

Chapter 12 Zoning

Section 1200 - General

1200.01 Title. This Chapter shall be known as the "Zoning Code for the City of Silver Bay", "Silver Bay Zoning Code", "Zoning Code" or "Zoning". Any reference to the City Zoning Ordinance or Zoning Code shall mean this Chapter.

1200.02 Purpose. This Chapter is enacted to protect and promote the public health, safety, and general welfare of the people of Silver Bay. Specifically, the provisions are designed to achieve, among others, the following objectives:

- A. Civic beauty.**
- B. Adequate light, air, and safety from fire for occupants of structures.**
- C. Conservation of the value of land and buildings.**
- D. A stable tax base.**
- E. Stability of residential neighborhoods.**
- F. A minimum of congestion in the public streets.**
- G. Compatibility between different land uses.**
- H. Reasonable standards to which structures and uses shall conform.**
- I. Secure economy in governmental expenditures.**

1200.03 Definitions. For the purpose of this Chapter, the terms and words below shall be defined as follows:.

Subd. 1 Airport. Any locality, either on land or water, which is regularly used or intended to be used for the landing and take-off, storage, or servicing of one (1) or more aircraft.

- AMENDED 09/20/99 -

~~**Subd. 2 Accessory Building.** A structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the principal use of the structure. It may be attached or unattached to the principal structure. No accessory use building shall be built prior to completion of the primary structure. No more than two (2) accessory buildings shall be constructed per lot, and shall be located at least five (5) feet apart to be considered separate structures. Accessory buildings shall include a private garage and a shed or similar structure not to exceed two hundred (200) square feet.~~

Subd. 3 Attorney. The City Attorney of Silver Bay.

Subd. 4 Auditor. The County Auditor of Lake County, Minnesota, or his or her authorized representative.

Subd. 5 Automobile Sales or Service Station. Any building or premises, or portion thereof, used or intended to be used for the retail dispensing or sales of automobiles and/or automobile fuels, which activity may be accompanied by accessory uses such as sales of lubricants, tires, accessories or supplies, or minor repairing of automobiles.

Subd. 6 Automobile Wrecking or Junk Yard. Any place where two (2) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation; or, any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof.

Subd. 7 Basement. A story in a building having part but not less than one-half ($\frac{1}{2}$) its height below grade. A basement shall be counted as a story for the purpose of height regulations if subdivided and used for business or dwelling purposes by others than a janitor employed on the premises.

Subd. 8 Bed and Breakfast. A private home occupied by the owner or lessee providing lodging rooms and meals to the traveling public, for compensation, on a day to day basis, in a residential setting.

Subd. 9 Boarding House. A private home occupied by the owner or lessee providing lodging rooms and meals to regular residents, for compensation, not exceeding five (5) people not of the operator's family.

Subd. 10 Borrow Pit. A land use involving the excavation or digging of material for use as fill at another site. Also, an excavated area where earth material has been dug for use as fill at another site.

Subd. 11 Buildable Area. The space remaining on a lot after minimum yard and setback requirements have been met.

Subd. 12 Building. Any structure for the shelter, support, or enclosure of persons, animals, chattels, or property of any kind.

A. Building Height: The vertical distance from the grade at a building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

B. Building Line: A line measured across the width of a lot at a point where a structure is placed in accordance with the minimum setback requirements of this Chapter.

Subd. 13 Business. Any occupation, employment, or enterprise wherein merchandising is exhibited or sold, or which occupies time, attention, labor, materials, or where services are offered for compensation.

Subd. 14 Church. A building together with accessory buildings and uses, where persons regularly assemble for religious worship and is maintained and controlled by a religious body organized to sustain public worship.

Subd. 15 Club or Lodge. A non-profit association of persons, who are bonafide members paying annual dues, and where the use of premises are restricted to members and their guests. It shall be permissible to serve food and meals on the premises providing adequate dining room space and kitchen facilities are available. Serving alcoholic beverages to members and their guests shall be allowed, providing the serving is secondary and incidental to the operation of the dining room and is in compliance with the applicable Federal, State, and Municipal laws.

Subd. 16 Commercial Recreation. Any privately owned for-profit recreational facility including ski trails, go-cart tracks, mini golf, amusement parks, or other similar activities.

Subd. 17 Commercial Use. Sale, lease, rental or trade of products, goods and services.

Subd. 18 Comprehensive Plan. The policies, statements, goals and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, codes and maps which constitute the guide for future development of the City.

Subd. 19 Conditional Use. A land use or development that would not be appropriate or conform to the provisions of this Chapter in a given zone district, but which may be allowed with restrictions as provided for in this Chapter.

Subd. 20 Deck. A horizontal unenclosed platform, with or without attached railings, seats, trellis, or other fixtures, attached or functionally related to the principal use of the site.

Subd. 21 Demolition / salvage / recycling. Any commercial salvaging and scavenging of any goods, articles, or merchandise other than automobiles.

Subd. 22 Dog Kennel. Any place where four (4) or more dogs over six (6) months of age are kept or raised and/or offered for sale.

Subd. 23 Domestic Pets. (Normal Domestic Pets) Any animals, birds or fish typically found in a residential setting such as dogs, cats, gerbils, hamsters, canaries and similar small song birds, parrots and similar birds of the psittaci species, gold fish or other small aquatic life kept in a bowl or aquarium, excluding animals and fowl set forth in Section 610.01.

Subd. 24 Dwelling. Any structure designed or used as the living quarters for one or more families.

A. Dwelling, Multiple Family (Apartment). A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, possibly sharing hallways and main entrances and exits.

B. Dwelling, Seasonal or Recreational. A dwelling utilized for recreational purposes which is not the principal place of residence of the owner.

C. Dwelling, Single Family. A dwelling unit designed exclusively for occupancy by one (1) family.

D. Dwelling, Two (2) Family. A dwelling designed exclusively for occupancy by two (2) families living independently of each other including:

E. Double Bungalow/Duplex. A two- (2) family dwelling with two (2) dwelling units of more than two (2) rooms per unit.

F. Dwelling Unit. One (1) room, or a suite of two (2) or more rooms, designed for or used by one (1) family for living and sleeping purposes.

Subd. 25 Essential Services. Services provided by public or private utilities.

Subd. 26 Family. Any person or a group of persons, whether or not related by blood or marriage, occupying a single dwelling unit.

Subd. 27 Farms. Tracts of land devoted to agricultural purposes and raising of domestic livestock, including, but not limited to, fur farms, poultry and egg farms, hog farms and feed lots and any agricultural endeavors including hobby farms.

Subd. 28 Floor Area. The sum of the gross horizontal area of several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of the residence shall include fifty percent (50%) of the area of attached garages and enclosed breezeways or porches, but shall not include basement area.

Subd. 29 Frontage. The length of the front property line of a lot or tract of land abutting a public right-of-way.

Subd. 30 Garage. A building or portion thereof, either attached or unattached to the primary structure, designed or used for the storage of motor-driven vehicles.

A. Private Garage. A building or portion thereof, either attached or unattached to the primary residence designed or used for storing private passenger vehicles. No private garage shall be larger in square footage than one hundred eight percent (108%) of the footprint of the principal building and shall not exceed one thousand forty (1,040) gross square feet of floor area for each principal lot.

B. Public Garage. A building or portion thereof, other than private garage, designed or used primarily for servicing, repairing, equipping, hiring, selling, or storing motor-driven vehicles.

Subd. 31 Home. A family's place of residence or domicile. The social unit formed by the family living together.

Subd. 32 Home Occupation. Any occupation engaged in by the occupant of a dwelling for compensation.

Subd. 33 Hotel. A commercial establishment or building of usually two (2) stories, or more, in height, with a main entrance, providing a number of bedrooms, baths or other amenities, to the traveling public for compensation.

Subd. 34 Livestock. All animals, excluding normal domestic pets, and including but not limited to mammals, horses, cows, sheep, goats, pigs, fish, fowl, insects and reptiles. Normal domestic pets are those traditionally kept in a household as defined in Subd. 23 of this Section.

Subd. 35 Lot. A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plat, or other accepted means of description.

A. Lot Depth. The shortest horizontal distance between the front line and the rear lot line measured from a ninety degree (90) angle from the street right-of-way within the lot boundaries.

B. Lot Line. A property boundary line of any lot held in single or separate ownership. Where any portion of the lot extends into the abutting street, the lot line shall be deemed to be the street or alley right-of-way line.

C. Lot Line, Front. The boundary of a lot abutting a public street right-of-way. For purposes of this title in the case of a corner lot, the front shall be the lot size having the shortest dimension on a public street. If the dimensions of a corner lot are within ten percent (10%) of being equal, the owner may select either street lot line as the front lot line.

D. Lot Line, Rear. The boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, connecting the side lot lines and parallel to the front lot line.

E. Lot Line, Side. Any boundary of a lot which is not a front lot line or a rear lot line.

F. Lot Width. The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line.

G. Lot, Minimum Area. The area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

Subd. 36 Lot of Record. A parcel of land which is part of a subdivision, the plat which has been recorded in the office of the County Recorder or Registrar of Titles of Lake County or a parcel of land otherwise legally described, the description of which has been recorded in the Office of the County Recorder, Registrar of Titles or Auditor of Lake County.

Subd. 37 Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode is eight (8) feet or more in width or forty (40) body feet in length, or, when erected on site, is three hundred-twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without foundation when connected to the required utilities, as defined in Minnesota Rules 1350.0100, Subd. 38, and in Minnesota Statutes § 327.31, Subd. 6.

Subd. 38 Motel (Tourist Court). A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, each of which has a separate outside entrance leading directly from the outside of the building, with garage or parking space conveniently located to each unit, and which is designed, used, or intended to be used primarily for the accommodation of automobile transients.

Subd. 39 Non-Conformity. Any legal use, structure or parcel of land already in existence, recorded or authorized prior to the enactment of this Chapter or its amendments which would not have been permitted to become established under the terms of this Chapter as adopted or amended, if this Chapter had been in effect as of the date the use, structure or parcel was established, recorded or authorized.

Subd. 40 Off-Street Loading Space. A space accessible from a street, alley, or driveway for the use of trucks while loading or unloading merchandise or materials.

Subd. 41 Parking Space. An area, enclosed or unenclosed, sufficient in size to store one (1) motor vehicle, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Subd. 42 Permanent Mobile Home. A manufactured home built in conformance with Minnesota Statutes §§ 327.31 to 327.35 which meets all of the following criteria:

- A.** Is at least twenty-four (24) feet in width, provided that porches, vestibules and structures attached to the manufactured unit shall not be included in determining whether the dimensional requirements of this Part have been met.
- B.** If affixed to the land on which it is located, the title to which land is in the same name as the owner or lessee of the dwelling unit.

C. Is installed on the permanent foundation in accordance with Minnesota State Rules and Regulations for Mobile Homes.

D. Is connected to public utilities or is serviced by its own well and septic tank system in accordance with Lake County Health Regulations.

E. Has all wheels removed.

F. Is assessed and taxed as real property under Chapter 272 of the Minnesota Statutes.

G. Has been issued a residential zoning permit and Certificate of Occupancy by the zoning official of the City of Silver Bay certifying that the requirements of the Silver Bay Zoning Ordinance have been met.

Subd. 43 Permitted Use. A use that is specifically allowed in a zone district without the requirement of a conditional use permit.

Subd. 44 Principal Use of Building. That use of building which determines the predominant use of the lot on which it is located.

Subd. 45 Recreation Area. An area of land, water, or any building in which amusement, recreation, or athletic sports facilities are provided for public or semi-public use, whether provision is made for the accommodation of an assembly or not. A golf course area, baseball park, stadium, circus, gymnasium, ice rink, tennis court, swimming pool, teen center, and campground are recreation areas for purposes of this title.

Subd. 46 Recreational Camping Area. Any area, public or private, used on a daily, nightly, weekly or longer basis for accommodation of tents or recreational camping vehicles.

Subd. 47 Recreational Vehicle. A mobile vehicle, including boats used for recreational purposes, capable of being towed, carried, or being self-propelled.

Subd. 48 Restaurant. An establishment where food is available to the general public for consumption on the premises and/or take out.

Subd. 49 Rest Home (Nursing Home). A private home for the care of children, the aged or infirm, or place of rest for those suffering bodily disorders. Such a home does not contain equipment for surgical care or for the treatment of disease or injury, nor does it include maternity care or care for mental illness or infirmities.

Subd. 50 Right-of-Way. A strip of land occupied or intended to be occupied by a street, crosswalk, sidewalk, boulevard, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for other special use.

Subd. 51 Setback. The minimum horizontal distance between a structure and the ordinary high water level, road centerline, road right-of-way, front, side or rear lot line.

Subd. 52 Shopping Center. A group or groups of three (3) or more commercial establishments developed in accordance to an overall plan and designed and built as an interrelated project.

Subd. 53 Sign. A name, identification, description, display, illustration, structure, or device which is affixed to, painted upon, or represented directly or indirectly upon a building or other outdoor surface or piece of land, which directs attention to an object, product, place, activity, person, institution, organization, or business.

A. Advertising. A sign which directs attention to a business, commodity, service, or entertainment, not necessarily conducted, sold, or offered upon the premises where the sign is located or to which it is affixed.

B. Business. A sign which directs attention to a business or profession or to the primary commodity, service, or entertainment sold or offered upon the premises where the sign is located or to which it is attached.

C. Flashing. Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when the sign is in use.

D. Gross Surface Area. The entire area within a single continuous perimeter enclosing the extreme limits of the sign and in no case passing through or between any adjacent elements of same. However, the perimeter shall not include any structural elements lying outside the limits of the sign and not forming an integral part of the display. In computing square foot area, only one (1) side of a double-face or a "V"-type structure shall be considered.

E. Identification. A sign identifying a resident, school, church, or other nonbusiness use.

F. Illuminated. Any sign which has characters, letters, figures, design or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

G. Pedestal. A sign erected upon a single post or shaft.

H. Temporary. A sign that is not a permanent fixture attached to the ground or to a building.

Subd. 54 Spot Zoning. Zoning changes typically limited to small plots of land which establish a use classification inconsistent with surrounding uses and create an island of nonconforming use within a larger zoned district, and which may dramatically reduce the value for uses specified in the zoning district of either the rezoned plot or abutting property.

Subd. 55 Structure. Anything constructed or erected the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground. This shall include signs and buildings. A principal structure is one which determines the predominant use of the lot on which it is located. Open fences for purposes of defining boundary lines and/or containing livestock are not included within this definition.

Subd. 56 Structural Alteration. Any change other than incidental repairs which would affect the supporting members of a building such as bearing walls, columns, beams, girders or foundations.

Subd. 57 Subdivision. The division of a district of land into two (2) or more parcels for the purpose of transfer of ownership or building development; or, if a new street is involved, any division of a parcel of land. The following shall not be deemed a subdivision:

- A. The division of a tract of land into lots or parcels of five (5) acres or more with a minimum width of one hundred sixty-five (165) feet and not involving a new street.

B. One (1) division of a tract of land into two (2) lots or parcels in any twelve (12) month period of time provided that the resulting descriptions are approved by the County Auditor and that the lots or parcels shall meet the minimum area and width requirements of the Sewage Disposal Regulations of the City of Silver Bay and other zoning regulations applying to the area in which the lots or parcels are located.

Subd. 58 Tourist Home. A home containing lodging rooms with accommodations, for compensation, not exceeding five (5) people not of the operator's family. The home shall be occupied by the owner or lessee.

Subd. 59 Trailer. Every vehicle without motive power designed or used for carrying persons or property and for being drawn by a motor vehicle.

Subd. 60 Transitional Use. A non conforming temporary use of a lot which may be conditionally allowed by the Zoning Commission for a limited time period.

Subd. 61 Variance. Any modification or variation from the provisions of this Chapter where it is determined that by reason of exceptional circumstances unique to the property under consideration, the strict enforcement of which would cause undue or unnecessary hardship.

Subd. 62 Wood Burning Unit - Free Standing. A heating unit, burning wood or wood products, located outside the principal or accessory building designed to provide heat to the principal building.

Subd. 63 Yard. A required open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward, provided, however, that fences, signs, utility poles, antenna, and related minor equipment may be permitted in any yard where they do not constitute a traffic safety hazard.

A. Yard, Front. A yard extending across the front of a lot between the side lot lines and lying between the centerline of the street, highway, or waters edge and building line.

B. Yard, Rear. A yard extending across the rear of the lot between inner side yard lines. In the case of through lots, there shall be no rear yard. In the case of corner lots, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half-depth front yard.

C. Yard, Side. A yard extending from the rear line of the required front yard to the rear lot line.

1200.04 Lots and Buildings.

Subd. 1 Compliance with this Chapter. No building or premises may hereafter be used or occupied and no land use permits shall be granted that do not conform to the requirements of this Chapter.

Subd. 2 Non-Conforming Lot. Any lot at the time of the enactment of this Chapter which does not meet the requirements of this Chapter as to area, width, or other open space, may nevertheless be utilized for single-family detached dwelling purposes. The lot shall not be considered as a non-conforming lot.

Subd. 3 Lot Frontage Required. No lot shall contain any building used as a dwelling unless it abuts at least ten (10) feet on a street or has a permanent exclusive non-obstructed easement of access not less than ten (10) feet wide to a public street.

Subd. 4 Required Lot and Yard. No lot or yard shall be so reduced in area or dimension as to make any such area or dimension less than the minimum required by this Section. If the lot or yard is already less than the minimum required, it shall not be further reduced.

1200.05 Non-Conforming Uses. The lawful use of any land or building existing at the time of the enactment of this Chapter may be continued for a period of one (1) year after enactment of this Chapter if the use does not conform to the regulations of this Chapter, provided:

Subd. 1 Enlargement. No such non-conforming use of land shall be enlarged or increased or occupy a greater area of land than that occupied by such use at the time of the enactment of this Chapter.

Subd. 2 Moving. Such non-conforming use shall not be moved to any other part of the parcel of land upon which the same was conducted at the time of the enactment of this Chapter.

Subd. 3 Ceasing. If the non-conforming use ceases for a continuous period of six (6) months, any subsequent use of the building shall be in conformity to the use regulations specified by this Chapter for the district in which the building is located.

Subd. 4 Destruction. Any structure which represents a non-conforming use shall not be rebuilt or reconstructed to its former use and physical dimensions if damaged fifty percent (50%) of its full and true assessed value. This restriction does not apply to a dwelling excepted under the provisions of Section 1200.04, Subd. 2.

Subd. 5 Changes. No changes in a non-conforming use shall be permitted unless an application is made and a conditional use permit is granted for the change.

Subd. 6 Compliance. A non-conforming use, including home occupations, shall conform to the provisions of this Chapter no later than one (1) year after enactment of this Chapter.

1200.06 Minimum Requirements. Except as otherwise stated, the provisions of this Chapter shall be held to be minimum requirements in their interpretation and application. Wherever this Chapter imposes greater restrictions than are imposed or required by other provisions of law or by other rules or regulations, the provisions of this Chapter shall govern.

Subd. 1 Exterior Storage. In residential districts, on all residential lots, all materials and equipment shall be stored within a building or fully screened (so as not to be visible from adjoining property), except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, off-street parking of passenger automobiles and pickup trucks. All waste materials, debris, refuse, automobiles not in working order, lumber, garbage, and other such material shall be kept in an enclosed building or properly contained in a closed container designed for such purpose.

Existing uses shall comply with the provisions pertaining to Exterior Storage within six (6) months following enactment of this Chapter. In Business and Industrial Districts, no materials or equipment may be stored outside except those directly related to the principal use or those being used for construction on the premises. Subd. 2 Refuse. In all areas, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping the land free of refuse, weeds, debris, or other dangerous or unsightly conditions. All structures and fences shall be maintained so as not to be unsightly to the adjoining areas or produce safety hazards.

Subd. 3 Screening. Screening shall be required in residential zones where:

- (a) any off-street parking area contains more than six (6) parking spaces and is within thirty (30) feet of an adjoining residential zone, and,
- (b) where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential zone.

Screening shall be required in business and industrial districts where any business or industrial use (i.e., structure, parking, or storage) is adjacent to property zoned for residential use. The business shall provide screening along the boundary of the residential property. Screening shall also be provided where a business is across the street from a residential zone, but not on that side of a business considered to be the front as determined by the Zoning Administrator.

The screening required in this Section shall consist of a fence, wall, trees, shrubs, or other such materials, not less than five (5) feet high, but shall not extend within fifteen (15) feet of any street right-of-way. The screening shall be placed along property lines or in case of screening along a street, fifteen (15) feet from the street right-of-way with landscaping between the screening and the pavement.

Subd. 4 Electrical Emissions. No activities shall be permitted that create electrical disturbance, except from domestic household appliances, adversely affecting the operation at any point of any equipment other than that of the creator of the disturbance. Federal and State regulations governing radio communications and other related facilities shall be minimum standards maintained under this Chapter.

Subd. 5 Other Nuisance Characteristics. No noise, odors, vibrations, smoke, air pollution, dangerous wastes, heat, glare, dust or other such adverse influences shall be permitted that shall in any way have an objectionable effect upon adjacent or nearby property. Uses in the General Industry Districts shall be exempt from this requirement except where such exception constitutes a menace to the public health, safety, and general welfare.

Subd. 6 Architecture. In all districts, all principal buildings other than one-(1) and two-(2) family dwellings shall be designed or approved by a registered architect or registered civil engineer.

Subd. 7 Drainage.

A. No land shall be developed and no use shall be permitted that results in water run-off, flooding or erosion on adjacent properties. The runoff shall be properly channeled into a storm drain, water course, ponding area, or other suitable public facility.

B. No person shall build or maintain any retaining wall, building or obstruction that may result in diversion of waters, water run-off or erosion to or on adjacent properties, without first securing a building permit therefore.

C. Any retaining wall, building, or other obstruction, built or maintained contrary to the provisions of this Chapter shall be removed by the owner at the owner's expense upon order of the City Council.

Subd. 8 Portable Storage Containers and Temporary Structures – Added 09/07/10

- see Amendments

1200.07 Certificate of Occupancy. Owners of buildings or land used for commercial purposes shall secure a Certificate of Occupancy within one (1) year following the enactment of this Chapter. Commercial uses shall include all permitted, non-conforming, accessory, or special uses as defined in this Chapter for the "SC" and "HB". The purpose of this Certificate shall be to provide a record of the specific use of all commercial buildings and land in the City.

1200.08 Building Permits. Hereafter, no person shall construct, erect, alter, remodel, wreck or move any building or part thereof without first securing a building permit. No permit shall be necessary for repairs, maintenance, upkeep, or minor alterations that do not involve structural changes or that do not involve changes in the outside dimensions or shape of any building in accordance with the Uniform Building Code.

Subd. 1 Applications. Application for building permits shall be made to the Administrator on forms to be furnished by the City. Each application shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of the building and accessory buildings to be erected or altered, and such other information as may be deemed necessary for the proper enforcement of this Chapter.

Amended 08/15/11

~~**Subd. 2 Time for Completion.** All work requiring a building permit shall be completed within the time limitations set forth in the permit or if no time limit is set then no later than one (1) year after issuance of the permit, unless otherwise authorized.~~

1200.09 Land Use Permits. Hereafter, no person shall construct, remodel, demolish, or move any building on a parcel of land without first obtaining a land use permit to verify conformance with existing zoning. No such permit shall be necessary for repairs, maintenance, upkeep, or minor alterations that do not involve changes in the outside dimensions, shape of any building, structural alterations or change in land use. Application for land use permits shall be made to the Administrator on forms furnished by the City.

Each application shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of the building and accessory buildings to be erected or altered, changes to current land use, and such other information as may be deemed necessary for the proper enforcement of this Chapter. No structural alterations or additions may be constructed on any principal building that changes the building size or location without obtaining a land use permit.

Subd. 1 Fences ADDED 04/16/01

Subd. 2 Signs ADDED 04/16/01

1200.10 Fees. The fees required by this Chapter shall be established by the Council by resolution.

Amended 10/17/11

~~1200.11 North Shore Management Plan. The North Shore Management Plan for Lake Superior's North Shore dated December 1988, is hereby adopted by reference, shall have the same force and effect as if set forth in full, and shall apply to all development within the City of Silver Bay.~~

Section 1210 - District Provisions

1210.01 Districts Established. The following districts are hereby established:

- R-1 - Single- and Two-(2) Family Residence District**
- R-2 - Multi-family Residence District**
- SC - Shopping Center Commercial**
- HB - Highway Business Commercial**
- LB - Limited Business Commercial**
- LI - Limited Industry Commercial**
- GI - General Industry Commercial**
- FR - Forest Reserve District**
- RC - Recreation District (Public)**
- RR - Resort & Recreation District**

1210.02 Zoning Map. The boundaries of the districts as established by this Chapter shall be shown on the map which shall be made part of this Chapter. The Zoning District Map and all notations, references, and other information shown thereon are a part of this Chapter and shall have the same force and effect as if the map and all notation, references, and other information shown thereon were all fully set forth or described herein. The Zoning District Map shall be properly attested and on file with the City Administrator of the City of Silver Bay. The various zoning districts shall be shown on the official Zoning District Map. The Zoning District Map shall be maintained by the City Administrator.

Any error or omission in the Map shall not affect the legality of this Chapter or future amendments to this Chapter. The district boundary lines on the map are intended to follow either street or other right-of-way lines or lot lines. Where the districts designated on the map are bounded by the street or lot line, the street or lot line shall be construed to be the boundary of the district unless the boundary is otherwise indicated on the map. In the case of unsubdivided property, the district boundary lines shall be determined by use of the scale appearing on the Zoning District Map or by dimensions.

1210.03 R-1, Single- and Two-(2) Family Residence-District.

Subd. 1 Purpose. The purpose of the R-1 Residence District shall be to promote lower density development for single- and two-(2) family dwellings.

Subd. 2 Permitted Uses. The following uses shall be permitted in an R-1 District:

- A. Single-family dwelling.**
- B. Two-(2) family dwelling.**
- C. Private garage.**
- D. Living quarters for domestic help employed on the premises when the premises contain sixteen thousand (16,000) square feet or more of lot area.**
- E. Conservatories for plants and flowers not including any business or trade.**
- F. Signs conforming to provisions set forth in this Chapter.**
- G. Accessory uses incidental to principal use.**

Subd. 3 Uses allowed by Special Use Permit. The following uses shall be permitted upon the satisfaction of conditions established by the Council:

- A. Boarding houses or tourist homes.**
- B. Cemeteries.**
- C. Churches.**
- D. Schools, private and public, provided that any principal building shall be located thirty (30) feet or more from the lot line in a residential district.**
- E. Dog kennels.**
- F. Electric power substations and other utility stations.**
- G. Hospitals, sanitariums, and rest homes.**
- H. Nurseries and greenhouses.**
- I. Off-street parking for adjacent non-residential uses.**
- ~~**J. Manufactured housing.**~~ **AMENDED 04/16/01**
- K. Transitional use.**
- L. Home occupation.**

Subd. 4 District Requirements. The following minimum requirements shall be followed in R-1 districts:

A. Minimum Lot Area

- | | |
|-----------------------|-------------------------------------|
| One-(1) family | 7,200 square feet |
| Two-(2) family | 5,000 square feet per family |

B. Minimum Floor Area

- | | |
|-----------------------|-----------------------------------|
| One-(1) family | 768 square feet |
| Two-(2) family | 750 square feet per family |

C. Minimum Lot Frontage

One-(1) or two-(2) family 60 feet

D. Minimum front yard setback 25 feet

E. Minimum side yard setback: AMENDED 04/16/01

~~For principal structure 8 feet~~

~~On corner lot 20 feet~~

~~For accessory use to adjacent lot 3 feet~~

F. Minimum rear yard setback:

For principal structure 20 feet

For accessory use 3 feet

From utility easement 3 feet

G. Maximum building height:

For principal structure 35 feet

For accessory structure 16 feet

H. Maximum building coverage 35% of lot area

I. Off-street parking requirements shall be provided in accordance with this

Section.

1210.04 R-2, Multi-Family Residence District.

Subd. 1 Purpose. The purpose of the R-2, Multi-Family Residence District, shall be to allow for the planned development of higher density residential areas.

Subd. 2 Permitted Uses.

A. Multi-Family Dwellings and all uses permitted under R-1 districts

Subd. 3 Uses allowed by a Special Use Permit.

A. All special uses indicated in R-1 districts

Subd. 4 Requirements.

A. Minimum lot area:

Two-(2) family	5,000	square feet
Three-(3) and Four-(4) Family	3,000	square feet per

Apartments with over five (5) families:

Efficiency	2,000	square feet
One-(1) bedroom	2,400	square feet
Two-(2) or more Bedroom	2,800	square feet

B. Minimum floor area:

One-(1) family	768	square feet
Two-(2) family	750	square feet

Three-(3) or more Families:

Efficiency	500	square feet per family
One-(1) Bedroom	600	square feet per family
Two-(2) or more Bedrooms	750	square feet per family

C. Minimum lot frontage. 60 feet

D. Minimum front yard setback. 30 feet

E. Minimum side yard setback:

For principal structure	8	feet
On corner lot	20	feet
For accessory use to adjacent lot	3	feet

F. Minimum rear yard setback:

For principal building	20	feet
For accessory use	3	feet
From utility easement	3	feet

G. Maximum building height.

For principal structure	35	feet
For accessory structure	16	feet

H. Maximum building coverage. 35% of lot area

I. Off-street parking requirements shall be provided in accordance with this Section.

1210.05 Shopping Center Commercial.

Subd. 1 Purpose. The purpose of the SC, Commercial District shall be to allow for the planned development of retail shopping facilities of an integrated design.

Subd. 2 Permitted Uses.

- A. Office/financial facilities.**
- B. Health/medical facilities.**
- C. Retail business.**
- D. Accessory use incidental to principal use.**

Subd. 3 Uses Allowed by a Special Use Permit.

- A. Religious meeting or tent or temporary structure for a period not to exceed sixty (60) days.**
- B. Business signs in accordance with this Section.**

- C. Dwelling for watchman and family.
- D. Any use of structure subordinate to the principal use or building on the same lot and serving a purpose customarily incidental thereto.
- E. Heliports.
- F. Clubs and lodges, non-profit associations.
- G. Mortuaries.
- H. Private colleges and institutions.
- I. Commercial recreation, such as bowling lane, jump centers, vehicle racing or amusement, golf driving ranges, miniature golf, dance hall, pool or billiard parlor, skating, tavern, theater, and similar type uses.
- J. Restaurants with live entertainment and/or dancing.
- K. Service stations.
- L. Drive-in theaters.

Subd. 4 District Requirements.

A. Minimum lot area	50,000 square feet
B. Minimum lot frontage	N/A
C. Minimum front setback	30 feet
D. Minimum side setback:	
For principal structure	30 feet
For accessory uses	15 feet
E. Minimum rear setback	N/A
For accessory uses	15 feet
For utility easement	3 feet

- F. Maximum building height 35 feet
- G. Maximum building coverage 25% of lot area
- H. Off-street parking requirements shall be provided in accordance with this Section.

1210.06 HB, Highway Business Commercial.

Subd. 1 Purpose. The purpose of the HB, Highway Business Commercial shall be to provide areas located along major thoroughfares with convenient ingress and egress for business development which serves a primarily highway oriented consumer.

Subd. 2 Permitted Uses.

- A. Retail business.
- B. Automobile service uses.
- C. Office/financial use.
- D. Accessory use incidental to principal use.

Subd. 3 Uses Allowed by a Special Use Permit.

- A. All uses identified as special uses in the R-1, R-2 and SC districts apply to the HB District.

Subd. 4 District Requirements.

- A. Minimum lot area 15,000 square feet
- B. Minimum lot frontage 100 feet
- C. Minimum front setback 25 feet

D. Minimum side setback:

- For principal structure 30 feet**
- For accessory use 15 feet**

E. Minimum rear setback:

- For principal structure N/A**
- For accessory use 3 feet**
- For utility easement 3 feet**

F. Maximum building height 35 feet

G. Maximum building coverage N/A

H. Off-street parking requirements shall be provided in accordance with this Section.

Subd. 5. Business Park, Permitted Uses.

- A. Retail businesses.**
- B. Automobile Service Uses.**
- C. Office/financial.**
- D. Accessory uses incidental to principal use.**

Subd. 6. Business Park, Special Use Permits.

- A. Schools, private and public, technical, trade or college provided that any principal building shall be located thirty (30) feet or more from any lot in a residential district.**
- B. Animal care kennels.**
- C. Hospitals, sanitariums and rest homes.**
- D. Nurseries and greenhouses.**

E. Mortuaries.

F. Commercial recreation, such as bowling lanes, jump centers, vehicle racing or amusement, golf driving ranges, miniature golf, dance hall, pool or billard parlor, skating, tavern, theater and similar uses.

G. Restaurants with live entertainment.

Unless otherwise authorized, the above permitted uses shall be restricted to the areas shown below:

(1) Highway Frontage: Specialty stores, outlet malls, restaurants, department stores, computer electronic stores and personal care stores.

(2) Interior of Park: Assembly plant including furniture, electronics, machinery, office space, outlet mall stores, mail order, warehousing, club stores and distribution centers.

(3) Near Lake Shore or with view of Lake: Hotels (middle to upper class) with food and liquor, convention capabilities, entertainment, trail access, all season capabilities; supper clubs, tourist type stores, walking path, bike path, souvenir shops and specialty food establishments.

1210.07 LB, Limited Business Commercial.

Subd. 1 Purpose. The purpose of the LB, Limited Business Commercial District shall be to allow for business development in areas which are particularly exposed or adjacent to residential districts. These businesses would be considered compatible with a residential use and provide neighborhood-level convenience services.

Subd. 2 Permitted Uses.

- A. All uses permitted in R-1 and R-2 districts.**
- B. Office/financial facilities.**
- C. Health/medical facilities.**
- D. Residence.**
- E. Churches.**
- F. Construction camps, temporary dwellings for transient workers, dormitory buildings, observation platforms.**
- G. Accessory structures incidental to principal use.**
- H. Industrial parks.**
- I. Manufactured home parks.**
- J. Motels.**

Subd. 3 Uses Allowed by Special Use Permit.

- A. All uses identified as special uses in the R-1, R-2 and SC Districts apply to the LB District**

Subd. 4 District Requirements.

- A. Minimum lot area. 15,000 square feet**
- B. Minimum lot frontage. 100 feet**
- C. Minimum front setback:**
 - For principal structure 30 feet**
- D. Minimum side setback:**
 - For principal structure 30 feet**
 - For accessory use 15 feet**

E. Minimum rear setback:

For principal structure	N/A
For accessory use	3 feet
For utility easement	3 feet

F. Maximum building height. 35 feet

G. Maximum building coverage. N/A

H. Off-street parking requirements shall be provided in accordance with this Section.

1210.08 LI, Limited Industry Commercial.

Subd. 1 Purpose, The purpose of the LI, Limited Industry Commercial District shall be to provide an area for industrial development of service and light industries which manufacture, process, store, and distribute foods and materials not likely to create offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences.

Subd. 2 Permitted Uses.

- A. Manufacturing uses.**
- B. Research.**
- C. Motor freight terminals.**
- D. Railroad uses.**
- E. Warehousing.**
- F. Wholesale business.**
- G. Equipment sales and service uses.**

H. Miscellaneous business uses.

I. Accessory uses incidental to principal use.

J. Hotels and Motels.

K. Retail services compatible with this district classification.

Subd. 3 Uses Allowed by Special Use Permit.

A. Excavation businesses (such as sand and gravel pits and black dirt operations).

B. Junk yards and dumps.

C. Heliports.

D. Service stations.

E. Drive-in theaters.

F. Hospitals and clinics.

G. Cement Plants.

Subd. 4 District Requirements.

A. Minimum lot area.	15,000 square feet
B. Minimum lot frontage.	100 feet
C. Minimum front setback.	30 feet
D. Minimum side setback:	
For principal structure	30 feet
For accessory use	15 feet
E. Minimum rear setback:	
For principal structure	N/A
For accessory use	3 feet
For utility easement	3 feet

- F. Maximum building height. 35 feet
- G. Maximum building coverage. N/A
- H. Off-street parking requirements shall be provided in conformance with this Section.

Subd. 5. Business Park, Permitted Uses.

- A. Manufacturing uses.
- B. Research.
- C. Motor Freight Terminals.
- D. Railroad uses.
- E. Warehousing.
- F. Wholesale business.
- G. Equipment sales and service.
- H. Miscellaneous business uses.
- I. Accessory uses incidental to principal use.
- J. Hotels and Motels.
- K. Retail services compatible with this District classification.

Unless otherwise authorized, the above permitted uses shall be restricted to the areas shown below:

- (1) Highway Frontage: Specialty stores, outlet malls, restaurants, department stores, computer electronic stores and personal care stores.
- (2) Interior of Park: Assembly plant including furniture, electronics, machinery, office space, outlet mall stores, mail order, warehousing, club stores and distribution centers.

(3) Near Lake Shore or with view of Lake: Hotels (middle to upper class) with food and liquor, convention capabilities, entertainment, trail access, all season capabilities; supper clubs, tourist type stores, walking path, bike path, souvenir shops and specialty food establishments.

Subd. 6. Business Park, Uses Allowed by Special Use Permit.

- A. Heliports.**
- B. Service Stations.**
- C. Hospitals and Clinics.**

1210.09 GI, General Industry Commercial.

Subd. 1 Purpose. The purpose of the GI, General Industry Commercial District shall be to provide areas which because of availability to thoroughfares, railroads, suitable topography and soil conditions, water transportation, and isolation from housing, are appropriate for manufacturing, compounding, processing, packaging, or treatment of products which are of a more intense nature and may give offensive odors, vibration, noise, glare, smoke, and other such nuisances. Examples of such uses are auto parts manufacture, steel mills, taconite processing plants, water transportation loading and unloading facilities, junk yards, and dumps.

Subd. 2 Permitted Uses.

- A. All uses permitted in LI Districts.**
- B. Manufacturing and other uses of a more intense nature which may give offensive odors, vibration, noise, glare, smoke, heat, dust, or other objectionable influences.**
- C. Waterfront uses including marinas and boat launching facilities.**
- D. Accessory uses incidental to principal use.**

Subd. 3 Uses Allowed by Special Use Permit.

- A. All uses identified as special uses in the LI District apply to the GI District.**

Subd. 4 District Requirements.

- | | |
|--------------------------------------|---------------------------|
| A. Minimum lot area | 20,000 square feet |
| B. Minimum lot frontage | 100 feet |
| C. Minimum front setback | 30 feet |
| D. Minimum side setback: | |
| For principal structure | 30 feet |
| For accessory use | 15 feet |
| E. Minimum rear setback: | |
| For principal structure | N/A |
| For accessory use | 3 feet |
| For utility easement | 3 feet |
| F. Maximum building height. | N/A |
| G. Maximum building coverage. | N/A |

H. Off-street parking requirements shall be provided in conformance with this Section.

1210.10 FR, Forest Reserve District.

Subd. 1 Purpose. The purpose of the FR, Forest Reserve District shall be to provide for remote very low density residential development that may be distant from roads, city water and city sewer, to prevent destruction of natural or man-made resources, to maintain large tracts of land for forest recreation and rural living purposes, and to foster certain recreational uses and other activities which shall not be incompatible with the public welfare.

Subd. 2 Special Requirements.

A. Where it is impracticable due to terrain or where it would be prohibitively expensive to provide City water or sewage collection, on-site sewer, wells and individual sewage septic system meeting legal requirements may be permitted. A Conditional Use Permit will be required for any individual water and sewage disposal systems.

B. Clear cutting not allowed within one hundred (100) feet from adjoining property, road right-of-way, or scenic areas, unless otherwise authorized.

C. Minimum lot acres: Five (5) acres.

D. Minimum Lot Width: The minimum lot width at the building line shall be three hundred (300) feet.

E. Maximum lot coverage including accessory buildings: Twenty percent (20%)

F. Rear and Side Yard Setbacks: Fifty (50) feet.

G. Fences for livestock.

Subd. 3 Permitted Uses.

A. All uses permitted in R-1 and R-2 districts.

B. Single and multi-family dwellings.

C. Management and utilization of forest and recreational resources.

D. Soil and water conservation programs.

E. Wildlife preserves.

F. Tree plantations.

G. Home occupations (with Special Use Permits).

H. Compatible recreation uses.

I. Farms and livestock (livestock as authorized by Conditional Use Permit).

J. Customary accessory structures such as barns and storage buildings. Size limitations in R-1 or R-2 do not apply to accessory buildings in this district.

Subd. 4 Conditional Uses. A Conditional Use Permit shall be required for any of the following:

A. Roads.

B. Gravel pit, rock quarry.

C. Portable sawmills.

D. Barns and large storage buildings.

Subd. 5 District Requirements.

A. Minimum lot area 5 acres

B. Minimum lot frontage 300 feet

C. Minimum front setback 50 feet

- D. Minimum side setback 30 feet
- E. Minimum rear setback 50 feet
- F. Maximum building height 50 feet
- G. Single family residence 768 square feet minimum
- H. On-site sewer system Legal Requirements
- I. Clear cutting not permitted within one hundred (100) feet of adjoining property, road right-of-way, or scenic areas.

1210.11 RC, Recreation District.

Subd. 1 Purpose. The purpose of the RC, Recreation District shall be intended to preserve areas for municipal and public recreation.

Subd. 2 Permitted Uses.

- A. School arenas.
- B. Ice skating and hockey rinks.
- C. Roller skating rinks.
- D. Swimming pools.
- E. Camping.
- F. Tennis courts.
- G. Teen centers.
- H. Baseball and softball fields.
- I. Uses incidental to principal use.
- J. Other public and semi-public recreational uses.

Subd. 3 Uses Allowed by a Special Use Permit.

- A. Retail shopping and services compatible with recreation such as sporting goods, golf shops, skate sharpening services, and other sports related services**
- B. Child care facilities with recreational facilities.**

Subd. 4 District Requirements. There are no minimum or maximum lot area, setback, height, or building coverage requirements for this District.

1210.12 RR, Resort and Recreation District.

Subd. 1 Purpose. The purpose of the RR, Resort and Recreational District shall be to allow for the planned development of resorts and/or recreational based facilities.

Subd. 2 Permitted Uses.

- A. Golf courses.**
- B. Ski hills.**
- C. Marina Developments.**
- D. Camping.**
- E. Planned development of higher density residential area.**
- F. Single family residences.**

Subd. 3 Uses Allowed by Special Permit.

- A. Retail shopping and services compatible with primary recreation such as sporting goods, golf shops, fueling facility and equipment sales & service.**
- B. Restaurant and bar sales.**
- C. Hotels, motels & lodges.**
- D. Incidental uses such as pools, tennis courts, riding stables, hiking trails.**

E. Accessory uses incidental to principal use.

Subd. 4 District Requirements.

A. Minimum lot area: Ten (10) Acres

B. On site sewer system if City services are not available: one (1) acre

C. Or a Public sewer District: ten thousand (10,000) square feet.

D. Minimum lot width: three hundred (300) feet.

1210.13 Table of Permitted Uses by Zone

P = Permitted Use C = Conditional Use Permit Required

Type of Use	R1	R2	SC	HB	LB	LI	GI	FR	RC	RR
Residential Uses										
Accessory uses incidental to principal use.	P	P	P	P	P	P	P	P	C	C
Boarding houses, bed & breakfast, or tourist houses	C	C			C					
Cemeteries	C	C			C					
Churches	C	C			P					
Congregate care facilities		C			C					
Dog kennels	C	C			C			P		
Dwelling, Single family	P	P			P			P		P
Dwelling, Two family	P	P			P			P		
Dwelling, Multi family		P		P	P			P		
Electrical Power Substation	C	C		P	C					
Home occupation	C	C			C			C		
Off Street Parking	C	C			P			P		
Residential PUD		C								
Rest Home		C			C					
Schools	C	C			C				C	
Transitional uses	C	C			C					
Veterans Home		C								
Commercial Uses										
Automobile sales & service stations			C	P	P					
Business			P	P	P				C	
Business signs		C	C	P	P					
Clubs and lodges, non-profit			C	C	C					
Commercial recreation			C	C	C				C	
Health/medical facilities	C	C	P	P	P					
Heliports			C	C	C					
Hotels / Motels			C	P	P	P				
Mortuaries			C	P	C					
Office/Financial			P	P	P	P	P			
Private colleges/institutions			C	C	C					
Religious meeting or tent or temporary structure not to exceed 60 days			C	C	C					
Restaurant			P	P	C					C
Industrial										
Demolition, Salvaging, Recycling						C	C	C		
Equipment sales and service						P	P	P		
Excavation businesses						C	C	C		
Industrial parks						C	C	C		
Junk yards						C	C			
Manufacturing (offensive)							P			
Manufacturing uses						C	P			
Motor freight terminals / Warehouse						P	P			
Railroad Uses						P	P			

Waterfront uses	P	P		
Timber harvesting			C	
Wholesale business	P	P		
Recreation Uses				
Marina developments				P P
Parks, wildlife preserves			P	
Planned Unit Development				C
Portable sawmills			C	
Recreation area			P	P P
Recreation based retail			C	P C
Storage buildings			C	C
P = Permitted Use C = Conditional Use Permit Required				

Any use not listed as Permitted or Conditional is Prohibited

1210.14 Exceptions and Additions to Minimum District Requirements.

Subd. 1 Side Yard and Rear Yard Set-Backs. Buildings may be excluded from side and rear set-back requirements if fire resistant party walls are used and if the adjacent buildings are constructed as an integral structure. If a party wall is planned, the party wall shall abut on the property line. This exception may only be allowed in commercial or industrial zoning districts and only with the approval of the Zoning Officer.

Subd. 2 Commercial Districts.

A. Any new structure in a Commercial District shall be shown to fit into an overall plan for the area. Before any new area is zoned Commercial, the following conditions shall be met:

- 1. Submission of a plot plan showing structures, parking, driveways, landscaping, and screening.**
- 2. Commitment that construction shall begin within eighteen (18) months after Council action on the proposal.**

B. Rezoning for any individual business use shall not be permitted unless it is an extension of an existing Commercial District or is designed to be a part of an integrated and well-planned development.

1210.15 Uses Not Provided For. Whenever in any district a use is not specifically permitted or permitted as a special use, the Planning Commission shall determine whether a building permit shall be issued for the requested use. It shall be issued if the use is generally of the same nature as permitted uses and shall be denied if it is not similar.

Section 1220 - Off-Street Loading and Parking

1220.01 Loading. Space for off-street loading and unloading vehicles shall be provided for every building used or designed for commercial, industrial, manufacturing, or warehousing purposes. One (1) space shall be provided for every ten thousand (10,000) square feet of floor area or fraction thereof. The spaces shall be a minimum of ten (10) feet in width, thirty-five (35) feet in length, and fourteen (14) feet in height.

1220.02 Parking. Off-street automobile parking or storage space shall be provided on every lot on which any new structures are established. Such space shall be provided with vehicular access to a street or alley so as to allow vehicles safe entry onto the roadway. The space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. When a structure is enlarged the required off-street parking space shall be provided for the enlarged portion. If a use is changed to a different use requiring more space, the additional amount of parking area shall be provided. In addition, the following minimum standards shall apply:

Subd. 1 Dimensions. An off-street parking space shall comprise an area with minimum dimensions of ten (10) feet by eighteen (18) feet plus necessary maneuvering space. Total area for parking and maneuvering shall not encroach upon any public right-of-way.

Subd. 2 Required Spaces. The following uses shall provide the number of off-street parking spaces as designated:

- A. Single Family Dwelling: One (1) parking space for each unit.**
- B. Multiple dwellings consisting of three (3) or more dwelling units: Two (2) parking spaces per unit for a total parking space of six hundred (600) square feet per dwelling unit exclusive of maneuvering area, except for senior housing, where the requirement shall be one (1) parking space per dwelling unit. Sufficient ingress and egress shall be provided to the parking area.**
- C. Clubs and Lodging Houses - One (1) space for each two (2) bedrooms, plus parking spaces equal to thirty percent (30%) of the capacity in persons who may be served by activities such as bars, dining rooms, and the like.**
- D. Churches, Theaters, Auditoriums, Mortuaries, and other Places of Assembly - One (1) space for each ten (10) seats based upon maximum seating capacity.**
- E. Business and Professional Offices (except Medical and Dental Clinics) - One (1) space for each four hundred (400) square feet of floor space.**
- F. Medical and Dental Clinics - Three (3) spaces per doctor or dentist.**
- G. Retail Shopping - One (1) space for each two hundred (200) square feet of total floor area and one (1) space for each employee.**
- H. Motels and Hotels - one (1) space for each unit and for each employee.**
- I. Restaurants - One (1) space for each three (3) seats.**
- J. Service Stations - Three (3) spaces for each enclosed service stall and one (1) space for each full-time employee on a single shift.**
- K. Bowling Alleys - Five (5) spaces per lane.**
- L. Drive-Ins - At least fifteen (15) spaces for those serving food or refreshments, and at least ten (10) spaces for all others.**

M. Other Business - One (1) space for every two (2) employees (based upon maximum planned employment during any work period) or one (1) space for each eight hundred (800) square feet of floor area, whichever requirement is greater.

N. Industrial uses - One (1) space for each two (2) employees based upon peak employment on a single shift.

O. Hospitals - One (1) space for each four (4) beds and one (1) additional space for every employee and staff member.

P. Uses Not Specifically Listed - Parking requirements shall be determined by City Council upon advice from Planning and Zoning Commission.

Subd. 3 Sale of Parking Areas. Off-street parking area may not be separated or reduced in area through sale or other means from the property containing the principal use for which the parking area is required.

Subd. 4 Joint Facilities. Required parking facilities serving two (2) or more uses may be located on the same lot or in the same structure provided that the total number of parking spaces furnished shall not be less than the sum of the separate needs for each use during peak parking hours. The Commission may approve the joint use of parking facilities by the following uses or activities under the following conditions:

A. The proposed joint parking space is within five hundred (500) feet of the use it will serve.

B. The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.

C. A properly drawn legal instrument, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the City Clerk.

Section 1221 Hazardous Buildings

1221.01 Damaged Buildings. Any building damaged or destroyed by fire, explosion or wind so as to constitute a hazard to adjacent buildings, property or persons, or adversely affects the aesthetics of the area, shall be rebuilt, repaired or razed and removed within ninety (90) days of the fire, explosion or windstorm.

Subd. 1 Protection of Damaged Buildings. All buildings damaged or destroyed by fire, explosion or windstorm shall be screened or secured by the property owner within forty-eight (48) hours after the fire, explosion or windstorm. so that it will not constitute a hazard or a blight on the area.

Subd. 2 Extension of Time for Compliance. The time for compliance provided for in this subsection may be extended by the Council for due cause shown.

1221.02 Hazardous and Substandard Buildings. The City may remove or raze any hazardous building or remove or correct any hazardous condition of any building, real estate or property if, after notice, it is not corrected in a timely manner by the property owner. Costs incurred by this action shall be charged against the property. Minnesota Statutes, §§ 463.15 through 463.251 are adopted by reference and incorporated herein as if set forth in full.

Subd. 1 Escrow Account. The City shall establish an escrow account to require an insurer of real property to withhold a percentage of any final settlement when a claim has been filed for a loss to insured property due to fire or explosion, pursuant to the provisions of Minnesota Statutes § 65A.50.

Subd. 2. Statutes Adopted. Minnesota Statutes, § 65A.50 is adopted by reference and incorporated herein as if set forth in full.

1221.03 Building Removal.

Subd. 1 Application. This Section shall apply to all excavation for building purposes which become or remain open due to the moving of a building, the destruction of a building, or for any other reason. All work shall be completed within thirty (30) days of the moving or destruction of the building.

Subd. 2 Compliance. Before any such excavations are filled, the owner shall:

A. Remove and haul away, at the expense of the owner, all existing foundation, basement materials or other such debris. If basement is to remain, it shall be properly capped.

B. Properly cap all city sanitary sewer, storm sewer and water lines as directed by the Utilities Department. This work shall be done by the owner at the owner's expense and shall be inspected and approved by the City before filling in the excavation. The owner may request the work be done by the City at the owner's expense.

Subd. 3 Fill Required. The excavation shall be filled with clean fill, compacted, covered with at least four (4) inches of clean dirt, and be leveled to the contour of the existing land, all at the owner's expense.

Subd. 4 Barrier Required. Such excavation shall be encircled with a safety barrier or covered.

Section 1222 - Fences

1222.01 Residential Districts.

Amended 08/16/10

~~Subd. 1 Height. All fences in Residential Districts (R1, R2) shall be not more than six (6) feet in height. Fences that extend from the front of the house to the front lot line shall be no more than three (3) feet in height.~~

Subd. 2 Setback. Fences shall not be placed closer than one (1) foot to side and rear lot lines. However, fences may be placed on the lot line if the abutting property owner agrees and the abutting landowners all sign the application for the building permit.

Subd. 3 Corner Lot. If more than three (3) feet in height above the curb line, fences on a street corner lot shall be set back a minimum of twenty-five (25) feet from the curb or street edge. Fences three (3) feet or less in height above the curb line may be placed within one (1) foot of the lot line but in no event closer than one (1) foot to the inside line of the sidewalk.

Subd. 4 Restrictions. Due to particular conditions such as sight limitations, safety hazards, snow removal problems or aesthetics, the Commission may require that fences of any height not extend beyond the front lot line of the dwelling.

Section 1230 - Signs

1230.01 General Provisions. The following provisions shall apply to all signs within the City:

A. Any sign within thirty-five (35) feet of a street right-of-way and within seventy-five (75) feet of a traffic signal shall be non-flashing and may not be of red, green, or amber illumination. No sign may be erected that by reason of position, shape, or color would interfere with the proper functioning of a traffic sign or signal.

B. Service stations and other roadside business establishments in all districts shall be governed by the same requirements applying in a Highway Business District.

C. "For rent" and "for sale" signs may be placed in any front yard in any district provided the signs shall not exceed ten (10) square feet in size in residential districts and thirty (30) square feet in size in other districts.

D. A sign advertising a new home development may be constructed in any district if the sign is not over three hundred (300) square feet in size. The sign shall be at least two hundred (200) feet from any occupied home and shall be removed within two (2) years or upon completion of the development, whichever date is sooner.

E. Existing signs that do not comply with these performance standards shall be considered as non-conforming uses. All signs in the City shall be conforming within five (5) years of the date of enactment of this Chapter.

F. No sign shall overhang the public right-of-way. Except for traffic signs, no sign shall be located within a street right-of-way except by Special Use Permit. Traffic control signs shall be permitted in any district.

G. The source of light for any illuminated sign shall not be directed into any street or property used or zoned for residential purposes.

H. If a commercial or industrial building faces a limited access highway or thoroughfare, the permitted size of business signs shall be doubled for each additional twenty-five (25) feet of front setback. The increase shall not result in a sign size more than twenty percent (20%) of the area of the face of the building on which the sign is located.

I. There shall be no use of revolving beacons, zip flashers, or similar devices that would distract automobile traffic.

J. Signs shall not be painted on a fence in any district.

K. Service stations and other highway commercial establishments may have a pedestal sign and three (3) temporary signs in the front set-back area. The pedestal sign may not exceed fifty (50) square feet in size. Temporary signs shall not exceed thirty (30) square feet in total size.

L. There shall be no movement of the sign structure.

M. Election signs shall be permitted in all districts. However, the signs shall be removed within five (5) days following election day. No signs shall be placed on private property without the consent of the property owner or occupant.

N. To provide reasonable flexibility in these regulations, the Zoning Inspector may, subject to the approval of the Planning Committee, approve an application for a sign that exceeds the number, size, or height, or signs permitted by these regulations where the exception would not be inconsistent with the intent of the regulations.

1230.02 District Sign Provisions. The following requirements shall apply within the designated district and shall be in addition to any other general requirements:

	Residential	Highway Business	Shopping Center	Industrial
	(R1&R2)	(HB)	(SC)	(LI & GI)
Type of sign:	Identification	All permitted	Identification	All permitted
	Home Occupation		Business	
	(R1&R2)	(HB)	(SC)	(LI & GI)
Number of signs:				1/100 ft of frontage
per dwelling:	1, 2 if corner lot			on thoroughfare
on building:		1 sign		
on pedestal:		1 sign		
temporary:		3 signs		
per entrance:			1 sign	
per shop. cent.:			1 sign	
Size of sign:(Sq.Ft.)			50 sq. ft. plus 1 sq. ft. for each	No limit
			100 sq.ft. of building area over 3,000 sq.ft.	
per dwelling:	3 sq. ft.			
non-residential:	24 sq. ft.			
permanent:		50 sq. ft.		

temporary:		30 total sq. ft.		
outdoor adv.:		825 sq. ft.		
Height of sign:		25 feet		40ft. above grade
roof signs:			6 ft. above highest outside wall.	30 ft. above roof
shopping center:			30 ft. above highest roof	
Projection into front setback:	10 feet from property line if sign is more than 1.5 sq. ft.	3 feet from street right of way	10 feet from street right of way, wall signs 2 ft. into setback area	2 feet
Illumination:	Indirect or diffused	Illuminated & flashing no flashing within 100 ft. of ROW	Illuminated & flashing no flashing within 100 ft. of ROW	Illuminated, but not flashing

**Section 1231 – Towers.
11/19/01 ADDED
09/18/06 AMENDED**

Section 1240 - Conditional Uses

~~- AMENDED 06/06/05 -~~

~~1240.01 Permit Required. Any use listed in this Chapter as a Special Use may be permitted only after an application for a Conditional Use Permit has been reviewed and approved by the Planning and Zoning Commission and by the City Council.~~

1240.02 Applications.

~~- AMENDED 06/06/05 -~~

~~Subd. 1 Filing. An application for a Conditional Use Permit shall be filed with the City Administrator on a form provided for that purpose. The completed Application shall be submitted in a timely manner by the Administrator to the Commission as prescribed by its rules of procedure.~~

Subd. 2 Supporting Documents. The application shall be complete, accompanied by detailed plans, drawn to scale, showing all details of the land area and proposed use, and other information as prescribed in this Section. The application shall be accompanied by sufficient additional material as is necessary to make clear the nature of the request and proposed use.

Subd. 3 Fee. The application shall be accompanied by the required fee as established by City Council Resolution.

Subd. 4 Incomplete Application. The Administrator shall reject any application not accompanied by the required fee or by other materials and information as required by this Section. Notification of rejection, along with the reason for the action, shall be given the applicant within ten (10) days of the decision.

1240.03 Public Hearing Required.

Subd. 1 Notice. The Commission shall conduct a public hearing on each Conditional Use Permit application, giving due notice thereof to the public. Property owners within three hundred fifty (350) feet of the property in question shall be notified of the hearing by the Administrator.

Subd. 2 Procedure. Such public hearings shall be conducted according to applicable Minnesota Statutes and to the rules of procedure of the Planning Commission.

1240.04 Decisions.

Subd. 1 Basics. Decisions of the Commission on all Conditional Use Permit applications shall be made according to the general requirements and criteria for the permits as listed in this Section, and to any special requirements and criteria applicable to the particular application as listed in this Section.

Subd. 2 Time Frame. The Commission shall render its decisions in writing within thirty-five (35) days of the close of the public hearing, stating its reasons in sufficient detail so that it can be determined that the decision was made in reliance on testimony given at the public hearing, and according to the criteria contained in this Section. The vote of the Commission shall be indicated on the written decision.

Subd. 3 Permit. After a Conditional Use Permit is granted, a certified copy of the permit and decision shall be filed with the Administrator. The permit shall include a legal description of the property involved.

1240.05 Conditions.

Subd. 1 Imposition. In issuing any Conditional Use Permit, the Planning Commission may impose such conditions or restrictions as it deems necessary to protect the public interest, including, but not limited to, matters relating to appearance, lighting, hours of operation, and performance characteristics.

Subd. 2 Restrictive Covenants. When appropriate, restrictive covenants may be entered into regarding such matters.

Subd. 3 Duration. A Conditional Use Permit shall remain in effect for so long as the conditions agreed upon are observed. However, whenever it is deemed advisable a time limitation or review requirement may be placed as a condition on any permit.

1240.06 General Criteria and Requirements.

Subd.1 Compliance. Conditional Use Permits may be approved only upon a showing by the applicant that the standards and criteria stated in this Chapter shall be satisfied. Since, by definition, a Conditional Use is not generally appropriate within the zone district, the applicant bears the burden of demonstrating a right to the permit by making such showing. Absent such showing, the Planning Commission shall deny any application.

Subd. 2 Specific Conditions. A Conditional Use Permit may be granted only upon finding all of the following:

- A. The use conforms to the land use or comprehensive plan of the City;**
- B. The use is compatible with the existing neighborhood;**

C. The use shall not impede the normal and orderly development and improvement in the surrounding area of uses permitted by right in the zone district; and,

D. The location and character of the proposed use is considered to be consistent with a desirable pattern of development for the area.

1240.07 Home Occupation

- AMENDED 06/06/05 -

~~Subd. 1 Definition. An occupation carried on for profit, secondary to the primary use of the residence, by an occupant of the residence that does not change the character of the neighborhood. The following home occupations shall be exempt from the requirements of a Conditional Use Permit for home occupations: telemarketing and computer based and similar type businesses that do not generate additional traffic. The Commission may, subject to the approval of the Council, designate other types of occupations that are exempt or not subject to a permit fee due to the limited nature of the occupation.~~

~~Subd. 2 Intent. The purpose of this ordinance is to maintain the character of the residential neighborhoods by ensuring the compatibility of home occupations with other permitted uses in the residential districts of Silver Bay. The intent is to limit home occupations to provide services and supplies that are not otherwise readily available in the community. This ordinance is designed to prohibit any home occupations which are objectionable, incompatible, use hazardous materials, or are illegal in the residential districts.~~

Subd. 3 Conditions. Any occupation engaged in by the occupant of a dwelling must meet the following conditions and performance standards:

- A. The maximum storage area for stock in trade shall be kept at or below twenty percent (20%) of the gross floor area of the building housing the home occupation business.**
- B. There shall be no exterior evidence of the home occupation, including but not limited to the storage of material, supplies, equipment, or commercial type garbage dumpsters.**
- C. Nothing shall be visible to neighboring residences indicating that a home occupation is being conducted from the dwelling except those signs permitted in a residential area.**
- D. No use of materials or mechanical equipment not recognized as being part of and compatible with normal household use shall be permitted.**
- E. The use shall not generate pedestrian or vehicular traffic beyond that reasonable or normal in a residential neighborhood.**
- F. It shall not involve the use of commercial vehicles for delivery of occupational materials to or from the premises not compatible with normal household use.**
- G. The conduct of the home occupation shall not generate noise, glare, light, vibrations, fumes, or odors detectable to normal senses outside the dwelling.**
- H. No equipment which creates electrical interference in any radio, television receivers, or cause fluctuations in power line voltage off the premises, shall be permitted.**
- I. No employees, other than the occupants of the residence, shall be permitted.**

Subd. 4 Performance Standards. In order to ensure that a home occupation will not alter the character of the neighborhood or otherwise violate these conditions and standards, the Commission may impose reasonable conditions necessary to protect the public health, safety, and welfare. The Commission shall attach performance standards to the issuance of a Conditional Use Permit for home occupation to ensure the proposed home occupation does not alter the character of the neighborhood. The standards may reflect the unique situation of an individual residence and/or neighborhood. This means that similar businesses may have varying conditions. These standards may include, but are not limited, to the following:

A. Limits on the hours of operation.

B. Number of people who may avail themselves of the services provided by the home occupation use at any given moment in time.

C. Number of deliveries to or from the home occupation over a given period of time.

D. The type of mechanical equipment which may be used by the home occupation.

Subd. 5 Review and Compliance Procedures. All home occupations to be carried on as an accessory use to either a permitted or conditional use, under the provisions of this ordinance, shall be required to obtain a valid Conditional Use Permit for home occupation from the City Administrator prior to operation. All home occupations lawfully operating at the time this ordinance is adopted shall not be exempted from this requirement.

All persons engaged in an existing home occupation must apply for a Conditional Use Permit for home occupation within one (1) year after the adoption of this Code. Procedures for a Conditional Use Permit for the home occupations are as follows:

A. The applicant shall submit a written request to the City Administrator for the Conditional Use Permit for home occupation. The request must describe the nature of the occupation, equipment involved, estimated client/customer volume, and hours of operation.

B. The Zoning Officer shall review the application for compliance with the provisions of this Chapter.

C. All persons intending to engage in a home occupation shall apply for a Conditional Use Permit. However, not all occupations will require a Conditional Use Permit. The Zoning Officer may find that those uses that do not generate any impact upon the area (such as telemarketing, computer based businesses) do not require a Conditional Use Permit. All other applications will be forwarded to the Planning and Zoning Commission for consideration.

D. All Conditional Use Permits for home occupation shall be valid for one (1) year unless otherwise authorized by the Commission.

E. In case of changes in the home occupation, a renewal application must be submitted to the Administrator noting any changes in the operation of the occupation.

~~F. The Conditional Use Permit fee shall be established by Resolution of the Council.~~

~~This fee is non-refundable and due at the time of application for the permit.~~

Subd. 6 Implementation.

A. All existing home occupation permit holders will be issued a one (1) year, no fee, Conditional Use Permit for home occupation.

B. The permit shall be reviewed by the Commission on the one (1) year anniversary of its issuance date.

C. After one year, all applicants will pay the full Conditional Use Permit fee.

~~**1240.08 Planned Unit Development (P.U.D.) --REPEALED 05/20/02**~~

~~**Subd. 1 Housing Project. For any housing project consisting of five (5) or more structures or units to be erected on a single tract or parcel of land not subdivided into the customary streets and lots, including but not limited to manufactured home parks, resorts, townhouses, condominiums, motels, hotels and related commercial activities, or where existing or proposed street and lot layout of a condominium or cluster subdivision make it impracticable to apply the requirements of this Section to individual structures or lots in such a development, an application for Planned Unit Development Permit shall be made to the Planning Commission, which shall apply the following criteria in making its decision:**~~

~~**A. The tract shall contain at least three (3) acres.**~~

~~**B. The Commission shall insure that the use of the structures shall be only for the uses stated in the application, and related accessory uses.**~~

C. The Commission shall insure provisions for off-street parking as specified in this Section.

D. The Commission may allow the density of up to twice the normal density (up to one-half (1/2) the total lot area, road frontage, and shoreline frontage per dwelling unit) allowable within the district. In order for a housing P.U.D. to qualify for consideration for higher density, it shall meet the following design standards:

- 1. The development shall consist of a cluster or several clusters of closely grouped dwelling units.**
- 2. The minimum size development which may be considered for higher density shall be ten (10) units.**
- 3. Fifty percent (50%) of all land area in a cluster subdivision shall be in the common ownership of a property owners' association consisting of all owners of the lots or dwelling units within the subdivision.**
- 4. Fifty percent (50%) of the land area in any housing P.U.D. which is not a subdivision shall be dedicated as undeveloped open space or as a recreational area for use by the residents within the development.**
- 5. A complete development plan for use of the common property in any cluster subdivision, or of the dedicated open or recreational area in any other type of housing P.U.D., shall be provided with the application.**
- 6. No commercial use shall be made of the common or dedicated property.**

7. Cluster P.U.D.s shall be required to provide central sewage to each cluster or to the entire development which meets the standards and criteria of the Minnesota Pollution Control Agency or the Health Department or both.

E. Residential Development Requirements - A residential Planned Development shall meet the following standards:

1. A minimum of twenty percent (20%) of the gross parcel area shall be designated as common open space usable for active or passive recreation purposes.
2. Lot width shall be no less than that required for district in which it is located.
3. The total road right-of-way shall not exceed ten percent (10%) of the gross parcel area of the Development. Acreage calculations shall be made on the assumption that each road carries a sixty-six (66) foot right-of-way, except that through roads bisecting a Development shall not be included in the ten percent (10%) figure.

Subd. 2 Design and Improvement Standards. Silver Bay Subdivision Regulations shall be used as a guide in determining design standards for Planned Developments. The design and improvement requirements of the Subdivision Regulations shall be incorporated into the requirements of the Planned Development. The Planning Commission may waive these requirements in the same manner as permitted by the Subdivision Regulations.

Section 1250 - Variances

1250.01 General.

Subd. 1 Application for Variances. Application for variances from the terms of this Chapter or from any order, requirements, decision or determination made by the Zoning Officer shall be made to the Commission.

Subd. 2 Who May Apply. Application for variance may be by any person aggrieved, or by any officer, department, board or bureau of a town, municipality, county or state.

Subd. 3 Timing. Application for variance shall be submitted to the Commission within forty-five (45) days of receipt of notice from the Zoning Officer of any order, requirements, decision, or determination made by him or her.

Subd. 4 Stay of Action. An application for variance stays all other proceedings from which the variance is requested unless the Commission determines that a stay would cause undue hardship or imminent peril to life or property.

1250.02 Applications.

Subd. 1 Form. An application for variance shall be filed with the Administrator on a form provided for that purpose.

Subd. 2 Time. An application for variance shall be filed fifteen (15) days before a scheduled meeting date of the Commission unless the time is reduced or waived by the Commission.

Subd. 3 Information. Application forms shall be complete and clearly specify the grounds of the variance request. Where required by the nature of the request, the application shall be accompanied by detailed plans, drawn to scale, showing all details of the land area and the nature of the circumstances surrounding the variance request.

Subd. 4 Fee. The request for variance shall be accompanied by the required fee as established by Council Resolution.

Subd. 5 Incomplete Applications. The Administrator shall reject and refuse to refer to the Commission any request for variance not accompanied by the required fee or by other materials and information as required by this Section.

1250.03 Hearings.

Subd. 1 Hearing Required. The Commission shall conduct a public hearing on each request for variance.

Subd. 2. Notice. The Administrator shall give public notice of the hearing.

Subd. 3 Time. The Commission shall hold a hearing of the request for variance within forty-five (45) days of receiving the complete application and fees and shall give due notice thereof as provided in this Section.

Subd. 4 Procedure. The Public Hearing shall be conducted according to applicable Minnesota Statutes and to the rules of procedure of the Planning Commission.

1250.04 Decisions.

Subd. 1 When Made. Decisions by the Commission shall be made within thirty-five (35) days of the date of its written decision.

Subd. 2 Record. The Commission shall keep a written record of its proceeding showing the vote of each member on each question. If a member is absent the record shall so indicate.

Subd. 3 Written Decision. The Commission shall render its decisions in writing, stating its reason in sufficient detail so that it can be determined that the decision was made in reliance on testimony given at the public hearing and according to the criteria contained in this Section.

Subd. 4 Files. A certified copy of any order or decision issued by the Commission acting upon any request for variance shall be filed with the Administrator for record. The order or decision shall include a legal description of the property involved. It shall be the responsibility of the Zoning Officer to carry out this provision.

Subd. 5 Permit. After a request for variance to the Commission has been approved, the applicant shall have sixty (60) days after receipt of notice of the decision to make application to the Zoning Officer for any permit necessary to begin the structure or the use for which the request was made.

Amended 10/17/11

~~1250.05 Criteria for Decisions. When considering whether or not to grant a variance, the Commission shall use the following criteria:~~

~~A. The Commission may authorize a variance from the terms of this Chapter which shall not be contrary to public interest, where owing to special conditions, a practical difficulty or particular hardship would be created by carrying out the strict letter of this Section, and when the terms of the variance are consistent with the spirit and intent of this Section and with the City's comprehensive plan.~~

~~B. "Hardship" as used in connection with the granting of a variance shall mean that the property in question cannot be put to a reasonable use under the conditions allowed by this Section, the plight of the landowner is due to circumstances unique to the landowner's property and not created by the landowner, and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.~~

~~C. When in the opinion of the Commission a variance may result in a material adverse effect on the environment, the applicant may be required by the Commission to demonstrate how the adverse impact can be minimized.~~

~~D. It shall be the burden of the applicant to demonstrate sufficient hardship to sustain the need for a variance. Absent a showing of hardship as provided in Minnesota Statutes and this Section, the Commission shall not approve any variance.~~

~~E. The Commission may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest.~~

~~F. The Commission shall always act with due consideration to promoting the public health, safety, convenience, and welfare, encouraging the most appropriate use of land, conserving property value, and shall permit no structure, building, or use detrimental to a neighborhood.~~

~~G. The Commission may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.~~

Section 1260 - Amendments

1260.01 General. This Chapter and the Zoning Map may be amended whenever the public health, safety, convenience, and general welfare would best be served by the amendment, in accordance with the City's comprehensive plan, if any, by the procedures set forth in this Section.

1260.02 Zoning Ordinance Amendment.

Subd. 1 Proposal. An amendment to this Chapter may be initiated by the City Council or the Commission. An amendment not initiated by the Commission shall be referred to it for study, public hearing, and report back to the City in writing.

Subd. 2 Public Hearing. Public Hearings on text amendments by the Commission, including requirements of public notice, shall be conducted pursuant to Minnesota Statutes regulating the adoption of ordinance by Cities, and by the standards set forth in this Section.

Subd. 3 Planning Commission Report. After conducting a Public Hearing on an amendment, the Commission shall report in writing to the Council within thirty (30) days of the close of the hearing. The Council, in the manner prescribed by Minnesota Statutes, may by ordinance adopt the amendment or any portion thereof as it may deem advisable.

1260.03 Zoning Ordinance Map.

Subd. 1 Proposal. An amendment to the Zoning Map may be initiated by the Council, the Commission, or by the property owner of record. In the case of an amendment initiated by one (1) or more property owners of record, a verified petition shall be filed with the Zoning Officer containing the signatures of not less than fifty percent (50%) of the owners of property lying within three hundred fifty (350) feet of the boundaries of the property affected by the proposed amendment. The petition shall also contain the signature of all owners of the property for which the petition is being filed or shall be accompanied by documentation authorizing the person acting on behalf of the owners to so act.

Subd. 2 Public Hearings. The Commission shall conduct at least one (1) public hearing on all proposed Zoning Map amendments and report to the Council in writing within thirty-five (35) days after the close of the hearing.

A. The Administrator shall give notice of public hearings for Zoning Map amendments in the manner prescribed in this Chapter.

B. The Commission's report to the Council shall contain a statement of the evidence relied upon, the factual determinations made from the evidence, and the criteria used in reaching its recommendation.

C. Failure of the Commission to report to the Council within the time prescribed in this Section shall be deemed to be approval by the Commission of the proposed amendment.

Subd. 3 Adoption. Upon the filing of a report by the Commission or upon expiration of the thirty-five (35) day period, the Council may thereafter by resolution adopt the amendment or any portion thereof as it deems advisable.

Subd. 4 Additional Amendments. Once an amendment has been adopted by the Council, the matter shall not be reconsidered nor shall any additional amendments involving the same parcel of property be heard or considered by the Commission or the Council for at least twelve (12) months after the adoption or rejection.

Subd. 5 Criteria for Zoning Map Amendments. Amendments to the Zoning Map shall be recommended for approval only upon the finding by the Planning Commission that all of the following conditions exist:

- A.** The proposed zoning shall be consistent with the comprehensive plan adopted for the City.
- B.** The proposed zoning shall not be spot zoning.
- C.** A mistake has been made in the original zoning map which was inconsistent with the comprehensive plan, an error was made in the comprehensive plan which should now be corrected, or substantial changes have occurred in the community since the adoption of the comprehensive plan which should require the plan(s) and the zoning being amended.
- D.** There shall exist a clear public need for and benefit from additional zoning of the type proposed beyond any benefit or convenience to the landowner.

E. The public interest would be best served by rezoning the property in question rather than other property in the community.

Section 1270 - Hearings

1270.01 General. As prescribed in this Chapter, public hearings shall be held before any Zoning Ordinance text amendment, Zoning Map Amendment, Special Use Permit, Variance Appeal, or other Appeal may be approved or recommended for approval. Such public hearings may be continued from time to time and additional hearings may be held.

1270.02 Hearing Notices. Notice shall be given to the public for each required public hearing as prescribed in this Chapter and as provided in Minnesota Statutes § 462.357, Subd. 3.

Subd. 1 Zoning Ordinance Text Amendments.

A. Notice of public hearings regarding Zoning Ordinance text amendments shall be posted according to the laws of Minnesota.

Subd. 2 Zoning Ordinance Map Amendments.

A. For map amendments initiated by petition of the property owner, notice of the time, place, and purpose of the hearing shall be posted at least ten (10) days before the hearing. Written notice providing the same information shall be sent to all property owners of record within five hundred (500) feet of the affected property.

B. For map amendments initiated by the Council or Commission, public notice shall be given.

Subd. 3 Conditional Use Permits.

A. Published notice of the hearing on Conditional Use Permit applications shall be given. Additional notice shall be given as follows:

1. For all Conditional Use Permit applications except subdivision plats, written notice shall be sent to property owners of record within three hundred fifty (350) feet of the affected property.
2. For subdivision plats, written notice shall be sent to property owners of record within five hundred (500) feet of the affected property.
3. No notice needs be given to property owners outside the City limits, unless the Commission determines it is in the best public interests to give abutting property owners such notice.

Subd. 4 Request for Variance

- A. Public notice of hearings on a Request for Variance shall be given. In a Request for Variance, written notice shall be sent to property owners of record within three hundred fifty (350) feet of the affected property within the City.

Subd. 5 Appeals.

- A. When an appeal is taken from any order, requirement, decision or determination of the Zoning Officer regarding the application of this Chapter to specific properties, written and published notice shall be given in the same manner as prescribed in this Chapter.
- B. When the appeal affects the interpretation and application of this Chapter in general, and not to specific properties, notice shall be published in the official newspaper of the City at least ten (10) days before the hearing, and shall be mailed or delivered to the applicant.
- C. Notice shall also be given to the Zoning Officer, Administrator and Council.

1270.03 Hearing Procedures. Hearings shall be conducted according to all applicable requirements of this Chapter and of the rules of procedure of the Commission. All members of the public shall have ample opportunity to be heard in person, in writing, or by authorized representative.

1270.04 Considerations.

A. The Commission shall always act with due consideration to promoting the public health, safety, convenience, and welfare, encouraging the most appropriate use of land, conserving property value, and shall permit no structure, building, or use detrimental to a neighborhood.

B. The Commission may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.

Section 1280 - Administration, Enforcement, and Penalties

1280.01 Administration of Ordinance. This Chapter shall be administered by the City Zoning Officer. The Zoning Officer shall make an annual report to the Council at a date specified by the Administrator, shall provide assistance to any applicant in preparing the application, advise the applicant as to the provisions of this Section, and cause to be inspected each project for which a permit has been granted.

1280.02 Land Use Permit Regulations.

Subd. 1 Permit Required. No land or structure shall be changed in use and no structure shall be erected, placed, altered in its exterior dimensions, or moved until the Zoning Administrator has approved and issued a land use permit certifying that the plans and intended use of land and structures conform with this Chapter. No land use permit shall be issued to establish a use on any lot, plot, parcel, or tract which has been divided or transferred in violation of the Subdivision Platting Ordinance.

Subd. 2 Term. Duration of land use permits shall be twelve (12) months from date of issue.

Subd. 3 Errors. Any permit issued on the basis of an application which is in error, whether the error is intentional or not, shall be null and void. No such permit may be construed as permission to build or begin a land use. It shall be the responsibility of the Zoning Officer to notify the applicant of any errors in the application.

Subd. 4 Inspections. No land changed in use, and no structure erected, placed, or altered, shall be used or occupied until the Zoning Officer has inspected the land use or structure and has issued a Certificate of Compliance (Certificate of Occupancy) stating that such land use or structure has been found to be in conformity with the provisions of this Chapter.

1280.03 Conformity with Airport Zoning Ordinance. Where any area of the City is also subject to the provisions of an airport zoning ordinance, no permit shall be issued pursuant to this Chapter unless the plans for intended use of the property are certified by the Airport Commission to conform with the airport zoning ordinance.

1280.04 Compliance with Statutes and Regulations. No permit shall be issued pursuant to this Chapter unless the plans for intended use of the property in question complies with state and federal statutes and regulations.

1280.05 Enforcement of Ordinance.

Amended 07/05/11

~~**Subd. 1 Investigation and Enforcement.** The Zoning Officer shall investigate all alleged violations of this Chapter, issue written notice to the property owners of violations, directing the property owner to correct violations within sixty (60) days of the notice of the violation. If compliance is not obtained within sixty (60) days, the Zoning Officer shall cause a complaint to be issued. The Zoning Officer shall have the authority and power to issue citations and sign complaints for violations of this Chapter.~~

Subd. 2 Relief. The City may enforce all provisions of this Chapter through such proceedings as may be proper under the laws of Minnesota.

1280.06 More Restrictive Regulations. More restrictive Federal, State, or County regulations or standards shall preempt the provisions of this Chapter.

1280.07 Penalties for Violation. Any person, firm or corporation, or their agents, employees or contractors such, who violate, disobey, omit, neglect, refuse to comply with, or resist enforcement of any of the provisions of this Chapter shall, upon conviction, be guilty of a misdemeanor. Each day the violation continues constitutes a separate offense. All fines imposed for violation of this Chapter shall be paid to the City and shall be credited to the General Revenue Fund. In addition, the City may assess all costs incurred under this Chapter to the property owner. The City Attorney may reduce the violation to a petty misdemeanor as deemed appropriate.

Section 1290 - Board of Zoning Appeals

1290.01 Board Established. There is established a Board of Adjustments and Appeals appointed by the Mayor with the approval of the Council. The Board shall consist of not less than three (3) members appointed by the Mayor with the approval of the Council.

- AMENDED 11/15/99

~~**1290.02 Powers.** The board shall have the powers set forth in Minnesota Statutes § 462.357, Subd. 6, and § 462.359, Subd. 4. The decision of the board on matters within its jurisdiction are final subject to right of appeal to the Council and subject judicial review.~~

~~**1290.03 Hearings.** The Board shall hold hearings on the appeal within forty-five (45) days of the filing of the Notice of Appeal. The Board shall give public notice and conduct the hearings as provided in Minnesota Statutes § 462.357, Subd. 3 and Subd. 6.~~

~~**1290.04 Right of Appeal.** Appeals to the Board of Adjustment and Appeals may be taken by any affected person upon compliance with any reasonable conditions imposed by this Chapter.~~