

1700
Introduced by: Mayor
Date: November 26, 1974
Hearing: DEFEATED: NOT SET FOR HEARING

KENAI PENINSULA BOROUGH

ORDINANCE 74-69

AN ORDINANCE ENACTING A ZONING CODE FOR THE CITY OF KENAI MUNICIPAL DISTRICT REQUIRING RATIFICATION BY THE ELECTORATE OF THE CITY OF KENAI.

WHEREAS, a question has been raised as to the legality of the adoption of a zoning code for the City of Kenai; and

WHEREAS, since the purported adoption of such code a complete revision has been prepared which has never been brought before the Kenai Peninsula Borough Assembly for adoption; and

WHEREAS, the City of Kenai has adopted Resolution 74-40 requesting the Kenai Peninsula Borough to adopt the most recent codification as a zoning ordinance for the City of Kenai; and

WHEREAS, the Kenai Peninsula Borough Planning Commission has adopted Resolution No. 74-1 recommending that the proposed zoning law for the City of Kenai be adopted by the assembly; and

WHEREAS, many people have expressed their disagreement with zoning in the City of Kenai and have asserted that no zoning ordinance should be enacted without the requirement that it be ratified by the electorate of the City of Kenai; Now Therefore,

BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1: That the Kenai Peninsula Borough Code of Ordinances is hereby amended by adding a new chapter to be numbered KPC 20.30 which shall read as follows:

CHAPTER 30. CITY OF KENAI MUNICIPAL ZONING DISTRICT

Section 20.30.010. This chapter may be cited as the Kenai Zoning Code. The provisions of this chapter are applicable only within the Kenai Municipal District which is described as all land within the city limits of the City of Kenai.

APPLICATION OF REGULATIONS

The regulations set by this ordinance within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land and, particularly, except as hereinafter provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the zone in which it is located.
- B. No structure shall hereafter be erected or altered.
 - 1. To exceed the height:
 - 2. To accommodate or house a greater number of families:
 - 3. To occupy a greater percentage of lot area; or
 - 4. To have narrower or smaller rear yard, front yard or side yard than is specified herein for the zone in which such building is located.
- C. No yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building, and no yard or open space on one lot shall be considered as providing a yard or open space on any other lot.
- D. No yard or lot existing at the time of passage of this ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
- E. Every building hereafter erected shall be located on a lot as herein defined. If it is located on two or more legally subdivided lots, the building may straddle an interior lot line. However, all other regulations shall apply as though the parcel of lots concerned were a single lot.
- F. Whenever there is a conflict between this ordinance and other ordinances pertaining to the regulation of property within the City the most restrictive regulation of property within the City the most restrictive regulation shall apply.

ESTABLISHMENT OF ZONES AND PROVISION FOR OFFICIAL ZONING MAP

A. Adoption of Zones and Zoning Map

The City of Kenai is hereby divided into the following zones.

<u>Conservation</u>	<u>C Zone</u>
<u>Rural Residential</u>	<u>RR Zone</u>
<u>Suburban Residential</u>	<u>RS Zone</u>
<u>Urban Residential</u>	<u>RU Zone</u>
<u>Central Commercial</u>	<u>CC Zone</u>
<u>General Commercial</u>	<u>CG Zone</u>
<u>Light Industrial</u>	<u>IL Zone</u>
<u>Heavy Industrial</u>	<u>IH Zone</u>

These zones shall be bounded and defined as shown on the official zoning map, a certified copy of which shall be kept on file in the office of the Borough Planning Commission. This Official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.

B. Adoption of Regulations

Regulations applying to each zone as set forth in the following sections of this ordinance and all other requirements of this ordinance are hereby adopted.

C. Map Changes

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Section 18 of this ordinance.

Regardless of the existence of purported copies of the Official Zoning Map, which may from time to time be made or published, the Official Zoning Map, located in the office of the Borough Planning Commission, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Sec. -2

RULES FOR INTERPRETATION

A. Rules for Interpretation of Zone boundaries:

- Where uncertainty exists as to the boundaries of zones as shown on the official Zoning Map, the following rules shall apply:
1. Boundaries indicated as approximately following the center lines of the streets, highways, or alleys shall be construed to follow such lines;
 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
 3. Boundaries indicated as approximately following city limits or sections lines shall be construed as following city limits or section lines;
 4. Boundaries indicated as following shore lines shall be construed to follow such shore lines. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
 5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
 6. The zoning regulations shall apply equally to private and public property.
 7. Property which has not been specifically included within a zone shall be classified as Rural Residential until such classification is changed by amendment to the Zoning Ordinance as provided by law.

3. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other questions of map interpretation not covered by subsections 1 through 7 above, the Board of Adjustment shall interpret the zone boundaries.

B. Rules for Interpretation of Permitted Uses

1. The express enumeration and authorization of a particular class of building, structure, premise or use in a designated zone shall be deemed a prohibition of such building, structure, premises or use in all other zones unless otherwise specified.
2. In cases of reasonable doubt as to whether a use is permitted in a specific zone Section 12-E-1 shall apply.
3. The zoning regulations shall apply equally to private and public property.

Sec. -3

EXISTING USES AND STRUCTURES (NON-CONFORMING USES)

A. Explanation

When a lot, structure or use legally exists prior to the adoption of this ordinance but does not meet the requirements of this ordinance, it shall be permitted to continue within the limits set forth in this Section. Under such circumstances it is said to have "non-conforming" status. There are three types of non-conforming status:

1. Non-conforming lots

The lot width or acreage is smaller than the minimum permitted in the zone in which it is located.

2. Non-conforming structures

The structure is designed to accommodate a non-conforming use or fails to meet yard, coverage, height or other development requirements established for the zone in which it is located.

3. Non-conforming uses of land and/or structures

The use to which land and/or structures is being put is not a principal, accessory or conditional use permitted in the zone in which it is located, and is not otherwise permitted in this ordinance.

B. Intent

Within the zones established by this ordinance and any future amendments there exist lots, structures, and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance or future amendments.

It is the intent of this ordinance to permit these non-conformities to continue until they are removed. Such uses are declared by this ordinance to be incompatible with permitted uses in the zones involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded nor extended, nor be uses as grounds for adding other structures or uses prohibited elsewhere in the same zone.

C. Non-conforming lots of record

In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot or record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, of the lot shall conform to the regulation for the zone in which such lot is located. Variance of yard requirements and of other development requirements except as specified above shall be obtained only through action of the Planning Commission as provided in Section 19 of this ordinance.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this ordinance, except to allow the addition to abutting land to make a standard lot, providing such sale does not thereby create a substandard remaining lot.

D. Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its non-conformity;

2. Should such structure be destroyed by means to an extent of more than 50 per cent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance;
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

E. Non-conforming uses of structures

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, said use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structures devoted to a use not permitted by this ordinance in the zone in which it is located shall be enlarged, extended constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.
2. Any non-conforming use may be extended throughout any part of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alternations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Planning and Zoning Commission shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the non-conforming use may not thereafter be resumed;
5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located;

6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

F. Non-Conforming uses of land

Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
3. If any such non-conforming use of land ceases for any reason for a period of more than 365 days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

G. General Provisions

1. Signs and display devices:
A non-conforming use of a structure, non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this ordinance by attachment of additional signs to a building, or the placement of additional signs or display devices on the land outside of the building, or by the addition of other uses, if such additions are of a nature which would be prohibited generally in the zone involved.
2. Construction begun prior to passage of the ordinance:
To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, and demolition, elimination, and removal of an existing structure in connection with such construction provided that actual construction work shall be diligently carried on until the completion of the building involved.

3. Conditional uses:

Any use for which a conditional use permit is granted as provided in Section 19 of this ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such zone.

4. Repairs and maintenance:

On any non-conforming structure or on any building devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10 per cent of the current replacement value of the building provided that the cubical content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased.

H. Exception of this Section - Outside Storage of Junk

Notwithstanding the provisions of this section, no junked vehicle or junk shall be stored outside and no unenclosed junk or wrecking yard shall be maintained in a location which is visible from a City or State road in any zone. However, the planning Commission may grant a conditional use permit under the procedure specified in Section 18 allowing said use to continue for a specified period of time if:

1. An 8 foot high sight-obscuring fence of good appearance has been provided around said use.

Sec. -4

CONSERVATION ZONE- C ZONE

A. Intent

The C Zone is intended to apply to areas which should be preserved primarily as open areas and as watersheds and wildlife reserves. Airport and related uses have been included in this zone to allow for the reservation of aircraft approach zones. It is intended that this zone shall apply mainly to publicly owned land.

B. Uses Permitted

1. Airports and related use
2. General grading and farming
3. Park or recreation use
4. Off-street parking
5. Cemeteries
6. Radio or television transmitter towers

Kenai Peninsula Borough

Ordinance No. 74-69

Page 9 of 42 Pages

A. Intent

The RR Zone is intended to provide for low density residential development in outlying and rural areas in a form which creates a stable and attractive residential environment. The specific intent in establishing this zone is:

1. To separate residential structures to an extent which will:
 - a. Preserve the rural, open quality of the environment;
 - b. Prevent health hazards in areas not served by public water and sewer;
2. To prohibit uses which would:
 - a. Violate the residential character of the environment;
 - b. Generate heavy traffic in predominantly residential areas.

B. Uses Permitted

1. Principal uses:
 - a. One and two and up to four family dwellings
 - b. Churches provided that no part of any building is located nearer than 30 feet to any adjoining street or property line.
 - c. Radio or television transmitter towers
 - d. Conditional uses as specified in Section 12
 - e. Farming and general agricultural use
2. Secondary Uses
 - a. Parks and recreation uses
 - b. Off-street parking
 - c. Home occupations as specified in Section 15
 - d. Uses and structures which are customarily accessory and clearly subordinate to the above listed uses.

C. Development Requirements

1. Minimum lot area--12,000 square feet;
2. Minimum lot width--90feet.

Section 5: That an emergency is hereby declared to exist and the rules requiring passage in two readings are hereby suspended and hereby authorizes the emergency passage of this ordinance.

3. Minimum yards:
 - a. Front yards- 25 feet provided that, in addition setbacks from City and State Roads shall be as specified in Section 13

- b. Side yard - 15 feet, provided that the minimum side yard on the street side of a corner lot shall be 25 feet on both streets.
- c. Rear Yard - 20 feet
- d. Rezoning to Suburban Residential
All areas zoned Rural Residential that are served by approved community water and sewer systems shall automatically be rezoned from Rural Residential to Suburban Residential.

- 4. Maximum Lot Coverage
 - a. Single family building; - 30%
 - b. Duplex - 35%
- 5. Other development requirements shall be as stated in Section 13

Sec. 6 SUBURBAN RESIDENTIAL ZONE - RS ZONE

A. Intent

The RS Zone is intended to provide for medium density residential development in areas which will be provided with common utility systems. The specific intent in establishing this zone is:

- 1. To separate residential structures to an extent which will allow for adequate light, air and privacy;
- 2. To prohibit uses which would:
 - a. Violate the residential character of the environment;
 - b. Generate heavy traffic in predominantly residential areas.
- 3. To make available a residential area for housing predicated on financing in a price range of \$22,500.00 to \$27,500.00 (see amendment and sub-paragraph (d)).

B. Uses Permitted

- 1. Principal uses
 - a. One and two family dwellings
 - b. Multi-family dwellings with six or less units
 - c. Churches provided that no part of any building is located nearer than 30 feet to any adjoining lot or street line
 - d. Conditional uses as specified in Section 12.
- 2. Secondary Uses
 - a. Parks and recreation use
 - b. Off-street parking
 - c. Home occupations as specified in Section 15
 - d. Uses and structures which are customarily accessory and clearly subordinate to the above listed uses.

1711

C. Development Requirements

1. Minimum lot area - 7,200 square feet provided that in addition to this minimum, multi-family dwellings shall meet the following requirements:
 - a. Four family dwellings- 2,400 square feet per dwellings unit
 - b. Five and six family dwellings - 2,000 square feet per dwelling unit
2. Minimum lot width - 60 feet
3. Minimum Yards:
 - a. Front yard - 25 feet provided that in addition, setbacks from City and State roads shall be as specified in Section 13
 - b. Side yard - 5 feet provided that the minimum side-yard of a corner lot shall be 25 feet. For structures with more than one story in height, the minimum side yard of a corner lot shall be 25 feet.
 - c. Rear Yard - 20 feet
 - d. The planning commission may recommend the following requirements to permit development dedicated to moderate cost housing, as follows:
 1. Minimum lot-6000 square feet
 2. Minimum lot width--55 feet
 3. Minimum yards:
 - a. 25 feet provided that set-backs from City roads and streets shall be as specified in Section 14-50.15
 - b. Side yard--5 feet provided that the minimum side yard of a corner lot shall be 25 feet (for structures more than one story in height, the minimum side yard shall be 15 feet provided that the minimum side yard of a corner lot shall be 25 feet;
 - c. Rear yard--15 feet
4. Maximum lot coverage.
 - a. Single family dwelling--30%
 - b. Duplex--30%
5. Off street parking shall be treated as stated in Section 17
6. Other development requirements shall be as stated in Section 17

Sec. -7 URBAN RESIDENTIAL ZONE - UR ZONE

A. Intent

The UR Zone is intended to provide for apartments and compatible uses in areas near centers of shopping, services and employment where high density residential development is desirable.

3. Permitted Uses

1. Principal Uses

- a. All principal uses as permitted in the RS Zone
- b. Multi-family dwellings with no limitation on number on units
- c. Dormitories and boarding houses
- d. Professional offices
- e. Charitable institutions
- f. Private clubs, except union halls and clubs whose chief activity is customarily carried on as a business.
- g. Conditional uses as specified in Section 12

2. Secondary Uses - as permitted in the RP Zone

C. Development Requirements

1. Minimum lot area - 7200 square feet provided that in addition to this minimum, multi-family dwellings shall meet the following requirements:
 - a. Five and six family dwellings - Square footage to be approved by the Planning and Zoning Commission on an individual use basis.
 - b. Over six dwellings - Square footage to be approved by the Planning and Zoning Commission on an individual use basis.
2. Minimum lot width - 60 feet
3. Minimum yards
 - a. Front yard - 10 feet provided that in addition setbacks from City and State roads shall be as specified in Section 13.
 - b. Side yards - 5 feet except that the minimum side yard of a corner lot shall be 10 feet and for each full story over 2 1/2 stories each side yard shall be increased 3 feet.
 - c. Rear yard - 10 feet except that for each full story over 2 1/2 stories each rear yard shall be increased 3 feet.
4. Maximum lot coverage - 40 %
5. Off street parking shall be as stated in Section 16
6. Other development requirements shall be as specified in Section 13

A. Intent

The CC Zone is established to provide for an area of concentrated commercial development. Regulations applying to this zone are designed to encourage a compact group of businesses of the type which are mutually beneficial of located close enough together to encourage walk-in trade. Can build to lot line, but recommend 25 foot set-back in Cook Inlet Industrial Air Park for off-street, customer parking.

B. Uses Permitted**1. Principal uses**

- a. Retail and wholesale businesses
- b. Business and consumer services
- c. Banks and business and professional offices
- d. Clinics
- e. Theaters and other commercial recreation uses
- f. Hotels and motels
- g. Private clubs, libraries, lodges, fraternal organizations, union halls, museums, art museums and social halls.
- h. Conditional uses as specified in Section 12.

2. Secondary uses

- a. Accessory uses which are clearly incidental to permitted uses and which will not create a nuisance or hazard.
- b. Single and multi-family dwellings, dormitories and rooming and boarding houses except on the ground floor of the part of the building fronting on collector streets and major highways.

C. Development Requirements :

1. No stores or businesses shall involve any kind of manufacture compounding, processing, or treatment of products where such operations are objectionable due to odor, dust, smoke, noise, vibrations or other similar nuisances.
2. Open storage - No open storage shall be located closer than 25 feet to the adjoining right-of-way of any collector street or main thoroughfare shall be enclosed with a high fence of good appearance acceptable to the Planning and Zoning Commission.
3. Lot and Yard requirements -none except that requirements specified in Section 13 shall be met.

4. Off-street parking and loading requirements shall be as specified in Section 17. Particular attention is called to the reference to public parking lots in this section.
5. Other development requirements shall be as specified in Section 13.

Sec. 9 GENERAL COMMERCIAL ZONE - GC ZONE

A. Intent

The GC Zone is established to provide for areas where a broad range of retail, wholesale and service establishments is desirable. Uses are regulated to concentrate commercial development as far as possible and to prevent any uses which would have an adverse effect upon nearby properties. New single and two family residential uses and some other non-commercial uses are excluded from this zone because a commercial area is a poor environment for such uses and because it is intended that land in this zone be reserved for commercial purposes.

B. Uses Permitted

1. Principal Uses

- a. All uses permitted in the CC Zone
- b. Gasoline service stations
- c. Automotive sales agencies
- d. Automotive repair and tire recapping
- e. Conditional uses as specified in Section 12

2. Secondary uses - As in the CC Zone

C. Development Requirements

1. Off street parking and loading requirements and other development requirements shall be as specified in Section 17

A. Intent

The IL Zone is designed to provide for the development of industrial and commercial uses which are mutually compatible and which either are of a type which has no nuisance effects upon surrounding property, or may be controlled to prevent any nuisance effects upon surrounding property. Few single and two family residential uses and some other non-industrial uses are excluded from this zone because an industrial area is a poor environment for such uses and because it is intended that land in this zone be reserved for industrial and commercial purposes.

B. Uses Permitted

1. Principal uses
 - a. All uses permitted in the CG Zone
 - b. Airport related uses
 - c. Manufacturing, fabricating, assembling and storage of a character to meet development requirements listed below.
 - d. Conditional uses as specified in the Section 12.
2. Secondary uses as specified in the CG Zone

C. Development Requirements

1. No use shall be conducted in a manner which is noxious or injurious to nearby properties by reason of the production or emissions of dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or conditions, provided that the restriction against noise shall not apply to uses located within 2,000 feet of the Airfield landing strip.
2. Open storage - No open storage shall be located closer than 25 feet to the adjoining right-of-way of any collector street or main thoroughfare. Any open storage visible from a collector street or main thoroughfare shall be enclosed with an eight foot high fence of good appearance acceptable to the Planning and Zoning Commission.
3. Residential buffer- Wherever an industrial zone abuts or is separated by an alley from a residential zone, the use or building in the IL Zone shall be screened by a sight obscuring fence or hedge.

4. Minimum lot area - 5,000 square feet
5. Minimum lot width - 60 feet
6. Minimum yards:
 - a. Front Yard - 25 feet provided that setbacks from City and State roads shall be as specified in Section 13.
 - b. Side Yard - 15 feet
 - c. Rear Yard - 20 feet
7. Off-street parking and loading requirements shall be as specified in Section 17
8. Other development requirements shall be as specified in Section 13.

Sec. . -11 HEAVY INDUSTRIAL ZONE - III ZONE

A. Intent

The III Zone is established to allow for a broad range of industrial and commercial uses. It is intended to apply to industrial areas which are sufficiently isolated from residential and commercial areas to avoid any nuisance effect.

B. Uses Permitted - As in the IL Zone

C. Development Requirements - As in the IL Zone except that the item C-1 prohibiting uses with nuisance effects shall not apply-

A. Intent

There are some uses which may be compatible with principal uses in some zones if certain conditions are met. The Commission shall permit this type of use if the conditions and requirements listed in this ordinance are met. Before a conditional use permit may be granted the procedures specified in Section 19 must be followed.

B. Conditional Uses in all Zones

1. Uses not specifically permitted in the zone concerned provided that the following conditions are met:
 - a. Such uses must be similar to principal uses permitted in the zone.
 - b. Such uses must be in harmony with the intent of the zone.
2. Development and extraction of natural resources together with necessary buildings and apparatus provided that the following conditions are met:
 - a. The benefits to the City in terms of economic development must outweigh any adverse effects on adjoining properties.
 - b. A sight obscuring fence or uncleared buffer strip of good appearance acceptable to the Commission shall be provided between such uses and all adjoining residential zones and all adjoining public right-of-way.

C. Conditional Uses In RR, CG, JL, and IM Zones

1. Establishments or enterprises involving large tracts of land and large assemblages of people or automobiles, including amusement parks, circuses, fair grounds, open-air theaters and recreational centers provided that the following conditions are met:
 - a. An uncleared buffer strip of at least 30 feet shall be provided between said use and any adjoining property in a residential zone;
 - b. Exits and entrances and off-street parking for the use shall be located to prevent traffic hazards on public streets.

D. Conditional Uses in RR, SR, and UR Zones

1. Elementary schools and high schools and colleges and hospitals and sanitariums provided that the following conditions are met:
 - a. The proposed location of the use and the size and characteristics of the site will maximize its benefit to the public;

- b. Exits and entrances and off-street parking for the use are located to prevent traffic hazards on public streets.

E. Conditional Uses in RU, CC and CG Zones

1. Governmental buildings, public libraries, public off-street parking lots and other public facilities serving the entire community provided that the following conditions are met:
 - a. The proposed location of the use and the size and characteristics of the site will maximize its benefits to the public;
 - b. Exits and entrances and off-street parking for the proposed use shall be located to prevent traffic hazards on public streets.

F. Conditional Uses in RR and RS Zones

1. Multi-family group housing developments with no limitations on number of units provided that the following conditions are met:
 - a. The useable area per dwelling unit shall be the same as that required for dwelling units in the RS Zone;
 - b. The site square footage in area must be approved by the Planning and Zoning Commission
 - c. Yards around the site, off-street parking and other development requirements shall be the same as for principal uses in the RR Zone.
 - d. Water and sewer facilities shall meet the requirements of all applicable health regulations;
 - e. The proposed dwelling group will constitute a residential area of sustained desirability and stability; will be in harmony with the character of the surrounding neighborhood and will not adversely affect surrounding property values;
 - f. The buildings shall be used only for residential purposes and customary accessory uses, such as garages, storage spaces and recreational and community activities;
 - g. There shall be provided, as part of the proposed development, adequate recreation areas to serve the needs of the anticipated population;
 - h. The development shall not produce a volume of traffic in excess of the capacity for which the access streets are designed;
 - i. The property adjacent to the proposed dwelling group will not be adversely affected.

G. Conditional Uses in PU, CG, IL and IH Zones

1. Crematories operated as part of and in the same structure as a mortuary provided that the following condition is met:
 - a. No indication of said use shall be evident from the exterior of the mortuary.

II. Conditional Uses in the I Zone

1. Gas manufacture and storage provided that the following condition is met:
 - a. All applicable safety and fire protection regulations must be met.

I Conditional uses in RR and RS Zones

1. Mobile Home Parks subject to Section 16 and provided that they meet the minimum F.H.A. requirements.

J. Conditional uses in the RR Zone

1. Greenhouses and tree nurseries and animal boarding establishments provided that the following condition is met:
 - a. Set backs, buffer strips and other provisions shall be adequate to assure that the use shall not be a nuisance to surrounding properties. The Planning Commission shall specify the conditions necessary to fulfill this requirement.

Section -13

SUPPLEMENTARY ZONE REGULATIONS

A. Essential Services

Essential services as defined in the Ordinance shall be permitted in all zones.

B. Zoning of Annexed Lands

All territory which may hereafter be annexed to the City is hereby zoned Rural Residential until otherwise classified.

C. Yards where Commercial and Industrial Zones abut Residential Zones

Where a CC, CC, IL or IH Zone abuts or is separated by an alley from a residential zone.

D. Yards for Corner Lots

The minimum side yard on the street side of a corner lot shall be the same as the minimum front yard required for that zone.

E. Sight Obstruction on Corner Lots

On a corner lot in any residential district nothing shall be erected, placed, planted or allowed to grow in a manner which obstructs vision higher than three feet above the

1720
curb level at the street intersection provided however, that this restriction shall not apply to shade trees, the entire foliage of which is eight feet above the height of the curb. This restriction on sight obstruction shall apply to the triangular area formed by the two streets rights-of-way adjoining the lot and a line drawn across the lot joining points on each right-of-way 20 feet from the intersection of the right-of-way lines.

F. Setbacks from City and State Roads

Minimum yards required by this ordinance shall be in addition to the following setbacks from the centerline of City and State Roads. These setbacks shall be required in all zones.

1. Minimum setbacks from the centerline of City streets- 50 feet
2. Minimum setbacks from the centerline of a primary federal-aid highway- 150 feet.
3. Minimum setback from the centerline of a secondary federal-aid highway - 100 feet.

G. Yard Requirements for Accessory Structures

Where yards are required accessory structures shall be subject to the same requirements as principal structures except as follows:

1. In an RR and RS Zone the minimum front yard setback for an unoccupied attached or detached garage or carport shall be 10 feet.
2. Covered but unenclosed passenger landings or carport not more than one story in height may extend into either side yard, but such structure shall not be closer than three feet to an adjoining lot.
3. Unenclosed outside stairways fire escapes, porches or landing places as well as cornices, canopies, eaves, and other similar architectural features not providing additional floor space may extend into a required yard except within three feet of any lot line.
4. A detached accessory building may be permitted to occupy a rear yard, provided that not more than one-third of the total area of such rear yard shall be so occupied.

H. Distance Between Buildings on a Lot

No detached dwelling or other main building shall be less than 6 feet from any other detached dwelling or main building on the same building site.

I. Height Limitation of Structures Near Airport

All structures in aircraft approach zones and within 8,000 feet of the main runway shall be subject to height limitation on the basis

of obstruction criteria as shown on a map entitled Obstruction Criteria on file with the City Clerk.

J. Erection of More than One Principal Structure on a Lot

In any zone more than one principal structure housing a permitted use may be erected on a single lot, provided that area width and all other development requirements of the zone shall be met for each principal structure as though each structure were on an individual lot.

A. General Requirements

1. A Permit shall be obtained from the administrative official prior to the installation of any sign, nameplate, advertising sign or advertising structure excepting those less than four square feet in area. Construction and erection of signs shall be in accordance with this ordinance and with all other pertinent regulations.
2. Signs permitted under this section shall advertise only the business or activity engaged in on the immediate premises.
3. No sign shall be erected at any location where, by reason of the position, shape or color of such sign it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
4. No sign other than public signs shall be placed within 10 feet of any intersection as measured from the nearest intersection of street right-of-way lines.
5. Flashing signs and intermittent illumination are permitted only in commercial and industrial zones.
6. In all residential zones, lighting shall be indirect and shielded from adjacent property.

B. Signs Permitted in Residential Zones1. Real Estate Signs

One sign not exceeding four square feet advertising only the sale, rental or lease of the building or premises on which it is maintained.

2. Signs identifying home occupations:

One per use not exceeding four square feet in area. Such sign shall be no closer than 10 feet to any property line or shall be flat against the building. No lighting is permitted.

3. Bulletin Boards

Bulletin Boards used to display announcements of meeting to be held on the premises on which such boards are located shall be permitted for churches, schools, community centers and public, charitable or institutional uses. Unless otherwise permitted in the zone, such signs shall contain no more than 20 square feet in area; may be used as wall signs; may be used as ground signs when located a minimum of 10 feet from the street lot line; may be indirectly illuminated; and one such sign shall be permitted for each street frontage.

4. Construction Signs:

During construction, repair or alteration of a structure temporary signs which denote the architect, engineer, contractor or builder or which denote the name of the structure and its use or occupants-to-be may be placed within the required yard setbacks as ground wall or roof signs. Each sign shall be 20 square feet or less in size and no more than one such sign shall be permitted for each architect, engineer, contractor, builder or denoting the name, use and occupants-to-be of the structure.

5. Signs identifying other permitted and conditional uses

One sign per use not to exceed 20 square feet in the area for the purpose of identifying multi-family dwellings, clubs, professional offices and other similar uses. Such sign shall be no closer than 10 feet to any property line or shall be flat against the building.

6. Signs for Non-Conforming uses

A legal non-conforming use in a residential zone may have one sign per property, unlighted, and no larger than 20 square feet in area. Such signs shall be flat against the building or shall be located no closer than 10 feet to any property line.

7. Subdivision Signs

Signs advertising the sale or lease of lots or buildings within new subdivisions of at least 2 1/2 acres are permitted providing they are non-illuminated or indirectly illuminated and do not exceed 50 square feet in area. Not more than one such sign shall be located at each major approach to the subdivision and the front, side and rear yard requirements applying to principal structures shall apply to the location of such signs. The display of such signs shall be limited to a period of two years. Prior to the expiration thereof the applicant may request an extension from the Commission. The sign shall be removed prior to the expiration of the two years period or extension thereof. If the sign has not been removed the City may enter upon the premises upon which the sign is located and remove such sign at no liability to the City and at the expense of the owner.

8. Public Safety Signs:

Temporary private ground or wall signs exclusively relating to the safety of the public (e.g., no parking today, use covered walkway, do not enter, danger, loading zone) may be located as needed for public safety without limitations as to number, size or location so far as the requirements of this ordinance are concerned.

C. Signs Permitted in Commercial and Industrial Zones

1. Signs located flat against a building or a marquee

2. One ground pole or projecting sign per property not to exceed 50 square feet in area provided that signs projecting beyond the lot line may be no closer than 6 inches from the curb line and must be at least 3 feet above the finished sidewalk grade.

Signs which do not conform to the requirements of this ordinance shall be eliminated within 3 years from the date of passage of this ordinance.

Section -15 HOME OCCUPATIONS

A. Intent

It is the intent of this ordinance to permit home occupations which are compatible with other permitted uses and with the residential character of a neighborhood, and which are clearly secondary or incidental to the residential use of the main building. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances would not be aware of its existence other than for a sign as permitted in Section 14-B-2. Home occupations are permitted accessory uses in residential zones only so long as all the development requirements listed in this section are observed.

B. Uses Permitted

Subject to the development requirements of this section home occupations include but are not limited to the following uses:

1. Art studio
2. Day care of no more than ten pre-school age children
3. Dressmaking
4. Millinery
5. Beauty parlor
6. Tutoring and musical instruction

C. Uses Prohibited

1. Commercial auto and boat repair
2. Commercial kennels or similar uses
3. Convalescent homes for the care of more than two patients
4. Mortuaries
5. Private schools with organized classes
6. Real estate office
7. Restaurants

D. Development Requirements

1. Not more than one person outside the family shall be employed in the home occupation.
2. No more than 30% of the gross floor area of all buildings on the lot shall be used for the home occupation.
3. The home occupation shall be carried on wholly within the principal building, or other buildings which are accessory thereto. Any building used for a home occupation shall be wholly enclosed.

4. There shall be no exterior sign, storage, display or other evidence of the home occupation or variance from the residential character of the principal building except for the sign permitted in Section 14-B-2.

Section 16 - Mobile Homes

- A. No mobile homes may be installed for use in the City of Kenai for public commercial or assembly purposes after the effective date of this ordinance.
- B. Areas delineating permitted and prohibited trailer use location:
 1. For regulation purposes, the City shall be divided into two areas, with the common boundary being Main Street and Main Street extended to the northern boundary of the City limits as shown on the official zoning map of the City of Kenai.
 2. Mobile homes for residential use may be parked anywhere within the rural residential zone east of the boundary line described in subparagraph (1) of this section and south of the Kenai River, unless such mobile homes are prohibited by restrictive covenants, zoning limitations, health standards or other regulations.

Mobile homes may be parked only in "mobile home parks" (sometimes also known as "trailer courts") in the area west of the boundary line described in sub-paragraph (1) of this section.
 3. Mobile homes which are installed in conformance with applicable building code regulations in areas where prohibited by this ordinance and used for residential purposes, may have such use continued indefinitely, except that such trailers shall not be replaced if destroyed or removed.
 4. Mobile homes utilized on construction sites for offices, storage, or other such purposes may be so used anywhere within the City limits on the construction job they serve without permit, but shall be removed immediately upon completion of said construction.

In all zones there shall be provided at the time of the construction of any main building or at the time of the alteration, enlargement or any change in use of any main building, permanently maintained off-street parking facilities for the use of occupants, employees or patrons of such building. It shall be the joint and several responsibility of the owner and/or occupant of any main building or structure to provide, and thereafter maintain minimum free off-street parking facilities as required below.

No existing parking area and no parking area provided for the purpose of complying with the provisions of this ordinance, shall hereafter be relinquished or reduced in any manner below the requirements herein established.

A. Site Plan Submission

A site plan showing all parking and loading areas shall accompany all applications for building permits. Said plan shall show dimensions of spaces, curb cuts and other information necessary to determine compliance with the provisions of this ordinance. The administrative official shall approve or reject the site plan on the basis of compliance with the requirements of this ordinance. No certificate of zoning compliance and building permit shall be issued unless the parking site plan is approved.

B. Joint Parking Areas

Where there is more than one use in a single structure or on a site (e.g. doctor, attorney, and retail grocery) or two or more separate instances of the same use, off-street parking requirements shall be the sum of the requirements for the various uses provided, however, that where two or more uses provide a single joint parking area, and their total required spaces totals 20 or more, the minimum requirement will be 75% of the sum of the requirements for the various computed separately.

C. Location of Parking

Any parking space provided pursuant to this section shall be on the same lot with the main use it serves or on an adjoining lot except that the Planning Commission by a conditional use permit as specified in Section 19 may allow parking spaces to be on any lot if it determine that it is impractical to provide parking on the same lot.

D. Design Standards

1. All parking lots shall be provided with a durable, well-drained and dust free surface and shall have appropriate bumper guards where needed.
2. Parking areas shall not be used for sales display, storage repair work or any purpose other than parking.
3. Any lighting of parking lots shall be arranged to reflect away from public rights-of-way and from any adjoining residential areas.
4. Curb cuts shall be located so as to avoid traffic hazards and shall be approved by the administrative official.
5. Curb cuts shall be no more than 30 feet wide and no less than 12 feet wide.

E. Interpretation of Space Requirements

1. If a use is not specifically mentioned in this section, the administration official shall determine the most similar use which is specifically mentioned. Parking requirements shall be the same as for that use.
2. When a parking requirement is stated in terms of employees, it means the maximum number of employees who will be at the site at one time either on a single shift or an overlap of shifts.
3. In figuring the total parking requirement for a use, any fraction of one-half or more shall require one more space.

F. Off-Street Parking

Dwelling and Lodging Minimum Number of Parking Spaces Required

1. Hotels, rooming houses and other structures containing sleeping rooms other than or in addition to dwelling units. One private parking space for each dwelling unit and one parking space for every three guest rooms.
2. Mobile Home Parks Two parking spaces for each trailer
3. Motels One parking space for each unit
4. Multiple family dwellings and other places containing dwelling units. One space per dwelling unit up to 150 units, one-half space per unit thereafter.
5. Single family dwellings two family dwellings and parson houses.

Swelling and LodgingMinimum Number of Parking Spaces Required

6. Churches, theaters, auditoriums, and other places of public assembly with fixed seats. One parking space for each 5 seats in the principal place of assembly.
7. Clinics Three parking spaces for each doctor or dentist.
8. Day nurseries, foster homes and kindergartens. One-half space for each teacher or other employee.
9. Elementary and junior high schools. One-half space for each teacher or other employee.
10. Hospitals, sanitariums, nursing and rest homes. One parking space for each resident and staff doctor plus one-half space for each employee, intern and nurse plus one space for each 5 beds plus one space for each institutional vehicle.
11. Libraries, exhibition halls, and other places of public assembly without fixed seats. One-half parking space for each employee plus one space for each 100 square feet of useable floor area.
12. Mortuaries and funeral homes. One parking space for every eight parlor or chapel seats plus one space for each funeral vehicle.
13. Municipal buildings and public utility buildings. One-half parking space for each employee, plus one space for each official vehicle, plus one space for visitor parking for each 500 square feet of office or display space.
14. Post Offices and Telegraph Offices. One space for each employee plus one space for each 100 square feet of gross floor area.
15. Senior High Schools. One space for every seven pupils plus one space for every two employees.
16. Trade and business schools, music schools, dance studios and other private schools and colleges. One-half space for each employee plus one space for every 5 students based upon the maximum number of students attending class at one time.

Offices

17. Banks, building and loan companies and similar institutions One space for each 300 square feet of gross floor area
18. Business and professional offices not generally patronized by the public. One space for each 400 square feet of floor space.
19. Medical Office buildings Three parking spaces for each doctor or dentist.
20. Automotive service and/or sales. Four spaces for each maintenance stall plus adequate spaces to accommodate all new and used retail units and customer parking generated by retail sales.

Entertainment and Services

21. Beauty and barber shops One space for each 250 feet (square) of gross floor area.
22. Bowling alleys Four parking spaces for each alley.
23. Filling Stations Three spaces per grease rack or working bay.
24. Household services and trades such as carpentering, electrical servicing, plumbing and heating shops, paper hanging, painting, furniture upholstery, decorating shops and other similar service establishments. One-half a parking space for each employee, plus one space for each company vehicle plus one space for each 500 square feet of floor area.
25. Laundry and dry cleaning pick up stations. One half a parking space for each employee plus one space for each 500 square feet of gross floor area.
26. Pool halls, billard parlors Three parking spaces for each table.
27. Restaurants, cafes, soda fountains, eaton and drinking places etc. One-half space for each employee plus one space for each 5 seats.
28. Self-service dry cleaning and laundry establishments One parking space per each 4 washing machines and/or dry cleaning machines
29. Taxicab companies One space for each taxi operated by the company plus one extra space.

1730

Commercial

- 30. Grocery store, delicatessen, drug store or pharmacy
One half a parking space for each employee plus one space for each company vehicle plus one space for each 250 square feet of gross floor area.
- 31. Nurseries and greenhouses
One-half a parking space for each employee plus 4 spaces for customer parking.
- 32. Retail and wholesale stores of bulky items (e.g. furniture and major appliances)
One-half a parking space for each employee plus one space for each company vehicle plus one space for each 300 square feet of gross floor area.
- 33. Retail and Wholesale stores of non-bulky items.
One-half parking space for each employee plus one space for each company vehicle plus one space for each 300 square feet of sales area.
- 34. Wholesale, retail and commercial storage.
One-half a parking space for each employee plus one parking space for each company vehicle plus 2 spaces, but a total of no less than 4 spaces.

Industrial

- 35. Manufacturing industries
One parking space for every three employees and officers on the maximum employee shift, plus one space for each company vehicle.
- 36. Manufacturing research and laboratories,
One-half parking space for each employee plus one space for each company vehicle. An additional lot or reserved space shall be provided for visitor parking equal to 5% of the employee parking spaces but not less than three spaces.
- 37. Printing, publishing and allied industries, welding and blacksmith shops, manufacturing, bakeries, dry cleaning and dyeing plants.
One-half space for each employee on the maximum employee shift plus one space for each company vehicle and 5 spaces for customer parking.
- 38. Trucking terminals, storage yards, building contractors, lumber yards etc.
One-half a parking space for each employee plus one parking space for each company vehicle, truck, tractor, or trailer stored at the site when not in use, and five spaces for customer parking.

39. Veterinarian office, dog hospitals, animal clinics and kennels. One-half a parking space for each veterinarian and employee and two parking spaces for visitors.

G. Exception to this Section - Public Parking Lots

Notwithstanding other provisions of this section when a use is located within 300 feet of an existing or planned public lot the off-street parking requirements of this ordinance may be met if under the procedures specified in Section 18 the Commission issues a conditional use permit stating that the following conditions have been met:

1. The public parking lot exists within reasonable distance of the use, or plans for the public parking lot are sufficiently advanced to give reasonable assurance that the lot will be in use within one year of the time of issuance of the conditional use permit.
2. The owner and/or occupant of the use in question shall sign a covenant agreeing to join an assessment district to pay for the public parking lot.
3. The public parking lot has or will have sufficient capacity to accommodate the use in question plus other parking needs of existing and potential uses within a reasonable distance of the lot. The Commission shall use the off-street parking requirement cited above to estimate the parking spaces needed within a reasonable distance of the lot.

H. Off-Street Loading

Every building or structure used for business, trade or industry and normally requiring truck loading or unloading with respect to the use, shall provide space as herein indicated for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley, or, if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirement for off-street parking space. Off-street loading and unloading space shall not be used or designed intended or constructed to be used in a manner to obstruct or interfere with the free use of any street or adjoining property. The minimum off-street loading and unloading space required for specific uses shall be as follows:

1. Retail Business and Service Establishments

Shall provide one off-street loading and unloading space at least 10 feet wide and 30 feet long with a 14 foot height clearance per building.

2. Industrial Plants:

Shall provide one off-street loading and unloading space for each 20,000 square feet of gross floor area. Each loading space shall be a minimum of 12 feet wide and 50 feet long with a 14 foot height clearance.

3. Trucking Terminals:

Shall provide one off-street loading and unloading space for every 5,000 square feet of total floor area used for storage, warehousing and shipping. Each loading space shall be a minimum of 14 feet wide and 65 feet long with 14 foot height clearance.

Section 18 Administration, Enforcement and Penalties

A. Administrative Official:

[Insert No. 1] → ~~An administrative official as designated by Borough Ordinance shall administer and enforce this ordinance. If the administrative official shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal uses of land, building, or structures; removal of illegal buildings, or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violations of its provisions.~~

No permit for the erection, alteration, moving or repair of any building or other structure shall be issued until an application has been made for a certificate of zoning compliance, and the certificate of zoning compliance, and the certificate has been issued by the administrative official in conformity with the provisions of this ordinance.

The administrative official shall maintain a record of all certificates of zoning compliance and copies shall be furnished upon request to any person.

Failure to obtain a certificate of zoning compliance shall be a violation of this ordinance and shall be punishable under Section 14-D of this ordinance.

All applications for certificates of zoning compliance shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed buildings or alterations, existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance.

The administrative official shall render his decision within 30 days of the filing of the application for a certificate of zoning compliance. However, this time limit may be extended by common consent and agreement signed by both the applicant and the administrative official.

INSERT NO. 1

Section 20.30. ____ . The City Manager of the City of Kenai is hereby named as the Administrative Official of the Kenai Peninsula Borough for the purpose of administering and enforcing the provisions of KPC 20.30 within the City of Kenai, and all legal procedures shall be prosecuted under his direction in the name of the Kenai Peninsula Borough by the attorney for the City of Kenai, subject to the following:

- (1) Copies of all records and proceedings shall be promptly forwarded to the Mayor of the Kenai Peninsula Borough.
- (2) Expenses involved shall be borne by the City of Kenai.

One copy of said plans shall be returned to the applicant by the administrative official, after he shall have either attached a certificate of zoning compliance or marked the plans as disapproved and attested to the same by his signature on such copy. The second copy of the plans, similarly marked, shall be retained by the administrative official.

C. Complaints Regarding Violations:

Whenever a violation occurs, any person may file a complaint in regard thereto. All such complaints shall be brought to the attention of the administrative official who shall record such complaint and immediately investigate and report thereon to the planning commission.

D. Penalties for Violations:

For any and every violation of the provisions of this ordinance, the owner, agent, or contractor of a building or premise where such violations have been committed or shall exist, or any other person who maintains any building or premises in which any violation shall exist, shall be guilty of a misdemeanor and upon conviction thereof shall be

fined not more than three hundred dollars or imprisoned in the city jail not to exceed thirty days, or both such fine and imprisonment. Each and every day that such violation continues shall be deemed a separate and distinct violation.

Any building, or structure set up, erected, built, moved or maintained or any use of property contrary to the provisions of this ordinance shall be declared to be unlawful and a public nuisance and the City Council shall immediately commence action for the removal thereof, in the manner provided by law, and shall apply to such court or courts as may have jurisdiction to remove such building, structure or use.

All remedies provided for herein shall be cumulative and not exclusive.

The issuance or granting of a building permit or approval of plans of specifications under the authority of the Building Code without a certificate of zoning compliance shall not be deemed or construed to be a permit for or an approval of any violation of any of the provisions of this ordinance or any amendment thereto. No permit presuming to give authority to violate or cancel any of the provisions of this article shall be valid except insofar as the work or use which is authorized is lawful and permitted.

NEW SECTION
Insert No. 2

Section 19 Conditional Use Permits (Planning Commission)

A. Intent

There are some uses which are compatible with principal uses in some zones if certain conditions are met. Most of these conditional uses have been listed in Section 12 of this ordinance. The Planning Commission shall permit these uses if the conditions and requirements listed in this ordinance are met and if the procedures provided for by Borough Ordinance are followed.

INSERT NO. 2

Section 20.30. ____ . Pursuant to the provisions of AS 29.33.245, the planning commission is hereby authorized to delegate powers to hear and decide cases within the City of Kenai Municipal Zoning District involving zoning conditional uses , variances and changes in non-conforming uses as delineated in KPC 20.30 to the City of Kenai Advisory Planning & Zoning Commission subject to the following:

- (1) Copies of all records and minutes of all meetings and hearings shall be promptly forwarded to the Kenai Peninsula Borough Planning Commission .
- (2) Expenses involved shall be borne by the City of Kenai; however , permit , notice of hearing , mailing and advertising fees to cover these expenses may be levied by the City of Kenai on the persons seeking conditional uses , variances and changes in non-conforming uses .

Section 20 Variance and Appeals (Board)

A. Appeals from Decisions of the Administrative Official and Planning Commission.

[Insert No. 3]

1. The Board of Adjustment shall hear and decide appeals ^{pursuant to} ~~taken from~~ ^{AS 29.33.1} ~~the Planning Commission when it is alleged there is an error in~~ ^{and 120} ~~any order, requirement, decision or determination made by the administrative official and upheld by the Planning Commission concerning the regulations established by this ordinance. Appeals from Planning Commission decisions concerning conditional use permits shall be considered to be appeals concerning matters of interpretation and they be taken to the Board of Adjustment as stated above.~~

2. Procedure

- a. The Board of Adjustment shall set a date for and hold a hearing on all appeals within thirty days of the filing of the appeal. At least ten days notice of the time and place of such hearing shall be mailed to all parties interested and to all property owners within 300 feet of the property involved.
- b. Within thirty days after the hearing the Board of Adjustment shall render a decision on the appeal.

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 requirement, decision or determination as ought to be made, and to that end shall have all the powers of the body from whom the appeal is taken.

- c. All meetings of the Board shall be open to the public and the Board shall keep minutes of its proceedings showing its decision, the reasons for its decision and the vote of each member upon each question. Said minutes shall be made a public record.
- d. The Board of Adjustment for the City of Kenai shall be the City Council of the City of Kenai as provided for by A.S. 29.33.110(a) (1972).

Section 21 Appeal to ^{Superior} District Court.

An appeal from any action or decision of the Board of Adjustment may be taken by any person to the ^{superior} ~~district~~ court by filing with the ~~district~~ ^{superior} Court and with the Board of Adjustment, within thirty days from the action appealed from, a notice of appeal which shall specify the grounds of such appeal.

Section 22 Severability

- A. In the event any portion, section, subsection, clause, sentence or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this ordinance.

Section 23 Definitions

A. General Interpretation

- 1. Words used in the present tense include the future tense.

INSERT NO. 3

Section 20.30. ____. (a) Appeals on matters delineated in AS 29.33.110(b) shall be heard by the Kenai Peninsula Borough Planning Commission prior to being heard by the Board of Adjustment. The Kenai Peninsula Borough Planning Commission shall hear the appeal de novo and shall, within 10 days after the hearing, render its findings in writing to the Board of Adjustment.

(b) Appeals in order to be heard shall be filed in writing with the administrative officer and the borough clerk within 10 days after the adverse decision is rendered and shall be accompanied by \$25.00 hearing notice, advertising and mailing fee payable to the Kenai Peninsula Borough.

(c) Notice of the Kenai Peninsula Borough Planning Commission hearing shall, by certified mail, be sent to the owners, as shown on the latest tax assessment rolls, of any property within 300 feet of the property involved and shall be advertised in a newspaper of general circulation in the area involved at least five (5) days before the hearing.

2. The singular number includes the plural.
3. The word "person" includes a corporation as well as an individual.
4. The word "lot" includes the word "plot" or "parcel".
5. The term "shall" is always mandatory.
6. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged or designed to be used or occupied".

B. Specific Definitions

Accessory Building. A detached building, the use of which is appropriate, subordinate and customarily incidental to that of the main building or to the main use of the land and which is located on the same lot as the main building or use. An accessory building shall be considered to be a part of the main building when joined to the main building by a common wall or when any accessory building and the main building are connected by a breezeway.

Accessory Building. A use customarily incidental and subordinate to the principal use of the land, building or structure and located on the same lot or parcel of land.

Administrative Official. The person charged with the administration and enforcement of this ordinance. Unless otherwise designated by the City Manager, this person shall be the City Clerk of Kenai.

Agricultural Building. A building used to shelter farm implements, hay, grain, poultry, livestock, or other farm produce, in which there is no human habitation and which is not used by the public.

Alley. A public way designed and intended to provide only a secondary means of access to any property abutting thereon.

Alterations. Any change, addition or modification in the construction location or use classification.

Apartment House. See Dwelling, Multiple

Area, Building. The total of areas taken on a horizontal plane at the main grade level of the principle building and all accessory buildings, exclusive of steps.

Automobile Wrecking. The dismantling of used motor vehicles or trailers or the storage or sale of parts from dismantled or partially dismantled, obsolete or wrecked vehicles.

Boarding House. A building other than a hotel where lodging, with or without meals, is provided for compensation for three or more persons, on other than day-to-day basis and which is not open to transient guest.

Building. Any structure built for the support, shelter or enclosure of persons, animals or property of any kind.

Building Code. The building code and/or other building regulations applicable in the City and/or Borough.

Building Existing. A building erected prior to the adoption of this ordinance or one for which a legal building permit has been issued.

Building Height. The vertical distance from the "Grade" as defined herein to the highest point of the roof.

Building, Principal or Main. A building in which is conducted the principal or main use of the lot on which said building is situated.

Center Line. The line which is in the center of a public right-of-way.

City. The City of Kenai, Alaska.

Collector Street. A street located and designed for the primary purpose of carrying through traffic and of connecting major areas of the City. Unless otherwise designated by the Commission, collector street shall be defined on the plan for streets and community facilities in the Comprehensive Development Plan.

Commission. The Planning Commission of the Kenai Peninsula Borough

Conditional Use. A use which is permitted under the terms of this ordinance provided that under the procedures specified in Section 13 the Commission finds that certain conditions, specified in the ordinance, are fulfilled. Most conditional uses are listed in Section 12.

Coverage. That percentage of the total lot area covered by the building area.

Dwelling. A building or any portion thereof designed or used exclusively for residential occupancy including one-family, two-family and multiple-family dwellings, but not including any other building wherein human beings may be housed.

Dwelling Unit. One or more rooms and a single kitchen in a dwelling designed as a unit for occupancy by not more than one family for living or sleeping purposes.

Dwelling, One-family. Any detached building containing only one dwelling unit.

Dwelling, Two-family. Any building containing only two dwelling units.

Dwelling, Multiple-family. Any building containing three or more dwelling units.

Essential Service. The erection, construction, alteration, or maintenance by public utility companies or municipal departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. This definition shall not be interpreted to include public buildings.

1740

Family. Any number of individuals living together as a single house-keeping unit in a dwelling unit.

Fence, Height. The vertical distance between the ground directly under the fence and the highest point of the fence.

Floor Area. The total of each floor of a building within the surrounding outer walls but excluding vent shafts and courts.

Frontage. All the property fronting on one side of a street between intersecting streets.

Garage, Private. An accessory building or any portion of a main building used in connection with residential purposes for the storage of passenger motor vehicles.

Garage, Public. Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, or adjusting or equipping of automobiles or other vehicles.

Grade (Ground Level). The average level of the finished ground at the center of all walls to a building. In case walls are parallel to and within five feet of a public sidewalk, the ground level shall be measured at the sidewalk.

Guest Room. Any room in a hotel, dormitory, boarding or lodging house used and maintained to provide sleeping accommodations for not more than two persons.

Home Occupation. An accessory use of a service character customarily conducted within a dwelling, by the residents, which does not involve the conduct of trade on the premises.

Hotel. Any building or group of buildings in which there are guest rooms used, designed or intended to be used for the purpose of offering to the general public food or lodging, or both, on a day-to-day basis.

Junk Yard. Any space 100 feet or more of any lot or parcel of land used for the storage, keeping or abandonment of junk or waste material including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles, other vehicles, machinery or any parts thereof.

Loading Space. An off-street space or berth on the same lot with a building or structure to be used for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

Lot. A parcel of land occupied or to be occupied by a principal use and having frontage on a public street.

Lot, Corner. A lot situated at the junction of, and bordering on, two intersecting streets.

Lot Line, Front - Corner Lot. The shortest street line of a corner lot.

Lot Line, Front - Interior Lot. A line separating the lot from the street.

Lot Line, Rear. Line that is opposite and most distant from the front lot line, and in the case of irregular, triangular, or gore shaped lot; a line not less than 10 feet in length, within a lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side. Any lot boundary line not a front lot line or a rear lot line.

Lot Depth. The horizontal distance separating the side lot lines of a lot and at right angles to its depth.

Lot Width. The mean horizontal distance separating the side lot lines of a lot and at right angles to its depth.

Mobile Home. Any vehicle or structure used or intended for use as a dwelling or place of business or for public or assembly purposes and designed for transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, locations on jacks or permanent foundations, connection to utilities and the like.

Mobile Home Park. Any park, court, parcel or tract of land designated maintained, intended or used for the purpose of supplying a location or accommodations for two or more mobile homes. Said use is hereby defined to include all buildings used or intended for use as a part of the equipment thereof, whether or not a charge is made for the use of the park and its facilities. A mobile home park shall not include automobile or trailer sales lots on which unoccupied mobile homes are parked for the purpose of inspection and sale, except for mobile homes which are fully set up for occupancy with not more than one mobile home located on each space.

Hotel. A group of one or more detached or semi-detached buildings containing two or more individual dwellings units and/or guest rooms designed for or used temporarily by automobile tourists or transients, with a garage attached or parking space conveniently located to each unit, including groups designated as auto courts, motor lodges, or tourist courts.

Non-Conforming Lot. A lot lawfully existing at the time this ordinance becomes effective which by reason of area or dimensions does not meet the development requirements for the zone in which it is located.

Non-conforming Structure. A structure or portion thereof, lawfully existing at the time this ordinance became effective which by reason of its yards, coverage, height or other aspects of design does not meet the development requirements of this zone.

Non-conforming Use. A use of a structure, of land or of a structure and land in combination, lawfully existing at the time this ordinance was passed, or established on the premises of a previous non-conforming use as specified in Section 3., which is not in conformity with the uses permitted in the zone in which it exists.

Nursery, Children's. Any home or institution used maintained to provide day care for children not more than 7 years of age.

Parking Space, Private. Any automobile parking space not less than 180 square feet in area.

Parking Space, Public. An area of not less than 150 square feet exclusive of drives or aisles giving access thereto in area accessible from streets and alleys for the storage of passenger motor vehicles operated by individual drivers.

Person. A natural person, his heirs, executors, administrators, or assigns, and also including firm, partnership, or corporation, its or their successors and/or assigns, or the agent of any of the aforesaid.

Principal Use. The major or predominant use of a lot or parcel of land.

Profession. An occupation or calling requiring the practice of a learned art through specialized knowledge based on a degree issued by an institution of high learning, e.g: Doctor of Medicine.

Property Owner. The owner shown on the tax assessment roll (latest tax assessment roll)

Service Station. Any building, structure, premises or other space used primarily for the retail sale and dispensing of motor fuels, tires, batteries, and other small accessories; the installation and servicing of such lubricants, tires, batteries and other small accessories, and such other services which do not customarily or usually require the services of a qualified automotive mechanic.

Sign. Any words, letters, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names or trade marks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product, which are visible from any public street or highway and used to attract attention.

State Highway. A right-of-way classified by the State of Alaska as a Primary, Secondary A or Secondary B highway.

Street. A public right-of-way used as a throughfare and which is designated and intended to provide the primary means of access to property abutting thereon.

Structure. That which is built or constructed an edifice or a building of any kind, composed of parts jointed together in some definite manner

Use. The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

Variance. A relaxation of the development requirements under the procedures specified in Section 19 in cases where unusual physical features of the property involved would make strict application of the zoning regulations unreasonable.

Yard. An open unoccupied space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this ordinance, on the same lot on which a building is situated.

Yard, Front. A yard extending across the full width of the lot between the front lot line of the lot and the nearest exterior wall of the building which is the nearest to the front lot line.

Yard, Rear. A yard extending across the full width of the lot between the most rear main building and the rear lot line.

Yard, Side. A yard on each side of a main building and extending from the front lot line to the rear lot line. The width of the required side yard shall be measured horizontally from the nearest point of a side lot line to the nearest part of the main building.

Zoning Change. The alteration or moving of a zone boundary; the reclassification of a lot, or parcel of land, from one zone to another, the change of any of the regulations contained in this ordinance.

Zoning Ordinance or Ordinances. The Zoning Ordinance of the Kenai Peninsula Borough for the City of Kenai.

Section 2. This ordinance takes effect on the day after passage of a resolution by the Assembly of the Kenai Peninsula Borough certifying its ratification by the electorate of the City of Kenai at the first general or special election within the City of Kenai after the adoption of the ordinance by the Kenai Peninsula Borough Assembly.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH
THIS _____ DAY OF _____, 1975.

Assembly President

ATTEST:

Borough Clerk

