

**TOWN OF KILDARE
ORDINANCE NO. 5 (H)**

**AN ORDINANCE REGULATING THE
ERECTION, ALTERATION AND USE
OF BUILDINGS AND STRUCTURES IN
THE TOWN OF KILDARE**

The Town Board of the Town of Kildare, Juneau County, Wisconsin, in order to promote the public health, safety, general welfare and good order in the Town of Kildare and for its inhabitants; to further the orderly layout and use of lands in the Town of Kildare; to prevent the overcrowding of land; to lessen congestion of the streets and highways in the Town of Kildare; to provide for adequate light and air; to facilitate provisioning for water, sewerage and other public improvements; to provide for proper ingress and egress from public highways to private lands; to provide for the orderly development and growth of the Town of Kildare as set forth in the Town of Kildare Comprehensive Plan do ordain as follows:

Section 1 – Platted Parcel Requirements/Restrictions

- A. No final plat of lands in the Town of Kildare shall be approved by the Plan Commission or the Town Board of the Town of Kildare unless it meets the following minimum requirements:
1. Each parcel or lot so platted shall be not less than 5 acres in size.
 2. Any lot which has direct frontage on a public highway shall have a minimum frontage along said highway of 150 feet.
 3. Access to each lot shall be provided from a public street or highway.
 4. All streets and highways in such plat shall be of a comparable width to other streets and highways in the general area.
- B. All such final plats submitted for approval shall contain a restriction on the sale of lots so platted that no more than one home site may be erected or permitted on each lot, and no business, commercial or industrial buildings shall be erected on such lots unless those buildings embrace the spirit of the Kildare Comprehensive Plan. Prior approval of the Town Board must be obtained which will specifically designate the size of the area upon which such proposed business, commercial or industrial structure may be erected.

Section 2 – Building Requirements/Restrictions

A. Definitions:

1. Farm: Land and structures used in the production of products to be sold to the public. A farm owner/operator files a U.S. Income Tax Form F reporting income earned.
2. Dwelling: A structure intended to be used as a home, residence or sleeping place.
3. Occupancy: Physical possession of a dwelling for living, dining, hygiene and sleeping purposes.

B. Dwellings:

1. Occupancy shall not occur until final Building Inspector approval.
2. No buildings, other than farm outbuildings as defined herein, shall be erected, placed upon or converted unless a permit has been obtained in the manner hereinafter set forth.
3. No dwelling shall be enlarged or structurally altered without first obtaining a permit as hereinafter set forth.
4. No permit shall be issued for the erection or placement of more than one dwelling on any five-acre parcel or lot.
5. No permit for a structure to be used as a single-family residence or a business shall be granted unless the lot or area upon which the same is to be placed is at least five acres in size, inclusive of any private or public right-of-way provided, however, that the restrictions as to lot size set forth herein shall not apply to parcels or lots mapped or divided prior to November 20, 2003.
6. No permit for the erection of a single-family dwelling or the placement of a single-family dwelling shall be granted unless the building shall be of a size not less than 400 square feet of living space. The 400 square-foot minimum means that the footprint of the building to be erected shall be 400 square feet as measured by exterior living space and shall not include square footage in any basement or entryways, porches, sun rooms, mudrooms, vestibules or other areas auxiliary to the living quarters of such dwelling.

C. Placement:

1. No permit shall be granted for the erection or placement of any structure closer than 60 feet from the town right-of-way and/or 10 feet to the boundary line of adjoining properties, nor shall such permit be granted unless the entire sewerage disposal system, including the septic tanks and drain fields for the use of said premises are at least 10 feet from the town right-of-way and/or 10 feet from the lot line of the

applicant.

2. No building permit shall be issued for the erection or placement of any structure in the Town of Kildare if such structure will detract from the value of adjoining properties or if the proposed structure is not suitable to the area in which it is sought to be erected or placed. The Town Board may make such investigation as it shall deem reasonable and proper to determine whether the proposed site and structure comply with the provisions of this ordinance as well as the Town Comprehensive Plan and will not adversely affect the health, safety, morals and general welfare of the inhabitants of the Town of Kildare.
3. No permit shall be issued if, in the judgment of the Town Board, the proposed location of the building or structure shall increase the fire hazard of the area or if the building or structure is to be used for a purpose which would be detrimental to the general area in which it would be located.

D. Trailers, Mobile Homes and Seasonal or Camping Units:

1. A trailer or mobile home may be used as a single-family dwelling or a business structure in the Town of Kildare when a building permit is obtained permitting the use of such trailer or mobile home for such purposes, and such trailer or mobile home shall be subject to the restrictions as set forth herein for other dwellings and business structures, except that no trailer shall be authorized or permitted unless it is to be located on a lot or parcel of not less than five acres in size and that it meets all other requirements for such structures as set forth in this ordinance
2. No permit shall be issued for mobile homes older than twenty-five (25) years or for mobile homes and trailers used for storage. Wrecked, damaged or dilapidated mobile homes shall not be kept or stored upon any premises in the Town. The Town Board shall determine if a mobile home is damaged or dilapidated to a point which makes it unfit for human occupancy. Such mobile homes are hereby declared to be a public nuisance. Whenever the Town Board so determines, it shall notify the landowner and owner of the mobile home in writing that such public nuisance exists on lands owned by him, giving the findings upon which the determination is based and shall order such home removed from the site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time, but not less than thirty (30) days nor more than sixty (60) days.
3. This ordinance applies to seasonal or camping units to be located upon lands in the Town of Kildare for occasional (8 months or less within a rolling 12 month period) recreational uses or purposes, except that the 400 square-foot minimum of living space set forth in this ordinance does not apply to these seasonal-use units. A maximum of two seasonal-use units to be placed year round. A registration application shall be completed and submitted to the Clerk with the set fee for each. An approved registration placard will be issued to be placed in a window of said seasonal-use units for viewing from the outside. Town supervisors have the right to inspect the seasonal-

use units for proper use, placement and waste disposal. Any parcel that will have a recreational or occasional use structure is required to purchase a E-911 fire number for emergency purposes for set fee. Wrecked, damaged or dilapidated units shall not be kept or stored upon any premises in the Town. The Town Board shall determine if a unit is damaged or dilapidated to a point which makes it unfit for human occupancy. Such units are hereby declared to be a public nuisance. Whenever the Town Board so determines, it shall notify the landowner in writing that such public nuisance exists on lands owned by him, giving the findings upon which the determination is based and shall order such unit removed from the site within a reasonable time, but not less than thirty (30) days nor more than sixty (60) days.

4. This ordinance should not be construed to restrict the location, placement or use of travel trailers or mobile homes located or placed within a commercial campground, provided that said commercial campground shall have received a permit for its operation from the Town Board prior to the location, use or placement of said travel trailer or mobile home in said commercial campground.

Section 3 - Existing Structures

The existing lawful use of a building or premises at the time of the enactment of this ordinance or any amendment thereto may be continued although such use does not conform with the provisions of this ordinance.

Section 4 – Liability for Damages

The property owner assumes liability and shall be liable for any and all direct, indirect or consequential damage arising to any town property, including roads, as a result of any construction or other acts resulting from issuance of a building permit by the Town of Kildare

The liability assumed by the property owner for damages includes damages caused by the property owner, any contractor, subcontractor or any employee or agent thereof or any other person who causes damage to any town property, including roads, as a direct or indirect result of work which said contractor, subcontractor or an employee or agent thereof or any other person performed or attempted to perform work authorized by the building permit. It is not a defense to a claim under this section that the damages arose from work which was unauthorized or beyond the scope of the building permit if the damage occurs from the project described within the building permit.

Section 5 – Building Permit Application

- A. Applications for building permits shall be made to the Town Clerk on forms furnished by the Town and shall include the following:
 1. The name and contact information of the applicant, the owner of the site, the

builder, contractor, architect or engineer.

2. A Certified Survey Map (CSM) or site plan to scale and dimension of the proposed site for the structure with specific detail showing the size of the lot or parcel involved, the exact placement of the proposed structure in relation to existing elements and property lines.
 3. The type and intended use of the proposed structure.
 4. The number of proposed occupants or employees.
 5. The number of square feet in any building or structure proposed to be built.
 6. A description for the purposes of identification of the nearest structures presently existing on adjacent lands.
 7. Existing public highways and other access routes to the property.
 8. A detailed statement of the present use being made of abutting lands and structures thereon.
 9. The proposed manner of providing a satisfactory, adequate and safe sewerage disposal system.
 10. The proposed manner in which an adequate and safe supply of water will be provided.
- B. In addition, the Applicant, before issuance of the permit, must agree in writing to the following, as required by the location, type of structure and intended use:
1. The new construction or installation of the proposed building/structure at the specified location will be consistent with the Town of Kildare Comprehensive Plan.
 2. New construction or installation of the proposed building/structure at the specified location when completed will comply with all County, State and Town Building Codes and Ordinances.
 3. Applicant will install, provide, and maintain adequate, temporary sanitary facilities at the location during the new construction or installation period with the facilities sufficient to prevent a public nuisance or public health hazard.
 4. The Applicant will install, construct and maintain proper operational controls for the new building/structure which will serve to prevent any future public nuisance associated with noise, dust, odors, fire, explosions, water pollution, air pollution and erosion.
 5. The Applicant will install, construct and physically maintain proper

operational controls for the new building/structure which will serve to prevent future littering or discharging of waste and to prevent future public and private nuisances on private and public lands adjacent to or near the project site.

6. The Applicant will not construct or install any new structure/building or seek approval and issuance of a building permit under this Ordinance without careful review and consideration, and then present all necessary and applicable permits, licenses and approvals, including but not limited to the following where necessary and applicable:
 - a. County/Municipal Plat or Certified Survey Review Approval
 - b. Municipal Site Plan Approval
 - c. State/County Septic/Sanitary Permit
 - d. Well Installation Permit
 - e. State/County/Municipal Driveway Permit
 - f. Municipal Fire Number Approval
 - g. Municipal/County Site Erosion and Soil Conservation Approval
 - h. State/County Shoreland/Floodplain/Wetlands/Managed Forest Approval
 - i. Municipal/County Specific Unique Building/Structure Permit/Approvals (eg: fire control, wind farms, or communication tower permit approvals).
 - j. State/County/Municipal Livestock Siting Approval
 - k. Offensive Industry Control Approval
7. Before any construction begins, the applicant or his/her representative must stake out all corners of the proposed structure and contact the Town Building Inspector to verify set-backs and placement of the proposed structure.

Section 6 – Submission of Building Permit Application

- A. The properly completed application and required permits/approvals for the building permit, upon filing with the Town Clerk, shall be accompanied by the payment of the appropriate fee established by the Town Board. All permit and filing fees as required under this Ordinance shall be established, from time to time, by Town Board resolution.

No fee or permit shall be required for farm outbuildings meeting the criteria described in Section 2. An application for a building permit shall be granted or denied in writing by the Town Board within thirty days after the date of filing thereof.

- B. The permit shall expire within **twelve** months from the time it is granted unless substantial work has commenced. State of Wisconsin UDC permits expire at the end of two years if the structure has not passed final inspection at that time.
- C. Any permit issued as a result of any false or misleading statement made in the application for the permit shall be null and void, and any permit issued in conflict with any of the provisions of this ordinance shall likewise be null and void.

Section 7 – Penalties for Non-Compliance/Violations

- A. In the event application for a building permit is made to the Town late or after the erection, placing or converting of a structure has been commenced, enlarged or structurally altered as described in this ordinance, the penalty for said violation shall be a minimum of \$200.00 and a maximum of \$1,000.00 in addition to the standard building permit fee.
- B. Any structure or building hereafter erected, placed upon, moved upon or enlarged without a permit as required by this ordinance or otherwise not in conformity with this ordinance shall be removed and shall be deemed an unlawful structure, and the Town of Kildare may bring action to enjoin the erection, moving or structural alteration of such building or structure or the establishment of such use thereof and by such action cause such building, structure and use to be enjoined, vacated and removed.
- C. Any person, firm or corporation who violates, disobeys, neglects, omits or refuses to comply with this ordinance or who resists the enforcement of any of its provisions shall, upon conviction, forfeit not more than \$200.00 for each offense, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail of Juneau County unless such forfeiture and costs are paid but not exceeding thirty days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

Section 8 - Driveways

- A. The establishment and installation of all driveways from public roads into private property shall be controlled by the Town Board of the Town of Kildare, and no such driveway shall be installed, altered or changed without first obtaining a permit authorizing the installation, change or construction of the same from the town, county or state, depending on the public road involved.
- B. Such permit for the installation or alteration of such driveway shall include a site plan specifying the placement, width and culvert location/width of such driveway.
- C. The expense for the installation of such driveway shall be paid by the owner or applicant

seeking to install such driveway.

D. Driveway Requirements:

1. All driveways must be set back a minimum of 10 feet from side lot lines.
2. All driveways must be a minimum of 20 feet wide at the entrance/exit to the road and 20 – 30 feet wide at the culvert (to be determined by ditch depth).
3. Culverts (twelve inches minimum) are required in all cases, except where omission thereof is expressly permitted by the Town Board.
4. All driveways must allow ample emergency vehicle ingress/egress.
5. All driveways shall have a minimum overhead clearance of twenty feet.

Section 9 - Severability

Should any section, clause or provision of this ordinance be declared by the Court to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 10 – Repeal of Existing Ordinances

This Ordinance upon adoption replaces Ordinances 5(h) of the Kildare Code of Ordinances.

Any other ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

Section 11 – Effective Date

This ordinance shall be in force and effect from and after its passage and publication as provided by law.

INTRODUCED AND ADOPTED by the Town Board of the Town of Kildare at a regular meeting held on the 10th day of November, 2021.

Attest:

Town Clerk

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Posted October 27, 2021 in three public places in the Town of Kildare:

Bulletin Boards at Town Hall, Shorty's Krazy Korner, Clerk's Residence

Posted October 27, 2021 on the official Town of Kildare Website (kildaretownship.com)