of county zoning control areas to be all areas within the County except: NO EXCEPTIONS.

The Board may terminate, re-establish, enlarge, revise, or alter the county zoning control area so established by amendment of this ordinance.

SECTION 14. DATE OF EFFECT

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

Approved by: KITTSOON COUNTY BOARD OF COUNTY COMMISSIONERS

Passed and approved this 20th day of December, 1994.

Attest: Marilyn Gustafson
Auditor/Clerk
John P. ...
Chairman

Recommended by: THE COUNTY PLANNING COMMISSION

Date: _____
Chairman

0162029

OFFICE OF COUNTY RECORDER
KITTSOON COUNTY, MINN.

I HEREBY certify that the within instru-
ment was filed in this office for record
on the 15th day of Nov.

A. D. 19 95, at 9 O'clock A M.

and was duly recorded in Book 94

of Misc. on Page 65-96

Janice Klein
County Recorder

By: _____
Deputy

Ret Co. Auditor



Minnesota Department of Natural Resources

500 Lafayette Road
St. Paul, Minnesota 55155-40__

DATE: January 4, 1999
TO: Community Floodplain Program Administrator
FROM: Ogbazghi Sium, Supervisor
Land Use Unit
PHONE: (651) 296-0444

FLOODPLAIN MANAGEMENT ORDINANCE ADMINISTRATION

Your community is one out of four hundred and seventy-six communities participating in the National Flood Insurance Program (NFIP) administered through the Federal Emergency Management Agency (FEMA). The Department of Natural Resources (i.e., DNR Waters) is the state agency with overall responsibility for coordination with the NFIP and implementation of the State Floodplain Management Act (Minnesota Statute, Chapter 103F). Floodplain management is a cooperative effort between federal, state, and local units of governments.

Community Monitoring (CM) visits, formerly known as Community Assessment Visits (CAVs), are conducted by DNR Waters to determine the effectiveness of a community's NFIP floodplain ordinance administration and to provide program assistance. Unfortunately, due to staff limitations, DNR Waters is unable to perform on-site CM visits in a timely matter for all communities that participate in the NFIP. However, through mailings such as this, supporting information can be forwarded and guidance provided.

Recent statewide CM evaluations indicate that some communities are not specifying flood protection standards on issued building permits/approvals and certifying as-built construction. According to the federal and state laws, communities must keep proper records for review should a CM meeting be conducted at a later date. Communities should strive to develop a well-constructed and effective system for issuing permits/approvals and certifying as-built construction. Proper administration of your floodplain ordinance also qualifies your community for flood insurance, flood disaster monies and flood mitigation monies at both the state and federal level.

Enclosed please find a copy of: 1) the NFIP's "Elevation Certificate"; and 2) several DNR Waters' permit review and certifications forms (i.e., Forms B, I, and J). The DNR Waters' forms are taken from a DNR Waters' publication titled "Floodplain Management - A Handbook For Local Officials," a copy of which should be on file in your office (and is available from us upon request). Your community should either: 1) use the NFIP and/or DNR Waters forms for floodplain development; or 2) be able to demonstrate that your forms have been adapted to contain all relevant information for flood protection standards and as-built certification for development in the floodplain.

Thank you for your continued cooperation and floodplain management efforts. If additional assistance is needed, please contact Tom Lutgen of this office at (651) 296-0522.

c: John Linc Stine
Tira Miller, NFIP
DNR Waters' Regional & Area Hydrologists
Tom Lutgen

DNR Information: 612-296-6157, 1-800-766-6000 • TTY: 612-296-5484, 1-800-657-3929

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FEDERAL EMERGENCY MANAGEMENT AGENCY

NATIONAL FLOOD INSURANCE PROGRAM

ELEVATION CERTIFICATE

AND

INSTRUCTIONS

PAPERWORK REDUCTION ACT NOTICE

Public reporting burden for the Elevation Certificate is estimated to average 2.25 hours per response. Burden means the time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to the Federal Emergency Management Agency. You are not required to respond to this collection of information unless a valid OMB control number is displayed in the upper right corner of each form. You may send comments regarding the accuracy of the burden estimate and any suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (3067-0077). To ensure timely receipt and processing of the completed forms, return them to the address provided in the instructions to the forms. Do not send completed form(s) to the above address. Your response to this collection of information is required to obtain or retain benefits under the National Flood Insurance Program.

ELEVATION CERTIFICATE

FEDERAL EMERGENCY MANAGEMENT AGENCY NATIONAL FLOOD INSURANCE PROGRAM

O.M.B. No. 3067-0077
Expires July 31, 1999

ATTENTION: Use of this certificate does not provide a waiver of the flood insurance purchase requirement. This form is used only to provide elevation information necessary to ensure compliance with applicable community floodplain management ordinances, to determine proper insurance premium rate, and/or to support a request for a Letter of Map Amendment or Revision (LOMA or LOMR). You are not required to respond to this collection of information unless a valid OMB control number is displayed in the upper right corner of this form.

Instructions for completing this form can be found on the following pages.

| | |
|---|-------------------------------------|
| SECTION A PROPERTY INFORMATION | FOR INSURANCE COMPANY USE |
| BUILDING OWNER'S NAME | POLICY NUMBER |
| STREET ADDRESS (Including Apt., Unit, Suite and/or Bldg. Number) OR P.O. ROUTE AND BOX NUMBER | COMPANY NAIC NUMBER |
| OTHER DESCRIPTION (Lot and Block Numbers, etc.) | |
| CITY | STATE ZIP CODE |

SECTION B FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

Provide the following from the proper FIRM (See Instructions):

| | | | | | |
|---------------------|-----------------|-----------|-----------------------|--------------|---|
| 1. COMMUNITY NUMBER | 2. PANEL NUMBER | 3. SUFFIX | 4. DATE OF FIRM INDEX | 5. FIRM ZONE | 6. BASE FLOOD ELEVATION (in AO Zones, use depth) |
|---------------------|-----------------|-----------|-----------------------|--------------|---|

7. Indicate the elevation datum system used on the FIRM for Base Flood Elevations (BFE): NGVD '29 Other (describe on back)
8. For Zones A or V, where no BFE is provided on the FIRM, and the community has established a BFE for this building site, indicate the community's BFE: [] feet NGVD (or other FIRM datum—see Section B, Item 7).

SECTION C BUILDING ELEVATION INFORMATION

1. Using the Elevation Certificate Instructions, indicate the diagram number from the diagrams found on Pages 5 and 6 that best describes the subject building's reference level _____.
- 2(a). FIRM Zones A1-A30, AE, AH, and A (with BFE). The top of the reference level floor from the selected diagram is at an elevation of [] feet NGVD (or other FIRM datum—see Section B, Item 7).
- (b). FIRM Zones V1-V30, VE, and V (with BFE). The bottom of the lowest horizontal structural member of the reference level from the selected diagram, is at an elevation of [] feet NGVD (or other FIRM datum—see Section B, Item 7).
- (c). FIRM Zone A (without BFE). The floor used as the reference level from the selected diagram is [] feet above [] or below (check one) the highest grade adjacent to the building.
- (d). FIRM Zone AO. The floor used as the reference level from the selected diagram is [] feet above or below (check one) the highest grade adjacent to the building. If no flood depth number is available, is the building's lowest floor (reference level) elevated in accordance with the community's floodplain management ordinance? Yes No Unknown
3. Indicate the elevation datum system used in determining the above reference level elevations: NGVD '29 Other (describe under Comments on Page 2). (NOTE: If the elevation datum used in measuring the elevations is different than that used on the FIRM [see Section B, Item 7], then convert the elevations to the datum system used on the FIRM and show the conversion equation under Comments on Page 2.)
4. Elevation reference mark used appears on FIRM: Yes No (See Instructions on Page 4)
5. The reference level elevation is based on: actual construction construction drawings
(NOTE: Use of construction drawings is only valid if the building does not yet have the reference level floor in place, in which case this certificate will only be valid for the building during the course of construction. A post-construction Elevation Certificate will be required once construction is complete.)
6. The elevation of the lowest grade immediately adjacent to the building is: [] feet NGVD (or other FIRM datum—see Section B, Item 7).

SECTION D COMMUNITY INFORMATION

- If the community official responsible for verifying building elevations specifies that the reference level indicated in Section C, Item 1 is not the "lowest floor" as defined in the community's floodplain management ordinance, the elevation of the building's "lowest floor" as defined by the ordinance is: [] feet NGVD (or other FIRM datum—see Section B, Item 7).
2. Date of the start of construction or substantial improvement _____

SECTION E CERTIFICATION

This certification is to be signed by a land surveyor, engineer, or architect who is authorized by state or local law to certify elevation information when the elevation information for Zones A1-A30, AE, AH, A (with BFE), V1-V30, VE, and V (with BFE) is required. Community officials who are authorized by local law or ordinance to provide floodplain management information, may also sign the certification. In the case of Zones AO and A (without a FEMA or community issued BFE), a building official, a property owner, or an owner's representative may also sign the certification.

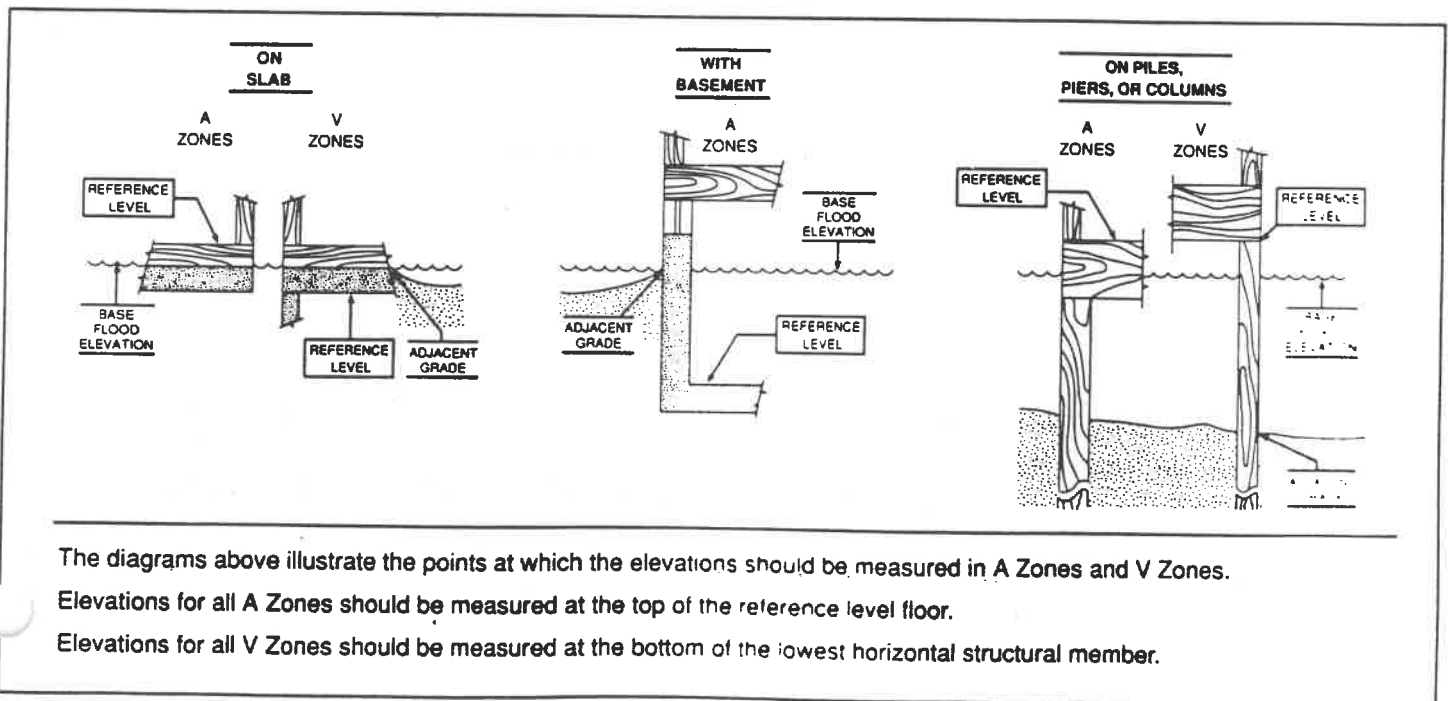
Reference level diagrams 6, 7 and 8 - Distinguishing Features-If the certifier is unable to certify to breakaway/non-breakaway wall, enclosure size, location of servicing equipment, area use, wall openings, or unfinished area Feature(s), then list the Feature(s) not included in the certification under Comments below. The diagram number, Section C, Item 1, must still be entered.

I certify that the information in Sections B and C on this certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

| | | | |
|------------------|--------------------------------|-------|-----|
| CERTIFIER'S NAME | LICENSE NUMBER (or Affix Seal) | | |
| TITLE | COMPANY NAME | | |
| ADDRESS | CITY | STATE | ZIP |
| SIGNATURE | DATE | PHONE | |

Copies should be made of this Certificate for: 1) community official, 2) insurance agent/company, and 3) building owner.

COMMENTS: _____



THE NATIONAL FLOOD INSURANCE PROGRAM ELEVATION CERTIFICATE

PURPOSE OF THE ELEVATION CERTIFICATE

The Elevation Certificate is an important administrative tool of the National Flood Insurance Program (NFIP).

As part of the agreement for making flood insurance available in a community, the NFIP requires the community to adopt a floodplain management ordinance containing certain minimum requirements intended to reduce future flood losses. One such requirement is that the community "obtain the elevation of the lowest floor (including basement) of all new and substantially improved structures, and maintain a record of all such information." The Elevation Certificate is one way for a community to comply with this requirement.

The Elevation Certificate is also required to properly rate post-FIRM structures, which are buildings constructed after publication of the Flood Insurance Rate Map (FIRM), for flood insurance in FIRM Zones A1-A30, AE, AO, AH, A (with Base Flood Elevations [BFE's]), V1-V30, VE, and V (with BFE's). In addition, the Elevation Certificate is also needed for pre-FIRM structures being rated under post-FIRM flood insurance rules.

Use of this certificate does not in any way alter the flood insurance purchase requirement. The Elevation Certificate is only used to provide information necessary to ensure compliance with applicable community floodplain management ordinances, to determine the proper flood insurance premium rate, and/or to support a request for a Letter of Map Amendment or Revision (LOMA or LOMR). Only a LOMA or LOMR from the Federal Emergency Management Agency (FEMA) can amend the FIRM and remove the Federal requirement for a lending institution to require the purchase of flood insurance. Note that the lending institution may still require flood insurance.

This certificate is only used to certify the elevation of the reference level of a building. If a non-residential building is being floodproofed, then a Floodproofing Certificate must be completed in addition to certifying the building's elevation. Floodproofing of a residential building does not alter a community's floodplain management elevation requirements or affect the insurance rating unless the community has been issued an exception by FEMA to allow floodproofed residential basements.

INSTRUCTIONS FOR COMPLETING THE ELEVATION CERTIFICATE

Elevation Certificate is to be completed by a land surveyor, engineer, or architect who is authorized by state or local law to certify elevation information when the elevation information for Zones A1-A30, AE, AH, A (with BFE's), V1-V30, VE, and V (with BFE's) is required. Community officials who are authorized by local law or ordinance to provide floodplain management information may also complete this form. For Zones AO and A (without BFE's), a building official, a property owner, or an owner's representative may also provide the information on this certification.

SECTION A Property Information

The Elevation Certificate identifies the building, its owner and its location. Provide the building owner's name(s), the building's complete street address, and lot and block number. If the property address is a rural route or PO box number, provide a legal description or an abbreviated location description based on distance from a reference point.

SECTION B Flood Insurance Rate Map Information

In order to properly complete the Elevation Certificate, it is necessary to locate the building on the appropriate FIRM, and record the appropriate information. To obtain a FIRM, contact the community or call 1-800-333-1363.

The Elevation Certificate may be completed based on either the FIRM in effect at the time of the certification or the FIRM in effect when construction of the building was started.

Items 1 - 6. Using the FIRM Index and the appropriate FIRM panel for the community, record the community number, panel (or page) number, suffix, and Index date. From the appropriate FIRM panel, locate the property and record the zone and the BFE (or flood depth number) at the building site. BFE's are shown on a FIRM for Zones A1-A30, AE, AH, V1-V30, and VE; flood depth numbers are shown for Zone AO.

Item 7. Record the vertical datum system to which the elevations on the applicable FIRM are referenced. The datum is specified in the upper right corner of the title block of the FIRM.

Item 8. In A or V Zones where BFE's are not provided on the FIRM, the community may have established BFE's based on data from other sources. For subdivisions and other development greater than 50 lots or 5 acres, establishment of BFE's is required by community floodplain management ordinance. When this is the case, complete this item.

SECTION C Building Elevation Information

Item 1. The Elevation Certificate uses a building's reference level as the point for measuring its elevation. Pages 5 and 6 of this Elevation Certificate package contain a series of eight diagrams of various building types that are to be used to help determine the reference level. Choose the diagram that best represents this building, record the diagram number, and use the indicated reference level to measure the elevation as requested in Items 2a-d.

Item 2. Depending on the property location's FIRM Zone, complete Item 2a, 2b, 2c, or 2d. Use the reference level shown in the appropriate building diagram as the point of measurement. As shown in the diagram on the back of the Certificate, for all A Zones, the elevation should be measured at the top of the reference level floor. For all V Zones, the elevation should be measured at the bottom of the lowest horizontal structural member of the reference level floor. Reporting of elevations in Items 2a and 2b should be to the nearest tenth of a foot, or alternatively, unless prohibited by state or local ordinance, the reference level elevation may be "rounded down" to the nearest whole foot ("rounding up" is prohibited).

Item 2(a). For structures located in FIRM Zones A1-A30, AE, AH, and A (with BFE's), record the elevation (to the nearest tenth of a foot) of the top of the floor identified as the reference level in the applicable diagram.

Item 2(b). For structures located in FIRM Zones V1-V30, VE, and V (with BFE's), record the elevation (to the nearest tenth of a foot) of the bottom of the lowest horizontal structural member of the floor identified as the reference level in the applicable diagram.

Item 2(c). For structures located in FIRM Zone A (without BFE's), record the height (to the nearest tenth of a foot) of the top of the floor indicated as the reference level (from the applicable diagram) above or below the highest adjacent grade immediately next to the building.

Item 2(d). For structures located in FIRM Zone AO, the FIRM will show the base flood depth. For locations in FIRM Zone AO record the height (to the nearest tenth of a foot) of the top of the floor identified as the reference level (from the applicable diagram) above or below the highest adjacent grade immediately next to the building. For post-FIRM buildings, the community's floodplain management ordinance requires that this value equal or exceed the base flood depth provided on the FIRM. For those few communities where this base flood depth is not available, the community will need to determine if the lowest floor is elevated in accordance with their floodplain management ordinance.

Item 3. Record the vertical datum system used in identifying the reference level elevations for all buildings. If the datum used in measuring the elevations is different than that used on the FIRM, then convert the elevations in Items 2a-d to the datum used on the FIRM, and show the conversion equation under the Comments section on Page 2.

Item 4. Indicate if the elevation reference mark used appears on the FIRM. Reference marks other than those shown on the FIRM may be used for elevation determinations. In areas experiencing ground subsidence, the most recently adjusted reference mark elevations must be used for reference level elevation determinations.

Item 5. Indicate if the reference level used in making the elevation measurement is based on actual construction or construction drawings. Construction drawings should only be used if the building does not yet have the reference level floor in place, in which case the Elevation Certificate will only be valid for the building during the course of construction. A post-construction Elevation Certificate will be needed once construction is complete.

Item 6. Record the elevation measurement of the lowest grade adjacent to the building (to the nearest tenth of a foot). Adjacent grade is defined as the elevation of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure. This measurement should be to the nearest tenth of a foot if this Certificate is being used to support a request for a LOMA/LOMR.

SECTION D Community Information

Completion of this section may be required by the community in order to meet the minimum floodplain management requirements of the NFIP. Otherwise, completion of this section is not required.

Item 1. The community's floodplain management ordinance requires elevation of the building's "lowest floor" above the BFE. For the vast majority of building types, the reference level and the lowest floor will be the same. If the community determines that there is a discrepancy, record the elevation of the lowest floor.

Item 2. Enter date. These terms are defined by local ordinance.

SECTION E Certification

Complete as indicated. The Elevation Certificate may only be signed by a land surveyor, engineer, or architect who is authorized by state or local law to certify elevation information when the elevation information for Zones A1-A30, AE, AH, A (with BFE's), V1-V30, VE, and V (with BFE's) is required. Community officials who are authorized by local law or ordinance to provide floodplain management information may also sign this certification. In the case of Zones AO and A (without BFE's), a building official, a property owner, or an owner's representative may sign this certification.

Certification is normally to the information provided in Sections B and C. If the certifier is unable to certify to the selection of a reference level diagram 6, 7 or 8 (Section C, Item 1), e.g., because of difficulty in obtaining construction or building use information needed to determine the Distinguishing Feature(s), the certifier must list the Feature(s) excluded from the certification under Comments on Page 2. The diagram number used for the Reference level must still be entered in Section C, Item 1.

INSTRUCTIONS

The following 8 diagrams contain descriptions of various types of buildings. Compare the features of your building with those shown in the diagrams and select the diagram most applicable. Indicate the diagram number on the Elevation Certificate (Section C, Item 1) and complete the Certificate. The reference level floor is that level of the building used for underwriting purposes.

NOTE: In all A Zones, the reference level is the top of the lowest floor; in V Zones the reference level is the bottom of the lowest horizontal structural member (see diagram on page 2). Agents should refer to the Flood Insurance Manual for instruction on lowest floor definition.

DIAGRAM NUMBER 1

ALL SINGLE AND MULTIPLE FLOOR BUILDINGS (OTHER THAN SPLIT LEVEL), INCLUDING MANUFACTURED (MOBILE) HOUSING AND HIGH RISE BUILDINGS, EITHER DETACHED OR ROW TYPE (E.G., TOWNHOUSE, ETC.); WITH OR WITHOUT ATTACHED GARAGE.

Distinguishing Feature - The first floor is *not* below ground level (grade) on *all* sides*. This includes "walkout" basements, where at least one side is at or above grade. (Not illustrated)

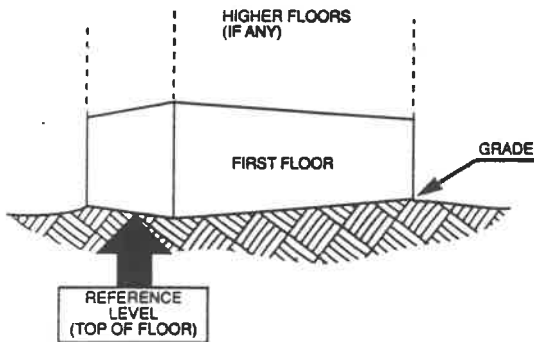


DIAGRAM NUMBER 2

ALL SINGLE AND MULTIPLE FLOOR BUILDINGS (OTHER THAN SPLIT LEVEL), INCLUDING MANUFACTURED (MOBILE) HOUSING AND HIGH RISE BUILDINGS, EITHER DETACHED OR ROW TYPE (E.G., TOWNHOUSES, ETC.); WITH OR WITHOUT ATTACHED GARAGE.

Distinguishing Feature - The first floor *or* basement (including an underground garage*) is below ground level (grade) on *all* sides*.

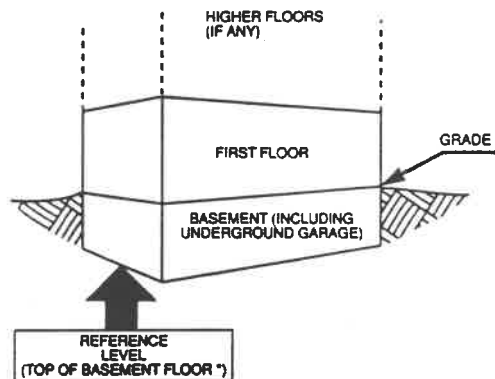


DIAGRAM NUMBER 3

ALL SPLIT LEVEL BUILDINGS, EITHER DETACHED OR ROW TYPE (E.G., TOWNHOUSES, ETC.); WITH OR WITHOUT ATTACHED GARAGE.

Distinguishing Feature - The lower level is *not* below ground level (grade) on *all* sides*. This includes "walkout" basements, where at least one side is at or above grade.

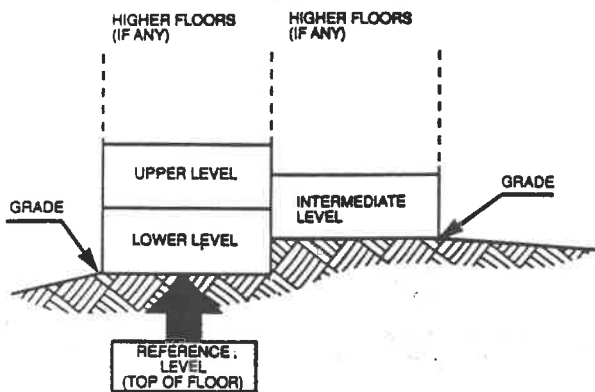
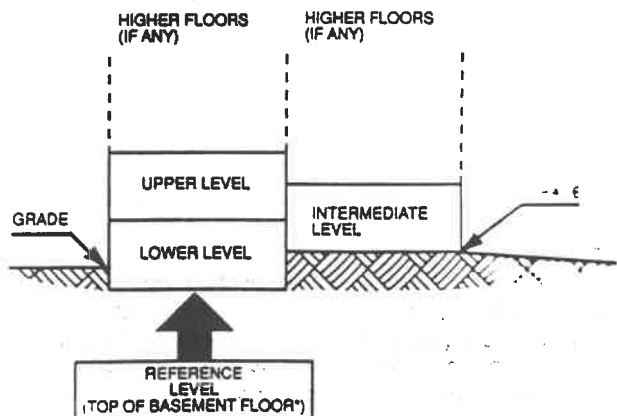


DIAGRAM NUMBER 4

ALL SPLIT LEVEL BUILDINGS, EITHER DETACHED OR ROW TYPE (E.G., TOWNHOUSES, ETC.); WITH OR WITHOUT ATTACHED GARAGE.

Distinguishing Feature - The lower level (or intermediate level) is below ground level (grade) on *all* sides*.



* Under the National Flood Insurance Program's risk classification and insurance coverage, a floor that is below ground level (grade) on all sides is considered a basement even though the floor is used for living purposes, or as an office, garage, workshop, etc.

PAGE 2
FORM B - BUILDING PERMIT

GENERAL PROVISIONS

1. This permit [] is ; [] is not subject to the State Building Code.
2. No changes in plans or specifications can be made to the work authorized herein unless such change is first approved in writing by the permitting authority.
3. Permittee shall grant access to the site at all reasonable times so that the permitting authority or his/her agents may conduct inspections to ascertain compliance with the terms and conditions of this permit.
4. The construction site shall be kept reasonably free of debris at all times so as to not create a public nuisance.
5. Permittee shall install permanent and temporary erosion control measures in order to prevent erosion of disturbed soils from the project site onto adjacent parcels of land, public waters, public roads, ditches, sewer facilities and the like. Permittee shall cease all related authorized construction activities until such time as any such problem is corrected as agreed to by the permitting authority.
6. No certificate of occupancy or zoning compliance may be issued until all the provisions and conditions of this permit are complied with in full.
7. A copy of this permit or an official notice or placard thereof must be posted in a conspicuous place protected from the effects of weather no more than 12 feet above grade on the premises which the work is to be done and shall be maintained there until completion of said work.
8. The granting of this permit does not exempt the permittee from having to secure other permits from other state, federal or local units of government which may have jurisdiction over portions of the authorized project.

SPECIAL PROVISIONS

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

FORM I

**CERTIFICATE OF COMPLIANCE
FOR
AUTHORIZED FLOOD PLAIN DEVELOPMENTS**

| |
|--------------------|
| APPLICATION NUMBER |
| TAX PARCEL NUMBER |

A. GENERAL INFORMATION

| | | | |
|---|---------------|-------------------------------------|--|
| 1. Permittee's Name (Last, First, M.I.) | | 2. Authorized Agent (if applicable) | |
| 3. Mailing Address (Street, RFD, Box Number, City, State, Zip Code) | | | |
| 4. Work Phone | 5. Home Phone | 6. Fire Number | |

B. LEGAL DESCRIPTION

| | | | | |
|---|------------|-------------|----------|--------------|
| 1. Lot(s), Block, Subdivision Name | 2. Section | 3. Township | 4. Range | 5. Qtr./Qtr. |
| 6. Note: If property is metes and bounds description, check here <input type="checkbox"/> and attach a copy of the exact legal description. | | | | |

C. TYPE OF ZONING OR PERMIT REQUEST

| |
|---|
| <p>1. <input type="checkbox"/> building permit for:</p> <p> a. <input type="checkbox"/> new construction;</p> <p> b. <input type="checkbox"/> addition;</p> <p> c. <input type="checkbox"/> remodeling</p> <p> d. <input type="checkbox"/> relocation of structure;</p> <p>2. <input type="checkbox"/> fill permit in:</p> <p> a. <input type="checkbox"/> flood fringe;</p> <p> b. <input type="checkbox"/> floodway;</p> <p> c. <input type="checkbox"/> general flood plain district</p> <p>3. <input type="checkbox"/> conditional use permit for:</p> <p>(specify): _____</p> |
|---|

D. FLOOD INSURANCE RATE MAP (FIRM) DATA

| | |
|--|--|
| 1. Community No.: | |
| 2. Panel No.: | 3. Suffix: |
| 4. Date of FIRM | 5. FIRM Zone |
| 6. Date of Constr.: | 7. Base Flood (100-yr) Elev. <small>(in AO Zone, use depth)</small> |
| <p>8. Building is:</p> <p> a. <input type="checkbox"/> New/Emergency Program</p> <p> b. <input type="checkbox"/> Pre-FIRM Reg. Program</p> <p> c. <input type="checkbox"/> Post-FIRM Reg. Program</p> | |

(Page 1 of 2)

SEE REVERSE (PAGE 2) FOR ACTUAL CERTIFICATION

E. - ELEVATION CERTIFICATION (AS BUILT)

1. Benchmark/Reference Mark Information; the elevations cited herein are based on the following described benchmark (BM): _____

BM elevation is in: Sea Level Datum; assumed datum with BM equal to elevation _____

| | | Required By Ordinance | Actual As-Built |
|---|--|--------------------------|--------------------|
| 2. Structure: | a. Elevation of first floor: | = _____ | - _____ |
| | b. Basement elevation): | = _____ | - _____ |
| | b. Lowest adjacent grade: | = _____ | - _____ |
| | c. Highest adjacent grade: | = _____ | - _____ |
| 3. Sewer: | a. Top of septic or holding tank: | = _____ | - _____ |
| | b. Bottom of drainfield trench or bed: | = _____ | - _____ |
| 4. Low point of access/road: | | = _____ | - _____ |
| 5. Compacted fill elevation around building: | | = _____ | - _____ |
| 6. Top of well casing: | | = _____ | - _____ |
| 7. Elevation to which structure is flood proofed: | | = _____ | - _____ |

- CERTIFICATION -

I, _____
(print or type name) hereby certify that, to the best of my knowledge, information and belief, the subject structure is constructed in accordance with the elevations stated immediately above items 2 through 7).

Signature: _____ Date: _____

Registration No. (*): _____
*(Only necessary if local ordinance requires certification by registered professional engineer or registered surveyor)

F. - FLOOD PROOFING CERTIFICATION

I, _____
(print or type name), hereby certify that I am a registered engineer, architect and that, to the best of my knowledge, information and belief, the subject structure is constructed in accordance with the approved plans and specifications which accompanied the above referenced Zoning Application and or Zoning Permit and the subject structure meets the criteria and standards for FP1, FP2, FP3, FP4 flood proofing as well as all local ordinances, and the State Building Code where applicable.

Signature: _____ Date: _____

Registration No.: _____

FORM J

**CERTIFICATE OF OCCUPANCY
OR
ZONING COMPLIANCE**

| |
|-------------------|
| Permit Number |
| Tax Parcel Number |

A. - TYPE OF ZONING OR PERMIT REQUEST

- 1. general use permit
 - 2. building permit
 - 3. sewage system permit
 - 4. conditional use permit
 - 5. grading or filling permit
 - 6. other (specify below)
- _____

B. LEGAL DESCRIPTION OF PROJECT LOCATION

| | | |
|---|-------------------|-----------------|
| 1. Section | 2. Township | 3. Range |
| 4. County | 5. Qtr./Qtr. Sec. | 6. Gov. Lot No. |
| 7. Lot, Block, Subdivision Name | | |
| <p>Note: If property is a metes and bounds description, check here <input type="checkbox"/> and attach true and correct copy of complete legal description.</p> | | |

C. - CERTIFICATION

I, _____, acting in behalf of City/County/Township of _____
(print or type name) (name of community)
in the capacity of _____ hereby CERTIFY that the above described premises and project
(Title)
has been inspected by myself or my assigns on _____, and that the permit or use as authorized in the
(date of inspection)
above referenced Zoning Application has been completed in compliance with all applicable codes and
ordinances and is not in variance with said application and supporting data as of the date of said inspection.

Note: If the project involves the construction of a building in a designated Flood Plain District, either attach a copy of a fully executed Elevation Certificate as provided by the Federal Emergency Management Agency or attach a copy of a fully executed MDNR FORM I. Certification of certain elevations relating to developments located in flood plain areas is a mandatory requirement of state and federal laws and regulations.

This Certification was issued to:

Name of Applicant: _____

Mailing Address: _____

City, State, & Zip: _____

On: _____
(date of issuance)

