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Chapter 1

Code Introduction and Enforcement

Section 100 - General Provisions

100.01. Code Citation. This code of ordinances shall be known as the Silver Bay City Code and may be cited in the Silver Bay City Code as "this Code," "the Code," "City Code" or "Code." Reference or citation to the Code includes amendments and additions to the Code.

100.02. Existing Rights and Liabilities. The repeal of prior ordinances and the adoption of this Code shall not affect, in any manner, the rights and liabilities existing at the time of repeal and the enactment of this Code. Since provisions in this Code are substantially the same as preexisting ordinances, they shall be considered as continuations and not as new enactments. Any act done, offense committed, or right accruing or liability, penalty, forfeiture, or punishment incurred or assessed before the effective date of this Code is not affected by the enactment of the Code.

100.03. Numbering. Each section number of this Code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter number and the digits after the decimal refers to the position of the section within the chapter. When the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number.

100.04. Title Headings: Cross References. Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this Code, but are for convenience only and not as comprehensive titles.

100.05. Additions and Amendments. New ordinances proposing amendments or additions to the Code shall be assigned appropriate code numbers and shall be incorporated into the Code as of their effective date. Reference or citation to the Code includes such amendments and additions. When an ordinance is integrated into the Code, the title, enacting clause, section numbers, definitions of terms identical to those contained in this Code, the clause indicating date of adoption and validating signatures and dates may be omitted. In integrating ordinances into the Code the Administrator, in cooperation with the City Attorney, may: correct obvious

grammatical, punctuation and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance" and do like actions to insure a uniform Code without, however, altering the meaning of the ordinances enacted.

100.06. Copies. Copies of this Code shall be kept in the office of the Administrator for public inspection or sale for a reasonable charge.

100.07. Severability. If any portion of this Code, or any part of it hereafter enacted, is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the Code unless specifically provided otherwise.

Section 110 - Definitions and Interpretations

110.01. Definitions. Unless the context clearly suggests otherwise, the following words and phrases have the meaning given them in this Section.

Subd. 1. City. "City" shall mean the City of Silver Bay.

Subd. 2. Administrator. "Administrator" shall mean the City of Silver Bay Administrator. References to "Clerk" or "Treasurer" shall mean "Administrator."

Subd. 3. Council. "Council" shall mean the Silver Bay City Council.

Subd. 4. Person. "Person" shall mean any natural individual, firm, partnership, association or corporation. As applied to partnerships or associations, the term includes the partners or members. As applied to corporations, the term includes the officers, agents or employees.

Subd. 5. State. "State" shall mean the State of Minnesota.

110.02. Interpretations. The definitions and rules of construction, presumptions, and miscellaneous provisions contained in Minnesota Statute Chapter 645 are adopted by reference and made a part of this Code. References in that chapter to "laws and statutes" mean provisions of this Code and references to the "legislature" mean the Council.

Section 120 - Violations and Penalties.

120.01. Petty Misdemeanor. Whenever an act or omission is declared by this Code to be a petty misdemeanor, any person violating the provision shall, upon conviction, be subjected to a fine not to exceed the maximum allowed under state law.

120.02. Misdemeanors. Unless another penalty is expressly provided in this Code, any person violating any provision of this Code, including any provision declaring an act or omission to be a misdemeanor shall, upon conviction, be subjected to a fine and/or imprisonment in an amount or for a term not to exceed the maximums allowed by state law plus, in either case, the costs of prosecution as permitted by Minnesota Statutes, Rules of Court for the District Courts of Minnesota, and Minnesota Rules of Criminal Procedure.

120.03. Separate Violations. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues is a separate offense.

120.04. City Personnel Liability. The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

Section 130. Administrative Citations and Civil Penalties.

Sections 130.01 through 130.08 shall govern administrative citations and civil penalties for violations of the City Code.

130.01. Purpose. The Council finds that there is a need for alternative methods of enforcing the City Code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the City and the accused. The delay inherent in the judicial system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard Code violations as being important. Accordingly, the Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement shall be in addition to any other legal remedy which may be pursued for Code violations.

130.02. General Provisions.

Subd. 1. Administrative Penalties. A violation of any provision of the Code or the acts prohibited in Section 130.00 may be an administrative offense, which may be subject to an administrative citation and civil penalties pursuant to Sections 130.02 through 130.08. Each day a violation exists constitutes a separate offense.

Subd. 2. Civil Penalty. An administrative offense may be subject to a civil penalty as prescribed by Subd. 3.

Subd. 3. Fee Schedule. The Council must adopt by resolution a Schedule of Fines for offenses initiated by administration citation. The Council is not bound by that schedule when a matter is appealed to it for administrative review.

130.03. Administrative Citation.

Subd. 1. Issuance of Citation. Any person authorized to enforce provisions of the Code may issue an administrative citation upon belief that a Code violation has occurred. The citation must be issued to the alleged offending party in person or by mail or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.

Subd. 2. Payment of Fine - Hearing Request. The alleged offending party must either 1) pay the scheduled fine or 2) request a hearing from the Administrator within seven (7) days of the date of issuance of the citation. Payment of the fine constitutes admission of the violation. A late payment fee of 10% of the scheduled fine amount shall be imposed in accordance with Section 130.07, Subd. 4.

130.04. Administrative Hearing.

Subd. 1. Hearing Officer. The Council shall periodically approve a list of persons to be designated as Hearing Officers, from which the Administrator will randomly select a Hearing Officer to hear and determine a matter for which a hearing is requested. The accused shall have the right to request, no later than five (5) days before the date of the hearing, that the assigned Hearing Officer be removed from the case. One such request for each case will be granted automatically by the Administrator. The Hearing Officer is not a judicial officer but is a public officer as defined by Minn. Stat. § 609.415.

Subd. 2. Issuance of Subpoenas. Upon the Hearing Officer's own initiative or upon written request of an interested party demonstrating the need, the Hearing Officer may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents that are material to the matter being heard. The party requesting the subpoena shall be responsible for serving the subpoena in the manner provided for in civil actions and for paying the fees and expenses of any witness. A

person served with a subpoena may file an objection with the Hearing Officer promptly but no later than the time specified in the subpoena for compliance. The Hearing Officer may cancel or modify the subpoena if it is unreasonable or oppressive. Any person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena shall be guilty of a misdemeanor. Alternatively, the party requesting the subpoena may seek an order from the Lake County District Court directing compliance.

Subd. 3. Notice. The Administrator shall serve notice of the hearing on the alleged offending party in person or by mail at least ten (10) days in advance of the hearing date, unless a shorter time is accepted by all parties. Service by U.S. Mail is effective upon the date of mailing.

Subd. 4. Hearing Procedure. At the hearing, the parties will have the opportunity to present testimony and question witnesses. Strict rules of evidence shall not apply. The Hearing Officer shall tape record the hearing, receive testimony and retain all entered exhibits. The Hearing Officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

Subd. 5. Authority of Hearing Officer. The Hearing Officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the Hearing Officer may consider any of the following factors:

A. The duration of the violation;
B. The frequency or reoccurrence of the violation;
C. The seriousness of the violation;
D. The history of the violation;
E. The violator's conduct after issuance of the notice of hearing;
F. The good faith effort by the violator to comply;
G. The economic impact of the penalty on the violator;
H. The impact of the violation upon the community; or
I. Any other factors appropriate to a just result.

The Hearing Officer may exercise discretion to impose a fine for more than one day of a continuing violation, but only upon a finding that: (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that (2) the accused intentionally and unreasonably refused to comply with the Code requirement. The Hearing Officer's decision and supporting reasons must be in writing.

Subd. 6. Decision Final - Right of Review. The decision of the Hearing Officer is final subject, however, to the right of administrative review by the Council set forth in Section 130.05.

Subd. 7. Waiver. The failure to pay the fine or request an appeal within thirty (30) days of the date of the citation, or the failure to attend a requested hearing, constitutes a waiver of the alleged offending party's rights to an administrative hearing and an admission of the violation. A Hearing Officer may waive this result upon good cause shown. Examples of "good cause" are:

A. Death or incapacitating illness of the accused;

B. A court order requiring the accused to appear for another hearing at the same time; or,

C. Lack of proper service of the citation or notice of the hearing.

"Good cause" shall not include forgetfulness or intentional delay.

130.05. Administrative Review.

Subd. 1. Right of Review. The Hearing Officer's decision may be appealed to the Council for administrative review.

Subd. 2. Notice of Appeal. Notice of appeal of a Hearing Officer's decision must be served on the Administrator within thirty (30) days of the date of the decision. Service shall be accomplished by personal service or by registered mail upon the Administrator.

Subd. 3. Hearing Before Council. Upon receipt of a notice of appeal of a Hearing Officer's decision, the Administrator shall set the matter on for special meeting before the Council, at the earliest available date. Notice of the special meeting shall be served upon the appealing party in person or by registered mail at least ten (10) days prior to the hearing. Service by U.S. Mail is effective upon mailing. The parties to the hearing shall have an opportunity to present oral or written arguments regarding the Hearing Officer's decision.

The Hearing Officer shall provide the Administrator with the original exhibits received at the hearing for Council review.

Subd. 4. Review by Council. The Council shall consider the record before the Hearing Officer, the Hearing Officer's decision and any additional arguments before making a determination. The Council is not bound by the Hearing Officer's decision. The Council's decision must be in writing.

Subd. 5. Imposition of Penalties. If the Council affirms that a violation occurred, it may impose a civil penalty as prescribed by Section 130.02, subd. 2, per day, per violation. The Council may also reduce, stay, or waive a fine in its discretion. Civil penalties are due within thirty (30) days of the date of the Council's written decision.

Subd. 6. Imposition of Additional Conditions. In addition to imposing a civil penalty, the Council may suspend or revoke any City-issued license, permit or other approval associated with the violation.

130.06. Judicial Review. An aggrieved party may obtain judicial review of the decision of the Hearing Officer or the Council in accordance with state law.

130.07. Recovery of Civil Penalties.

Subd. 1. Method of Recovery. If a civil penalty is not paid within the time specified, it shall constitute: (a) a lien upon the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation or (b) a personal obligation of the violator in all other situations.

Subd. 2. Special Assessment. A lien may be assessed against the property and collected in the same manner as taxes.

Subd. 3. Debt Collection. A personal obligation may be collected by any appropriate legal means.

Subd. 4. Late Payment Penalty. A late payment fee of 10% of the fine shall be assessed for each thirty-day period, or part thereof, that the fine remains unpaid after the due date.

Subd. 5. Suspension of License and Permits. In addition to civil penalties, the City may suspend or revoke any license, permit, or other City approval associated with the violation.

130.08. Criminal Penalties. The following are misdemeanors, punishable in accordance with state law:

Subd. 1. Failure to Pay Fine Imposed by Fee Schedule. Failure to pay a fine imposed by an administration citation after the thirty (30) day period to file an appeal has expired under Section 130.03, Subd. 2.

Subd. 2. Failure to Pay Fine Imposed by Hearing Officer. Failure to pay a fine imposed by a Hearing Officer within thirty (30) days after it was imposed, or such other time as may be established by the Hearing Officer, unless the matter is appealed.

Subd. 3. Failure to Pay Fine Imposed by Council. Failure to pay a fine imposed by the Council within thirty (30) days after it was imposed, or such other time as may be established by the Council.

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Chapter 2

Administration and Operations

Section 200 - The Council

200.01. Elections.

Subd. 1. Date. Pursuant to Minn. Stat. § 205.07, the regular City election for Silver Bay shall be held on the first Tuesday after the first Monday in November of each even-numbered year.

Subd. 2. Registration System Adopted. The system for the permanent registration of voters provided for by Minnesota Statute Chapter 201 is adopted for the City.

200.02. Terms. The Mayor shall be elected for a term of two (2) years and Council members shall be elected to terms of four (4) years with two (2) Council members being elected at each biennial election, unless otherwise set by Minnesota Statute.

200.03. Salaries. Notwithstanding the provisions of any general or special law or ordinance, the salaries of the Mayor and members of the Council shall be established by resolution of the Council and shall become effective as provided in Minn. Stat. § 415.11.

200.04. Meetings.

Subd. 1. Regular Meetings. Regular meetings of the Council shall be held on the 1st and 3rd Monday of each calendar month at 6:00 p.m. unless otherwise changed by resolution of the Council. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings shall be held in the City Hall unless the Council decides at a prior meeting that a meeting in the City Hall is impossible.

Subd. 2. Special Meetings. Special meetings may be called by the Mayor or by any two (2) members of the Council with an oral or written request filed with the Administrator who shall then notify all members of the time and place of meeting at least 3 days before the meeting. Actual notice to members may occur by mail, email or telephone. A special meeting may also be set for a later date at a regular meeting of the Council when all members of the Council are present. Notice for a special meeting also must be posted at the city hall at least 3 days before the meeting according to special meeting requirements of the Minnesota open meeting law. Notice shall also include the specific purpose of the special meeting. The Council may not

consider items not contained in the special meeting notice unless action is necessary before the next regularly scheduled Council meeting.

Subd. 3. Emergency Meetings. An emergency meeting may be called by the Mayor or any two (2) members of the Council to discuss items that require the Council's immediate consideration. Notice of an emergency meeting shall comply with Minn. Stat. Sec. 13D.04, Subd. 3.

Subd. 4. Closed Meetings. Closed meetings must be conducted following Minn. Stat. Sec. 13D. Open Meeting Law.

Subd. 5. Initial Meeting. At the first regular Council meeting in January of each year the Council shall:

A. Designate the depositories of City funds;

B. Designate the official newspaper;

C. Appoint such officers, employees, and members of boards, commissions and committees as may be necessary;

D. Choose one Council member as acting Mayor, who shall perform the duties of the Mayor:

1. during the disability of the Mayor;

2. during the absence of the Mayor from the City; or,

3. vacancy in the office, until a successor is appointed and qualifies;

E. Establish and appoint Council members to such committees deemed appropriate for the efficient and orderly management of the City.

F. Establish and appoint 3 Hearing Officers to handle Administrative Citation and other applicable Code violations.

G. Establish a Fee Schedule.

H. Establish a Schedule of Fines.

I. Provide or update individual Councilor Economic Interest Disclosures, Statement of Economic Interest, as necessary.

Subd. 6. Public Meetings. All Council meetings shall be conducted per the Minn. Stat. Sec. 13D, the Minnesota Open Meeting Law.

Subd. 7. Presiding Officer.

A. Who Presides. The Mayor shall preside at all meetings of the Council. In the absence of the Mayor, the acting Mayor shall preside. Lacking both, the Administrator shall call the meeting to order and shall preside until the Council members present at the meeting choose one of their number to act temporarily as presiding officer.

B. Procedure. The presiding officer shall:

1. preserve order;
2. enforce the rules of procedure herein prescribed; and
3. decide without debate, subject to the final decision of the Council on appeal, all questions of procedure and order.

C. Appeal Procedure. Any councilmember may appeal to the Council a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Council member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present including the presiding officer.

Subd. 8. Rules of Procedure. The Council determines its own rules and order of business. A majority of all members elected constitutes a quorum to do business.

Subd. 9. Minutes.

A. Who Keeps. Minutes of each Council meeting shall be kept by the Administrator or the Administrator's designee. In the absence of the Administrator or designee, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions and claims need not be recorded in full in the minutes if they appear in other permanent records of the Administrator and can be accurately identified from the description given in the minutes.

B. Approval. The minutes of each meeting shall be reduced to typewritten form, and copies delivered to each Council member and the City Attorney as soon as practicable after the meeting. At the next regular Council meeting following such delivery, approval of the minutes shall be considered by the Council in the Consent Agenda. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the

addition or correction. If there are no additions or corrections, the minutes shall stand approved.

Subd. 10. Order of Business.

A. Order Established. Each meeting of the Council shall convene at the time and place designated for the meeting and shall be conducted in the following order unless varied by the presiding officer:

1. Call to order;
2. Pledge of Allegiance;
3. Public Comment Period;
4. Approval of Agenda;
5. Approval of Consent Agenda;
6. City Administrator report;
7. City Attorney report;
8. Unfinished (old) business;
9. New business;
10. Claims;
11. Adjournment.

B. Petitions and Agenda. Petitions and other papers addressed to the Council shall be either read by the Administrator or presented to the Council. The Administrator shall prepare an agenda of business, for submission to the Council, before the time of the next regular meeting.

Subd. 11. Voting. The votes of the Council on any question may be taken in any manner that signifies the intention of the individual members with the votes recorded in the minutes. If any member is present but does not vote, the minutes shall be marked "Abstained" with the members stated reason for abstention. An abstention does not affect whether or not a quorum exists.

200.05. Ordinances, Resolutions, Motions, Petitions and Communications.

Subd. 1. Ordinances, Resolutions and Motions. All legislation must be by ordinance unless otherwise stated in this Code. The votes on ordinances, resolutions and motions must be recorded unless the vote is unanimous, in which case the vote must be recorded as being

unanimous. An affirmative vote of a majority of all Councilmembers is required for the passage of ordinances and resolutions, unless otherwise provided by this chapter or state statutes.

Subd. 2. Procedure on Ordinances. A public hearing shall occur before any ordinance is adopted or amended. A statement of the purpose and effect of every ordinance or amendment, except an emergency ordinance, stating the time and place at which a public hearing will occur, must be published as required in Minn. Stat. Sec. 415.19 once in the official newspaper at least 10 days before the hearing as required by Minn 415.19 and 462.355.

Subd. 3. Emergency Ordinances. An emergency ordinance is an ordinance necessary for the immediate preservation of the public peace, health, morals, safety or welfare of the City. The emergency must be defined and declared in its preamble and must be adopted by a unanimous vote of the Council. No prosecution can be based upon the provisions of an emergency ordinance until 24 hours after the ordinance has been filed with the Administrator and posted on the bulletin board at City Hall or until the ordinance has been published, unless the person charged with a violation had actual notice of the passage of the ordinance before the violation.

Subd. 4. Procedure on Resolutions. Every proposed resolution must be presented in writing to the Council for consideration at a regularly scheduled meeting.

Subd. 5. Signing and Publication of Ordinances and Resolutions. Every ordinance or resolution passed by the council must be signed by the Mayor or by the acting mayor, attested by the Administrator and filed and preserved by the Administrator. Every ordinance must be published at least once in the official newspaper. The Council, by a two-thirds vote of all of its members, can direct publication of only the title and a summary of an ordinance if the Council approves the text of the summary and determines that it would clearly inform the public of the intent and effect of the ordinance. The summary must comply with the requirements of Minn. Stat. § 331A.01, Subd. 10, and give notice that a full copy of the ordinance is available for inspection during regular office hours at the Administrator's office. As provided by law, an ordinance can incorporate by reference a statute of Minnesota, a state administrative rule or a regulation, code or ordinance, or part thereof, without publishing the material in full.

Subd. 6. When Ordinances and Resolutions take effect. Resolutions and emergency ordinances take effect immediately upon passage or at a fixed later date. All other ordinances take effect upon publication unless a later date not exceeding 30 days is specified.

Subd. 7. Amendment and Repeal of Ordinances and Resolutions. All ordinances or resolutions repealing previous ordinances or resolutions, or a section or subdivision thereof, must give the number, if any, and the title to the ordinance or resolution to be wholly or partially repealed. No amendment can be by reference to a title alone. An amending ordinance or resolution must set forth in full each section or subdivision to be amended and must indicate new matter by underscoring and old matter to be omitted by enclosing it in brackets and lining out all language between the brackets. In newspaper publications, the same indications of omitted and new matter must be used.

Subd. 8. Revision and Codification of Ordinances. The City can revise, rearrange and codify its ordinances with such additions and deletions as the Council considers necessary. The ordinances must be published on the City website and copies must be made available at the Administrator's office for distribution to the public free or at a reasonable charge as the Council determines.

Section 210 - Administrator and Personnel

210.01. Purpose. In order to promote greater efficiency in City government and to coordinate the operations of the various departments of the City, the Council deems it necessary to establish a position to more effectively administer the policies and directives of the Council.

210.02. Position Established. The position of Administrator for the City, hereinafter called the "Administrator" is established.

210.03. Term. The Council, by majority vote, shall appoint the Administrator for an indefinite term. The Administrator shall be removed only for cause after due notice and hearing.

210.04. Offices Combined. The office of Clerk-Treasurer is combined with that of the Administrator. The duties of the Administrator shall include those duties prescribed by law for statutory City Clerks, Treasurers and Clerk-Treasurer. The Administrator may employ the title of Clerk, Treasurer, Clerk-Treasurer, Administrator or hyphenated combinations of these titles as deemed necessary or convenient.

210.05. Duties, Responsibilities and Powers. The Administrator shall be the chief administrative officer of the City. The Administrator shall be responsible to the Council for the proper administration of the duties set forth in this Code and the City Policies as adopted by the Council. The Council may establish a detailed job description for the Administrator.

210.06. Coordination with City Departments. The Administrator shall supervise and coordinate the administrative functions and general operations of all departments to assure maximum use of personnel and equipment for the most efficient operation of City affairs. The Administrator may delegate duties and responsibilities to City department supervisors. The Administrator shall review periodically and coordinate with department supervisors to assure a coordinated effort to achieve greater efficiency and obtain the goals set by the Council.

210.07. Administration. The Administrator shall develop and issue all administrative rules, regulations and procedures necessary to insure the proper functioning of all departments and offices of the City consistent with federal and state laws and the Code, including department practices or procedures and department responsibilities. The rules, regulations and procedures shall be effective upon approval by the Council and shall continue to be in effect until rescinded.

210.08. Personnel Matters. The Administrator shall oversee the human resources of the City with the duties set forth in this ordinance including, but not limited to, the following:

A. Carrying out of all adopted personnel policies;

B. Periodic evaluation of all City employees;

C. Participate in negotiation with the Personnel Committee of the terms and conditions of employee compensation for presentation to the Council;

D. Recommend to the Personnel Committee organizational changes in staffing to assure that high standards of performance are maintained; and

E. Plan, develop and direct, with Council approval, personnel programs, policies and procedures that will encourage the development of full work potential and work interests with all officials and employees in City government.

210.09. Personnel Rules and Regulations. Subject to Council approval, the Administrator shall develop and issue all administrative rules, regulations and procedures necessary for effective personnel management consistent with federal and state laws and the Code, including but not limited to:

A. Scheduling of work, including overtime, in cooperation with department heads;

B. Payroll practices;

C. Determination of work periods and payroll issuance;

D. Discipline;

E. Termination practices; and

F. Grievance resolution.

210.10. Personnel Hiring, Discipline, Discharge. The Personnel Committee and respective department supervisors shall interview and screen prospective City employees as allowed by law and shall make recommendations to the Council before the Council makes any appointment. The Administrator shall have the power, as provided in the City personnel policy, to transfer, discipline or discharge any City employee, subject to the approval of the Council.

210.11. Budget/Financial. The Administrator shall:

A. Prepare and submit a proposed annual budget to the Council;

B. Keep the Council advised of the financial condition of the City;

C. Oversee the implementation of physical planning in the City involving capital improvements, including but limited to:

1. purchasing practices;
2. receiving and administering grants-in-aid;
3. submitting grant and loan applications;
4. promotion of business and industrial development; and
5. such other duties and responsibilities as may be assigned to the Administrator by the Council.

D. Coordinate with staff and independent auditors to prepare annual financial reports.

210.12. Public Relations. The Administrator shall coordinate public relations activities for the City. The Administrator shall represent the City and maintain liaisons with business, industry, municipal, state and federal government related activities.

210.13. Meetings. The Administrator shall attend and participate in discussions at all meetings of the Council and other official bodies as directed by the Council.

210.14. Recommendations to the Council. The Administrator shall recommend the adoption of such measures as the Administrator deems necessary or expedient for the economic development, health, safety and welfare of the community or for the improvement of administration.

210.15. Qualifications. The Administrator shall have the same general qualifications for municipal service as other City employees pursuant to the City Personnel Policy Manual. Appointments shall be made by the Council based on executive and administrative experience and educational qualifications. Unless expressly indicated otherwise by this Code, the

Administrator shall be subject to the City personnel policies unless modified by employment contract.

210.16. Limitations. Except for coordination between departments, the Administrator shall not have supervision or authority over the office of City Attorney nor any Boards or Commissions created by statute.

Section 220 - Revenue and Property

220.01. Funds. The Administrator, with the approval of the Council, shall establish a Public Works Reserve Fund pursuant to Minn. Stat. § 471.57 and such other funds as may be necessary and expedient to efficiently manage the financial affairs of the City.

220.02. General Revenue Reserve Fund.

Subd. 1. Establishment. There shall be maintained a General Revenue Reserve Fund, within the Public Works Reserve Fund, established pursuant to the provision of Minn. Stat. § 298.282, for the deposit of Taconite Municipal Aid.

Subd. 2. Fund Transfer. The Council, to support the General Revenue Reserve Fund, may in any year transfer the General Revenue Funds to the General Revenue Reserve Fund. In any year that the tax receipts from Taconite Municipal Aid shall be less than the average annual receipts from taconite and taconite railroad taxes in the preceding five (5) years, and shall be insufficient for ordinary expenses of the City, or any condition that would subject the City to extraordinary expenditures, the Council may by resolution transfer funds from the General Revenue Reserve Fund to the General Revenue Fund to meet the expenses or extraordinary expenditures.

Subd. 3. Maximum Balance. The General Revenue Reserve Fund shall not exceed the average annual receipts from Taconite Municipal Aid for the preceding five (5) years.

220.03. Disposition of Unclaimed Property.

Subd. 1. Storage Disposal. Any property lawfully coming into the possession of the City during municipal operations shall be stored by the department getting the property. Any property unclaimed by the owner after proper notice is provided by the City, may be sold at public auction or by sealed bids in the discretion of the Council.

Subd. 2. Notice. When unclaimed property has been in the City's possession at least sixty (60) days, notice shall be given in the official newspaper and by registered mail to the owner, if known, of the intention to dispose of the property.

Subd. 3. Sale. If the property shall remain unclaimed ten (10) days after the published notice, the City may sell the property, as provided in the notice, at either public auction or sale or by a private sale through a nonprofit organization that has a significant mission of community service. In the event the property is not sold due to no bidders at auction or offers to purchase, the City may dispose of the property.

Subd. 4. Proceeds from Sale. The proceeds of the sale shall be placed in the General Revenue Fund of the City.

Subd. 5. Claim by Owner. Pursuant to the provisions of Minn. Stat. § 471.195, a former owner shall have a right to payment of the sale price upon application and proof of ownership within six (6) months from the date of the sale. The City may deduct the cost of taking the property into possession, storage, legal fees and cost of sale from the sale price.

Section 225 - Lodging Tax

225.01. Lodging Tax. Pursuant to Minn. Stat. § 469.190, there is imposed a tax of three percent (3%) on the rent charged by the operator providing lodging to any person in the City.

Subd. 1. Purpose. The tax imposed by this section shall be used in accordance with Minn. Stat. § 469.190, as the same may be amended from time to time, to fund a local convention and tourism bureau to market and promote the City as a tourist and convention center and allow it to compete fairly with other areas of the North Shore of Lake Superior and northern Minnesota that already have a lodging tax. The Council may designate the local area Chamber of Commerce or other public interest organization as the convention and tourism bureau.

Subd. 2. Definitions. The following terms, phrases and words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and vice versa. The word "shall" is always mandatory and not merely directory.

A. "Lodging" means the furnishing for consideration lodging (staying overnight) at a hotel, motel, rooming, tourist court, campground, resort, short term rental or other rental

facility within the City, except where such lodging shall be for a continuous period of more than thirty (30) days to the same lodger.

B. "Tax Administrator" means the Administrator or other official or entity with which the City has designated or contracted to collect the tax on its behalf and for administrative services.

C. "Operator" means a person who provides lodging to others or any officer, agent or employee of such person.

D. "Person" means a municipality, individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate, other legal entity, or any combination of individuals. Whenever the term "person" is used in any provision of this section prescribing and imposing a penalty, the term as applied to any corporation, association or partnership shall mean the officers or partners thereof.

E. "Rent" means the total consideration valued in money charged for the lodging whether paid in money or otherwise, but shall not include any charges for services (such as valet service, etc.) rendered in connection with furnishing lodging rather than the room charge itself.

F. "Lodger" means a person obtaining lodging from the operator.

G. "Tax" means the tax imposed by this section.

Subd. 3. Effective Date. The tax shall be effective and commence on February 15, 2008.

Subd. 4. Tax a Debt to the City. The tax collected by the operator shall be a debt owed by the operator to the City and shall be extinguished only by payment to the City. In no case shall the tax imposed by this section upon an operator exceed the amount of the tax which the operator is authorized and required by this section to collect from the lodger.

Subd. 5. Collections. Each operator shall collect the tax imposed by this section at the time the rent is paid. The tax collections shall be deemed to be held in trust by the operator for the City. The amount of the tax shall be separately stated from the rent charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

Subd. 6. Exceptions and Exemptions.

A. Exceptions. No tax shall be imposed on rent for lodging paid by an officer or employee of a foreign government who is exempt by reason of express provisions of federal law or international treaty.

B. Exemptions. An exemption shall be granted to any person whose occupancy is beyond the City to tax. No exemption shall be granted except upon a claim made at the time the rent is collected and such a claim shall be made in writing under penalty of perjury on forms provided by the City. All such claims shall be forwarded to the City when the returns for collection are submitted as required by this section.

Subd. 7. Advertising No Tax. It shall be unlawful for any operator to advertise or hold out or state to the public or any lodger, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that, if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than one cent ($.01) shall be rounded up.

Subd. 8. Payment and Returns. The taxes imposed by this section shall be paid to the Tax Administrator monthly, not later than twenty-five (25) days after the end of the month in which the taxes were collected. At the time of payment, the operator shall submit a return upon such forms and containing such information as the City or its Tax Administrator may require. The return shall contain the following information:

A. The total amount of rent collected for the lodging during the period covered by the return;

B. The amount of the tax required to be collected and due for the period;

C. The signature of the person filing the return or that of his or her agent;

D. The period covered by the return; and

E. The amount of the uncollectible rent subject to the tax.

Subd. 9. Examination of Return, Adjustments, Notice and Demands. The Tax Administrator shall, after a return is filed, make any investigation or examination of the records and accounts deemed necessary for determining its correctness. The tax to be paid shall be computed on the basis of such examination. If the tax due is found to be greater than that paid, the additional amount due shall be paid to the Tax Administrator within ten (10) days after receipt of a notice given personally or by certified mail to the address shown on the return. If

there has been an overpayment of tax, the excess shall be refunded or, in the discretion of the Tax Administrator, withheld and applied to future taxes due. If the excess tax is withheld, the Tax Administrator shall notify the person who paid the tax that there is a credit allocated to the taxpayer's account.

Subd. 10. Refunds. Any person may apply for a refund an overpayment of taxes withheld by the Tax Administrator, provided that no application for refund shall be considered unless filed within one (1) year from the date of the return. The Tax Administrator shall examine the claim and return any excess taxes paid. If no excess is found, the Tax Administrator shall inform the applicant. Should the applicant contest the Tax Administrator's determination of no refund due, the applicant may make a written application to the Council for a hearing on the matter.

Subd. 11. Failure to File a Return. If any operator required by this section to file a return shall fail to do so within the time prescribed or shall make, willfully or otherwise, an incorrect, false or fraudulent return, the operator shall, upon written notice and demand given in person or by certified mail, file such return or corrected return with five (5) days. If such person shall fail to file such return or corrected return, the Tax Administrator shall file a return for such person from such knowledge and information as the Tax Administrator can obtain, and assess a tax on the basis thereof which tax, less any payments made on account of the tax for the taxable period covered by such return, shall be paid within five (5) days of personal service or mailed notice of demand for payment. Any such return or assessment made by the Tax Administrator shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding.

A. If any portion of a tax, including penalties, is not paid within thirty (30) days after it is required to be paid, the City may institute such legal action or civil procedure as may be necessary to recover the amount due plus interest, penalties, attorney fees and the costs and disbursements of any action.

B. Upon a showing of good cause, the Tax Administrator may grant an operator one thirty (30) day extension of time within which to file a return and make payment of taxes as required by this section, provided that interest during the period of extension shall be added to the taxes due at the rate set by Minnesota statute for judgments.

Subd. 12. Penalties.

A. If any tax imposed by this section is not paid within the time specified for payment, there shall be added a specific penalty equal to ten percent (10%) of the unpaid amount.

B. In case of any failure to make and file a timely return, unless it is shown that such failure is due to mistake and not willful neglect, there shall be added to the tax, in addition to the ten percent (10%) specific penalty provided in subdivision A. above, ten percent (10%) if the failure is not for more than thirty (30) days, with an additional five percent (5%) for each additional thirty (30) days or fraction thereof during which time such failure continues, not exceeding twenty-five percent (25%) in the aggregate. If the penalty as computed does not exceed $25.00, a minimum penalty of $25.00 shall be assessed. The amount so added to any tax shall be collected at the same time and the same manner and as a part of the tax unless the tax has been paid before discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

C. If any person willfully fails to file any return or make any payment required by this section, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such tax or the payment, there shall also be imposed as a penalty an amount equal to fifty percent (50%) of any tax found due for that period.

D. The penalty imposed by this subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided in this section.

E. All payments received shall be credited first to penalties, next to interest, and then to the tax due.

F. The amount of tax not timely paid, together with any penalty provided in this section, shall bear interest at the rate set by Minnesota statute for judgments from the time the tax was due. Any interest and penalty shall be added to the tax and collected as a part of the tax.

Subd. 13. Liens. In the event the tax and penalties provided for in this section remain unpaid, the total charges due may be made a lien on the lodging premises. All such charges that are delinquent on the first day of September each year and that have been properly billed to the owner or occupant of the premises may, by order of the Council, be certified by the Administrator to the County Auditor within the Auditor's time limits each year. The

Administrator, in certifying the charges to the County Auditor, shall specify the amount with the description of the premises and the name of the owner. The amount so certified shall be extended on the tax rolls against the premises in the same manner as other taxes and paid to and collected by the County Auditor along with other taxes pursuant to Minn. Stat. § 444.075 and § 443.015.

Subd. 14. Revocation or Suspension of License. Whenever an operator fails to comply with any of the provisions of this section the Council may, after hearing, suspend or revoke any licenses (including but not limited to liquor licenses) issued to the operator by the City. The operator shall be given ten (10) days written notice of the hearing. The notice of hearing shall be published in the legal newspaper of the City not less than ten (10) days before the hearing.

Subd. 15. Administration of the Tax. The Tax Administrator shall administer and enforce the assessment and collection of the taxes and penalties imposed by this section. The Tax Administrator shall cause to be prepared blank forms for the returns and other documents required by this section and shall distribute the same to all operators within the City. The failure of an operator to receive or secure such forms shall not relieve any person from the obligations required by this section.

Subd. 16. Examine Records. The Tax Administrator or other persons authorized by the Council may examine the books, papers and records of any operator in order to verify the accuracy of any return made or, if no return is made, to ascertain the tax as provided in this section. Every operator is directed and required to give the Tax Administrator or the duly authorized agent or employee the means, facilities and opportunity for such examination and investigation.

Subd. 17. Contract for Tax Administration. As provided in Minn. Stat. § 469.190, Subd. 7, the Council may enter into an agreement with the Minnesota Commissioner of Taxation, or other appropriate entity, for the purpose of acting as Tax Administrator and providing for the administration and collection of taxes imposed by this section. The fees charged by any such Tax Administrator for administrative services and collecting the taxes imposed by this section shall not exceed five percent (5%) of the gross proceeds of the tax so imposed.

Subd. 18. Violations. In addition to any other penalties prescribed herein, any person who shall willfully fail to make a return required by this section, or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this section after written demand for payment, or who shall refuse to permit

the Tax Administrator or any duly authorized agents or employees to examine the books, papers and records under the operator's control, or who shall willfully make any incomplete, false or fraudulent return, shall be subject to a civil penalty as provided in Subdivision 12, and may be charged with a misdemeanor as provided in Section 130.08 for failure to pay a fine imposed by the City.

Subd. 19. Petition for Review. Any operator aggrieved by any notice, order or determination made by the Tax Administrator under this section may file a petition for review detailing the operator's reasons for contesting the notice, order or determination.

A. The petition for review shall contain the name, address, phone number, location of the lodging and detailing the operator's reason for review.

B. The petition shall be filed with the Administrator within ten (10) days after the notice, order or determination for which the review is sought has been mailed or served upon the person requesting review.

C. The Administrator shall set a date, time and place of hearing and give the petitioner not less than five (5) days written or personal service before the date of the hearing.

Subd. 20. Hearings. The Council, acting as the Hearing Officers, or a Hearing Officer or Officers designated by it, after due notice, shall conduct a hearing. The Council may designate Hearing Officers, consisting of one or more persons, to conduct the hearing. The Petitioner may be represented by counsel. The Hearing Officer(s) conducting the hearing shall make written findings of fact and conclusions based upon applicable provisions of this section and the evidence presented.

Subd. 21. Appeals. Any person aggrieved by the decision of the Hearing Officer may, within ten (10) days of filing the decision, file an appeal to the District Court of Lake County.

Subd. 22. Data Privacy. Except for data submitted at hearings as provided in Subdivision 20 and appeals as provided in Subdivision 21, data collected from any person pursuant to this section shall be considered private data on individuals or non-public data pursuant to Minn. Stat. § 13.01, *et seq.*

Section 230 - Boards, Departments, Commissions, and Committees

230.01. Volunteer Fire Department.

Subd. 1. Fire Department Maintained. The Volunteer Fire Department shall be continued and maintained in the City. The department shall consist of a Chief, two (2) Assistant Chiefs, and such officers and firefighters as the Council may decide.

Subd. 2. Election of Officers. The Chief and other officers of the Fire Department shall be elected or appointed as provided in the Fire Department Rules and Regulations, subject to approval of the Council.

Subd. 3. Duties of Chief. The Chief shall have control over all of the firefighting apparatus and shall be solely responsible for its care and condition. The Chief shall make a report, at such date set by the Administrator before the first budget meeting of the Council, as to the condition of the equipment and needs of the Fire Department. The Chief may submit additional reports and recommendation at any meeting of the Council and shall immediately report each suspension of a member of the Fire Department to the Administrator and Council. The Chief shall be responsible for the proper training and discipline of the members of the Fire Department, and may suspend any member for refusal or neglect to obey orders pending final action by the Council on the member's discharge or retention. The Chief shall be charged with the enforcement of all ordinances aimed at fire prevention.

Subd. 4. Records. The Chief shall keep in convenient form a complete record of all fires. The record shall include the time of the alarm, location of the fire, cause of fire (if known), type of building and contents, name of owner and tenant, purpose for which occupied, value of building and contents, members of the department responding to the alarm, and other information as the Chief may deem advisable or as required by the Council or state insurance department.

Subd. 5. Practice Drills. It shall be the duty of the Chief, when the weather allows, to hold at least one monthly practice drill of at least one (1) hours' duration, and other practice drills as the Chief, with approval of the members of the department, may decide to give firefighters instruction in approved methods of firefighting and fire prevention.

Subd. 6. Other Officers. There shall be a 1st and 2nd Assistant Chief and other officers as may be appointed by the Council. The Assistants shall have such duties as designated by the Chief. In the absence or disability of the Chief, the 1st Assistant Chief shall perform all the

functions, exercises, and authority of the Chief. In the absence or disability of the Chief and 1st Assistant Chief, the 2nd Chief shall assume the duties.

Subd. 7. Firefighters. Applicants for position of firefighters shall not be less than eighteen (18) years of age and shall be able-bodied. They shall become members of the Fire Department only after a six (6) month probationary period. The Chief shall establish rules of admission for applicants upon advice of the members of the department and approval of the Council.

Subd. 8. Loss of Membership. Firefighters absent from three (3) consecutive drills or calls, unless excused by the Chief, may be dismissed after written notice and vote by the Council. Each firefighter so charged shall be given an opportunity for hearing before the Council.

Subd. 9. Compensation. The compensation of officers and members of the department shall be fixed by the Council.

Subd. 10. Rules and Regulations. The Fire Department shall establish Rules and Regulations for election of officers, qualifications for membership, duties of officers and members, and operation and conduct of the department, subject to the approval of the Council.

Subd. 11. Interference with Department. It shall be unlawful for any person to give or make, or cause to be given or made, an alarm of fire without cause, or to neglect or refuse to obey any reasonable order of the Fire Chief, or Police Department, at a fire, or to interfere with the Fire Department in the discharge of its duties.

230.02. Police Department.

Subd. 1. Police Department Maintained. The Police Department shall be continued and maintained in the City. The head of the department is the Chief of Police. The number of members of the department, with their ranks and titles, shall be decided by the Council. Every member of the department shall be subordinate to the Chief of Police and shall obey the instructions of the Chief and any superior officer.

Subd. 2. Chief of Police. The Chief shall have the following duties and responsibilities:

A. Supervision and control of the police department and its members;

B. Responsible to the Council for law enforcement and for property of the City used by the department;

C. For the proper training and discipline of the members of the department;

D. Keeping of adequate records; and,

E. Report to the Council on the needs of the department and its work.

Subd. 3. Assistant or Acting Chief. The Council may appoint an Assistant Chief when in its discretion the needs of the department requires such position. The Council may designate a police officer as acting Chief, who shall have all the powers and duties of the Chief during an absence or disability of the Chief.

Subd. 4. Duties of Police. Members of the Police Department shall enforce the laws applicable to the City, bring violators before the court, and make complaints for offenses coming to their knowledge. The Police Department shall serve process and shall serve such notices as required by the Council or other authority. When the City is not a party to the proceedings involved in the process or notice, the officer shall collect the same fees as provided by law. All such fees shall be paid into the City treasury.

Subd. 5. Uniform and Badge. Each member of the department shall, while on duty, wear a suitable badge and uniform, except that the Chief may authorize the performance of specific duties while not in uniform. When a member terminates membership in the department, the member shall immediately deliver to the City the badge and all other property of the City.

Subd. 6. Extra Police. In case of riot or other law enforcement emergency, the Chief may appoint for a specified time as many special police officers as may be necessary for the maintenance of law and order. During such term of appointment, the special police officer shall have only those powers and perform only those duties as shall be specifically assigned by the Chief.

Subd. 7. Compensation. The compensation of officers and members of the Police Department shall be fixed by the Council.

Subd. 8. Part Time Police.

A. Maintained. The established part-time police force shall be continued and maintained within the Police Department that shall consist of such number as the Council deems necessary. Part-time police shall be under the control and supervision of the Chief. They shall be appointed by the Chief subject to the approval of the Council. They shall serve under the direction of the superior officers of the regular police force and such others as the Chief may appoint from their own number.

B. Duties. Part-time police officers shall have the same authority, duties, and obligations as regular members of the department including the authority to issue citations except as restricted by statute or regulations of the Police Department.

Subd. 9. Interference with Department. It shall be unlawful for any police officer, city personnel or other person to give a false report or neglect or refuse to obey any reasonable order of the Chief or any member of the department, or to interfere with the Police Department in the discharge of its duties.

DONE TO HERE 9-18-23, SET UP FORMAT FOR COMMITTEE SECTIONS AND INSERTED (Subd. 1-8)

230.03. Safety Committee.

Subd. 1. Purpose.

Subd. 2. Membership.

Committee members shall be appointed with preference given to domiciled residents of the City of Silver Bay, followed by commercial business property owners in the City who are domiciled residents in the 55614 zip code. If no domiciled residents or commercial business property owners apply for vacant positions, domiciled residents in the 55614 zip code, as defined above, may be appointed. A majority of the members of every Commission must be domiciled residents of the City of Silver Bay.

"Domiciled residents" are defined as those having Lake County homestead tax status or who can provide other documentation of legal residence such as a driver's license, voter registration card or Minnesota identification card.

Subd. 3. Term. Members shall be appointed for three (3) year terms. All terms expire on December 31st.

Subd. 4. Powers and Duties. The committee shall be advisory to the Council.

Subd. 5. Reports. The Committee shall furnish minutes of its meetings and make such reports to the Council as the Council may require.

Subd. 6. Compensation. Members of the Committee shall serve without compensation unless otherwise authorized by the Council, except for expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 7. Rules and Regulations.

Subd. 8. Meetings. All meetings are public and shall be posted at City Hall to be held at such time and place as deemed necessary by the Committee.

Subd. 1. Safety Committee Maintained. The Safety Committee shall be continued and maintained in the City. The Mayor, subject to the approval of the Council, shall annually appoint a safety committee consisting of not less than five (5) members. Two (2) of the members shall be the Street Superintendent and the Superintendent of the Water and Sewer Department, or a representative from each of those departments designated by the Council. The remaining three (3) members shall not have supervisory roles in a City department.

Subd. 2. Duties. The Safety Committee shall promulgate rules and regulations, subject to the approval of the Council, to establish safe working conditions for employees and promote safety within the City. The committee shall make regular inspections of City property and all City departments and make recommendations to department supervisors to best maintain a safety program and to carry out the purposes of this Chapter.

Subd. 3. Reports. The Safety Committee shall make regular reports to the Council of any hazards or unsafe conditions found within the City and its recommendations for eliminating the hazards or dangerous conditions.

Subd. 4. Compliance. The Council may, in its discretion, discharge, suspend or otherwise discipline any City personnel for failure or refusal to comply with any rule, regulation or recommendation of the Safety Committee.

230.04 Public Library.

Subd. 1. Library Maintained. The established Public Library shall be continued and maintained in the City in accordance with Minn. Stat. §§ 134 et al., as amended.

Subd. 2. Library Board. A Library Board of at least five (5) but not more than seven (7) members shall be appointed by the Mayor, with the approval of the Council, and shall serve for a term of three (3) years each. Terms shall expire at the end of the fiscal year. One (1) member shall be appointed from the Council. The member appointed from the Council shall hold office as a member of the Board during their term of office as a Councilmember. No member will serve more than three (3) consecutive 3-year terms, as required by Minn. Stat. § 134.09, Subd.2. A majority of the members of the Board shall be residents of the City. The

Mayor shall not serve on the Board.

Subd. 3. Duties. The Board shall be vested with the powers and duties as prescribed by Minn. Stat. § 134.11, Subd.2, and other applicable laws of this State.

Subd. 4. Tax Levy. The Council shall levy an annual tax as authorized by State law. The proceeds shall be paid into the City Treasury and deposited in the "Library Fund" to be used for public library purposes.

Subd. 5. Regulations.

A. The Library Board shall adopt rules and regulations for the operation of the public library including rules for care, handling, loan and return of library properties.

B. No person shall damage, mutilate or cause any injury to any book, periodical or other property of the public library, nor violate any rule or regulation adopted by the Library Board.

C. No person shall not keep any book, periodical or other reading material or service of the Public Library beyond the expiration of time for return of the same.

Subd. 6. Reports. The Library Board shall annually report to the Council all amounts received and amounts expended and other information as required by Minnesota Statute § 134.13.

Subd. 7. Compensation. The Library Board shall serve without compensation unless otherwise authorized by the Board except for expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Board.

Subd. 8. Damage to Library Property. The City, by and through the Police Department, shall enforce damage to library property in accordance with Minn. Stat. § 609.541.

230.05. Park and Recreation Board.

Subd. 1. Purpose.

Subd. 2. Membership.

Committee members shall be appointed with preference given to domiciled residents of the City of Silver Bay, followed by commercial business property owners in the City who are domiciled residents in the 55614 zip code. If no domiciled residents or commercial business property owners apply for vacant positions, domiciled residents in the 55614 zip code, as defined above, may be appointed. A majority of the members of every Commission must be domiciled residents of the City of Silver Bay.

"Domiciled residents" are defined as those having Lake County homestead tax status or who can provide other documentation of legal residence such as a driver's license, voter registration card or Minnesota identification card.

Subd. 3. Term. Members shall be appointed for three (3) year terms. All terms expire on December 31st.

Subd. 4. Powers and Duties. The committee shall be advisory to the Council.

Subd. 5. Reports. The Committee shall furnish minutes of its meetings and make such reports to the Council as the Council may require.

Subd. 6. Compensation. Members of the Committee shall serve without compensation unless otherwise authorized by the Council, except for expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 7. Rules and Regulations.

Subd. 8. Meetings. Meetings shall be held at such time and place as deemed necessary by the Committee. Notice of meetings may be by email, U.S. mail or telephone and posted at City Hall.

Subd. 1. Park and Recreation Board Maintained. The established Park and Recreation Board shall be continued and maintained in the City, pursuant to the provisions of Minn. Stat. § 412.501 through 412.531, to improve, ornament, maintain and manage parks and parkways and to operate a program of public recreation and playgrounds pursuant to the provisions of Minn. Stat. § 471.15 through 471.1911, and to carry out the general powers granted by statute.

Subd. 2. Membership. The Board shall consist of five (5) or seven (7) members appointed by the Mayor with the approval of the Council. One (1) member shall be a member of the Board of Education of Independent School District No. 381 or the Principal of William M. Kelley High School, when authorized by Independent School District No. 381. One (1) member shall be appointed from the Council. The member appointed from the Council shall hold office as a member of the Board during their term of office as Councilmember. Members shall be appointed for three (3) year terms. The number of members may be increased or decreased within the permitted statutory numbers by resolution or ordinance. Except for the School District member, member's terms end on the last day of the fiscal year.

Subd. 3. Compensation. Members shall serve without compensation unless otherwise authorized by the Board except for expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Board.

Subd. 4. Powers and Duties. The Board shall:

A. Choose one (1) of its members as Chair and may select a secretary either from its own members or otherwise and fix the secretary's compensation, subject to Council approval;

B. Make such reports of its activities to the Council as the Council may require and furnish the Council with copies of its minutes;

C. Have control over all property set aside for park purposes;

D. Recommend to the Council the employment of necessary personnel, including a Director of Parks and Recreation, and fix their compensation, subject to Council approval;

E. Purchase all necessary materials, supplies, equipment and services, subject to Council approval;

F. Have the power to make cooperative agreements with any public or private agency for purposes of coordinating all activities and facilities included in the public recreational program, subject to Council approval, to include coordination of its activities to best use the parks and recreational facilities in the joint City-County-School District recreational program.

Subd. 5. Rules and Regulations. The Board shall adopt rules for its meetings and regulations governing the use of park and recreational facilities.

Subd. 6. Budget. No later than the date set by the Administrator before the first budget meeting of the Council each year, the Board shall present to the Council its estimate of the financial needs of the Board for the next fiscal year. The Council shall appropriate funds annually for expenses and operating costs. The Board may also receive funds from Lake County, from Lake Superior School District No. 381, and from other sources as the Board may lawfully secure during its operations. The Board may receive gifts or donations made to it.

Subd. 7. Park Funds. There is established in the City Treasury a special fund called the "Park and Recreation Fund" which shall be administered according to the provisions of Minn. Stat. § 412.531.

230.06. Economic Development Authority.

Subd. 1. Authority Maintained. The Economic Development Authority, established by Resolution 1987 - #32, pursuant to the provisions of Minn. Stat. § 469.093, and as modified by Resolution 1989 - #10 and Resolution 1996 - # 29, shall be continued and maintained in the City.

Subd. 2. Purpose.

A. It is the desire of the City to encourage, attract, promote and develop economically sound industry and commerce within the City to enhance employment opportunities for area residents.

B. The Council has found that it is to the best interests of the City and its residents to establish an entity which can undertake activities to further the development of industry and commerce within the City.

C. The establishment of an Economic Development Authority will enhance the effectiveness of the City's economic development efforts by granting power to an entity responsible for furthering the economic vitality of the community.

Subd. 3. Membership. The Economic Development Authority shall consist of not less than three (3) or more than seven (7) members. If a three (3) member authority, one shall be a council member. If a five (5) or seven (7) member authority, two (2) shall be council members. The Mayor shall appoint all members, with the approval of the Council. The Mayor may, with the approval of the Council, appoint all members of the Council to the authority.

Subd. 4. Term. The members of the Authority shall serve for a term of three (3) years. Those appointed from the Council shall hold office as members of the Authority during their term of office as Councilmembers. Except for council members, member's terms end on the last day of the fiscal year.

Subd. 5. Compensation. Members of the Authority shall serve without compensation unless otherwise authorized by the Council. Members may be allowed expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 6. Powers. Subject to the limit of powers set forth in Minn. Stat. § 469.092, the Authority shall have all the powers contained in Minn. Stat. §§ 469.090 to 469.108, and the powers of a housing and redevelopment authority under Minn. Stat. §§ 469.001 to 469.047 or other law, and of a city under Minn. Stat. §§ 469.124 to 469.134, or other law.

230.07. Planning and Zoning Commission .

Subd. 1. Commission Maintained. The Planning and Zoning Commission (Commission) shall be continued and maintained by the City.

Subd. 2. Membership of the Commission. The Commission shall consist of not less than five (5) members three (3) of whom shall be residents of the City. The members of the Commission shall be appointed by the Mayor, with the approval of the Council. Two (2) members shall be appointed from the Council. Those appointed from the Council shall hold office as members of the Commission during their term of office as Councilmembers. Members appointed from among the residents shall serve for terms of three (3) years. Except for Councilmembers, terms shall end at the end of the fiscal year.

Subd. 3. Purpose. The Commission shall provide means of guiding future development of land in the City and its environs to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities, to preserve open lands, and to promote the public health, safety, and general welfare. The Commission is charged with the responsibility of making studies for the zoning of the various areas within the City and the probable future growth of the City, and to propose the establishment of zoned areas within the City for the location of heavy and light industries, commercial establishments, and residential areas, for the protection of the public welfare and the other interests of the citizens of the City.

Subd. 4. Powers. The Commission shall be advisory to the Council and shall have the power to employ professional assistance and services in the performance of its duties, but the employment agreements and the compensation therefor shall be subject to approval by the Council. It shall have all the powers set forth in Minn. Stat. §§ 462.351 through 462.364, which statutes are adopted by reference as if set forth in full herein.

Subd. 5. Duties. It shall be the duty of the Commission to:

A. Make a comprehensive survey and report of the physical development of the City with relation to its commercial, industrial, residential and other interests, and to coordinate and propose regulative planning, consistent with the peculiar province of each related interest;

B. Prepare and submit to the Council for consideration, plans for the improvement and regulation of the City development that will provide for the public convenience, and protect the health, safety and general welfare;

C. Provide for the division of the City into districts or zones, and adopt regulative measures for the uses, purposes and areas of buildings and building lines in each such zone or division; and

D. Develop regulations for the platting of new areas or re-platting of existing areas, for the vacation or rearrangement of boulevards, streets or alleys, the assignment of traffic to particular streets or arteries, the establishment of restricted building districts and other matters relating to the planning or re-planning of the City.

Subd. 6. Enforcement of Orders. The Commission may draft and recommend to the Council the adoption of regulations and ordinances authorizing and empowering it to enforce its findings and conclusions relating to the physical development of the City in its more general scope, or to that of each or any particular zone or division. The Commission may appoint a Zoning Administrator to enforce the provisions of this chapter and provide for his or her compensation, subject to the approval of the Council. The Zoning Administrator shall have the power to issue citations for violations of Chapters 11 and 12 of the Code or applicable Minnesota Statutes.

Subd. 7. Compensation. Members of Commission shall serve without compensation unless otherwise authorized by the Council. Members may be allowed expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 8. Reports. The Commission shall furnish minutes of its meetings and make such reports to the Council as the Council may require.

230.08. Liquor Control Commission.

Subd. 1. Purpose.

Subd. 2. Membership.

Committee members shall be appointed with preference given to domiciled residents of the City of Silver Bay, followed by commercial business property owners in the City who are domiciled residents in the 55614 zip code. If no domiciled residents or commercial business property owners apply for vacant positions, domiciled residents in the 55614 zip code, as defined above, may be appointed. A majority of the members of every Commission must be domiciled residents of the City of Silver Bay.

"Domiciled residents" are defined as those having Lake County homestead tax status or who can provide other documentation of legal residence such as a driver's license, voter registration card or Minnesota identification card.

Subd. 3. Term. Members shall be appointed for three (3) year terms. All terms expire on December 31st.

Subd. 4. Powers and Duties. The committee shall be advisory to the Council.

Subd. 5. Reports. The Committee shall furnish minutes of its meetings and make such reports to the Council as the Council may require.

Subd. 6. Compensation. Members of the Committee shall serve without compensation unless otherwise authorized by the Council, except for expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 7. Rules and Regulations.

Subd. 8. Meetings. Meetings shall be held at such time and place as deemed necessary by the Committee. Notice of meetings may be by email, U.S. mail or telephone and posted at City Hall.

Subd. 1. Liquor Control Commission Maintained. The Liquor Control Commission (Commission) shall be continued and maintained by the City.

Subd. 2. Membership. The Commission shall consist of not less than five (5) members who shall be appointed by the Mayor, with the approval of the Council. Two (2) of the members shall be from the Council and shall hold office on the Commission during their terms as Councilmembers. The remaining three (3) members shall be residents of the City. These Commission members shall hold office for three (3) years. Except for Councilmembers, terms shall end at the end of the fiscal year. Any Commission member who ceases to be a legal resident of the City shall become ineligible to continue on the Commission. The Mayor shall appoint a new member to fill the unexpired term.

Subd. 3. Duties. The Commission shall supervise the operations of the Silver Bay Municipal Liquor Store. It shall make recommendations to the Council regarding improvements and general operation of the Liquor Store. It shall promulgate rules and regulations for operation of the Liquor Store, subject to approval by the Council. The Commission shall make

recommendations to the Council regarding issuance of commercial or private on or off-sale retail liquor licenses.

Subd. 4. Reports. The Commission shall furnish to the Council minutes of its meetings and other reports that the Council may require. The Commission is advisory to the Council.

Subd. 5. Compensation. Members shall serve without compensation unless otherwise authorized by the Council. Members may be allowed expenses, including travel expenses, in performance of their official duties as authorized in advance by the Council.

230.09. Public Utilities Commission.

Subd. 1. Purpose.

Subd. 2. Membership.

Committee members shall be appointed with preference given to domiciled residents of the City of Silver Bay, followed by commercial business property owners in the City who are domiciled residents in the 55614 zip code. If no domiciled residents or commercial business property owners apply for vacant positions, domiciled residents in the 55614 zip code, as defined above, may be appointed. A majority of the members of every Commission must be domiciled residents of the City of Silver Bay.

"Domiciled residents" are defined as those having Lake County homestead tax status or who can provide other documentation of legal residence such as a driver's license, voter registration card or Minnesota identification card.

Subd. 3. Term. Members shall be appointed for three (3) year terms. All terms expire on December 31st.

Subd. 4. Powers and Duties. The committee shall be advisory to the Council.

Subd. 5. Reports. The Committee shall furnish minutes of its meetings and make such reports to the Council as the Council may require.

Subd. 6. Compensation. Members of the Committee shall serve without compensation unless otherwise authorized by the Council, except for expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 7. Rules and Regulations.

Subd. 8. Meetings. Meetings shall be held at such time and place as deemed necessary by the Committee. Notice of meetings may be by email, U.S. mail or telephone and posted at City Hall.

Subd. 1. Public Utilities Commission Maintained. The Public Utilities Commission (Commission) shall be continued and maintained by the City pursuant to the provisions of Minn. Stat. §§ 412.331 through 412.391.

Subd. 2. Purpose. The Commission shall have general jurisdiction of all the public utilities within the City, consisting of the water treatment and distribution system and the wastewater treatment and collection system.

Subd. 3. Membership. The Commission shall be composed of not less than three (3) members who shall be appointed by the Mayor with the approval of the Council. No more than one (1) member may be chosen from the Council. Each member shall serve for a term of three (3) years with terms ending at the end of the fiscal year. The Councilmember shall serve as a member of the Commission during that member's term of office as a Councilmember.

Subd. 4. Duties. The Commission shall have charge of the operation and shall recommend to the Council the rates and charges to be made by all public utilities within the City. It shall establish and prepare an operating budget that shall be submitted to the Council for approval each year. The budgets and recommendations relating thereto shall be submitted to the Council on or before the date set by the Administrator prior to the first budget meeting of the Council. It shall not exceed its approved budget in any respect without first obtaining authority from the Council.

Subd. 5. Powers. The Commission shall establish such rules and regulations for its operation as it shall deem necessary and convenient. It shall recommend to the Council the employment of agents, consultants, and employees, prescribe duties for employees and fix their compensation, as it shall deem reasonable and necessary for the management and operation of the utilities. The Commission is charged with the duty of administering all funds that shall be appropriated to it and the income from the operation of the utilities.

Subd. 6. Additional Powers. The Commission shall promulgate and enforce regulations requiring that in the event a request for a transfer of an account, or a change in the ownership of any premises against which there are delinquent utility bills, or in the event it shall terminate utility service to the premises, all delinquent charges for utility services rendered shall be paid in full before utility services will be reestablished to the involved premises.

Subd. 7. Compensation of the Commission. The members of the Commission shall not be compensated for their services. Commission members may be allowed expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 8. Billing and Collection. The Council shall by resolution establish procedures for billing and collection of utility service charges, which resolution shall have the full force and effect of the law.

Subd. 9. Liens. Each charge for water and sewer services levied pursuant to this Code may be a lien upon the corresponding lot, land or premises served by the connection to the water and sewer system of the City. All charges that are delinquent on the first of September of each year and that have been properly billed to the owner or occupant of the premises served may, by order of the Commission, be certified by the Administrator to the County Auditor within the Auditor's time limits each year. The Administrator, in certifying the charges to the County Auditor, shall specify the amount thereof and the description and name of the owner of the premises served. The amount so certified shall be extended by the County Auditor on the tax rolls against the premises in the same manner as other taxes and paid to and collected by the County Auditor along with other taxes pursuant to Minn. Stat. §§ 444.075 and 443.015.

Subd. 10. Reports. The Commission shall furnish copies of its minutes to the Council and other reports the Council may require.

230.10. Public Works Commission.

Subd. 1. Purpose.

Subd. 2. Membership.

Committee members shall be appointed with preference given to domiciled residents of the City of Silver Bay, followed by commercial business property owners in the City who are domiciled residents in the 55614 zip code. If no domiciled residents or commercial business property owners apply for vacant positions, domiciled residents in the 55614 zip code, as defined above, may be appointed. A majority of the members of every Commission must be domiciled residents of the City of Silver Bay.

“Domiciled residents” are defined as those having Lake County homestead tax status or who can provide other documentation of legal residence such as a driver’s license, voter registration card or Minnesota identification card.

Subd. 3. Term. Members shall be appointed for three (3) year terms. All terms expire on December 31st.

Subd. 4. Powers and Duties. The committee shall be advisory to the Council.

Subd. 5. Reports. The Committee shall furnish minutes of its meetings and make such reports to the Council as the Council may require.

Subd. 6. Compensation. Members of the Committee shall serve without compensation unless otherwise authorized by the Council, except for expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 7. Rules and Regulations.

Subd. 8. Meetings. Meetings shall be held at such time and place as deemed necessary by the Committee. Notice of meetings may be by email, U.S. mail or telephone and posted at City Hall.

Subd. 1. Commission Maintained. The Public Works Commission (Commission) shall be continued and maintained by the Council.

Subd. 2. Membership. The Commission shall consist of five (5) members appointed by the Council. Each member shall serve for three (3) years with all terms ending at the end of the fiscal year. Not more than two (2) members of the Commission shall be members of the Council and shall hold office on the Commission during their terms of office as Council members. The Commission shall appoint one (1) of its members to chair meetings. Members of the Commission shall be residents of the City and shall be knowledgeable in the functions and operations of the Public Works Department.

Subd. 3. Purpose. The Commission shall be advisory to the Council and the Public Works Superintendent on all matters dealing with streets, roads, sidewalks, cemetery, airport, and such other activities and functions maintained, built and/or managed by the Public Works Department.

Subd. 4. Duties. The Commission shall:

A. Consult with and advise the Public Works Superintendent on the following:

1. Preparation and monitoring of the annual Public Works Department budget;

2. Prioritization of annual work projects including regular maintenance of vehicles, property and other assets of the City for which the Public Works Department is responsible;

3. Long range planning for streets, curbs, gutters, capital equipment, purchasing and other needs of the Public Works Department that require substantial expenditures; and

4. Developing and monitoring policies unique to the Public Works Department.

B. Review citizen concerns regarding issues relevant to the Public Works Department;

C. Make reports and recommendations to the Council;

D. The Chair of the Commission, or designate, shall attend Council meetings when requested by the Council or when the Commission has matters of concern to bring before the Council;

E. Have the responsibility of management, operation and maintenance of the cemetery pursuant to Minn. Stat. Chapter 306 to include, but not be limited to, the following:

1. Rules and Regulations. The Commission shall adopt rules and regulations for the operations of the cemetery and shall provide regulations for issuance of burial permits and sale of lots subject to the approval of the Council;

2. Establishment and Location**.** The established cemetery shall be continued and maintained upon land owned by the City located in Lake County, Minnesota;

3. Exclusive Use**.** No person shall lay out or establish any cemetery or use any lot of land within the City for the burial of the dead except in the Silver Bay Municipal Cemetery unless otherwise authorized by the Council;

4. Sale of Lots**.** Sale of lots shall be handled by the Administrator's office. The prices of cemetery lots and other services shall be established by the Commission subject to the approval of the Council. Upon payment of the price fixed for a lot, the purchaser shall be entitled to a revocable license to the lot. The license shall be subject to the rules and regulations adopted by the Commission and approved by the Council;

5. Funds. All monies received from the sale of lots or other services shall be paid to the Administrator and placed in a "Cemetery Fund" for maintenance and

improvement of the cemetery. Monies shall be paid out of the Cemetery Fund only upon approval of the Council; and

6. Permanent Care and Improvement Fund**.**

i.) Fund Maintained. The established Permanent Care and Improvement Fund shall be continued and maintained as a separate fund for use in maintaining, caring for, and improving the cemetery and cemetery lots in the City pursuant to the provisions of Minn. Stat. §§ 306.37 through 306.41.

ii.) Expenditure and Investment. Twenty percent (20%) of the proceeds from the sale of cemetery lots shall be paid into the Permanent Care and Improvement Fund as provided in Minn. Stat. § 306.38. The Council may appropriate additional funds to meet as necessary.

iii.) Management. The fund shall be managed and the monies invested by the Commission under the direct supervision of the Administrator.

iv.) Reports. The Commission shall make a regular annual report at the end of each calendar year regarding the status of the fund, principal received, investments made, and the income from it, and all expenditures made out of the fund and other information that the Council may require.

v.) Fund Limit. The fund shall not be allowed to exceed Fifteen Thousand ($15,000.00) dollars per acre, or such maximum amounts as may be established by statute. When the fund reaches One Hundred Thousand ($100,000.00) dollars, the Commission may, with the approval of the Council, use any excess of that amount for maintenance care, improvement, expansion or acquisition of additional land for cemetery purposes, or transfer the excess to the General Fund.

F. Have the responsibility of management, operation and maintenance of the airport, including, but not limited to, the following:

1. Rules and Regulations. The Commission shall establish rules and regulations for operation of the airport, subject to the approval of the Council, which shall have the full force and effect of law and any violation thereof is a violation of this Code;

2. Reports. The minutes of the Commission, reports, and pertinent correspondence shall be submitted to the Council after each commission meeting;

3. Permits. No person shall operate a fixed base operation, flying school, or any other commercial activity on the Silver Bay Municipal Airport without first securing written approval from the Commission and subject to the approval of the Council;

4. Traffic Regulations. No person shall operate a motor vehicle, except for airport maintenance purposes, upon the runways, taxiways, or aircraft parking area, except on those sections of the airport specifically designated for motor vehicles;

5. Building Permits. No person shall construct any aircraft hangar, shop or other building upon the airport premises without first having secured a permit therefore and the approval of the plan for the structure from the Commission, subject to the approval of the Council; and

6. Aircraft Regulations. No person shall operate an aircraft contrary to federal or state statutes or regulations.

Subd. 5. Compensation. Members shall serve without compensation unless otherwise authorized by the Council. Members may be allowed expenses, including travel expenses, in performance of their official duties as authorized in advance by the Council.

Subd. 6. Rules and Regulations. The Commission shall adopt rules for its meeting, including the date and time of meetings, and regulations governing the operation of the Public Works Department.

230.15. Mary Mac Business Center Committee.

Subd. 1. Purpose.

Subd. 2. Membership.

Committee members shall be appointed with preference given to domiciled residents of the City of Silver Bay, followed by commercial business property owners in the City who are domiciled residents in the 55614 zip code. If no domiciled residents or commercial business property owners apply for vacant positions, domiciled residents in the 55614 zip code, as defined above, may be appointed. A majority of the members of every Commission must be domiciled residents of the City of Silver Bay.

"Domiciled residents" are defined as those having Lake County homestead tax status or who can provide other documentation of legal residence such as a driver's license, voter registration card or Minnesota identification card.

Subd. 3. Term. Members shall be appointed for three (3) year terms. All terms expire on December 31st.

Subd. 4. Powers and Duties. The committee shall be advisory to the Council.

Subd. 5. Reports. The Committee shall furnish minutes of its meetings and make such reports to the Council as the Council may require.

Subd. 6. Compensation. Members of the Committee shall serve without compensation unless otherwise authorized by the Council, except for expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council.

Subd. 7. Rules and Regulations.

Subd. 8. Meetings. Meetings shall be held at such time and place as deemed necessary by the Committee. Notice of meetings may be by email, U.S. mail or telephone and posted at City Hall.

Subd. 1. Mary Mac Business Center Committee maintained. The established Mary Mac Business Center Committee (Committee) shall be continued and maintained by the City.

Subd. 2. Membership. The Mayor, subject to the approval of the Council, shall appoint a Mary Mac Business Center Committee consisting of not more than five (5) members. One (1) member of the Committee shall be a Council member and one (1) member shall be appointed from the Planning & Zoning Commission. The Council and Commission members shall serve on the Committee during their respective term of office, unless otherwise determined by Council action. Of the remaining members, one (1) member shall be the Zoning Administrator, one (1) member shall be a representative of Lake County and one (1) member shall be the Manager of the Mary Mac Business Center.

Subd. 3. Duties. The Committee shall be charged with the responsibility of making recommendations to the Administrator and Council for the most efficient management, operation and maintenance of the Mary Mac Business Center, formerly known as the Mary MacDonald School or Mary MacDonald Center.

Subd. 4. Meetings. Meetings shall be held at such time and place as deemed necessary by the Committee. Notice of meetings may be by email, U.S. mail or telephone and posted at City Hall.

Subd. 5. Compensation. Members of the Commission shall serve without compensation unless otherwise authorized by the Council. Members may be allowed expenses, including travel expenses, incurred in performance of their official duties as authorized in advance by the Council. Requests for compensation shall be submitted to the Council in writing prior to being incurred.

Subd. 6. Rules and Regulations. The Committee may establish rules and regulations for operation of the Mary Mac Business Center, subject to the approval of the Council. Violation of the rules and regulations may be grounds for termination of the violator's Lease or such other penalties as the Council may hereafter establish.

Subd. 7. Reports. The minutes of the Committee meetings, reports and correspondence shall be submitted to the Administrator and Council after each Committee meeting.

Subd. 8. Mary Mac Business Center Manager. The Council may appoint a manager who shall have the responsibility for the operation of the Mary Mac Business Center. The duties and authority of the manager are set forth in the job description for that position.

Section 240 - Terms of Boards and Commissions.

240.01. Expiration of Terms. Unless otherwise provided, the terms of all Board, Commission and Committee members terminate on December 31st. Members shall continue to serve until their replacements have been appointed.

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Chapter 3

Licensing and Municipal Regulation

Section 300 - General Licensing and Permit Provisions

300.01. Licenses and Permits.

Subd. 1. General Rule. Except as otherwise provided in this Code, the provisions of this Section govern the granting of all licenses and permits by the City.

Subd. 2. Acts Prohibited. No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for such activity or use.

300.02. Application. Except as otherwise provided, every application for a license or permit shall be submitted to the Administrator, in writing, on a form provided by the Administrator. It shall be accompanied by payment to the Administrator of the prescribed fee. If the Administrator decides that the application is incomplete, the Administrator shall inform the applicant of the required necessary information that is missing. If the application is complete, the Administrator shall issue the license as provided in this Chapter.

300.03. Procedure for Issuance. If, after investigation, the Administrator is satisfied that all requirements of law and this Code have been met, the Administrator will present the application and a report of the investigation and findings to the Council for action. If the license or permit does not require Council approval, the Administrator may issue the license or permit. If a license is denied, the Council shall inform the applicant of its decision and the reason for the denial along with a notice of the applicant's right to appeal the decision. Otherwise, the Council shall order the issuance of the license.

300.04. Non-Transferability. A license is not transferable without permission of the Council. When the Council permits the transfer of a license, it may waive any residency requirement but only for the required term of the license.

300.05. Bond. Where a bond is required for a license or permit, or requested by the Council or Administrator, the bond will be a corporate surety bond executed on a form approved by the City Attorney and shall be filed with the Administrator before the license or permit is issued. The

bond will be in the amount and with the penalty provisions as required by the Code.

300.06. License Period. All licenses and permits will terminate on December 31 of the year issued, unless otherwise indicated.

300.07. Renewal. Applications for renewal of a license shall be made to the Administrator, in writing, on a form provided by the Administrator. The renewal application will contain the information required for the original application plus any additional information required by the Administrator.

300.08. Duplicates. A duplicate license may be issued by the Administrator to replace any license previously issued which has been lost, stolen, defaced or destroyed, without any willful conduct by the licensee, if the licensee files an affidavit with the Administrator attesting to such fact and pays to the Administrator a fee as established by the Council.

300.09. Suspension and Revocation. Any license or permit may be suspended or revoked by the Council for a violation of the section or chapter under which it is issued or any of the provisions of this Code or law. However, the revocation must follow any procedure provided in the section or chapter under which the license or permit was issued.

300.10. Appeal. Any person who has made application for a license or permit that has been denied or not acted upon within 30 days after the application may apply directly to the Council for a license or permit. The application to the Council shall contain the same information required in the original application and any additional information that the Council may require or that the applicant may feel is pertinent. The Council may grant the license or permit, after a hearing, if the requirements of this Section and underlying Code provisions are complied with and granting the license or permit would be in the best interests of the public.

Section 310 - Cigarettes and Tobacco

310.00. Purpose. The Legislature of the State of Minnesota has found that:

A. Smoking causes premature death, disability, and chronic disease, including cancer, heart disease and lung disease;

B. Smoking related diseases result in excess medical care costs;

C. Smoking initiation occurs primarily in adolescence; and

D. It is in the public interest to protect the public health, comfort and environment by prohibiting smoking in areas where children or ill and injured persons are present, and by

limiting smoking in public places and at public meetings to designated smoking areas.

310.01. Adoption and Incorporation of Statute. The City accepts and adopts the findings of the Legislature as set forth in Minn. Stat. §§ 144.391. Minn. Stat. §§ 144.412 through 144.417 and 461.12 are adopted by reference and incorporated herein as if set out here in full.

310.02. Definitions. "Tobacco," "tobacco related devices" and "electronic delivery device" shall have the meanings set forth in Minn. Stat. § 609.685, which statute is adopted by reference and incorporated herein as if set out here in full.

310.03. Prohibitions.

Subd. 1. Sale to Minors. No person shall sell or furnish tobacco, tobacco related devices or electronic delivery devices to a person under the age of 18 years.

Subd. 2. Tobacco use by Minors. Whoever uses tobacco, tobacco related devices or electronic delivery devices and is under the age of 18 is guilty of a petty misdemeanor.

Subd. 3. Vending Machines. No person shall permit a person below the age of 18 years to purchase cigarettes through a cigarette vending machine. Such purchase shall be presumed to be with the knowledge and consent of the licensee of the vending machine, the lessee of the machine or occupant of the premises where the machine is located.

Subd. 4. Public Places. No person shall smoke tobacco in a public place or public meeting except in a designated smoking area.

310.04. License Required. No person shall directly or indirectly or by means of automatic vending machines or other devices kept for retail sale, sell at retail or otherwise dispose of any tobacco, tobacco related devices or electronic delivery devices within the City unless a license shall first have applied for and obtained as provided in this Chapter.

310.05. Fees. The license fee shall be as established by resolution of the Council.

310.06. Penalties. In addition to the penalties provided for in this Code, administrative penalties shall be imposed for violation of this Section.

Subd. 1. Administrative Penalties; Licensees. If a licensee or employee of a licensee sells tobacco, tobacco related devices or electronic delivery devices to a person under the age of 18 years or violates any other provision of this chapter, the licensee shall be charged an administrative penalty as set by the Council. An administrative penalty shall be imposed for a second violation at the same location within 24 months after the initial violation, as set by the Council. For a third violation at the same location within 24 months after the initial violation, an

administrative penalty shall be imposed, as set by the Council, and the licensee's authority to sell tobacco, tobacco related devices or electronic delivery devices at that location shall be suspended for not less than seven (7) days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred shall be in writing.

Subd. 2. Administrative Penalties; Individuals. An individual who sells tobacco, tobacco related devices or electronic delivery devices to a person under the age of 18 years shall be charged an administrative penalty as set by the Council. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Section 320 - Public Dance Halls and Public Dancing

320.01. Definitions.

Subd. 1. Public Dance. A public dance shall mean any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing or a fee for membership in a club or organization, and shall include any manner of holding a dance in which the public participates through payment of money either directly or indirectly. By way of illustration and not limitation, a dance shall be considered a public dance if the public is generally admitted or invited either orally or by advertisement although no admission or fee is charged. A wedding dance not limited by special invitation to a select group shall be considered a public dance.

Subd. 2. Public Dancing Place. A public dancing place shall mean any room, place, or space open to the public in which a public dance is held.

Subd. 3. Private Dance. A private dance shall mean a dance conducted by a social or fraternal organization or conducted at private premises primarily for social or recreational purposes by private invitation only where the public is not generally admitted or invited either orally or by advertisement. A private dance may become public if the public is generally admitted by open invitation.

320.02. License Required. No person shall conduct a public dance within the City unless a

license has been applied for and obtained from the Administrator as provided in this Section.

320.03. License Fee. The license fee shall be as established by resolution of the Council.

320.04. Hours. No public dance shall be conducted between the hours of 1:00 a.m. and 6:00 a.m. on any day. No public dance shall be conducted on Sunday between the hours of 1:00 a.m. and 12:00 noon.

320.05. Exemption. A dance held at any church or school shall not require a license but notice of the dance shall be given to the Police Department at least one week before the dance is held. No license shall be required for schools of instruction in dancing.

320.06. Attendance of Peace Officer. It shall be the responsibility of the licensee of a public dance to maintain peace and good order at all public dances. The Chief of Police may require that a peace officer designated by the Chief attend a public dance. The peace officer need not be a Police Officer of the City Police Department and shall act as a special deputy for the limited purposes of maintenance of peace and good order. The peace officer shall have the authority to call upon the City Police or other law enforcement officers for assistance and for taking persons who may be charged with an offense into custody. The Chief of Police may require City Police Officers on duty to make periodic inspections of public dances to assure that good order is being maintained and City Ordinances and State Statutes complied with.

320.07. Rules and Regulations. The Council may adopt rules and regulations for conduct of dances that shall be incorporated in this Chapter and have the same force and effect as if set forth fully in this Chapter.

Section 330 - Circuses, Carnivals and Shows

330.01. License Required. No person shall give or maintain any show or public entertainment circus, carnival, games or concert to which an admission is charged without applying for, in writing, and obtaining a license from the Administrator as provided in this Section. No license shall be required for entertainment given for the benefit of any school, church, benevolent or charitable purpose.

330.02. Application and Issuance. Application for the license shall be made to the Administrator on the forms provided at least seven days before the time when the show or entertainment is intended to be given. The Police Department shall investigate the facts set forth in the application and report to the Administrator its recommendations. The applicant or any

other person shall be given an opportunity to be heard for or against granting the license.

330.03. Fee. The license fee shall be as established by resolution of the Council.

330.04. Restrictions. No obscene, vulgar, immoral, or disorderly shows or entertainment shall be licensed or permitted. No person shall conduct, permit, or take part in any activity regulated by this section. No gambling or games of chance are allowed concerning any activity regulated by this Section unless specifically authorized by the Council.

Section 340 – Regulation of Peddlers, Solicitors and Transient Merchants

340.01. Definitions. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The following definitions shall apply unless the context clearly indicates or requires a different meaning:

A. NON-COMMERICAL DOOR-TO-DOOR ADVOCATE. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

B. PEDDLER. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personnel property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

C. PERSON. Any natural individual, group, organization, corporation, partnership, or similar association.

D. REGULAR BUSINESS DAY. Any day during which the City hall is normally open and conducting public business. Holidays defined by state law shall not be considered regular business days.

E. SOLICITOR. A person who goes from house-to-house, door-to-door, business-to business, street-to-street, or any other type of place-to-place movement, obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal

property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur later. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser.

F. TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days.

340.02. Exceptions to Definitions. For this chapter, the terms *PEDDLER*, *SOLICITOR*, and *TRANSIENT MERCHANT* shall not apply to:

A. Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Persons engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 340.07.

B. Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

C. Any person who makes initial contacts with other people for establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.

D. Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

E. Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

F. Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

G. Any person participating in an organized multi-person bazaar or flea market.

H. Any person conducting an auction as a properly licensed auctioneer.

I. Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another City ordinance.

340.03. Licensing; exemptions.

Subd. 1. County license required. No person shall conduct business as a peddler, solicitor, or transient merchant within the City limits without first having obtained the appropriate license from the county as may be required by Minn. Stat. Chapter 329 as it may be amended from time to time, if the county issues a license for the activity.

Subd. 2. City license required. Except as otherwise provided for by this ordinance, no person shall conduct business within City limits as a peddler or a transient merchant without first obtaining a City license. Solicitors need not be licensed, but are required to register with the City pursuant to Section 340.07.

Subd. 3. Application. An application for a City license to conduct business as a peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the City. Application for a license shall be made on a form approved by the Council and available from the office of the Administrator. All applications shall be signed by the applicant. All applications shall include the following information:

A. The applicant's full legal name.

B. All other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.

C. A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like).

D. Full address of applicant's permanent residence.

E. Telephone number of applicant's permanent residence.

F. Full legal name of all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.

G. Full address of applicant's regular place of business, if any exists.

H. All business-related telephone numbers of the applicant, including cellular phones

and facsimile (fax) machines.

I. The type of business for which the applicant is applying for a license.

J. Whether the applicant is applying for an annual or daily license.

K. The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the City, with a maximum of fourteen (14) consecutive days.

L. All addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up his or her business.

M. A statement as to whether the applicant has been convicted with the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.

N. A list of the three (3) most recent locations where the applicant has conducted business as a peddler or transient merchant.

O. Proof of any required county license.

P. Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.

Q. A general description of the items to be sold or services to be provided.

R. All additional information as may be deemed necessary by the Council.

S. The applicant's driver's license number or other acceptable form of identification.

T. The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.

Subd. 4. Fee. All applications for a license under this chapter shall be accompanied by the fee established in the City licensing fee schedule as it may be amended from time to time.

Subd. 5. Procedure. Upon receipt of the application and payment of the license fee, the Administrator shall, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the Administrator determines that the application is incomplete, the Administrator must inform the applicant of the required, necessary information that is missing. If the application is complete, the Administrator must order any investigation, including background checks,

necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application the Administrator must issue the license unless grounds exist for denying the license application under Section 340.04, in which case the Administrator must deny the request for a City peddler or transient merchant license. If the Administrator denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the Council. The Council shall hear the appeal with twenty (20) days of the date of the request for a hearing. The decision of the Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

Subd. 6. Duration. An annual license granted under this ordinance shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers and transient merchants under this ordinance shall be valid only during the period indicated on the license.

Subd. 7. License exemptions.

A. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

B. No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

340.04. License Ineligibility. The following shall be grounds for denying a peddler or transient merchant license:

A. The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.

B. The failure of an applicant to truthfully provide any information requested by the City as part of the application process.

C. The failure of an applicant to sign the license application.

D. The failure of an applicant to pay the required fee at the time of application.

E. A conviction with the past five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

F. The revocation with the past five (5) years of any license issued to an applicant for conducting business as a peddler, solicitor, or transient merchant.

G. When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three (3) complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding twelve (12) months, or three (3) complaints filed with the City against an applicant within the preceding five (5) years.

340.05. License Suspension and Revocation.

Subd. 1. Generally. Any license issued under this section may be suspended or revoked at the discretion of the Council for violation of any of the following:

A. Subsequent knowledge by the City of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.

B. Fraud, misrepresentation or false statements made during the licensed activity.

C. Subsequent conviction of any offense to which the granting of the license could have been denied under Section 340.04.

D. Engaging in any prohibited activity as provided under Section 340.08 of this ordinance.

E. Violation of any other provision of this ordinance.

Subd. 2. Multiple persons under one license. The suspension or revocation of any license authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

Subd. 3. Notice. Prior to revoking or suspending any license issued under this chapter, the City shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, of if no residential address is listed, to the business address provided on the license application.

Subd. 4. Public Hearing. Upon receiving the notice provided in Subd. 3 of this Section, the licensee may request a public hearing. If no request for a hearing is received by the City clerk within ten (10) days following the service of the notice, the City may proceed with the suspension or revocation. For mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the Council shall notify the licensee of its decision.

Subd. 5. Emergency. If, in the discretion of the Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this ordinance, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in Subd. 3 of this section.

Subd. 6. Appeal. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

340.06. License Transferability. No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

340.07. Registration.

A. All solicitors and any person exempt from the licensing requirements of this ordinance under Section 340.03 shall be required to register with the City prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the Administrator shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.

B. Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

340.08. Prohibited Activities. No peddler, solicitor, transient merchant, non-commercial

door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

A. Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, to be unreasonably audible within an enclosed structure.

B. Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or public right-of-way.

C. Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the public.

D. Conducting business before 8:00 a.m. or after 9:00 p.m.

E. Failing to provide proof of license, or registration, and identification when requested.

F. Using the license or registration of another person.

G. Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.

H. Remaining on the property of another when requested to leave.

I. Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

340.09. Exclusion by Placard. Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

A. At least four inches long.

B. At least four inches wide.

C. With print of at least 48 point in size.

D. Stating “No Peddlers, Solicitors or Transient Merchants,” “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

340.10. Penalty. Any individual found in violation of any provision of this ordinance, shall be a guilty of a misdemeanor.

340.11. Severability. If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Section 345 – Mobile Food Trucks/Vendors

345.01. Purpose. The purpose of this Section is to protect the public health, safety, and general welfare of the community through the establishment of standards to ensure that mobile food trucks/vendors as defined herein are appropriately located, licensed and inspected, do not impede vehicular access, traffic flow or circulation, or create public safety hazards.

345.02. Definitions. For the purposes of this Section, the following definitions shall apply:

A. "Mobile food truck" and "mobile food truck/vendor" shall be defined as any self-propelled vehicle or fully contained trailer, licensed by the State of Minnesota to operate on public streets and roadways, which vends food (either prepackaged, prepared in the unit, or at a commissary) at retail for immediate consumption by the customer. Said vehicle and/or trailer may also be referred to herein as "unit".

B. "Commissary" shall be defined as a permanent, State-licensed location which services food trucks, including but not limited to the provision of food storage, paper goods and supplies, waste and grease disposal and food preparation.

C. "Vend" or "vending" shall be defined as the process of the transfer of a food product from the unit operator to a customer. Vending begins when the unit initially stops in a location at which customers can access the unit and continues until the unit leaves that location.

345.03. Applicability. Notwithstanding any contrary provision of any City ordinance, regulation, or rule, mobile food trucks/vendors shall be licensed and located as provided in this ordinance.

Subd. 1. Licenses required. No person shall vend from a mobile food truck without first having obtained a license to do so from the City, subject to the following exceptions:

A. Mobile food trucks which are vending under a Special Event Permit issued by the City can operate under that Special Event Permit as authorized by the organizers/managers of the event, at the location of, and for the duration of the event.

B. Appropriately licensed caterers are exempted from this Section for catered events.

C. Food vendors for any City Fair do not need to be licensed pursuant to this Section.

Subd. 2. Fees. The fee for an annual license shall be established from time-to-time by the Council and shall entitle the operator to vend from one such unit from the date on which the license is issued through December 31st of that year. Each unit must obtain a separate license which shall be displayed on or within the unit, visible from the outside of the unit, whenever the unit is vending.

Subd. 3. Inspections. Applicants must provide evidence of current licensing of the unit by the Minnesota Department of Agriculture or by the Minnesota Department of Health, as appropriate.

Subd. 4. Insurance. Applicants must provide evidence of liability insurance in which the City is named coinsured which shall provide a limit of coverage as established from time-to-time by the Council for both bodily injury and for property damage. Written notice of cancellation of such insurance must be given to the City not less than thirty (30) days prior to actual cancellation.

Subd. 5. Restrictions on Vending Activity.

A. Mobile food trucks/vendors are prohibited from vending activities within 300' of a community event for which the City has issued a Special Event Permit, unless they are specifically authorized by the event sponsor to participate in the event. The terms of the Special Event Permit shall apply.

B. Mobile food trucks/vendors can operate as an accessory use on private property as expressly authorized by the owner/manager/agent of the private property, and only for the length of time authorized by the Minnesota Department of Agriculture or Minnesota Department of Public Health.

C. Mobile food trucks/vendors can vend on public streets between the hours of 8:00 a.m. to 10:00 p.m. inclusive, and on private property between the hours of 7:00 a.m. to 10:00 p.m. inclusive, on all days of the week.

Subd. 6. Location or placement.

A. On public streets and in City public parks no unit shall occupy more than two (2) parking spaces.

B. In no case, shall a unit vend while occupying a traffic lane, parked on a sidewalk, or in any location which obstructs or impedes traffic.

C. The unit shall vend only from the side of the vehicle away from moving traffic and as near as possible to the curb or side of the street.

D. The unit shall not vend to any person standing in the traveled portion of any public roadway.

E. On public streets, no unit shall vend within sixty (60) feet of the intersection of two or more public streets, nor within thirty (30) feet of a driveway which enters onto a public street.

F. No unit shall vend while the unit is in motion.

G. Connection of the unit to public utilities is not permitted.

H. There shall be no overnight parking of food trucks on the public right of way.

Subd. 7. Dimensions. No mobile food truck shall exceed 32' feet in length (overall length for a self-propelled vehicle; trailer length including the towing vehicle for self-contained trailers) or ten (10) feet in height.

Subd. 8. Signs and Appurtenances.

A. Mobile food trucks/vendors shall not employ or utilize any signs that are not attached directly to the vehicle/trailer. Signs may not project above the unit, nor more than six (6) inches from the side of the unit. No flashing, strobing or intermittent lighting is allowed.

B. No external seating shall be provided or utilized except as may be provided by the owner, manager, or agent of any private property on which the unit may be properly located.

C. Any generator used by the unit must be self-contained within or on the unit, screened from view, and operate at no more than 70 decibels.

D. While vending, operator may not call attention to the unit by crying out, blowing a horn, ringing a bell, or playing music or other sounds discernible beyond the unit. Amplified sound is not permitted outside of the unit.

E. Waste receptacles must be provided by the unit operator and the vending site must be cleaned of all litter and garbage generated by the unit and customers before the unit leaves the location.

345.03. Enforcement. Any violation of this Section, including but not limited to the vending

operation of a mobile food truck within the City without a license issued pursuant to this Section, shall be a misdemeanor punishable by up to a $1,000.00 fine and/or ninety (90) days in jail.

Section 350 - Taxicabs

350.01. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. "Taxicab" is a vehicle driven by mechanical power. The term "taxicab" will include any motor vehicle for hire designed to carry seven persons or less, operated upon any highway in this City or on call or demand, accepting or soliciting passengers indiscriminately for transportation for hire between points along streets or highways as may be directed by the passenger or passengers so being transported.

B. The term "driver" means the person driving and having physical control over a taxicab, whether they be the licensee or in the employ of the licensee.

350.02. License Required for Taxicab Drivers. No person will drive or operate a taxicab in the City unless the driver or operator is the holder of a valid Minnesota driver's license authorizing operation of the licensed vehicle, and obtains a license from the Administrator after having provided proof of the requirements of this section.

350.03. Insurance Required. Before a taxicab may be operated in the City, and at all times effective during such period, the licensee shall have and maintain public liability and bodily injury insurance in the amount of Fifty Thousand Dollars ($50,000) for any one person and One Hundred Thousand Dollars ($100,000) for two or more persons in any one accident, as well as Five Thousand Dollars ($5,000) property damage insurance. Such insurance shall cover all passengers carried by the insured licensee and shall be for public taxicab purposes. All such policies shall contain a clause providing for ten days' written notice to the Administrator before cancellation and a memorandum of such insurance shall be furnished to the City before a license is issued.

350.04. Vehicle Requirements; Inspection. As a condition for the issuance of a taxicab vehicle license, the applicant shall file with the Administrator, a certificate signed by a competent and experienced mechanic acceptable to the City showing that each taxicab vehicle has been inspected within a period of 30 days prior to the application and found to be in proper mechanical condition and safe for the transportation of passengers.

350.05. Revocation. A taxicab driver's license or taxicab vehicle license may be revoked,

suspended or not renewed at any time for cause pursuant to the provisions of this chapter upon notice and hearing by the Council.

A. Any time that a licensee's Minnesota driver's license is suspended, revoked or canceled, his or her taxicab driver's license will likewise be immediately suspended, revoked or canceled. No person will operate a taxicab without a valid Minnesota driver's license.

B. Any person holding a taxicab driver's license whose Minnesota driver's license is suspended, canceled or revoked for any reason will immediately surrender his or her taxicab driver's license to the Police Department. The taxicab driver's license will be returned to the licensee upon reinstatement of the Minnesota driver's license or issuance of a limited license authorizing operation of a taxicab; provided, however, that suspension, cancellation or revocation of a Minnesota driver's license due to refusal to submit to a legally required blood alcohol test under the state implied consent statute will be grounds for the revocation, non-issuance or nonrenewal of the taxicab driver's license.

C. Any licensed taxicab driver whose Minnesota driver's license has been revoked and who has been issued a limited license authorizing the operation of a taxicab will immediately notify the Police Department of the same. At that time, the licensee will furnish to the Police Department a copy of the limited license and a written statement containing a schedule of the days and hours of each day during which he or she will be driving a taxicab during the term of the limited license. No deviation from the schedule will be permitted. In addition, the licensee will personally furnish to the Police Department copies of all trip sheets for all shifts worked during the term of the limited license. The limited license documentation and trip sheets must be furnished weekly, i.e., every Monday by 12:00 noon, to the Police Department.

D. Any person holding a taxicab driver's license will notify the Silver Bay Police Department immediately whenever he or she is convicted of an alcohol-related driving offense, whether or not it involves the operation of a taxicab.

E. Refusal to take and/or failure to pass a standard breathalyzer test administered pursuant to Minn. Stat. § 169.123 while on duty will be grounds for revocation of a taxicab driver's license.

F. Failure to comply with the provisions of this section will be grounds for revocation of a taxicab driver's license.

350.06. Appeals. A determination by the City to deny, suspend, revoke or not renew any license under this section may be appealed to the Council by filing with the Administrator a written notice of appeal within fifteen (15) days of the date on which the City mails such determination to the applicant or licensee. In that event, the appeal will be heard by the Council at its next meeting occurring at least fifteen (15) days after the filing of the Notice of Appeal. At any appeal of a determination by the City under this Ordinance, the licensee or applicant, or an attorney representing said party, may appear and make a presentation to the Council. The licensee or applicant shall present to the Council the basis for the determination being appealed. If the appeal is based on the results of a driving record or criminal history background investigation, the licensee or applicant may present to the Council evidence of rehabilitation as set forth in Subdivision 6.F of this Section. After the hearing, the Council may uphold, reverse or modify the decision of the City based upon the provision of this Ordinance and upon the protection of the public health, safety or general welfare. The Council shall issue written findings and determination within thirty-one (31) days of the hearing, unless the Council extends that time for good cause. A decision of the Council made following an appeal as set forth herein may be appealed by Writ of Certiorari to the Minnesota Court of Appeals pursuant to its Rules of Civil Appellate Procedure and Minnesota Statutes.

Section 360 - Omitted

Section 370 – Gambling

370.01. License required. No person shall conduct any gambling within the City without having applied for and obtained a license as provided in Minn. Stat. Chapter 349.

370.02. Exemptions. Bingo, raffles and other lawful gambling may be conducted within the City as provided by Minn. Stat. § 349.166 without securing a permit or license from the City.

370.03. Local Gambling Tax. The Council may by resolution adopted under this section impose a local gambling tax on any State licensed organization operating local lawful gambling, as provided in Minn. Stat. § 349.213, Sub.3.

Section 371 – Adult Oriented Business

371.01. Findings and Purpose.

371.01.1. The purpose of this section is to control, through licensing and zoning regulations, certain land uses that have a direct and detrimental effect on the character of the City's residential and commercial neighborhoods.

371.01.2. The Council makes the following findings about the effect adult uses and sexually-oriented businesses have on the character of the City. In making the findings, the Council accepts the recommendations and findings of other municipalities that have studied the experiences of other areas about such businesses. Based upon studies and findings, the Council concludes:

371.01.2.1. Adult uses and sexually-oriented businesses can contribute to an increase in crime in the area where such businesses are located. This can be a burden to City crime prevention programs and law enforcement services. To lessen the burden upon crime prevention programs, all adult-uses and sexually-oriented businesses, other than adult accessory uses, as defined and regulated in and by this section, shall be in the Business Park District.

371.01.2.2. Adult uses and sexually-oriented businesses have adverse secondary impacts of the types discussed above.

371.01.2.3. It is necessary to provide for the special and express regulation of businesses, establishments or commercial enterprises that operate as adult body painting studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades or theaters, adult novelty businesses, adult saunas and similar adult-oriented services operating under different names to protect the public health, safety and welfare, and to guard against the inception and transmission of disease.

371.01.2.4. The commercial enterprises such as the types described above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, are susceptible to operations contravening subverting or endangering the morals of the City by

being the site of acts of prostitution, illicit sex and occasions of violent crimes, and thus requiring close inspection, licensing and regulation.

371.01.2.5. Control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the police department and other departments of the City. These types of establishments can diminish the ability of the City to protect and promote the general health, welfare, morals and safety of the City. It is necessary for the City to provide services to all areas of the City. To reduce the demand on law enforcement services and other government services, commercial establishment of these types, other than adult accessory uses, as defined in and regulated by this section, shall be allowed only in the Business Park District.

371.01.2.6. The Council will adopt land use regulations and the licensing regulations pursuant to this section, recognizing that it has an interest in the present and future character of the City's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and to protect and promote the health, safety and welfare of the residents of the City.

371.01.2.7. It is not the intent of the Council to prohibit adult uses or sexually oriented business establishments from having an opportunity to locate in Silver Bay. It also is not the intent of the Council to regulate these businesses based on content, but only based on likely adverse secondary effects.

371.02. Definitions. For this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

371.02.1. "Adult use" shall mean any or all of the following: adult body painting studios, adult bookstores, adult cabarets, adult car washes, adult hotels or motels, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult health/sports clubs, adult saunas/steam rooms/bath houses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcades, adult modeling studios and all other premises, enterprises, establishments, businesses and places open to some or all members of the public, in person or via electronic or Internet means, at or in which there is an emphasis on the

presentation, display, depiction or description of specified sexual activities or specified anatomical areas which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by state-licensed or registered persons. Activities classified as obscene, as defined by Minn. Stat. § 5617.241, as it may be amended from time to time, are not lawful and are not included in the definition of adult uses.

371.02.2. "Adult Use, accessory" shall mean the offering of adult printed matter and/or adult video tapes and/or adult novelties where all such items occupy no more than one or both areas described in Minn. Stat. § 371.02.2.1 and § 371.02.2.2.

371.02.2.1. No more than ten percent (10%) of the floor space of the establishment that is dedicated to retail sales or one hundred (100) square feet of floor space, whichever is less.

371.02.2.2. No more than ten percent (10%) of the internal wall space of the establishment that is dedicated to retail sales or one hundred (100) square feet, whichever is less.

371.02.3. "Adult Use, principal" shall mean an Adult Use, other than an Adult Use, accessory, and shall include but not be limited to the following:

371.02.3.1. "Adult body painting studio" shall mean an establishment or business that provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.

371.02.3.2. "Adult bookstore" shall mean an establishment, building or business engaging in the barter, rental or sale of items or merchandise consisting of printed matter, pictures, slides, records, audiotapes, videotapes, computer or video disks, motion picture film or any other similar materials, if one or both of the areas described in (a) and (b) that follow have products or materials distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas:

(a) more than ten percent (10%) of the floor space of the establishment that is dedicated to retail sales or more than one hundred (100) square feet of floor space, whichever is smaller.

(b) more than ten percent (10%) of the internal wall space of the establishment that is dedicated to retail sales or more than one hundred (100) square feet of wall space, whichever is smaller.

371.02.3.3. "Adult cabaret" shall mean an establishment, building or business that provides dancing or other live entertainment if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, presentation, display, depiction, or description of specified sexual activities or of specified anatomical areas.

371.02.3.4. "Adult car wash" shall mean a wash facility for any type of motor vehicle that allows employees, agents, independent contractors or persons to appear in a state of partial or total nudity in terms of specified anatomical areas.

371.02.3.5. "Adult companionship establishment" shall mean an establishment or business if such establishment excludes minors because of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

371.02.3.6. **"**Adult entertainment facility" shall mean a building or space in which an admission is charged for entrance, or food or nonalcoholic beverages are sold or intended for consumption, and in which may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.

371.02.3.7. "Adult establishment" shall mean an establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices, either:

371.02.3.7.1. Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage either by law or by the operators of such business; or

371.02.3.7.2. Any business that offers its patrons services, products or entertainment characterized by an emphasis on matter depicting, exposing,

describing, discussing or relating to specified sexual activities or specified anatomical areas.

371.02.3.7.3. Specifically included in the term, but without limitation are adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel and adult body painting studios.

371.02.3.8. "Adult hotel or motel" shall mean a hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by matter depicting, describing or relating to sexual activities or specified anatomical areas.

371.02.3.9. "Adult massage parlor, health/sport club" shall restrict minors because of age and provide the services of massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

371.02.3.10. "Adult mini-motion picture theater" shall mean a business, building or establishment in an enclosed building with a capacity for less than 50 persons used for presenting visual media material if:

371.02.3.10.1. Such business as a prevailing practice excludes minors by age; or

371.02.3.10.2. Said material is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

371.02.3.11. "Adult modeling studio" shall mean an establishment or business whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

371.02.3.12. "Adult motion picture arcade" shall mean any building or place to

which the public is allowed or invited in which coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image- producing devices that show images to five or fewer persons per machine at once, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

371.02.3.13. "Adult motion picture theaters" shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by age, or if said material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

371.02.3.14. "Adult novelty business" shall mean an establishment, building or business engaging in the barter, rental or sale of adult novelties, if one or both areas described in (a) and (b) that follow have products or materials distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas:

(a) more than ten percent (10%) of the floor space of the establishment that is dedicated to retail sales or more than one hundred (100) square feet of floor space, whichever is smaller.

(b) more than ten percent (10%) of the internal wall space of the establishment that is dedicated to retail sales or more than one hundred (100) square feet of wall space, whichever is smaller.

371.02.3.15. "Adult printed matter" shall mean printed matter that is distinguished or characterized by an emphasis on matters depicting, describing or related to specified sexual activities or of specified anatomical areas.

371.02.3.16. "Adult sauna/steam room/bathhouse" shall mean a sauna/steam room/bathhouse that excludes minors because of age, or which provides a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by

an emphasis on specified sexual activities or specified anatomical areas.

371.02.3.17. "Adult video tapes" shall mean tapes that are distinguished or characterized by an emphasis on matters depicting, describing or related to specified sexual activities or of specified anatomical areas.

371.02.4. "Booths, stalls or partitions" shall mean enclosures specifically offered to persons for a fee or as an incident to performing sexual conduct, or enclosures which are part of a business operated on the premises which offers movies or any other type of entertainment dispensed for a fee. This definition does apply to enclosures which are private offices used by the managers, owners or persons employed on the premises for use during business which are not held open to the public or members of the establishment for hire or for a fee or for viewing movies or any other type of entertainment.

371.02.5. "Clean" shall mean the absence of dirt, grease, rubbish, garbage, semen, bodily excrement and other offensive, unsightly or extraneous matter.

371.02.6. "Entity" shall mean any corporation, limited liability partnership, partnership, limited liability company, joint venture or any other legally recognized business organization.

371.02.7. "Licensed family day-care home, licensed group family day-care home, licensed child-care center" shall mean a facility holding a license from Lake County or Minnesota pursuant to Minn. Stat. § 245A, as it may be amended from time to time, and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as they may be amended from time to time.

371.02.8. "Minor" shall mean any natural person under the age of 18 years.

371.02.9. "Nudity" shall mean the showing of the human male or female genitals or pubic area with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.

371.02.10. "Public library" shall mean any library that provides free access to all residents of a City or county without discrimination and is organized under the provisions of Minn. Stat. § 134, as it may be amended from time to time.

371.02.11. "Public park" shall mean a park, reservation, open space, play ground, beach or recreation or community center in the City owned, leased or used wholly or in part, by the City, county, state, school district or federal government for recreation purposes.

371.02.12. "Place of worship" shall mean a building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

371.02.13. "School" shall mean a building or space that is principally used as a place where 25 or more persons receive a course of educational instruction. Any postsecondary or post-high school educational building, including any college or any vocational-technical college, shall not be deemed a "school" for purposes of this section.

371.02.14. "Sexually-oriented business" shall mean an adult book store, adult body painting studio, adult car wash, adult cabaret, adult hotel or motel, adult companionship establishment, adult motion picture theater, adult mini-motion picture theater, adult massage parlor, adult entertainment facility, adult health or sports clubs, adult novelty business, adult modeling studio or adult sauna as defined herein. Activities classified as obscene as defined by Minn. Stat. § 617.241, as it may be amended from time to time, are not lawful and are not included in the definition of adult uses.

371.02.15. "Specified anatomical areas" shall mean anatomical areas consisting of:

371.02.15.1. Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, anus or female breast or breasts below a point immediately above the top of the areola or any combination of the foregoing; and

371.02.15.2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

371.02.16. "Specified sexual activities" shall mean activities consisting of the following:

371.02.16.1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock or female breast, flagellation or torture in a sexual relationship, or the use of excretory functions in a sexual relationship, and any of the following sexually-oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zooerasty;

371.02.16.2. Human genitals in the state of sexual stimulation, arousal or

tumescence;

371.02.16.3. Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation;

371.02.16.4. Fondling or touching of human genitals, pubic region or pubic hair, buttocks or female breast or breasts;

371.02.16.5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person;

371.02.16.6. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being;

371.02.16.7. Human excretion, urination, menstruation, vaginal or anal irrigation; or

371.02.16.8. Any combination of the above.

371.03. Licenses.

371.03.1. License Required. No person, firm or corporation shall own or operate an adult use, principal or sexually-oriented business in Silver Bay without having first secured a license as provided herein.

371.03.2. Application. The City shall provide an application form for any license required hereunder. This application shall include:

371.03.2.1. The name, residence, phone number and birth date of the applicant, if an individual; and if an entity, the names, residences, phone numbers and birth dates of those owners holding more than 5% of the ownership interests in such entity;

371.03.2.2. The name, address, phone number and birth date of each operator and manager of such operation, if different from the owners;

371.03.2.3. The address and legal description of the building, establishment or premises where the adult use or sexually-oriented business is to be located;

371.03.2.4. A statement detailing each misdemeanor or felony relating to a sex offense and/or the operation of adult uses or sexually-oriented businesses and related activities of which the applicant or, for an entity, the owners of more than

5% of the ownership interest of such entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other cities; additionally, the applicant must provide a signed release of information to allow the City to conduct its own investigation into criminal background of the applicant;

371.03.2.5. The activities and types of business to be conducted;

371.03.2.6. The hours of operation;

371.03.2.7. The provisions made to restrict access by minors;

371.03.2.8. A building plan of the premises detailing all internal operations and activities, including floor plan and provisions designed to prevent the display or perception by the public from any sidewalk or other public right-of-way of any adult use materials depicting, describing or related to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission or any other means;

371.03.2.9. A description or building plan that details all proposed interior and exterior changes to an existing building or structure; and

371.03.2.10. A plan of the exterior of the premises detailing all activities designed to prevent, deter and curtail any criminal activity or secondary effects. This plan includes but is not necessarily limited to parking lot design, parking lot lighting, exterior lighting and placement of screening material.

371.03.3. License Fees.

371.03.3.1. Each application for a license shall be accompanied by a receipt from the City for payment in full of the required application and investigative fee for the license as established from time to time by resolution of the Council. All fees shall be paid into the general fund of the City.

371.03.3.2. All licenses shall expire on the last day of December in each year. The City shall issue each license for one year, except that if part of the license year has elapsed when the application is made, the City may issue a license for the remainder of the year. The fee for any license shall not be prorated in such event.

371.03.3.3. The annual fee for an adult use or sexually-oriented business license shall be as established from time to time by resolution of the Council.

371.03.3.4. Each application shall contain a provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license and shall be a violation of this section punishable as a misdemeanor. Any changes in the information provided on the application or provided during the investigation shall be reported to the Council by the applicant or licensee. If said changes take place during the investigation, the data shall be provided to the Chief of Police in writing and they shall report the changes to the Council. Failure to report said changes by the applicant(s) or the licensee may result in a denial or revocation of a license.

371.03.4. Granting of License.

371.03.4.1. The City shall investigate all facts set out in the application. After the City finishes its investigation, the City shall hold a public hearing and shall give everyone present an opportunity to be heard for or against the granting of the license a chance to present his or her views. After the investigation and public hearing, the Council shall grant or refuse the application.

371.03.4.2. The City shall only issue a license to the applicant. The license may not be transferred to another holder. The City shall only issue a license for the premises or location described in the application. When a licensed adult use or sexually-oriented business is sold or transferred, the existing licensee shall immediately notify the Council of the sale or transfer. If the new owner or operator is to continue operating the adult use or sexually-oriented business, the proposed new owner or operator must immediately apply for a license pursuant to this section and cannot conduct an adult use or sexually-oriented business until such new owner or operator is issued a license under this section.

371.03.5. Persons Ineligible for License. The City shall not grant a license to, nor may one be held by, any person or entity who:

371.03.5.1. Has been convicted of any felony or been convicted of a misdemeanor involving sexual activities;

371.03.5.2. Is not the owner of the establishment for which the license is issued;

371.03.5.3. Has not paid the license and investigative fees required by this

section;

371.03.5.4. Is not a citizen of the United States;

371.03.5.5. Has had an adult use or sexually-oriented business or similar license or permit revoked under an ordinance or statute similar to this; and/or

371.03.5.6. Already has been issued a license under this section.

371.03.6. Places Ineligible for License.

371.03.6.1. No license shall be granted for adult uses or sexually- oriented businesses on any premises where a licensee has been convicted of a violation, or where any license hereunder has been revoked for cause, until one year has elapsed after such conviction or revocation.

371.03.6.2. No license shall be granted for any adult use or sexually- oriented business that does not meet all City code requirements, all building and fire code requirements and all provisions of state and federal law.

371.03.6.3. No adult use, principal, shall be granted for adult uses or sexually-oriented businesses for any premises not located in a Bay Business Park District.

371.03.7. Conditions of License.

371.03.7.1. Every license shall be granted subject to the condition in the following subdivisions and all other provisions of this section, and of any applicable sections of the Code, state and federal law.

371.03.7.2. All licensed premises shall have the license posted in a conspicuous place.

371.03.7.3. No minor shall be allowed in or on the premises of an adult use or sexually oriented business.

371.03.7.4. A designated inspection or law enforcement officer shall have the right to enter, inspect and search premises during business hours.

371.03.7.5. Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions of this section and the Code.

371.03.7.6. No adult goods, materials or services shall be offered, sold, transferred, conveyed, given, displayed or bartered to any minor.

371.03.7.7. All performers, dancers and persons providing live entertainment

distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas in the licensed premises where such entertainment can be seen by patrons of the licensed premises shall remain at all times a minimum distance of ten feet from all patrons, customers or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two feet from the level of the floor on which the patrons, customers or spectators are located.

371.03.7.8. No dancer, performer or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas shall fondle or caress any patron, customer or spectator.

371.03.7.9. No patron, customer or spectator of a licensed facility shall directly pay any gratuity to any dancer, performer or person, providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas. Neither shall any dancer, performer or other person solicit any pay or gratuity from any patron, customer or spectator.

371.03.8. Adult Use, Principal; Conditions. The City permits adult use, principal, only in the Business Park District. Adult use, principal, licenses shall be subject to the following conditions:

371.03.8.1. No adult use, principal, sexually-oriented business shall be located within the Business Park District closer than 1,000 feet from any preexisting residential lot line, place of worship, school, public park, open space, licensed family day-care home, licensed group family day-care home, public library or licensed child-care or daycare center. Measurements shall be made in a straight line, without regard to City boundaries, intervening structures or objects, from the nearest property line of the actual business premises of the adult use, principal, or sexually-oriented business to the nearest property line of the premises or building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day-care home, licensed group family day care home, public library or licensed child-care or day-care center.

371.03.8.2. All adult uses and sexually-oriented businesses must follow and comply with all the provisions of this section and the Code.

371.03.8.3. No building owner or operator shall have more than one of the following uses, tenants or activities in the same building or structure: adult body painting studio, adult book store, adult cabaret, adult car wash, adult companionship establishment, adult entertainment facility, adult hotel or motel, adult modeling studio, adult sauna/steam room/bath house, adult motion picture theater, adult mini-motion picture theater, adult massage parlor, adult health/sports club or adult novelty business.

371.03.8.4. An adult use principal sexually-oriented business shall not sell or dispense 3.2 malt liquor, wine or intoxicating liquors, nor shall it be in a building that contains a business that sells or dispenses 3.2 malt liquor, wine or intoxicating liquors.

371.03.8.5. No adult use, principal, sexually-oriented businesses shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of Silver Bay, the laws of the State of Minnesota or the United States of America. Nothing in this section shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes, ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale of distribution of specified materials to minors.

371.03.8.6. No adult use, principal, sexually-oriented business shall be conducted in any manner that permits the perception or observation from any property not licensed as an adult use of any materials depicting, describing or related to specified sexual activities or specified anatomical areas by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

371.03.8.7. All adult use, principal, sexually-oriented businesses shall prominently display a sign at the entrance and located within two feet of the door opening device of the adult use establishment, “This business sells or displays

activities and/or material containing adult themes. Persons under age 18 years of age shall not enter."

371.03.8.8. No person under the age of 18 shall be permitted on or in the premises of an adult use or sexually-oriented business establishment. No person under the age of 18 shall be permitted access to material displayed, offered for sale, given, transferred, conveyed or rented by an adult use or sexually-oriented business. Proof of age may be established only by a valid driver's license or identification card issued by Minnesota, some other state or a province of Canada, and the proof of age shall include a photograph and date of birth of the licensed person, a valid military identification card issued by the United States Department of Defense or in the case of a foreign national from a nation other than Canada, a valid passport.

371.03.8.9. Adult use, principal, sexually-oriented businesses shall not be open between the hours of 1:00 a.m. and 10:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 noon on Sunday nor between 4:00 p.m. on December 24 and 12:00 noon on December 26.

371.03.9. Adult Use, Accessory; Conditions. Adult use, accessory uses authorized in the Business Park District may only be operated under the following conditions:

371.03.9.1. The Adult Use, accessory, shall comprise no more than one or both areas described in (a) and (b) that follow:

(a) No more than ten percent (10%) of the floor space of the establishment that is dedicated to retail sales or no more than one hundred (100) square feet of floor space, whichever is smaller.

(b) No more than ten percent (10%) of the internal wall space of the establishment that is dedicated to retail sales or no more than one hundred (100) square feet of wall space, whichever is smaller.

371.03.9.2. "Display areas for adult video tapes and adult novelties shall be restricted from general view and shall be in a separate room, for which the access is in clear view and in the control of the person responsible for the business establishment. The sign required by Section 371.03.9.7 shall be placed at the entrance to such separate room."

371.03.9.3. Unless located in the separate room required by Section 371.03.9.2 hereof, adult printed matter shall not be accessible to minors and shall be covered with a wrapper or other means to prevent display of any materials other than the publication title.

371.03.9.4. Persons under age 18 may not be prohibited in the establishment.

371.03.9.5. The business must be conducted to fully comply with the provisions of Minn. Stat. Section 617.291-617.296.

371.03.9.6. No Adult Use, principal may be conducted in the establishment.

371.03.9.7. No use of adult novelties or viewing of adult videos shall be allowed in the establishment.

371.03.10. Revocation, Suspension and Renewal.

371.03.10.1. The Council may revoke, suspend or not renew a license upon the recommendation of the Administrator that shows the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:

371.03.10.1.1. Fraud, deception or misrepresentation about securing the license;

371.03.10.1.2. Habitual drunkenness or intemperance in the use of drugs including, but not limited to the use of drugs defined in M.S. Section 618.01, as it may be amended from time to time, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants or tranquilizers;

371.03.10.1.3. Engaging in conduct involving moral turpitude or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude;

371.03.10.1.4. Failure to follow any requirements of the ordinances of Silver Bay about sanitary and safety conditions, zoning requirements, building code requirements or ordinances, or failure to follow the requirements of this section; and/or

371.03.10.1.5. Conviction of an offense involving moral turpitude.

371.03.10.2. The certificate holder may appeal such suspension, revocation or

nonrenewal to the Council. The Council shall consider the appeal at a regularly scheduled public hearing on or after ten days from service of the notice of appeal to the Administrator. After the hearing, the Council may order:

371.03.10.2.1. Revocation, suspension or non-renewal be affirmed;

371.03.10.2.2. Revocation, suspension or non-renewal be revoked and that the license be returned to the license holder; and/or

371.03.10.2.3. The Council may impose, at their discretion, any additional terms, conditions or stipulations for the suspension or issuance of the license.

371.03.11. Limitations.

371.03.11.1. No more than one adult use license may be directly or indirectly issued to any one person, partnership or corporation or for any one place or location in the City.

371.03.11.2. No person, partnership or corporation shall have or possess a direct or indirect interest in more than one adult use license in the City.

371.03.11.3. The term "interest" as used in this section includes any pecuniary interest in the ownership, operation, management or profits of an adult use or sexually-oriented business does not include loans, rental agreements, open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to the establishment.

371.03.11.4. A person, partnership or a corporation which receives monies from time to time directly or indirectly from a licensee in the absence of a bona fide consideration therefor, and excluding bona fide gifts or donations, shall be deemed to have a pecuniary interest in such adult use license.

371.03.11.5. In determining whether an interest exists, the transactions must have been bona fide and the reasonable value of the goods and things received as consideration for a payment by the goods and things received as consideration for a payment by the licensee and all other facts reasonably tending to prove or disprove the existence of a purposeful scheme or arrangement to evade the restrictions of this section must be considered.

371.03.11.6. Upon conviction for violation of this section the Council may

revoke all licenses in which such convicted person, partnership or corporation has an interest.

371.03.12. Payment of Taxes, Assessments, Other Charges.

371.03.12.1. No adult use license shall be granted hereunder for the operation on any premises on which real estate taxes, assessments or other financial claims of the City are delinquent and unpaid.

371.03.12.2. In the event the applicant is the owner, either in fee or under a contract for deed of the real estate where the licensed business is to be located and there are delinquent real estate taxes and/or assessments and/or other financial claims of the City against such real estate, the Council may nevertheless, by affirmative vote of three members of the Council, authorize and direct the issuance of such license, but only if the applicant shall submit a certified copy of an agreement under any laws of the State of Minnesota for the payment of such delinquent taxes and assessments and other financial claims.

371.03.12.3. In the event the applicant does not own the real estate where the licensed business is to be located and there are delinquent real estate taxes and/or assessments and/or other financial claims of the City against such real estate, the Council may nevertheless, by affirmative vote of three members of the Council, authorize and direct the issuance of such license, but only if the applicant shall submit evidence to the Council that the owner of said real estate and the applicant have entered into a written rental agreement or lease providing that rent paid shall first be applied to such delinquent real estate taxes and assessments and other financial claims.

371.04. Sign and Window Display Restrictions.

371.04.1. The following sign regulations shall apply to all adult use, principal uses and adult use, accessory uses in the City.

371.04.2. All signs shall be flat wall or freestanding signs. No signs shall be located on any roof, or contain any flashing lights, moving elements or electronically or mechanically changing messages.

371.04.3. The City's sign regulations for the zone district where the business is located shall regulate the amount of allowable sign area and the number of allowed signs for an

adult use or sexually-oriented business as provided hereof and except that such businesses may have only one sign no larger than 100 square feet in size.

371.04.4. No merchandise, photos or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the adult use or sexually-oriented business is located.

371.04.5. Window areas shall not be covered nor made opaque in any way. No signs shall be placed in any window. The signs required by 371.03.9.7 may be placed on the door to state hours of operation and admittance to adults only.

371.04.6. All license holders under this section shall apply for and pay for any sign permit required by the applicable codes, rules and regulations of the Code.

371.05. Sanitation and Health.

371.05.1. Partitions Facilitating Sexual Activity. No license holder shall allow any partition between a subdivision, portion or part of the licensed premises having any aperture which is designed or constructed to facilitate sexual intercourse, sodomy, fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks or female breast between persons on either side of the partition.

371.05.2. Restrictions on Booths, Stalls or Partitions. No license holder shall allow or have on the licensed premises any booths, stalls or partitions used for the viewing of motion pictures or other form of adult use entertainment that have doors, curtains or portal partitions, unless such booths, stalls or partitions have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. The interior of said booths, stalls or partitions shall be lighted in a manner so that the persons within the booths, stalls or partitions are clearly visible from the adjacent public rooms.

371.05.3. Limit of Persons in Partitioned Area. Any booths, stalls or partitioned areas of a room, or individual rooms used for the viewing of motion pictures, other forms video entertainment or live entertainment, shall not be occupied by more than one person at a time.

371.05.4. Authority for Inspection. The Council and/or its designates shall have the authority to inspect or cause to have inspected the licensed premises and adjoining areas

to determine compliance with this section.

371.05.5. Sanitation Requirement. All adult uses and sexually-oriented businesses shall always be kept clean as herein defined.

371.05.6. Duty to Supervise. The license holder shall not permit specified sexual activities to take place on the licensed premises and shall have the affirmative duty to supervise the licensed premises and prevent such activities.

371.06. Criminal Penalties. Any violation of this section shall be a misdemeanor. Each day of violation shall constitute a separate penalty.

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Chapter 4

Alcoholic Beverages

Section 400 - Beer/Non-Intoxicating Malt Liquor/Intoxicating Liquor

400.01. Adoption of Statutes. All applicable provisions of Minn. Stat. § 340A are adopted by reference and incorporated herein as if set forth here in full.

400.02. Definitions.

Subd. 1. Alcoholic Beverage. Any beverage containing more than one-half of one percent alcohol by volume.

Subd. 2. Club. An incorporated organization organized under the laws of the State of Minnesota for civic, fraternal, social, or business purposes, for intellectual improvement, promotion of sports or congressionally chartered veteran's organizations.

Subd. 3. Intoxicating Liquor. Ethyl alcohol, distilled, fermented, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 4. Malt Liquor. Any beer, ale, or other beverage made from malt by fermentation and containing less than one-half of one percent alcohol by volume.

Subd. 5. Minor. Any person who has not reached the legal drinking age as established by state law.

Subd. 6. Non-Intoxicating Malt Liquors. Any malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Subd. 7. Off-sale. The sale of alcoholic beverages in original packages for consumption off the premises only.

Subd. 8. On-sale. The sale of alcoholic beverages for consumption on the licensed premises only.

Subd. 9. Wine. Sparkling and carbonated wine, wine made from condensed grape, wine made from other agricultural products, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than seven percent nor more than 24 percent alcohol by volume for nonindustrial use.

400.03. License Required. No person, except a wholesaler or a manufacturer to the extent authorized by law, shall deal in or dispose of by sale, gift, or otherwise, or keep or offer for sale, any alcoholic beverage within the City unless a license shall first have been applied for and obtained from the Administrator as provided in Chapter 3, Section 300 of this Code. Each license shall be issued to the applicant only and shall not be transferable to another person without the approval of the Council. Each license shall be issued only for the premises described in the application. No license shall be transferred to another place without the approval of the Council.

400.04. Temporary License.

Subd. 1. 3.2 percent Malt Liquor.

A. A club or charitable, religious, or nonprofit organization may be issued a temporary on-sale or off-sale license for sale of 3.2 or less percent malt liquor for such period as may be authorized by the Council.

B. The temporary license may authorize the sale of 3.2 malt liquor in any school or school buildings.

Subd. 2. Intoxicating Beverages.

A. A club, charitable, religious, or other nonprofit organization, in existence for at least three (3) years, may be issued a temporary license for on-sale of intoxicating liquor in connection with a social event within the City.

B. The temporary license may authorize the on-sale of intoxicating liquor for not more than four (4) consecutive days.

C. The temporary license may authorize the on-sale of intoxicating liquor on premises other than that the licensee owns or permanently occupies.

D. The temporary license may authorize the licensee to contract for intoxicating liquor catering service with the holder of a full-year on-sale intoxicating liquor license.

400.05. Intoxicating liquor. On Sale. The City may issue on-sale intoxicating liquor licenses to the following establishments located within the City:

A. Hotels or motels;

B. Restaurants;

C. Bowling centers;

D. Clubs or chartered veteran's organizations; and,

E. Exclusive liquor stores.

400.06. Wine. Pursuant to the provisions of Minnesota Statutes § 340A.404, Subd. 5, the City may issue on-sale wine licenses to any restaurants or bed and breakfast facilities that meet the requirements set forth in the statute, permitting the sale of wine for consumption on the premises only.

400.07. Fees. The fee for licenses under this section shall be as established by resolution of the Council but not less than provided in Minnesota Statutes § 340A.408.

400.08. Conditions and Restrictions. All licenses issued shall be subject to the restrictions set for in Minnesota Statutes § 340A.402. The term alcoholic beverage as used in this subsection shall include nonintoxicating malt liquors.

Subd. 1. Age. No license shall be granted to any minor person.

Subd. 2. Intoxicated person. No alcoholic beverage shall be sold to any intoxicated person.

Subd. 3. Minors.

A. The licensee or the licensee's employees shall not sell or serve alcoholic beverages to any minor or permit any minor to consume alcoholic beverages on the licensed premises. It is unlawful for any person under the age of 21 years to enter an establishment licensed for the sale of alcoholic beverages or any municipal liquor store to purchasing or to be served or delivered any alcoholic beverage.

B. No person other than the parent or legal guardian shall procure an alcoholic beverage or induce any other person to procure any alcoholic beverage for any minor and then only for consumption in the parent's or legal guardian's household.

C. No person shall induce a minor to purchase or procure any alcoholic beverage.

D. No minor shall misrepresent his or her age to obtain an alcoholic beverage.

E. No minor shall have in his or her possession an alcoholic beverage with intent to consume the same at any place unless accompanied by his or her parent or guardian and in the parent's or guardian's household.

F. No minor under the age of eighteen (18) shall be allowed to serve or sell alcoholic beverages in any "on sale" or "off sale" establishment.

400.09. Responsibility. Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of sobriety and order. The act of any employee on the licensed premises authorized to sell alcoholic beverages shall be deemed the act of the licensee and the licensee shall be liable for all penalties provided in this Chapter equally with the employee.

400.10. Penalties. Any person who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor unless otherwise provided by law.

Section 410 - Municipal Liquor Dispensary

410.01. Municipal Liquor Store Maintained. The established Silver Bay Municipal on-sale and off-sale Liquor Store shall be continued and maintained in the City.

410.02. Control and Operations. The operations of the Municipal Liquor Store shall be supervised and be subject to the control of the Council through the recommendations of the City Liquor Control Commission.

410.03. Hours and Restrictions. The hours of sale in the Municipal Liquor Store shall be those hours authorized by Minn. Stat. § 340A, as from time to time amended, subject to further restrictions established by the Council. No liquor shall be sold or furnished to any person except as allowed in Minn. Stat. § 340A.

410.04. Transfer of Funds. Fifty per cent (50%) of all annual net profits of the Municipal Liquor Store shall each year be transferred to the Parks and Recreation Fund.

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Chapter 5

Nuisances and Offenses

Section 500 - Public Misconduct

500.01. Disorderly Conduct. Whoever does any of the following in a public or private place within the City or Municipal Airport, knowing, or having reasonable grounds to know that it will, or will tend to, alarm, anger or disturb others or provoke an assault or breach of peace, is guilty of disorderly conduct:

A. Engages in brawling or fighting;

B. Disturbs a lawful assembly or meeting;

C. Engages in public urination; or,

D. Engages in offensive, obscene, or abusive language or in a boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.

500.02. Public Nuisance. Whoever by an act or failure to act or to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance:

A. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of the public;

B. Interferes with, obstructs, or renders dangerous for passage, any public street or right-of-way, or waters of the public;

C. Is guilty of any act or omission declared by law to be a public nuisance; or

D. Has control of real property and permits it to be used to maintain a public nuisance.

500.03. Disruptive Intoxication.

Subd. 1. Definitions. The following words and terms, when used in this subdivision, shall have the following meanings unless the context clearly indicates otherwise:

A. Public Place. Public place includes a building or place controlled by the City, a school, or a place of worship, any public street, including public sidewalk, alley, walk or other publicly owned lands. Public place shall include privately owned parking lots that are open to the public by invitation or custom, such as businesses and apartment complexes. Public place excludes the premises of a licensed alcohol establishment.

B. Intoxicated Person. A person who is presently impaired, mentally or emotionally, as a result of the presence of alcohol, drugs or a controlled substance in the person's body or a combination thereof. Evidence of an intoxicated person may include, but is not limited to, any combination of the following indicators:

1. Odor of intoxicants on the breath;
2. Bloodshot, watery eyes;
3. Dilated pupils;
4. Stumbling or staggering;
5. Slurred speech;
6. Failure of Standardized Field Sobriety tests;
7. Failure of Drug Recognition Protocol;
8. Alcohol concentration of .08 or more; or,
9. Unconsciousness.

C. Public Disruption. Conduct by an individual to include loud, boisterous yelling, urinating in public, lewd or combative conduct, disobeying a police officer's lawful command or interfering with the flow of pedestrian or vehicular traffic.

Subd. 2. Disruptive Intoxication. No person, while intoxicated, in a public place, shall conduct him or herself to be a danger to themselves or others and/or engage in public disruption.

Subd. 3. Sobriety Testing. No person shall be cited under this section without first having been offered and failed the Standardized Field Sobriety Test or a Portable Breath Test (PBT); However, a person incapable of or having refused a Field Sobriety Testing or a PBT may be cited under the criteria set forth in Subdivision 1.B.

Subd. 4. Penalty. A violation of this section shall be a petty misdemeanor subject to a fine as established by resolution of the Council.

Section 510 - Curfew

510.01. Restriction After Certain Hours. Except as otherwise provided, no person under eighteen (18) years of age shall be or remain in or upon any of the streets, alleys or public places, vacant lots, place of amusement or recreation, or other similar place in the City between the hours of 10:00 P.M. and 5:00 A.M. of the following day during the school year, and between the

hours of 11:00 P.M. and 5:00 A.M. of the following day during the summer school vacation months.

510.02. Exceptions. The restrictions of Subsection 510.01 shall not apply to a minor under eighteen (18) years of age, who:

A. Is accompanied by a parent, guardian or other person having the legal care, custody or control of the minor;

B. Is in the performance of an errand or duty directed by the parent, guardian or other person having the legal care, custody or control of the minor;

C. Is going to, attending, or returning by direct route from a social, church, school or recreation board sponsored function;

D. Has lawful employment which makes it necessary to be or remain hours after the specified hours, or unless there exists other reasonable necessity or emergency;

E. Is in a vehicle involved in inter-state travel;

F. Is an emancipated minor; or,

G. Is on the sidewalk abutting the premises of his or her parent or legal guardian or the sidewalk of a neighbor with the neighbor's consent.

510.03. Duty of Parent or Guardian. It shall be unlawful for any parent, guardian or other person having the legal care, custody or control of any minor under the age of eighteen (18) years to allow or permit the minor to violate the provisions of this Section.

510.04. Duty of Business Places. It shall be unlawful for any person, firm or corporation operating or in charge of any place of amusement, entertainment, refreshment, or other place of business to permit any minor under the age of eighteen (18) years to enter or remain in the place during the hours prohibited by this Section unless the minor shall be accompanied by the minor's parent or guardian or other person having the legal care, custody or control. Whenever the owner or person in charge or in control of such business shall find minors under the age of eighteen (18) years loitering, loafing, or idling in the place of business, they shall immediately order the minor to leave, and if the minor refuses to leave the place of business, they shall immediately inform the Police Department of the violation.

510.05. Interpretation. This Section shall not be construed as permitting the presence at any time of any person under the age of eighteen (18) years in any place where the minor's presence is now prohibited by any existing law or this Code.

510.06. Duty of Police Officers and Violations. Each member of the Police Department while on duty shall be authorized to take into custody or arrest, without warrant, any person violating the provisions of this Section. Any person taken into custody shall, for a first violation, be taken by the officer to their homes or place of abode of their parents, guardians or other persons having legal care, custody or control, and notify the parent(s) or legal custodian(s) of the violation. Upon a subsequent violation of the provisions of this Section, the minor child shall be deemed a "delinquent child" as defined in Minn. Stat. § 260B.07.

510.07. Other Violations. No person, who is charged with a duty in this Section shall violate any of the provisions of this Section.

Section 520 - Weapons

520.01. Carrying Firearms or Air Powered Weapons. No person, except a duly authorized law enforcement officer in the performance of his or her duties, shall carry any pistol, rifle, shot gun, air rifle, B-B gun or air gun (hereinafter referred to as "firearm") within the City unless the firearm is unloaded and is transported in accordance with Minnesota Statutes.

520.02. Concealed Weapon. Except as authorized by law, no person shall carry any concealed firearm within the City. Nothing in this Chapter shall prevent or prohibit the carrying of such firearms by full-time licensed Police Officers.

520.03. Discharge. The discharge of any firearm as defined in Subsection 520.01, any air powered weapons, or arrows from bows of any type, or the practice and sport of archery is prohibited, except at a duly established practice or target area or archery range within the City.

520.04. Target and Archery Ranges. The Council may by resolution authorize or establish practice or target areas for the use and discharge of all types of firearms and air powered weapons as referred to in Subsections 520.01 and 520.03, and may by resolution establish or designate archery range or ranges within the limits of the City.

520.05. Hunting Prohibited. No person may hunt game or wild animals within the City unless authorized to do so in writing by the Minnesota Department of Natural Resources or the Chief of Police.

520.06. Adoption of Statute. The requirements and restrictions contained in Minn. Stat. §§ 609.66, 609.663, 609.665, 609.666, 609.668, 609.67, 624.711, 624.712, 624.713, 624.7131,

624.7132, 624.714, 624.715 and 624.716 are adopted by reference and incorporated in this Chapter as if set forth in full.

Section 530 - Trapping

530.01. Trapping Prohibited. No person, except a duly authorized Minnesota Department of Natural Resources conservation officer, may set any trap or snare, or engage in trapping of animals within the City unless authorized in writing by the Department of Natural Resources and the Chief of Police.

530.02. Regulations. The Chief shall prepare trapping regulations and distribute them to each person who is authorized to trap. The regulations shall provide that traps must be placed in a safe manner, clearly marked, and residents in area notified prior to setting traps.

530.03. Adoption of Statute. The regulatory provisions of Minnesota Statute Chapters 97A and 97B regarding trapping are adopted by reference and incorporated in this Chapter as if set forth in full.

Section 540 – Fires

540.01. Permit Required. It shall be unlawful for any person to start, conduct, or allow any fire on any property within the City without a permit issued under this section, except for fires contained in a charcoal grill, camp stove, or similar device.

540.02. Recreational Fire.

Subd. 1. Definition. A fire not more than three feet in diameter and two feet in height used for pleasure, religious, ceremonial, cooking, warmth, or similar purposes contained within the border of a "recreational fire site" or fire ring.

Subd. 2. Requirements.

A. The requirements set forth in the Minnesota State Fire Code, adopted and incorporated herein by reference, shall apply to all recreational fires.

B. Recreational fires shall be conducted with an adult tending the fire at all times; extinguished completely before quitting the occasion; and respecting the weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created; using dry, clean wood producing little detectable smoke, odor or soot beyond the property line.

C. The Council may establish additional permit conditions as it may consider necessary for health, safety, and the avoidance of nuisance conditions.

540.03. Open Burning.

Subd. 1. Definition. All other fires not otherwise contemplated by Section 540.02, Subd. 1 are designated "open burning."

Subd. 2. Requirements.

A. The provisions of Minn. Stat. §§ 88.16 - 88.171 regulating open burning are adopted and incorporated herein by reference.

B. The Council may establish additional permit conditions as it may consider necessary for health, safety, and the avoidance of nuisance conditions.

540.04. Person designated to issue permits. The Fire Chief, or the Chief's designee for this purpose, is hereby authorized to issue permits under this section.

540.05. Permit Fees. The applicant shall pay a permit fee as established by the Council. The fees for such permits shall be in an amount established by the Council by resolution or ordinance.

540.06. Enforcement. The Fire Chief, Chief of Police, police patrol officers, or other authority designated by the City, are authorized to administer and enforce the provisions of this section.

Section 550 - Weeds, Grass, and Junk

550.01. Weeds and Grasses. Any weeds or grasses growing upon any lot or parcel of land located within an improved area in the City to a height greater than eight (8) inches on the average and which have gone or are about to go to seed shall be a nuisance. This requirement does not apply to the following: (1) a wetland or floodplain designated in Chapter 12 Zoning of this Code, (2) required wetland buffers or those voluntarily created by a private land owner when compatible with the character of the neighborhood and compliance with federal or state storm-water requirements, or (3) a drainage pond or ditch that stores or conveys storm-water.

550.02. Waste and Junk.

Subd. 1. The accumulation of garbage, refuse, rubbish, trash, junk or other waste materials upon any lot or parcel of land within the City exclusive of such materials placed in any suitable containers for the purposes of disposal is a nuisance.

Subd. 2. No person shall place upon any boulevard, which is the area between the curb line and property line or between the edge of the roadway and property line, any garbage, refuse,

waste or junk, including garbage storage or collection containers, except for short term waste disposal purposes.

550.03. Waste Accumulation. It is a nuisance to park or store any discarded or unused machinery, furniture, household furnishings or appliances, or parts of components thereof, trash or other material on any property, public or private, in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from theaccumulation.

550.04. Abatement. The owner or occupant of any property shall abate or prevent any nuisance described in this Section on its property and on the land outside the traveled portion of the street or alley abutting the property. If any nuisance described above shall continue for a period of more than fifteen (15) days, the Police Department shall proceed with abatement enforcement in accordance with Section 550.06.

550.05. Enforcement. It shall be the responsibility of the Police Department to make regular inspections to assure compliance with this section.

550.06. Abatement Enforcement Procedure.

Subd. 1. Procedure. Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the City, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance within fifteen (15) days as required by Section 550.04. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the Council. Thereafter, the Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the Council, the City may seek injunctive relief by serving a copy of the Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

Subd. 2. Notice. Written notice of the violation; notice of the time, date, place, and subject of any hearing before the Council; notice of the Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If

the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by positing it on the premises.

Subd. 3. Emergency procedure; summary enforcement. In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in Subdivisions 1 and 2 of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify the occupant or owner of the premises in writing of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the Council may order summary enforcement and abate the nuisance.

Subd. 4. Immediate abatement. Nothing in this section shall prevent the City, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

Subd. 5. Judicial remedy. Nothing in this section shall prevent the City from seeking a judicial remedy when no other adequate administrative remedy exists.

550.07. Recovery of Cost.

Subd. 1. Personal liability. The owner of the premises on which a nuisance has been abated by the City, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the Administrator or other City official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the Administrator.

Subd. 2. Assessment. After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the

Administrator shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the Council may determine in each case.

550.08. Penalty. Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

Section 560 – Abandoned, Junk or Unauthorized Vehicles or Motor Vehicle Waste

560.01. Abandoned, Junk or Unauthorized Motor Vehicles or Motor Vehicle Waste.

Subd. 1. Declaration of nuisance. Any abandoned, junk or unauthorized motor vehicle, or motor vehicle waste, as defined in Minn. Stat. § 168B.011, whether located on public or privately owned property, shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

Subd. 2. Inoperable motor vehicles. It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to Minn. Stat. § 168B.011.

Subd. 3. Impoundment and Sale. The City Police Department shall take into custody and impound any abandoned, junk or unauthorized motor vehicle or motor vehicle waste, as provided in Minn. Stat. §168B, and shall give notice of the taking as provided by Minn. Stat. § 168B.06. If the owner or any lien holder does not reclaim the vehicle within the period provided by Minn. Stat. § 168B.07, it shall provide for the sale of the vehicle to the highest bidder at

public auction or sale following two (2) weeks published notice. Unsold vehicles may be disposed of as provided in Minn. Stat. § 168B.09.

Subd. 4. Disposition of Proceeds. The proceeds of the sale of impounded motor vehicles shall be deposited or disbursed as provided in Minn. Stat. § 168B.08, Subd. 3.

Section 570 – Destruction of Cemetery Property

570.01. Destruction of Cemetery Property. No person shall deface, mutilate, destroy or cause any damage to any monuments, decorations, gravesites or cemetery property, nor build any signs or other objects contrary to the rules and regulations of this Code and Minnesota Statutes.

570.02. Penalty. Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

570.03. Repair and Restitution. The City shall be allowed to repair any damage caused to any monuments, decorations, gravesites or cemetery property and recover the cost of repair, or replacement of irreparable items, through restitution from the person(s) causing said damage.

Section 580 – Destruction of City Property

580.01. Destruction of City Property. No person shall deface, mutilate, destroy or cause any damage to any property owned by the City.

580.02. Penalty. Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

580.03. Repair and Restitution. The City shall be allowed to repair any damage caused to any City property and recover the cost of repair, or replacement of irreparable items, through restitution from the person(s) causing said damage.

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Chapter 6

Animals

Section 600 - Dogs and Cats

600.01. License Required.

Subd. 1. General. No person shall keep any dog or cat over the age of six (6) months within the City without first securing a license therefore from the Administrator. The Administrator shall keep a record of all licenses issued, and shall issue an appropriate tag for each license. The license shall be placed on the dog or cat's collar by the owner. The license tags and licenses shall not be transferrable and no refunds shall be made on any such license fee because of the owner leaving the City or death of the dog or cat before expiration of the license period.

Subd. 2. Rabies. No dog or cat license shall be issued unless the applicant presents a certificate of rabies vaccination from a licensed veterinarian certifying that the dog or cat to be licensed has a currently effective vaccination or booster shot within the preceding one (1) year, or unless the veterinarian certifies that the dog or cat cannot be vaccinated for health reasons.

Subd. 3. Number of Animals allowed. Not more than four (4) dogs or four (4) cats, or any combination of the two not to exceed four (4) total animals, may be kept in any residence or residential area (zoned R1 or R2) except in an authorized dog pound. Litters of more than four (4) dogs or four (4) cats may not be kept in a residence or residential area for more than six (6) months after birth.

600.02. License and Impoundment Fees. The annual dog or cat license fee and fee for impoundment and care of any impounded dog or cat shall be as established by resolution of the Council. The resolution when adopted shall be incorporated in this Chapter.

600.03. Definitions.

Subd. 1. At Large or Running at Large. An animal that is not in a proper enclosure or on a leash under the control of the owner or keeper of the animal. Animals off the property of the owner or keeper shall be on a leash of such length that the animal may be properly controlled so as not to cause fear or apprehension of harm to the public.

Subd. 2. Dangerous Dog. Any dog that has:

A. Without provocation, inflicted bodily harm on a human being on public or private property; or,

B. Without provocation, killed any domestic animal while off the premises of the owner or keeper's property; or,

C. Been found to be potentially dangerous, and after the owner or keeper has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Subd. 3. Owner. Any person harboring, keeping, having an interest in, or having care, custody, or control of a dog or cat.

Subd. 4. Potentially Dangerous Dog. Any dog that:

A. When unprovoked, inflicts bites on a human or domestic animal on public or private property;

B. When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

C. When unprovoked, has a known propensity, tendency, or disposition to attack, causing injury or otherwise threatening the safety of humans or domestic animals.

Subd. 5. Proper Enclosure. "Proper Enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure to prevent the dog from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or which door or window screens are the only obstacles that prevent a dog from exiting.

600.04. Running at Large. The owner of any dog or cat shall not permit the dog or cat to run at large within the City.

600.05. Nuisance. No person shall keep any dog or cat that creates or causes a disturbing noise or nuisance by persistent barking, howling or odor, or exhibits vicious or dangerous propensities likely to cause injury or fear of injury in any person.

600.06. Registration of Dangerous Dogs. No person may own or keep a dangerous dog unless it is registered as provided in Minn. Stat. § 347.51. Copies of any registration documents required by the statute shall be filed with the Administrator.

600.07. Keeping of Dangerous Dogs. The owner of a dangerous dog shall keep the dog in a

proper enclosure while on the owner's property. If the dog is outside the proper enclosure, the dog shall be muzzled and restrained by a substantial chain or leash and under the physical restraint and control of the owner.

600.08. Keeping of Potentially Dangerous Dogs. The owner of a potentially dangerous dog shall keep the dog in a proper enclosure or restrained by a substantial chain or leash while on the owner's property. If the dog is outside of a proper enclosure on a chain or leash, protection from the elements shall be provided that is readily accessible to the dog.

600.09. Notice. Except as otherwise provided in this section, the Chief of Police, animal control officer or any person designated by the Council shall notify the owner or custodian of any dog or cat that is unlicensed, running at large or otherwise in violation of this Chapter. The dog or cat may be impounded and kept during the notice period. After five (5) regular business days' written notice to the owner, or five (5) regular business days posted notice if the owner be unknown, if there is no response, the designated city official may dispose of any animal found in violation to this Chapter.

600.10. Impoundment.

Subd. 1. Animal Pound. The Council may by resolution establish an animal pound and provide for care and maintenance of impounded animals.

Subd. 2. Reclamation. Except for dangerous dogs, the owner may reclaim any animal within the time specified by paying the impoundment and care fee.

Subd. 3. Disposal of Unclaimed Animals. After expiration of the notice period the designated official may kill or otherwise dispose of the animal by sale or gift.

600.11. Confiscation of Dangerous Dogs. The Police Department or designated animal control officer may seize any dangerous dog kept in violation of this Chapter, subject to the provisions of Minn. Stat. § 357.54, which statute is adopted herein and incorporated by reference.

600.12. Summary Disposal. Any police officer or the animal control officer shall be authorized and empowered to kill any dog or cat found in violation of this Chapter whenever the animal cannot be safely taken up and impounded or where immediate action shall be necessary to protect the health and welfare of the public.

600.13. Interference with Officials. It shall be unlawful for any unauthorized person to attempt or break open the pound or to release any animals therefrom or to interfere with any official in enforcing the provisions of this Chapter.

600.14. Cleaning up Litter. The owner of any dog or cat, or any person having the custody or control of any dog or cat shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner.

600.15. Dog and Cat Excrement. It shall be unlawful for any person who owns or has custody or control of a dog or cat to cause or permit the animal to defecate on any private property without consent of the property owner or on any public property, unless the person immediately removes the excrement and places it in a proper receptacle. It shall be the duty of each person having the custody or control of a dog or cat, when the dog or cat shall be upon any of the places or areas described in the immediate preceding sentences, to have in his or her immediate possession a device or equipment for the picking up and removal of feces. For the purposes of this Section, "public area" shall include any property open for public use or travel even though it is privately owned. The provisions of this section shall not apply to seeing eye dogs under the control of a blind person or dogs while being used in City Police Department activity. A violation of this sub-section shall be a petty misdemeanor.

600.16. Property Damage. No person having the custody or control of a dog or cat shall permit the dog or cat to damage any lawn, garden or other property, public or private. This Section shall not be construed by implication or otherwise to allow dogs or cats to be where they are otherwise prohibited by the ordinances of the City.

600.17. Owner's Liability. The owner of any dog that kills, wounds or threatens any domestic animal, or damages any property, shall be liable in damages to the owner of the domestic animal or property.

Section 610 - Animals and Fowl

610.01. Permit Required. No person shall keep, feed or raise in the City any horses, sheep, cattle, goats, pigs, rabbits, mink, chickens, ducks, geese, peacocks, poultry, fowl or other farm animals, wild animals or reptiles, (hereinafter referred to as "animal" or "fowl"), without first having obtained a permit from the Council. The singular term as used herein shall also include the plural.

610.02. Restrictions. Animals and fowl described in Section 610.01 shall be prohibited in R1 and R2 zoning districts and strictly regulated and controlled in FR zoning districts. It is the intent of this Section that the animals and fowl described in Section 610.01 shall be raised or kept only in areas zoned as FR and suitable for that purpose such as farm or open areas that will

not impact on the peace and tranquility of residential areas. Animals and fowl shall only be kept or securely confined in a proper enclosure.

610.03. Proper enclosures. A "proper enclosure" means a securely confined indoor enclosure or a securely enclosed and locked pen or structure to prevent the animal or fowl from escaping. The enclosure shall provide proper protection from the elements.

610.04. Permit Fee. A permit fee as established by resolution of the Council for each species of animal or fowl shall be paid by the person applying therefor before issuance of the permit.

610.05. Running at Large. The owner or keeper of any animal or fowl shall not permit the animal or fowl to run at large within the City. "At large" means off the premises of the owner and not under the direct supervision and control of the owner or keeper of the animal.

610.06. Nuisance. No person shall keep any animal or fowl that creates a nuisance by disturbing noise, creating odor, or otherwise exhibiting vicious or dangerous propensities, causing or likely to cause injury or fear of injury in any person.

610.0.7. Dangerous and Potentially Dangerous Animals and Fowl. No person shall keep any dangerous or potentially dangerous animal or fowl unless the animal or fowl is kept in a proper enclosure and under the direct control or restraint of the owner or custodian. "Dangerous" and "Potentially Dangerous" shall have the same meaning as defined in Section 600.03.

610.08. Notice. The Chief of Police, animal control officer or any person designated by the Council shall notify the owners of any animal or fowl that is unlicensed, running at large or otherwise in violation of this Chapter. The animal or fowl may be impounded and kept during the notice period. After five (5) regular business days after written notice to the owner, or five (5) regular business days posted notice if the owner be unknown, if there is no response, the designated city official may dispose of any animal or fowl found in violation to this Chapter.

610.09. Summary Disposal. Any police officer or the animal control officer shall be authorized and empowered to kill any animal or fowl in violation of this Chapter whenever the animal or fowl cannot be safely taken up and impounded or where immediate action shall be necessary to protect the health and welfare of the public.

610.10. Interference with Officials. It shall be unlawful for any unauthorized person to attempt or break open the animal pound or to release any animals or fowls therefrom or to interfere with any official in enforcing the provisions of this Chapter.

610.11. Cleaning up Litter. The owner of any animal or fowl, or any person having the

custody or control of any animal or fowl, shall be responsible for cleaning up any litter or feces of the animal or fowl and disposing of the litter and feces in a sanitary manner.

610.12. Animal or Fowl Excrement. It shall be unlawful for any person who owns or has custody or control of any animal or fowl to cause or permit the animal or fowl to defecate on any private property without consent of the property owner or on any public street, sidewalk, park or other public property, unless the person immediately removes the excrement and places it in a proper receptacle. It shall be the duty of each person having the custody or control of any animal or fowl, when they shall be upon any of the places or areas described in the immediate preceding sentences, to have in his or her immediate possession a device or equipment for the picking up and removal of feces. For the purposes of this Section, "public area" shall include any property open for public use or travel even though it is privately owned.

610.13. Damage to Person or Property. No person having the custody or control of any animal or fowl shall permit the animal or fowl to harm or injury to any person or damage any lawn, garden or other property, public or private. The owner of any animal or fowl shall be liable in damages to any person injured or to the owner of any property for all damages done by the animal or fowl. This Section shall not be construed by implication or otherwise to allow animal or fowl to be where they are otherwise prohibited by the Code or other regulations of the City.

610.14. Health Inspection. The Administrator or animal control officer may require a health inspection of any animal or fowl by a licensed veterinarian before issuance of a permit. The applicant shall pay the cost of the health inspection.

Section 620 - Domestic Pets

620.01. Domestic Pets.

Subd. 1. Exemption. Except for dogs and cats, persons keeping “domestic pets,” as defined in Section 1200.03, Subd. 23, shall not be required to obtain a permit. Except for dogs and cats, domestic pets are exempt from the permit or licensing requirements of this Chapter.

Subd. 2. Permits. The Council may require a permit or license for certain domestic pets that may cause a health hazard or may endanger or cause apprehension of danger or fear on the part of the public.

Section 630 – Compliance with Silver Bay Zoning Code

630.01. Compliance with Zoning Ordinances. No person shall possess any animal contemplated by this Chapter when the provisions of the Silver Bay Zoning Code prohibit said animal from the property where they are possessed. If conflicting or multiple interpretations arise between the Silver Bay Zoning Code and this Chapter, the regulations imposed by this Chapter shall control.

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CHAPTER 7

UTILITIES

Section 700 - Electric

700.01. Electrical Code. The National Electrical Code as amended and adopted by the State Building Code, as amended, is adopted by incorporated herein by reference.

700.02. Inspector. The City shall use the State of Minnesota Electrical Inspector. Any person requiring electrical inspection services shall apply directly to the State Electrical Inspector for necessary permits and inspection services and shall comply with all rules and regulations of the State Electrical Inspector.

Section 710 - Plumbing

710.01. State Plumbing Code Adopted. The Minnesota Plumbing Code, and regulations adopted thereunder, as amended, is adopted and incorporated herein by reference.

710.02. Permit Required. No person, including owners of property who wish to do their own plumbing work, shall construct, install or alter any plumbing, drain, vent, sump, water closet, sink, lavatory or other plumbing fixtures within the City without first obtaining a permit from the Administrator or such other person that the Council may designate.

Subd. 1. Exceptions. No permit shall be required in case of routine maintenance and repairs not affecting sanitation such as mending of leaks in faucets, valves or water supply pipes, mending of broken fixtures, tanks, kitchen boilers, replacing fractures, releasing frozen pipes or rodding and flushing of any house sewer or drain.

710.03. Plumbing Inspector. A plumbing inspector ("Inspector") shall be appointed by the Council and shall act under such rules and regulations as the Council may establish.

Subd. 1. Duties. It shall be the duty of the Inspector to enforce the provisions of this Section. The Inspector shall have the authority and power to issue citations or sign complaints for violations of this Section. The Inspector shall have the authority to enter any building or premises in discharge of the Inspector's duties.

Subd. 2. Compensation. The Inspector shall receive such compensation as may be set by resolution of the Council.

710.04. Compliance. All plumbing work, including that done by the owner of the property, shall comply with the Minnesota State Plumbing Code, as amended, and the provisions of this Section and shall meet the requirements of the Inspector.

Subd. 1. Inspection Required. All plumbing work hereafter constructed shall be inspected, and if found not to be in accordance with this Section, shall be corrected.

Subd. 2. Correction. If after written notice to the person installing work requiring correction thereof the person neglects or refuses to conform to the order, the City or any duly appointed Inspector may remove the work and charge the cost thereof to the person installing the same. No person shall cover any such work without first having an inspection. Refusing to correct work when so ordered by the Inspector shall be a violation of this Section.

710.05. Forms. All forms for applications, permits and Inspector's fee statement shall be furnished by the City and issued by the Administrator.

710.06. Fees. The fees for permits and inspections shall be as set by resolution of the Council.

Section 720 - Sewers

720.01. Definitions. For purposes of this Chapter, the terms and words used herein shall be defined as follows:

Subd. 1. Commission. The Public Utilities Commission of the City of Silver Bay.

Subd. 2. Superintendent. The Superintendent of Public Utilities Department of the City or authorized deputy, agent or representative.

Subd. 3. Sewage. A combination of the water-carried wastes together with such ground, surface, and storm waters as may be present.

Subd. 4. Sewer. A pipe or conduit for carrying sewage.

Subd. 5. Sanitary Sewer. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Subd. 6. Service Wye Branch. The joint at which the sewer service line is attached to the sewer main line.

Subd. 7. Sewer Service Line. The sewer line from the house or building to the sewer main line.

Subd. 8. Person. Any individual, firm, company, association, society, corporation, or group.

Subd. 9. Undue Hardship. A condition where compliance with this Chapter is not practical or economically feasible or where there is no other reasonable alternative.

720.02. Mandatory Connections. The owner or owners of all houses, buildings or properties used for human occupancy, employment, recreation, or other purpose, situated within the City and abutting on any street, alley, or right-of-way in which there shall be located a public sanitary sewer of the City, shall be required at the owner's expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this Section within ninety (90) days after date of official notice to do so by the Superintendent, provided that the public sewer shall be within one hundred fifty (150) feet of the property line and if practical and economically feasible.

720.03. Sewers and Connections.

Subd. 1. Permit Required. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Public Utilities Department. The permit application shall be supplemented by any plans, specifications, or other information required by the Superintendent.

Subd. 2. Costs and Expenses. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall defend, indemnify and hold harmless the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Subd. 3. Multiple Connections. A single, separate and independent sewer line shall be allowed for every house or building with one (1) sewer connection to the main sewer line except with the recommendation of the Superintendent.

Subd. 4. Unlawful Connection.

A. It is hereby declared that the infiltration or discharge of clear water into the sanitary sewer system of the City is detrimental to the health, welfare, safety and convenience of the public. No roof downspouts, exterior or interior footing drains, subsoil footing or foundation drains, areaway drains, sump pumps or other sources of storm water, ground runoff or surface water shall be directly or indirectly connected into a sanitary sewer unless otherwise authorized by the Commission and only in case of undue hardship.

B. Except as hereinafter provided, all unlawful connections as prohibited by Subd. 4 A. shall immediately be disconnected by the owner, tenant or occupant, at their expense.

C. The Superintendent shall inspect the premises served by the sanitary sewer connection to determine the extent to which the sanitary sewer is being used for disposal of sub-surface, foundation, surface or rain water, and make recommendations to the Council. The Superintendent shall have the authority to enter any building or premises, and no person shall refuse to grant admission, in the discharge of his or her duties.

D. The owner, occupant, or tenant of a premises found to have an unlawful connection shall be given notice in writing directing that person to disconnect the connections from the sanitary sewer system within 15 days of the post-marked date of the letter advising of the unlawful connection.

E. Undue Hardship. The Commission by resolution may exempt any premises from compliance with this Chapter if upon good cause shown the compliance would subject the owner, occupant or tenant to undue hardship.

F. If any person fails or refuses to make the disconnection from the sanitary sewer system within fifteen (15) days of the post-marked date of the letter advising the owner of the unlawful connection, a fine of $250 shall be assessed against the owner of the property. If the disconnection is not remedied within thirty (30) days of the post-marked date of the letter advising of the unlawful connection, a second fine of $500 shall be assessed against the owner of the property. If the disconnection is not remedied within sixty (60) days of the post-marked date of the letter advising the owner of the unlawful connection, the City may make the necessary corrections and charge the cost thereof to the property owner. If the owner fails or refuses to pay the fines assessed herein or the costs incurred by the City to make necessary corrections, the charges may be made a lien upon the premises and shall be certified to the County Auditor as a special assessment and collected with other taxes.

720.04. Connections to Main Service Line. The connection of the service line into the main sewer line shall be made at a wye branch intended for that purpose and at a suitable location. If no properly located wye branch shall be available, the owner shall at the owner's expense install a wye branch in the main sewer line at the location specified by the Superintendent. A neat hole shall be cut into the main sewer line to receive the service line with entry in the downstream

direction at an angle of about forty-five (45) degrees. A fitting with collar shall be used to prevent the protruding of the service line into the main sewer line. Special fittings may be used for the connection only when approved by the superintendent. The maximum allowable cut opening in an eight (8) and ten (10) inch main sewer line shall be for a four (4) inch service line; the maximum allowable cut opening in a twelve inch or greater main sewer line shall be for a six (6) inch service line; and any service line of over six (6) inches must enter the main sewer line at a proper wye or at a manhole.

Subd. 1. Approval by Superintendent Required. All connections made to a sanitary sewer line, either the main or the service line, shall be inspected and approved by the Superintendent. The sewer line shall be covered and backfilled after approval.

Subd. 2. Construction of Service Line. All sewer service lines shall be made with clay tile, cast irons, transite, or other suitable material approved by the Superintendent. The size and shape of the sewer service line shall be subject to the approval of the Superintendent, but in no event, shall the diameter be less than six (6) inches for clay tile, and four (4) inches for other material. All joints and connections shall be made water tight. The sewer service line shall be laid with an equal gradual slope with not less than one-eighth (1/8) inch per foot. Changes in direction shall be made only with properly curved pipe and fittings. All excavations required in the installation of a sewer service line shall be open trench work unless otherwise approved by the Superintendent. Pipe laying shall be on solid natural undisturbed earth or one hundred per cent (100%) compacted material. When backfilled, the first one foot above and around the pipe must be ninety-five per cent (95%) compacted earth. In no event, shall backfill be placed until the work has been inspected by the Superintendent.

Subd. 3. Street Crossings. When it is necessary for a sewer service line to cross a city street, an application for a permit shall be filed with the Public Works Department. The Superintendent of the Public Works Department may authorize the work including trenching, backfilling and street surface restoration per regulations and specifications established by the Public Works Department, subject to approval of the Council. The work shall be done under the supervision and inspection of the Public Works Department and the Superintendent of the Public Utilities Department.

Subd. 4. Notification. The applicant for the sewer service line construction permit shall notify the Superintendent when the sewer service line shall be ready for inspection and

connection to the main sewer line. The connection shall be made under the supervision of the Superintendent.

720.05. Use of Public Sewers.

Subd. 1. Discharge of Storm Water. No person shall discharge or cause to be discharged any storm water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as shall be specifically designated as storm sewers or to a natural outlet approved by the Superintendent.

Subd. 2. Prohibited Discharge. Except as provided in this Chapter, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

A. Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas.

B. Any feminine sanitary napkins, disposable diapers, ashes, cinders, sand, mud, wood or metal shavings, metal, rags, glass, feathers, tar, plastics, paper dishes or cups, unground garbage, or any other solid or viscous substance capable of causing obstructions to the flow in sewers or other interferences with the proper operation of the wastewater treatment plant.

C. Any waters or waste containing a toxic or poisonous substance in sufficient quantity that injures or interferes with any sewage treatment process, or constitutes a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.

D. Any waters or wastes containing suspended solids of the character and quantity that unusual attention or expense shall be required to handle the materials at the wastewater treatment plant.

E. Any noxious or malodorous gas or substance capable of creating a public nuisance.

Subd. 3. Special Discharge Permit. No person shall discharge wastes into the public sewer system from commercial, industrial, or other sources that are of a volume greater than ordinary one family household use, per unit, or are otherwise prohibited without first making application to the Commission for a Special Discharge Permit. The Commission may issue the Permit after due consideration and under such terms and conditions, regulations and supervision

as may be necessary for the protection of the integrity of the wastewater treatment system and receiving waters of the discharge.

720.06. Maintenance of Sewer Lines.

Subd. 1. Cleaning and Rodding of Sewer Service Line. The owner of each sewer service line shall be responsible for the expense of cleaning, repair and replacement of the sewer service line from the owner's house or building to the service line's connection to the main sewer line. Should excavation of the sewer service line be required due to blockage thereof caused by damage to the service line or found to be plugged by tree roots, rags, grease, soaps or other foreign materials, excavation, cleaning and opening shall be at the expense of the property owner. If the blockage is due to a collapsed line under the surfaced portion of the street, the City shall be responsible for the cost of making necessary repairs to the street and the owner of the service line shall be responsible for that portion of the collapsed line under the surfaced portion of the street.

Subd. 2. Tree Roots, Removal of Boulevard Trees. Where it is found that the roots of a tree growing in a boulevard cause blockage in any sewer service line, the owner of the service line may request the Superintendent, or the Superintendent, in the Superintendent's discretion, may have the offending tree removed by the Public Works Department at the expense of the City. This remedy shall not affect the sewer service line owner's responsibility for the expense of removing a blockage in the service line caused by tree roots from whatever source.

Subd. 3. Planting Trees Prohibited. No trees shall be planted in the area immediately over or within ten (10) feet on either side of a sewer service line or a sewer main line.

Subd. 4. Abandonment of Sewer Service Line. All sewer service lines and installations connected to the sanitary sewer system that have been abandoned or for any other reason shall not be used, shall be disconnected by the property owner at his or her expense at the service wye and a cookie or another plug approved by the superintendent inserted in the bell and sealed. The disconnection and sealing shall be inspected and approved by the superintendent before it is backfilled.

720.07. Unlawful Deposits. It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other putrescible waste.

720.08. Natural Outlets. Except where suitable treatment shall have been provided in accordance with this Chapter, it shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of the City, any sanitary sewage, industrial wastes, or other polluted waters.

720.09. Privies and Private Sewage Disposal Systems. Except as provided in this Section, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, mound system or other facility intended or used for the disposal of sewage.

Subd. 1. Exceptions. Where it is not practical or economically feasible due to terrain, soil conditions or distances from the City sanitary sewer system, the City may allow disposal of sewage outside the City sanitary sewer system, provided:

A. The property owner shall make application to the Commission for approval of an individual sewage disposal system.

B. Detailed plans and specifications, approved by the Superintendent, shall be submitted with the application for a permit.

C. The Commission may grant such permit provided the proposed facility meets Minnesota Department of Health requirements and will not be detrimental to the health and welfare of the public.

Subd. 2. Minn. Stat. § 115.55, as amended, is adopted and incorporated herein by reference.

720.10. Powers and authorities of Inspectors. It shall be the responsibility of the Superintendent to enforce the provisions of this Chapter. The Superintendent and other duly authorized employees of the City shall be permitted to enter on all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Chapter. The Superintendent shall have the authority and power to issue citations or sign complaints for violations of this Chapter.

720.11. Violations and Penalties.

Subd. 1. Notice. Any person found to be violating any provision of this Chapter shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit designated by the Superintendent for the satisfactory correction thereof. The offender shall, within the period of the time stated in the notice, permanently cease all violations.

Subd. 2. Other Liability. In addition to other penalties provided by this Code, any person who shall violate any of the provisions of this Chapter shall become liable to the City for any expense, loss, or damage occasioned the City because of the violation.

Section 730 - Water

730.01. Definitions. As used in this Chapter the following definitions shall apply:

Subd. 1. Commission. The Public Utilities Commission of the City of Silver Bay.

Subd. 2. Corporation Stops. The connection at the main of the service of the service connection.

Subd. 3. Curbstop. A shut-off and control valve usually located at the edge of the platted lot line or property line.

Subd. 4. Grade. The average ground level at the area involved.

Subd. 5. Superintendent. The superintendent of the Public Utilities Department of the City or authorized deputy, agent or representative.

Subd. 6. Tap. To tap onto or connect to the water main.

Subd. 7. Utility Department. The Silver Bay Public Utilities Department.

Subd. 8. Water Main. The principal water line maintained by the City.

Subd. 9. Water Service Connection. The connection running from the water main and used or to be used to water service connection therefrom.

730.02. Connections. All connections made to or taps onto any water main in the City shall be made under the direction of the Utility Department.

730.03. Ownership. Curb stops and curb stop boxes installed shall be the property of the City and shall be operated only by members of the Utility Department in their official capacity.

730.04. Maintenance.

Subd. 1. Curb Stop. When a curb stop has been installed, responsibility for its maintenance and care shall be that of the City. All repairs to curb stop shall be made by the Utility Department at the expense of the property owner.

Subd. 2. Service Lines.

A. From Main to Curb Stop. The responsibility for the maintenance of service lines from the water main to the respective curb stops shall be that of the City. This responsibility shall include repairing leaks and thawing frozen lines. The expense thereof

shall be imposed upon the property owner where it can clearly be shown that the damage or freezing of the line resulted from negligence or carelessness of the property owner.

B. From Curb Stop to Building. Costs of water service installations from the water main, including connection to the main, shall be at the expense of the property owner. It shall be the responsibility of the owner to maintain the service line, including repair of leaks and thawing frozen lines, from the curb stop into the house or building.

Subd. 3. Service Line Repair. In case of failure of a property owner to commence repair on a leak or thawing frozen lines within 24 hours after being notified in writing to do so, the water shall be turned off. Where there is a substantial waste of water or when damage will likely result from the leak, the water shall be turned off if the repair has not commenced immediately after giving notice.

If the water is turned off because of the failure of the owner to commence repair as notified, a turn off charge as set forth in the fee schedule on file in the Administrator's office shall be charged and shall be paid before service shall be restored. If the property owner cannot either close or seal the service line shut-off valve within the building to make necessary repair, the Utility Department, upon request, shall turn off the water at the curb stop. No turn off or turn on charge shall be made if the owner makes necessary repairs or replacement of the service lines shut-off valve within forty-eight (48) hours.

730.05. Standards. All service connections from the curb stop to the corporation stop shall be of continuous copper tubing of at least three-fourths (3/4) inch diameter with flared copper to copper connections. No copper to copper connection shall be used from the corporation stop to a curb stop unless its length exceeds sixty (60) feet.

Subd. 1. Corporation cocks size. The maximum size of corporation cocks shall be:

A. three-fourths (3/4) inch corporation stop shall be installed in a four (4) inch main.

B. one (1) inch corporation stop in a six (6) inch main.

C. one and one-half (1½) inch corporation stop in an eight-inch main.

D. two (2) inch corporation stop in a ten (10) inch and larger main. If a service larger than 2 inches shall be required, the service shall be from a tee installed on the main. A service requiring larger than the allowable tap into the main shall be increased by using a tapped full circle clamp coupling unless otherwise authorized by the Superintendent. The installation of the clamp requires the water to be turned off on the main and the charges

for the installation shall be based on material and labor as set forth in the schedule. Prior to installation of the clamp, the water shall be turned off by the Utility Department at the expense of the owner.

E. Curb stop boxes and parts therefore may be purchased from the City, or if purchased from suppliers, shall conform to standards and specifications established by the Utility Department which specifications shall conform to generally accepted plumbing standards.

730.06. Backfilling. Trenching, backfilling of trenches and restoration of street surfaces from mains to curbs shall be done under direction of the Public Works Department and Superintendent in accordance with specifications established by the Public Works Department. No such backfilling shall be begun until the Public Works and Utility Departments shall have been notified, and approval given.

730.07. Charges. Charges for tapping a water main, turning water service off and on, and other services provided by the Utility Department shall be as set forth in the fee schedule established by resolution of the Council.

730.08. Abandoned Service. All service installations connected to the water system that have been abandoned or for any reason shall no longer be used shall within 30 days after notice be disconnected or shut off at the main at the cost of the owner. In the event of subdivision of lots where service installation shall not be used, the owner shall notify the City and shall pay all costs of disconnection. The property owner shall pay for the cost of digging or trenching, whether the work is done by the property owner or City to permit the Utility Department to disconnect at the main. If the property owner elects to have the City do the digging or trenching, a request to do the work shall be made to the Superintendent. The Superintendent or designee shall supervise all such work.

730.09. Watering Restrictions. Whenever the Superintendent determines that a shortage of water may occur because demand exceeds supply or a shortage exists, the Superintendent shall have the authority to limit the time and hours during which the water may be used for sprinkling, irrigation, car washing, or other specified uses.

730.10. Liability. The City shall not be liable for any deficiency or failure in the supply of water to consumers whether occasioned by shutting off the water for making repairs or connections or from any other cause whatever.

Section 740 - Solid Waste Collection

740.01. Purpose. The collection and disposal of garbage, refuse and rubbish is an essential public service. The Council has determined that to protect the health and welfare of the citizens of Silver Bay it is necessary to control the method of solid waste collection. The Council has further determined that it is to the best interests of the public that collection and disposal of solid waste be by contract and that it is the most effective and cost efficient method of providing such service.

Minnesota Statutes § 443.015 provides:

> § 443.015. Assessment to Dispose of Garbage or Refuse in Certain Cities.
> The council of any statutory city or city of the fourth class which shall provide by contract or otherwise for regular collection and disposal of garbage or refuse from dwellings and places of business in the statutory city or city of the fourth class may by ordinance obligate the owners of all property served to pay the proportionate cost of such service to their respective properties, and in default of payment such Council may annually levy an assessment equal to such unpaid cost as of September first of each year, against each lot or parcel of land so served for which the service charge is unpaid. Such assessment may include a penalty not to exceed ten percent of the amount thereof and shall bear interest at such amount not exceeding six percent per annum as the council shall determine. Such assessment shall be certified to the auditor of the county in which the land assessed is situated and shall be collected and remitted to the city treasurer in the same manner as assessments for local improvements.

740.02. Definitions.

Subd. 1. Garbage. Any waste foodstuffs, table wastes of vegetables or animal origin, or all putrescible wastes, but excluding sewage or water-carried wastes.

Subd. 2. Refuse or Junk. Means ashes, glass, plastics, crockery, tin cans, old metal, paper, boxes, rags, tires, oil, grease, old clothing and similar waste materials from normal household living conditions and business operations.

Subd. 3. Rubbish. Fragments of buildings, broken or imperfect pieces of any structure, trash waste or rejected matter.

Subd. 4. Solid Waste. Solid waste as used in this section means, garbage, refuse, junk and rubbish.

740.03. Deposit of Garbage Restricted. No person shall deposit or cause to be deposited any garbage, refuse or rubbish upon any street, alley, vacant lot or upon any ground or area except the manner provided in this Section.

740.04. Construction or Industrial Wastes. Waste materials from building construction, factory wastes or rubbish from industrial plants shall be disposed of by the owners of the waste pursuant to the provisions of the Minnesota and Federal laws and regulations.

740.05. Burning Prohibited. No person shall burn any garbage or refuse by open burning, incinerators, stoves, or in any other manner within the City. Refuse may be burned in an incinerator built as an inherent part of a building with the approval by the Council or such person as the Council may designate. Every person having or desiring to construct an incinerator shall make application to the Council for a permit therefor.

740.06. Municipal Garbage Collection Continued. The established municipal garbage collection system shall be continued and maintained under the exclusive right and authority of the City franchised garbage collection and removal service to collect and dispose of all solid waste within the City.

740.07. Exclusive Collection System.

Subd. 1. Franchise. The City may grant a franchise to a garbage collection service to collect and dispose of all solid waste within the City. The franchisee shall be subject to such rules and regulations and serve under such terms and conditions as the Council may establish by resolution or by contract between the City and the franchisee.

Subd. 2. Landfill. The solid waste collected by the franchised garbage collection service shall be hauled to and deposited in an approved landfill.

Subd. 3. Costs. The franchised garbage collection service shall pay the cost of all landfill charges imposed by the operator of the landfill.

740.08. Storage of Garbage and Refuse.

Subd. 1. Containers. Garbage and refuse shall be kept in the types of storage and collection containers prescribed by the franchised garbage collection service. The franchised garbage collection service shall adopt rules for type and size of garbage storage and collection containers which rules shall be approved by the Council.

Subd. 2. Regulations. Storage, collection and depositories of garbage, refuse and rubbish shall comply with applicable regulations of appropriate state agencies.

740.09. Charges for Collection and Disposal Services.

Subd 1. Charges. The franchised garbage collection service shall fix all charges for collecting and disposing of solid wastes, including the time of the collection, subject to the approval of the Council by resolution.

Subd. 2. Billing. Unless otherwise determined by resolution of the Council, the billing and collection of service charges for collecting and disposal of solid waste shall be the sole responsibility of the Administrator. The Administrator shall transmit amounts due to the garbage collection system less collection fees established by the Council. The service charge for garbage and refuse collection shall be entered, shown and placed on the utility bill as provided by Minnesota Statutes § 443.28. All such charges shall be paid to the Administrator with the charges for water and sewer. If not paid when due, the procedure for collection of delinquent water and sewer accounts shall apply.

740.10. Transporting of Garbage, Refuse and other Waste Materials. All garbage, refuse or other solid wastes shall be transported on the streets of the City exclusively by the franchised garbage collection service in vehicles with leak proof bodies and cleanable construction so their contents will not drip or spill on the streets. Residents may transport refuse, rubbish, junk and other waste materials to approved collection centers. Property owners, occupants of real property, builders and contractors may transport and dispose of construction materials in approved disposal areas.

740.11. Adoption by Reference. Minn. Stat. §§ 115A, et al., are adopted and incorporated herein by reference.

Chapter 8 Building & Housing

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CHAPTER 8

BUILDING AND HOUSING

Section 800 - State Building Code

800.01. State Building Code Adopted. The Minnesota State Building Code, established pursuant to Minn. Stat. §§ 326B, et al., and published in Minnesota Rules Chapters 1300 through 1370 incorporating the Minnesota Plumbing Code, the Minnesota Energy Code and the National Electric Code, are adopted herein by reference as the building code for the City.

Subd. 1. Mandatory Enforcement Provisions. The City shall administer all mandatory provisions of the Minnesota State Building Code as amended.

Subd. 2. Optional Enforcement Provisions Adopted. The City may adopt fee schedules and bonding requirements as part of Minnesota Rules Chapter 1302 as a part of the State Building Code for the City.

800.02. Application, Administration, and Enforcement. The application, administration, and enforcement of the Minnesota State Building Code in the City shall be in accordance with Minnesota Statutes and Minnesota Rules Chapters 1300 and 1305.

Subd. 1. Building Official. The Council, pursuant to Minn. Stat. §326B.133, shall appoint a Building Official who shall attend to all aspects of State Building Code administration. The Building Official shall enforce the provisions of this Chapter and shall have the authority and power to issue citations or sign complaints for violations of this Chapter.

800.03. Permits, Inspections. Permits shall be issued, inspections conducted, and fees collected as provided for in Minn. Stat. § 326B.153.

800.04. Fees and Surcharge.

Subd. 1. Fee Schedule. The Fee Schedule shall be established by resolution of the Council.

Subd. 2. Surcharge. In addition to the fees required under Subd. 1 above, the applicant for a building permit shall pay a surcharge to be remitted to the Commissioner of Labor and

Industry pursuant to Minn. Stat. §326B.148.

Section 810 - Fire Prevention

810.01. Scope. The provisions of this Subdivision are in addition to requirements imposed elsewhere in this Code. In the event of inconsistent provision, the strictest shall control.

810.02. State Fire Code.

Subd. 1. Adoption. The Minnesota State Fire Code, as amended, is adopted by reference and incorporated herein if set out here in full. Minnesota State Fire Code means those codes and regulations adopted by the state fire marshal in accordance with Minn. Stat. § 299F.011 and in Minnesota Rules Chapters 7510.0200 to 7510.3000 and 7511 et al.

Subd. 2. Modification. The Chief of the Fire Department, with the approval of the Council, shall have power to modify any of the provisions of the State Fire Code but only to enact more stringent requirements as authorized by Minn. Stat. § 299F.011. The particulars of any modification shall, upon adoption by the Council, be entered upon the records of the Fire Department.

810.03. Enforcement. The Chief of the Fire Department of the City or the Chief's authorized representative shall enforce the provisions of this Chapter. The Chief shall have the authority and power to issue citations or prepare and sign complaints for violations of the Minnesota State Fire Code or this Chapter. The Chief may detail such members of the Fire Department as inspectors as shall from time to time be necessary.

810.04. Storage of Flammable or Combustible Liquids.

Subd. 1. Above Ground Storage. The limits referred to in the Minnesota State Fire Code and Minnesota Rule 7511 in which storage of flammable or combustible liquids in outside, above-ground tanks are prohibited, shall be established as follows: All residential districts having an “R” or “Residential” category in Chapter 12 of the Code.

Subd. 2. Bulk Plants. The limits referred to in the Minnesota State Fire Code and Minnesota Rule 7511 in which new bulk plants for flammable or combustible liquids are prohibited, are established as follows: All districts except those zoned “Limited Industry” and

"General Industry."

810.05. Bulk Storage of Liquefied Petroleum Gases and Explosives or Blasting Agents. The limits referred to in the Minnesota State Fire Code in which bulk storage of liquefied petroleum gas is restricted, shall be established as follows: All districts except those zoned "General Industry."

810.06. Appeals. Whenever the Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that provisions of the Code do not apply or that the true intent and meaning of the Code is misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief to the Council within thirty (30) days from the date of the decision.

810.07. New Materials, Processes or Occupancies Which May Require Permits. The Building Official, Chairman of the Planning & Zoning Commission and the Chief of the Fire Department shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in the Code.

810.08. Penalties. In addition to other penalties provided by this Code, the imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy the violations or defects within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

Section 820 - Housing Requirements

820.01. Purpose. The purpose of this Section is to provide a system by which the owners of all principal buildings located in the City are required to post the address number assigned to their principal building in specified locations in accordance with this Section, and to promote the public health, safety and general welfare and to further the implementation of the emergency services.

Chapter 8 Building & Housing

820.02. Address Numbers.

Subd. 1. Requirements. Address numbers shall be displayed on houses or principal buildings in numerals not less than four (4") inches high and of contrasting color to the background.

Subd. 2. Clearly Visible. Numbers shall be clearly visible from the nearest street.

Subd. 3. Posted Sign. In those cases where the principal building is obscured from the view from the street address by accessory buildings, trees, shrubbery or other visual obstruction, the number shall be displayed from a permanent mounting on the property, clearly visible from the street, displayed prominently in numerals not less than four (4") inches high and of contrasting color to the background.

Subd. 4. Mailboxes. Those wishing to display their physical address in conjunction with their mailing address on their mailbox must display the physical address above the mailing address, in numerals not less than two (2") inches high, of a light reflective material and of contrasting color to the background.

Section 830 - Trailer Coaches

830.01. Purpose. In the exercise of its police power and to promote the general welfare of the people and for the protection of property rights in the City, it shall be unlawful to park and use a trailer coach within the City limits where the trailer coach is to be used as a residence or office in any area except as provided in this Section.

830.02. Definition. For the purpose of this Section, a "trailer coach" shall mean any vehicle used or so originally constructed as to permit its being used as a conveyance upon the public streets or highways and shall include self-propelled or non-self-propelled vehicles as designed, constructed, reconstructed or added to by means of an enclosed addition or room in such a manner as shall permit the occupancy thereof as a dwelling, sleeping place or office for one or more persons, having no foundation other than wheels, jacks, skirting or blocks, and that do not meet the standards of a regular house or building. A trailer coach shall be deemed and considered to be used as a residence or office if the trailer coach shall be continuously occupied

by one or more persons for such purposes for a period exceeding seven days**.**

830.03. Location. Nothing contained in this Chapter shall prohibit the parking or using of the trailer coaches for a residence or office in an established trailer court.

830.04. Temporary Use. The Council may grant permission for the temporary use of trailer coaches as offices upon application made to it, and for good cause shown where the trailer coach is to be used as an office in connection with the construction of permanent building or buildings within the City.

830.05. Violation and Penalty. The Police Department shall be empowered to cause the trailer coach in violation of this Section to be towed or hauled from the premises. In addition to other penalties provided by this Code, any person who is found to be in violation of this section shall be required to pay the cost of removal of the trailer coach.

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Chapter 9

Street and Sidewalks

Section 900 - Construction

900.01. Permit Required. No sidewalk, curb or gutter shall be constructed on any street or public property within the City without first having obtained a permit from the Administrator on forms approved by the Council. No permit shall be required for work ordered done by the Council.

900.02. New Construction. In newly developed areas or in areas that do not have sidewalks, the developer or property owners shall construct sidewalks as ordered by the Council in the following manner:

A. The Council shall pass a resolution ordering all developers or owners of real property abutting on the proposed sidewalks to construct the sidewalks according to standard specifications on file in the office of the Administrator.

B. When any sidewalk ordered to be constructed under this chapter shall not be built by the developer or property owner within the time specified in the resolution, the sidewalk shall be constructed by the City as provided in this section.

C. Upon expiration of the time set forth in the resolution, the Public Works Department Superintendent shall make a report with the names, addresses and legal descriptions of owners of all property which have completed the sidewalk construction and all who have not.

D. Upon receipt of the report, the Council shall pass a resolution ordering the work to be done by a contractor to be employed by the City. The Council may in its discretion order the work done by its own crews or by day labor.

E. Upon completion of the work contracted for, the total cost of the work shall be assessed against the real property adjacent to the sidewalks in proportion as the number of front feet abutting on the portion bears to the total number of lineal feet laid.

900.03. Special Assessments. Special assessments as provided above shall be made pursuant to the provisions of Minn. Stat. § 429 et al.

900.04. Sidewalk Repairs. This section shall apply to installation and construction of new sidewalks and shall not affect any Code provisions adopted regarding repair and maintenance of sidewalks.

Section 910 - Current Services

910.01. Current Services. The term "current service" as used in this section shall mean one or more of the following: rubbish removal from sidewalks, weed elimination from street grass plots adjacent to sidewalks or from private property, street cleaning, repair of sidewalks, care of trees, location of mailboxes or other obstructions to street.

910.02. Nuisance Declared. All dirt and rubbish remaining on a public sidewalk more than twelve (12) hours after its deposit thereon shall be deemed a public nuisance. The owner and the occupant of any property adjacent to a public sidewalk shall use due diligence to keep the walk safe for pedestrians. No owner or occupant shall allow dirt or rubbish to remain on the walk longer than twelve (12) hours after its deposit thereon. If the owner or occupant refuses or fails to remove the dirt or rubbish from the sidewalk, the Public Works Department shall remove it as soon as possible beginning twelve (12) hours after any such matter has been deposited thereon. The cost of the removal by the City shall be charged to the owner of the property adjacent to the sidewalk.

910.03. Boulevard Tree Care.

Subd. 1. Determination of Need. The Council shall determine the boulevard trees that shall be trimmed and cared for, the kind of work to be done and what unsound trees shall be removed. Before any work shall be done, the Administrator shall give public notice of the proposed project. The Public Works Department may trim or remove trees that constitute an immediate hazard.

Subd. 2. Tree Planting. No person shall plant trees in the public boulevard or plant trees on private property in a location that may obstruct the view of street traffic without first obtaining a permit from the Administrator.

Subd. 3. Tree Removal. The Public Works Department shall, after notice to the adjacent property owner, remove any trees that do not comply with this section.

Subd. 4. Tree Planting and Removal Specifications. The Public Works Department Superintendent shall prepare and keep on file specifications for tree planting and removal,

subject to the approval of the Council. The specifications shall provide for the type, species, size and location of trees.

Subd. 5. Tampering with or Damaging a Boulevard Tree. No person shall intentionally cause damage to, prune, or otherwise tamper with a boulevard tree without the consent of the Council, as provided for in this section.

910.04. Mailboxes.

Subd. 1. Installation and Replacement. Any mailbox installed or replaced after adoption of this Code shall conform to City and United States Postal Service specifications.

Subd. 2. Snow Removal. The occupant or property owner shall be responsible for removal of snow around the property owner's mailbox.

Subd. 3. Specifications. The Public Works Department Superintendent shall prepare mailbox specifications, subject to the approval of the Council.

Subd. 4. City Liability.

A. The City shall be responsible for the repair or replacement of any mailbox damaged or destroyed when physically struck by the City snow removal equipment.

B. The City shall not be liable for repair or replacement of any mailbox due to normal snow plowing operations when:

1. The mailbox does not conform to specifications; or

2. The mailbox is not readily visible and is damaged or destroyed by pushed, bladed or flying snow or chunks of snow or ice from the snow plowing equipment.

910.05. Assessment. On or before October 1 of each year, the Administrator shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this section. The Council may then spread the charges against property benefited as a special assessment under Minn. Stat. §429.101 and other pertinent statutes for certification to the county auditor prior to October 10 in each year for collection the following year with current taxes as provided in Minn. Stat. §429.061.

Section 920 - Alterations or Defacement

920.01. Permit Required. No person shall alter or deface any street, sidewalk, street curbing, or driveway approach without first obtaining a permit from the Administrator.

Subd. 1. Exceptions. Franchised utilities such as telephone, electric or cable companies need not secure a permit but shall give twenty-four (24) hours' notice in writing to the Public Works Department Superintendent of work proposed to be done. All work must comply with City specifications.

920.02. Permit Fee. The permit fee shall be as established by resolution of the Council.

920.03. Driveway Approach Requirements. Breaking out of curbs for driveways and construction of driveway approaches shall be in accordance with specifications on file in the office of the Public Works Department. Each lot which abuts one or more public street shall be entitled to at least one access to a public street. Lots in R-1 zoning districts as defined in Code Section 12 shall be limited to one (1) driveway access per lot.

920.04. Street and Sidewalks.

A. The application for a permit to cut across, dig holes or break any street or sidewalk shall contain a drawing showing in detail the proposed alteration.

B. After the permit has been issued and prior to cutting, digging or breaking into any Street or sidewalk, the area shall be marked and shall be approved by the Public Works Department Superintendent.

C. All work on streets shall be in accordance with specifications on file in the office of the Public Works Department.

D. The applicant shall be responsible for erecting barricades and rerouting traffic where necessary, subject to the approval of the Public Works and Police Departments.

920.05. Inspection.

A. All street, sidewalk and street curbing alterations and driveway approach construction completed under this Chapter shall be inspected by the Public Works Department Superintendent. The first inspection shall be made prior to breaking out curbing or street. A second inspection shall be made after all forming is installed prior to pouring concrete or resurfacing the street.

B. Compliance. If the installation does not comply with the specifications and the terms of this Chapter, the inspector shall order the necessary corrections. If the correction is not made within thirty (30) days from date of written notice to the property owners, the City may make the necessary corrections and charge the cost thereof to the property owner.

920.06. Variance. In cases of undue hardship or unusual circumstances, the Council or its

authorized representative may in its discretion issue a permit authorizing a variance from the provisions of this section.

920.07. Snow Removal.

Subd 1. Restrictions.

A. No person shall deposit snow upon the property of another without the consent of the property owner or upon the City streets or sidewalks.

B. No person shall push, dump, hand shovel or blow snow into or onto City streets or sidewalks or onto the property of others without the consent of the property owner.

Subd 2. Regulations and Enforcement. The Public Works Superintendent, with approval of the Council, shall prescribe snow removal rules and regulations. The Public Works Department, after notice to any person who has refused or failed to comply with this section and the rules hereunder, shall remove and dispose of any improperly deposited snow and charge the cost for such removal to the person in violation.

Subd. 3. City Liability.

A. The City shall use due care in snow plowing and snow removal.

B. The City will not be liable for damage to personal property caused by City snow plowing or snow removal equipment when:

1. Garbage cans are placed on the boulevard, Street or sidewalk that are not readily visible to the operator of the equipment; or,
2. Any other personal property is placed on the boulevard, Street or sidewalk that is not readily visible to the operator of the equipment.

Section 930 - Public Right-of-Ways

930.01. Findings and Purpose. To provide for the health, safety and well-being of its citizens and to ensure the structural integrity of its Street and the appropriate use of the right-of-way's, the City strives to keep its right-of-way's in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the right-of-way's, a primary cause for the early and excessive deterioration of its right-of-way's is frequent excavation. Right-of-way obstruction is a source of frustration for merchants, business owners and the general population which must avoid these obstructions or change travel or shopping plans because of them. This has a detrimental effect on commerce. Persons whose

equipment is within the right-of-way are the primary cause of these frequent obstructions. The City holds the right-of-way within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested substantial public funds to build and maintain the right-of-way's. It also recognizes that some persons, by placing their equipment in the right-of-way and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property. This section imposes reasonable regulations on the placement and maintenance of equipment currently within its right-of-way's or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this section, persons disturbing and obstructing the right-of-way's will bear a fair share of the financial responsibility for their integrity. Finally, this section provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-ways.

930.02. Definitions. The following definitions apply in this section of this Code.

A. "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.

B. "Business District" means the Shopping Center, Outer Drive and Highway 61, or any area where there is a business section.

C. "City" means the City of Silver Bay, Minnesota, its elected officials, officers, employees and agents.

D. "City Cost" means the actual cost incurred by the City for public rights-of-way management: including but not limited to: costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment during public right-of-way work; determining the adequacy of right-of-way permits and performing all other tasks required by this section, including other costs the city may incur in managing the provisions of this section.

E. "Degradation" means the accelerated depreciation of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

F. "Degradation Cost" means money paid to the city to cover the cost associated with a

decrease in the useful life of a public right-of-way caused by excavation or disturbance.

G. "Department" means the Public Works Department.

H. "Department Inspector" means any person authorized by the Public Works Department Superintendent to carry out inspections related to the provisions of this section.

I. "Superintendent" means the Public Works Department Superintendent or designee.

J. "Emergency" means a condition that poses a clear and immediate danger to life or health, or of a significant loss of property, or requires immediate repair or replacement to restore service to a customer.

K. "Equipment" means any tangible thing in any right-of-way, but shall not include boulevard plantings or gardens planted or maintained in the right-of-way between a person's property and the Street curb.

L. "Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way except horticultural practices of penetrating the boulevard area to a depth of less than twelve (12) inches.

M. "In" when used in conjunction with "right-of-way," means over, above, in, within, on or under a right-of-way.

N. "Local Representative" means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this section.

O. "Obstruct" means to place any object in a right-of-way to hinder free and open passage over that or any part of the right-of-way.

P. "Permit" means the permit which, pursuant to this section, must be obtained before a person may excavate or obstruct in a right-of-way.

Q. "Permit Fee" means money paid to the City by an applicant.

R. "Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this section.

S. "Person" means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assignee of any of the foregoing, or any other legal entity which has or seeks equipment

in any right-of-way.

T. "Registrant" means any person who has, or seeks, its equipment located in any right-of-way or in any way occupies or uses, or seeks to occupy or use the right-of-way or any equipment in the right-of-way.

U. "Repair" means temporary construction work necessary to make the right-of-way useable for travel.

V. "Restore or Restoration" means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before the commencement of the work.

W. "Right-of-Way" means the surface and space above and below a public roadway, highway, street, cartway, bicycle lane, public sidewalk, other dedicated rights-of-way for travel purposes, and utility easements of the City.

X. "Right-of-Way Permit" means either the excavation permit or the obstruction permit or both, depending on the context, required by this section.

Y. "Service" or "Public Utility" includes but is not limited to those services provided by a public utility as defined in Minn. Stat. § 216B.02, Subd. 4 and 6; telecommunications, pipeline, community antenna television, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services; and cable communications systems as defined in Minn. Stat. § 238 et al.

Z. "Telecommunications Rights-of-Way User" means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information.

ZZ. "Unusable Equipment" means equipment in the right-of-way which has remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next twelve (12) months or has a potential purchaser or user of the equipment within the next twelve (12) months.

930.03. Permit Requirement.

Subd. 1. Permit Required. Except as otherwise provided in this section, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the Administrator.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless that person makes an application for and is granted an extension.

930.04. Permit Fees.

Subd. 1. Permit Fee. The Permit Fee shall be established by the Council by resolution.

Subd. 2. Non-refundable. Permit fees that were paid for a permit that the Administrator has revoked for a breach pursuant to Section 930.12 are not refundable.

930.05. Right-of-Way Repair and Restoration.

Subd. 1. Timing. The work to be done under the excavation permit, and the repair and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable.

Subd. 2. Repair and Restoration. The Permittee shall repair the street and right-of-way to the condition it was in prior to its work. However, in its application for an excavation permit, the permittee may choose either to have the City restore the right-of-way or to restore the right-of-way itself.

A. City Restoration. If the permittee chooses to have the City restore the right-of-way, it shall pay the costs thereof within thirty (30) days of billing. If during the thirty-six (36) months following such restoration the pavement settles due to permittee's improper backfilling the permittee shall pay to the City the cost of repairing said pavement within thirty (30) days of billing.

B. Permittee Restoration. If the permittee chooses to restore the right-of-way itself, it shall be restored to the condition it was before any work was done. All repair and restoration work shall be subject to the approval of the Superintendent.

Subd. 3. Standards. The permittee shall perform repairs and restoration per the standards and materials specified by the Superintendent. The Superintendent shall have the authority to prescribe the manner and extent of the restoration, by written procedures of general application or on a case-by-case basis.

Subd. 4. Guarantees. By choosing to restore the right-of-way itself, the permittee guarantees its work and shall maintain it for thirty-six (36) months following its completion.

During this thirty-six (36) month period it shall, upon notification from the Superintendent, correct all restoration work to the extent necessary, using the method required by the Superintendent. The work shall be completed within five (5) calendar days of the receipt of the notice from the Superintendent, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable.

Subd. 5. Failure to Restore. If the Permittee fails to restore the right-of-way in the manner and to the condition required by the Superintendent, or fails to satisfactory and timely complete all restoration required by the Superintendent, the Public Works Department at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way.

930.06. Other Obligations.

Subd. 1. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other city, county, state, or federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws, including Minn. Stat. §§ 216D, et al. ("One Call Excavation Notice System"). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

Subd. 2. Prohibited Work. Except in an emergency, and with the approval of the Superintendent, no right-of-way obstruction or excavation may be done when seasonably prohibited or when conditions are unreasonable for such work.

Subd. 3. Interference with Right-of-Way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles may not be parked within or next to a permit area. The loading or unloading of trucks next to a permit area is prohibited unless specifically authorized by the permit.

930.07. Denial of permit.

Subd. 1. Mandatory Denial. If in the discretion of the Administrator the issuance of a permit for the date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event, the Administrator shall deny the permit.

Subd. 2. Permissive Denial. The Administrator may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users.

930.08. Installation Requirements. The excavation, backfilling, repair and restoration, and all other work performed in the right-of-way shall be done in conformance with the standards and materials specified by the Superintendent. The Superintendent shall have the authority to prescribe the manner and extent of the restoration, by written procedures of general application or on a case-by-case basis.

930.09. Inspection.

Subd. 1. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall notify the Administrator and Superintendent.

Subd. 2. Site Inspection. Permittee shall make the work-site available to the Superintendent and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd. 3. Authority of Public Works Superintendent. At the time of inspection, the Superintendent may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public. The Superintendent may issue an order to the registrant for any work which does not conform to the applicable standards, conditions or codes. Within ten (10) days after issuance of the order, the registrant shall present proof to the Superintendent that the violation has been corrected. If such proof has not been presented within the required time, the Superintendent may revoke the permit.

930.10. Work Done Without a Permit.

Subd. 1. Emergency Situations. Each registrant shall immediately notify the Administrator of any event regarding its equipment which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this section for the actions it took in response to the emergency. If the Superintendent becomes aware of an emergency regarding a registrant's equipment, the Superintendent may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the Superintendent may take

whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose equipment occasioned the emergency.

Subd. 2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by the Code, deposit with the Administrator the fees necessary to correct any damage to the right-of-way and comply with the requirements of this section.

930.11. Supplementary Notification. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Superintendent of the accurate information as soon as this information is known.

930.12. Revocation of Permits.

Subd. 1. Substantial Breach. Registrants hold permits issued pursuant to this section as a privilege and not as a right. The City reserves its right to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, code, rule or regulation, or any condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

A. The violation of any material provision of the right-of-way permit;

B. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

C. Any material misrepresentation of fact in the application for a right-of-way permit;

D. The failure to maintain the required bonds and/or insurance;

E. The failure to complete the work in a timely manner; or,

F. The failure to correct a condition indicated on an order issued pursuant to this section.

Subd. 2. Written Notice of Breach. If the Administrator determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the Administrator shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. Further, a substantial breach, as stated above, will allow the Administrator at his or her discretion, to place additional or revised conditions on the permit.

Subd. 3. Response to Notice of Breach. Within twenty-four (24) hours of receiving notification of the breach, the permittee shall contact the Administrator with a plan, acceptable to

the Administrator, for its correction. The permittee's failure to so contact the Administrator, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

Subd. 4. Reimbursement of City Costs. If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

930.13. Mapping Data - Telecommunication Equipment. Information on existing facilities and equipment of telecommunications right-of-way users need only be supplied in the form maintained by the telecommunications right-of-way user.

930.14. Location of Equipment.

Subd. 1. Corridors. The Superintendent may assign specific corridors within the right-of-way, or any segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the Superintendent expects will someday be located within the right-of-way.

Subd. 2. Nuisance. Any equipment found in a right-of-way that has not been registered shall be deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the equipment and restoring the right-of-way to a useable condition.

Subd. 3. Limitation of Space. To protect health and safety, the Superintendent shall have the power to prohibit or limit the placement of new or additional equipment within the right-of-way if there is insufficient space to accommodate all the requests of registrants or persons to occupy and use the right-of-way. In making such decisions, the Superintendent shall strive to the extent possible to accommodate all existing and potential users of the right-of-way. The Superintendent shall be guided primarily by considerations of the public interest, the public's needs for the utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

930.15. Relocation of Equipment. A Registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its equipment and facilities in the right-of-way whenever the Superintendent requests such removal and relocation,

and shall restore the right-of-way to the same condition it was in prior to said removal or relocation.

930.16. Damage to Other Equipment. When the Superintendent does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's equipment to protect it, the Superintendent shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any damage to the equipment of another registrant caused during the City's response to an emergency occasioned by that registrant's equipment.

930.17. Right-of-Way Vacation.

Subd. 1. Reservation of Right. If the City vacates a right-of-way which contains the equipment of a registrant, and if the vacation does not require the relocation of registrant or permittee equipment, the City shall reserve to and for itself and all registrants having equipment in the vacated right-of-way, the right to install, maintain and operate any equipment in the vacated right-of-way and to enter upon such right-of-way at any time for reconstructing, inspecting, maintaining or repairing the same.

Subd. 2. Relocation of Equipment. If the vacation requires the relocation of registrant or permittee equipment, and if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs. If the vacation proceedings are initiated by the city, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the city and the registrant or permittee. If the vacation proceedings are initiated by a person or persons other than the registrant or permittee, such other person or persons must pay the relocation costs.

930.18. Indemnification and Liability.

Subd. 1. Limitation of Liability. Due to the issuance of a registration or the grant of a right-of-way permit, the City does not assume any liability for injuries to persons, damage to property, or loss of service claims by parties other than the registrant or the City, or for claims or penalties of any sort resulting from the installation, presence, maintenance, or operation of equipment by registrants or activities of registrants.

Subd. 2. Indemnification. By registering with the Administrator, a registrant agrees, or by accepting a permit under this section a permittee is required, to defend, indemnify, and hold

the City whole and harmless from all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment, or out of any activity undertaken in or near a right-of-way, whether or not any act or omission complained of is authorized, allowed, or prohibited by a right-of-way permit.

It further agrees that it will not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the City for any claim, nor for any award arising out of the presence, installation, maintenance or operation of its equipment, or any activity undertaken in or near a right-of-way, whether the act or omission complained of is authorized, allowed or prohibited by a right-of-way permit. The foregoing does not indemnify the City for its own negligence except for claims arising out of or alleging the City's negligence where such negligence arises out of or is primarily related to the presence, installation, construction, operation, maintenance or repair of said equipment by the registrant or on the registrant's behalf, including, but not limited to, the issuance of permits and inspection of plans or work. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant or to the City; and the registrant, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

930.19. Abandoned and Unusable Equipment. Any registrant who has unusable and abandoned equipment in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the Superintendent.

930.20. Reservation of Regulatory and Police Powers. The City by the granting of a right-of-way permit, or by registering a person under this section, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights which it has now or may be hereafter granted under the Constitution and statutes of the State of Minnesota (or the Municipal Code of the City) to regulate the use of the right-of-way by the permittee; and, the permittee by its acceptance of a right-of-way permit or of registration under this section, agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise by the City at any time. A permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all

applicable general laws and ordinances enacted by the City pursuant to such powers. Any conflict between the provisions of a registration or of a right-of-way permit and any other present or future lawful exercise of the City's regulatory or police powers shall be resolved in favor of the latter.

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Chapter 10

Traffic and Vehicles

Section 1000 - General

1000.01. Highway Traffic Regulation Act Incorporated by Reference. The regulatory provisions of Minnesota Statutes Chapter 169 are adopted and incorporated herein by reference.

1000.02. Definition of Terms. The terms, words and phrases used in this chapter shall have the meaning ascribed to them in Minn. Stat. §169.011. In addition, the term "highway" as used in this chapter shall apply to City streets.

1000.03. Scope.

Subd. 1. Road Crews. The provisions of this chapter shall not apply to persons, motor vehicles, and other equipment while engaged in work upon the roadway of a highway, but shall apply to such persons and vehicles when traveling to or from such work.

Subd. 2. Non-motorized Vehicles. Every person riding a bicycle or an animal or driving any animal drawing a vehicle upon a roadway shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions which by their nature can have no application.

Subd. 3. Emergency Vehicles. This chapter shall not apply to Police Officers, Fire Department, Rescue or Emergency vehicles in the legal performance of their duties.

1000.04. Speed.

Subd. 1. General. No person shall drive a vehicle within the City at a speed greater than shall be reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so restricted as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering the highway, in compliance with legal requirements and the duty of all persons to use due care.

Subd. 2. Maximum Speed. The maximum speed on streets not otherwise designated and posted by the local department shall be thirty (30) miles per hour, unless otherwise authorized. Any speed more than the maximum speed shall be unlawful.

Subd. 3. Reduced Speeds. The driver of any vehicle shall, consistent with requirements, drive with an appropriate reduced speed when approaching and crossing an

intersection or railroad grade crossing, approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians, other traffic, weather or highway conditions.

1000.05. Parking.

Subd. 1. Truck Parking.

A. The Council may establish by resolution "no truck parking" zones, "loading zones," or "truck park only" zones in congested or residential districts and shall mark by appropriate signs any zones so established.

B. Except as otherwise provided, no motor vehicle bearing a commercial license and no commercially licensed trailer shall be parked or stored in a residential area between the hours of 6:00 P.M. and 6:00 A.M. except when loading, unloading, or rendering service.

C. If the occupant of the residence is actively engaged in a commercial trucking business, the tractor may be parked in a residential district at the operator's residence provided adequate off-street parking space is available at the residence.

D. Commercial pickups and small automobile type vans may be parked in the same manner as personal automobiles.

Subd. 2. Limited Time Parking. The Police Department may, subject to the approval of the Council, designate limited time parking zones and shall mark by appropriate signs any zones so established. The zones shall be established on streets or congested districts wherever necessary for the convenience of the public for purposes of snow removal, to minimize traffic hazards and to preserve free flow of traffic. No person shall park any vehicle in any limited parking zone so established for a longer period than specified on the signs marking the zone.

Subd. 3. Off-Street. No person shall park any vehicle nor place any personal property upon any boulevard, which is the area between the curb line and property line, or between the edge of the roadway and property line, or off the street portion of any City street, highway, park or public place, except as permitted under Chapter 5, Nuisances and Offenses, Section 550.02 . Waste and Junk, Subd. 2 .

Subd. 4. Twenty-Four Hour Parking. No disabled vehicle shall be left standing or parked more than twenty-four (24) consecutive hours on any street or highway within the City limits.

Subd. 5. Parking Cars for Sale. No person shall place any vehicle on a City highway or street or boulevard to display the same for sale or exchange. A vehicle shall be deemed to be displayed when found standing upon a street for more than seventy-two (72) hours and bearing indications that it is for sale or exchange.

Subd. 6. Parallel Parking.

A. Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with and within twelve (12) inches of the curb.

B. Every vehicle stopped or parked upon a roadway where there is no curb shall be so stopped or parked so that the length of the vehicle shall be parallel with and adjacent to the outside edge of the traveled portion of the highway or street.

C. Every vehicle stopped or parked upon all streets and highways shall be stopped or parked parallel with and to the right of the paved or improved or main traveled part of the street or highway.

Subd. 7. Suspension of Parking Provisions. The Police Chief may suspend, because parades or other extraordinary conditions, the parking provisions of this chapter on any street within the City and may designate "No Parking" spaces at any time in front of the main entrances of churches, hospitals, or other public places.

Subd. 8. Ownership of Parked Vehicles. If any vehicle shall be found upon a street or highway in violation of any provisions of this section regulating the stopping, standing or parking of vehicles, and the identity of the driver cannot be determined, the owner or person in whose name the vehicle is registered shall be held responsible for the violation.

Subd. 9. Removing and Impounding Illegally Parked Vehicles. Any vehicle found parked or standing in violation of any of the provisions of this section may be immediately removed and impounded by any police officer. The vehicle shall be surrendered to the duly identified owner thereof only upon payment of such fine as may be imposed by the Court and the impounding and storage fees assessed against the vehicle. Impounded vehicles may be placed at any commercial establishment operating vehicle storage facilities or at a public vehicle pound established by the City. The owner of an impounded vehicle shall pay all costs of removal and storage of vehicles so removed.

Subd. 10. Oversize Vehicle Parking. No person shall park any vehicle, or combination of vehicles, including but not limited to motor homes, campers and other recreational vehicles, that is twenty-two (22) feet or more in length, or any vehicle that is more than six and one-half (6½) feet in height or width, on any street in the City for more than forty-eight (48) hours, unless otherwise authorized in writing by the Police Department.

Subd. 11. Recreational Vehicles and Trailer Parking. No person shall park or leave standing any recreational vehicle, as defined in Section 1020.02, including trailers of any type, nor any other item of personal property or device by which any person or property is or may be transported or drawn upon a street or highway, for more than forty-eight (48) hours in any seven (7) consecutive day period. This shall not apply to:

A. Construction trailers and equipment while temporarily engaged in building and remodeling with a valid permit.

B. Towed trailers while the driver of the towing vehicle is engaged in the performance of his or her usual trade or business;

C. Emergency or utility services engaged in temporary performance of duties;

D. If authorized in writing by the Chief of Police.

Subd. 12. Winter Parking on City Streets. No owner or driver of a motor vehicle shall park a motor vehicle or permit any motor vehicle to remain on any street or highway in the City between 11:00 p.m. to 6:00 a.m. from November 1st to April 30th every year, and during any time that snow plowing or snow removal operations are in progress. A violation of this section is a petty misdemeanor.

Subd. 13. Stopping and Parking Prohibitions. No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

A. On a sidewalk;

B. In front of a public or private driveway;

C. Within an intersection;

D. Within ten feet of a fire hydrant;

E. On a crosswalk;

F. Within 20 feet of a crosswalk at an intersection;

G. Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic

control signal located at the side of a roadway; or

H. At any place where official signs prohibit stopping or parking.

Subd. 14. Violation; penalty. The owner or lessee of any vehicle found in violation of Section 1000.05 is guilty of a petty misdemeanor at the fine amount set annually by the City Council.

1000.06. Duties to Report Accidents. In addition to the provisions of Minn. Stat. § 169.09, the driver of a vehicle involved in an accident resulting in injury to or death of any persons, or total property damage to an apparent extent of $1,000.00 or more, shall promptly forward a duplicate copy of the report required by Minn. Stat. § 169.09 to the Police Department on the appropriate form approved by the State Commissioner of Public Safety.

1000.07. Officers to Direct Traffic. Officers of the police department are authorized to direct all traffic, either in person or by means of visible or audible signal in conformance with the provisions of this chapter. In the event of a fire or other emergency, or to expedite traffic, or safeguard pedestrians, officers of the police or fire department may direct traffic as conditions may require, notwithstanding the provisions of this chapter.

1000.08. Obedience to Traffic Control Devices. No driver of a vehicle, pedestrian or person riding an animal or bicycle, shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a police officer.

1000.09. Unauthorized Signs, Signals and Marking.

Subd. 1. Display. No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal. No person shall place or maintain upon any highway any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the placement of signs upon private property adjacent to highways, giving useful directional information and of a type that cannot be mistaken for official signs.

Subd. 2. Nuisance. Every prohibited sign, signal, or marking is declared to be a public nuisance and the same may be removed or ordered removed by the Police Department without notice.

1000.10. Unlawful to Alter, Deface, or Remove Signs. No person shall, without lawful authority, possess, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device or any railroad sign or signal or any inscription shield, or insignia thereon, or any part thereof.

1000.11. One-Way Traffic. The Council may by resolution designate, establish and provide for one-way traffic upon any street in the City. Upon a roadway designated and sign-posted for one-way traffic as a one-way roadway, a vehicle shall be driven in the direction designated.

1000.12. U-Turns. No person operating a motor or other vehicle shall make a double or "U" turn at any intersection where prohibited by sign.

1000.13. Clearances.

Subd. 1. Twelve Foot Clearance. Upon any highway within a business or residence district, no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or improved or main traveled part of the highway unless a clear and unobstructed width of at least twelve (12) feet of the part of the highway opposite the standing vehicle shall be left for the free passage of other vehicles.

Subd. 2. Impounding. Whenever any police officer shall find a vehicle standing upon a highway in violation of the provisions of this subsection the officer is authorized to move or impound the vehicle. The cost of removal or impounding shall be charged to the owner of the vehicle.

Subd 3. Exceptions. The provisions of this subsection shall not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position.

1000.14. Leaking Load. No vehicle shall be driven or moved on any highway within the City unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom; except that sand may be dropped for securing traction, or water or other substances may be sprinkled on a roadway for cleaning or maintaining the roadway.

1000.15. Riding or Jumping on Vehicle - Hitching.

Subd. 1. Unlawful Riding. It shall be unlawful for any person to ride on any vehicle or bus or upon any portion thereof not designated or intended for the use of passengers when the vehicle is in motion. No person shall ride in, or jump into or upon any vehicle without the consent of the driver. This provision shall not apply to an employee engaged in the necessary discharge of a duty or to persons riding within truck bodies in space intended for merchandise.

Subd. 2. Hitching. No person shall hitch a toboggan, hand sled, bicycle or other similar device onto any motor vehicle or bus while being used on a City street or highway.

1000.16. Police May Establish Safety Zones and Street Markings. To assist in the direction and control of traffic and to improve safe driving conditions at any intersection or dangerous location, or to warn pedestrians or drivers of motor vehicles of dangerous conditions or hazards, the Police Department may establish safety zones, lanes of traffic, stop intersections or install stop signs, warning signs, signals pavement markings or other devices.

1000.17. Repairing Vehicle on Streets. It shall be unlawful to drop, throw, drain or allow to be dumped, thrown or drained, any oil, grease, or any other debris, or to make general repairs to a vehicle, or to allow the same to be repaired on any street or highway in the City. Emergency or minor repairs may be made to make the vehicle operable.

1000.18. Driving on Sidewalk or in Park. It shall be unlawful for any person to operate a motor vehicle upon any public sidewalk or public park in the City. This shall not prevent the operation of a vehicle across a public sidewalk when the operation is in or upon the course of a private driveway.

1000.19. Exhibition Driving Prohibited. No person shall turn, accelerate, decelerate or otherwise operate a motor vehicle within the City in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race. Evidence of unnecessary exhibition of speed shall be unreasonable squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires.

1000.20. Operation of Motor Vehicles on Private Property. No person shall operate a motor vehicle, including motorcycles or bicycles, across or upon private lands of others or public lands, other than the City streets, highways, parking lots or other areas designated for motor vehicle use, without the express permission of the owners.

Section 1010.10. - Bicycles

1010.01. Statute Adopted by Reference. The provisions of Minn. Stat. § 169.222 are adopted and incorporated herein by reference.

1010.02. Riding on Streets. Every person operating a bicycle upon City streets shall ride as close as practicable to the right-hand side of the street.

1010.03. Riding on Sidewalks. No person shall ride a bicycle on the sidewalk in a business district. Every person operating a bicycle on a City sidewalk shall yield the right of way to any pedestrian and give an audible signal before approaching or overtaking and passing a pedestrian.

1010.04. Penalty. Except for reckless or careless operation which may be punishable as misdemeanors, violation of this section shall be a petty misdemeanor.

Section 1020 - Recreational Motor Vehicles

1020.01. Minnesota Statutes Chapters 169 and 84 Incorporated by Reference. Minnesota Statutes Chapter 84 and the Rules and Regulations of the Minnesota Department of Natural Resources regulating the use and operation of Recreational Motor Vehicles are adopted and incorporated herein by reference.

1020.02. Definitions.

Subd. 1. Recreational Motor Vehicle. "Recreational Motor Vehicle" means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to snowmobile, trail bike or off-road motorcycle, all-terrain vehicle, hovercraft, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes, or any of the self-propelled vehicles identified in subdivisions 2 through 6 of this section. “Recreational Motor Vehicle” does not include “Motorized Golf Carts” as defined in Section 1040, Subd. 1.

Subd. 2. Snowmobile. "Snowmobile" shall have the meaning ascribed to that term by Minn. Stat. § 84.81, subdivision 3.

Subd. 3. Off-Road Vehicle. "Off-Road Vehicle" shall have the meaning ascribed to that term by Minn. Stat. § 84.797, Subd. 7.

Subd. 4. All-Terrain Vehicle. "All-Terrain Vehicle" (ATV) shall have the meaning ascribed to that term by Minn. Stat. § 84.92.

Subd. 5. Off-Highway Motorcycles. "Off-Highway Motorcycles" shall have the meaning ascribed to that term by Minn. Stat. § 84.787.

Subd. 6. Trail Bike. "Trail Bike" means a two-wheeled motor driven vehicle capable of cross country travel on natural terrain, roads or trails.

Subd. 7. Public Parking Area. "Public Parking Areas" shall include those areas generally designated by the owner or the City and used by the public for parking of motor vehicles which shall include, but not be limited to, school, church, and recreational area parking, the Shopping Center, Norshor Building, Reunion Hall and Community Center parking lots.

1020.03. Purpose. The purpose of this chapter shall be to permit the operation of Recreational Motor Vehicles within the City for the limited purpose of affording a method of travel and access to areas established within the City for the specific use of Recreational Motor Vehicles and to afford a method of travel and access to trails outside the City limits.

1020.04. Operation on City Streets and Sidewalks Prohibited. No person shall drive or operate Recreational Motor Vehicles on the public streets or sidewalks in the City unless the Recreational Motor Vehicle shall be licensed for highway use under the provisions of the Minnesota Highway Traffic Act, or as otherwise provided in this section or the rules promulgated by the Department of Natural Resources, except that crossing of streets and sidewalks for access to and from approved trails may be made as provided in Minnesota Statutes §§ 84.804 Subd. 2, and 84.87.

1020.05. Crossing Streets or Sidewalks. The driver of a Recreational Motor Vehicle may make a direct crossing of a public street or sidewalk and entrances to public parking areas and congested areas, provided:

A. The Recreational Motor Vehicle shall be brought to a complete stop before crossing the public street, sidewalk, or parking lot entrance; and,

B. The driver shall yield the right of way to all vehicular traffic which constitutes and immediate hazard, bicycles and pedestrians; and,

C. The crossing shall be made at an angle of approximately ninety (90) degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing; and,

D. The crossing shall only be made when it can be accomplished with safety.

1020.06. Trails. Recreational Motor Vehicles shall be operated only on designated and marked trails except when operated on the owner's private property or areas specifically designated by the City for recreational use of Recreational Motor Vehicles.

1020.07. Designation of Trails. The City shall, where practical, mark with signs the general location of trails and approved street crossings and shall by resolution designate the location of trails. The designation of trails or other areas shall be for the convenience of the user only and the owner or operator assumes all liability incident to such use. The City shall not be responsible for the establishment, maintenance, or upkeep of designated trails. However, the City may assume such responsibility if the Council deems it in the public interest.

1020.08. Operation on Private Property of Others. No person shall operate a Recreational Motor Vehicle upon the lands of others after being notified by its owner or occupant, either orally or by written or posted notice, not to do so. Where notice shall be posted, the signs shall state "Recreational Vehicles Prohibited", "Trail Bikes Prohibited", "All-Terrain Vehicles (ATV) Prohibited," or words substantially similar.

1020.09. Registration and Operation.

Subd. 1. Registration Required. No person shall drive or operate, and the owner, if other than the operator, shall not permit the operation of, a Recreational Motor Vehicle as defined in this section, off the streets or on designated trails within the City, unless the Recreational Motor Vehicle shall have been registered and identification numbers issued by the State of Minnesota.

Subd. 2. Non-residents. Non-residents who shall operate Recreational Motor Vehicles within the City must comply with this chapter, except for registration and licensing requirements, provided the Recreational Motor Vehicle is properly registered or licensed in the owner or operator's area of residence. The Police Department may issue special operator permits for limited periods for non-residents.

1020.10. Operation Generally.

Subd. 1. Speed. Recreational Motor Vehicles shall be operated at a slow speed and at no speed greater than reasonable and proper under all surrounding circumstances.

Subd. 2. Manner. Recreational Motor Vehicles shall not be operated in a careless, reckless or negligent manner that endangers the person or property of another.

Subd. 3. Noise. No person shall operate a Recreational Motor Vehicle that emits excessive or unusual noise or in such a manner as to disturb the peace and quiet of persons in the area or to constitute a nuisance.

Subd. 4. Under Influence. No person shall operate a Recreational Motor Vehicle while under the influence of intoxicating liquor or controlled substance.

1020.11. Responsibility of Owner. It shall be unlawful for the owner of any Recreational Motor Vehicle as defined in this section, or the parent or guardian of any minor, to permit the operation of the vehicle contrary to the provisions of this chapter. The owner, parent, or guardian shall be liable for all damages arising out of the use of the vehicle.

1020.12. Confiscation. The Police Department shall have the power to seize and hold any Recreational Motor Vehicle used in more than two violations of this section. The Police Department shall promptly notify the owner of the seizure and the reasons thereof. The Recreational Motor Vehicle may be returned to the owner upon assurance that it shall not be used in repeated violations. Any Recreational Motor Vehicle seized pursuant to this section may be confiscated after conviction of the person found in violation of the chapter.

1020.13. Safety Equipment. The operator or rider of any Recreational Motor Vehicle as defined in this chapter, whether used on or off the street, shall wear such safety equipment, including helmets, as designated by statute for use by the operators.

1020.14. Accident Report. The owner and operator of any Recreational Motor Vehicle involved in an accident in the City resulting in death or injury to persons requiring medical attention or damage to property in the sum of Five Hundred ($500.00) Dollars or more, shall in addition to the provisions of Minn. Stat. § 84.86, Subd. 7, requiring a report to the Commissioner of the Department of Natural Resources, promptly forward a copy of the report to the Police Department.

1020.15. Stop on Notice, Fleeing. All operators of Recreational Motor Vehicles shall stop on demand or notice by a police officer. No person shall leave designated trails for purpose of eluding a police officer. No person shall flee or attempt to flee in a motor vehicle including Recreational Motor Vehicles from a police officer. “Fleeing” means to increase speed, extinguish motor vehicle headlights or tail-lights, or to use any other means with intent to elude a police officer following a signal given by the officer to the operator of the vehicle. Minn. Stat. § 609.487 is adopted by reference and incorporated herein as if set out here in full.

1020.16. Restrictions. The Police Department may, upon posted notice, prohibit the operation of Recreational Motor Vehicles on any designated trail within the City limits when weather conditions may result in damage to the trails from the operation.

1020.17. Penalty. In case of violation by a minor, the Sixth Judicial District Court may exercise appropriate jurisdiction and impose such penalty as it shall deem just in addition to any penalties imposed against the owner of a Recreational Motor Vehicle or the parent or guardian of the minor operator as provided for in this Code.

Section 1030 - Skate Boards, Roller Skates, Roller Skis and Scooters.

1030.01. Purpose. The purpose of this section is to protect the public health and safety, and to reduce the potential danger to the user, arising out of the use of skateboards, roller blades, roller skates, roller skis and self-propelled scooters.

1030.02. Definitions.

Subd. 1. Skateboards. "Skateboard" means a wheeled device designed to transport a person usually in a standing position, consisting of an oblong piece of wood or other composition, and which is not otherwise attached to the rider's feet.

Subd. 2. Roller Skates. "Roller Skates" or "Roller Blades" means a shoe with wheels attached or a device with wheels which is designed to be attached to shoes.

Subd. 3. Roller Skis. " Roller Skis" means a pair of skis plat formed with wheels attached which is intended to simulate skiing.

Subd. 4. Scooter. "Scooter" means a foot powered vehicle consisting of a narrow board mounted between two wheels in tandem with an upright steering handle attached to the front wheel.

1030.03. Restrictions. It shall be unlawful for any person to operate any of the devices described in this section:

A. On the private property of another without the express consent to do so by the owner or occupant of the property; or

B. In a careless, reckless or negligent manner that endangers, or is likely to endanger, the safety of any person or property of any other person.

1030.04. Regulations. Any person operating any of the devices described in this section shall:

A. Operate the device as close as practicable to the left side of the street or roadway, giving way to oncoming traffic and so as not to obstruct traffic;

B. When operating the device on any sidewalk, give way to any pedestrian;

C. When crossing a street or sidewalk, yield the right-of-way to all traffic and give way to all pedestrians;

D. Give an audible signal, when necessary, before overtaking and passing a pedestrian;

E. If under the age of 16:

1. Wear a safety helmet or other appropriate protective headgear; and
2. Wear appropriate elbow and knee protective gear;

F. Not attach to any bicycle, motorized vehicle or any other device;

G. When on any street or sidewalk, operate in single file only; and

H. Cross a street only at intersections or designated crosswalks.

1030.05. Additional Regulations. To further protect the health and safety of the public and the users of the devices described in this section, the Police Department may prescribe additional regulations.

Subd. 1. Council Approval. Any additional regulations prescribed by the Police Department shall have Council approval before the regulation shall become effective.

Subd. 2. Publication. After approval by the Council, the additional regulations shall be posted at the Police Department and published in a newspaper circulated in the City.

Subd. 3. Incorporation by reference. After approval by the Council, posting and publication, the additional regulations so adopted shall be incorporated herein and made a part of this section as if set out here in full.

1030.06. Penalty. Violation of any provision of this section shall be a petty misdemeanor. When there are two (2) or more successive violations by the same person the second and any subsequent violation shall be a misdemeanor.

Section 1040 – Motorized Golf Carts

Section 1040. Motorized Golf Carts.

Subd. 1. Motorized Golf Carts Defined. For the purposes of this section, "Motorized Golf Carts" are defined as any passenger vehicle having four wheels and four low pressure tires,

limited in engine displacement to less than 300 cubic centimeters and a total weight of 800 pounds or less.

Subd. 2. Exclusions. "Recreational Motor Vehicles" as defined in Section 1020.02, Subd. 1, are excluded from the definition of Motorized Golf Carts.

Subd. 3. Operation. The operation of Motorized Golf Carts within the City shall comply with the following:

A. Operators must be at least 18 years of age and possess a valid Minnesota Driver's license;

B. Operators may use City streets and State of Minnesota Grant-In-Aid trails within the City limits;

C. Operators may not use Motorized Golf Carts on the Gitchi-Gami state trail;

D. Motorized Golf Carts may only be used from sunrise to sunset;

E. The speed limit for Motorized Golf Carts shall be 20 miles per hour;

F. Operators must travel in the farthest right-hand portion of the traffic lane;

G. Operators must yield to all motor vehicle traffic and follow all traffic laws of the State of Minnesota.

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Chapter 11

Subdivisions

Section 1100 - General

1100.01. Title. This Chapter shall be known as the "Subdivision Regulations".

1100.02. Purpose. Each new subdivision becomes a permanent unit in the basic physical structure of the City. In order that new subdivisions contribute toward an attractive, stable and wholesome community environment, with adequate municipal services and safe streets, all subdivisions platted within the City shall fully comply with the regulations set forth in this Chapter. Pursuant to the provisions of Minn. Stat. §§ 462.357 and 462.358, this Chapter is adopted for the following purposes:

A. To provide for the orderly, economic and safe development of land and public services.

B. To promote the availability of housing affordable to persons and families of all income levels.

C. To facilitate adequate provision for transportation, water, sewage, storm drainage, schools, parks, playgrounds and other public services and facilities.

D. To promote the health, safety and general welfare of the residents of the City and adjoining areas.

E. To assure fair and equitable handling of development proposals by establishing a uniform subdivision process.

1100.03. Scope. This Chapter relates to the division of land into two (2) or more parcels, any of which is less than five (5) acres or any that does not front on a public street. It is not intended to repeal, abrogate, annul or in any way impair or interfere with private restrictions placed upon property by deed, covenant, or other private agreement or with restrictive covenants running with the land to which the City shall be a party.

1100.04. Jurisdiction. This Chapter applies to all land within the City and to all land within two (2) miles of the City limits, in any direction, where the adjacent unincorporated territory or town has not adopted comprehensive zoning regulations.

1100.05. Platting Required. All subdivisions shall be platted pursuant to the provisions of this

Chapter and the provisions of Minn. Stat. § 462.358 and Minn. Stat. §§ 505 et al. Plats, including preliminary plats, shall be prepared by a licensed surveyor.

1100.06. General Requirements.

A. The subdivision shall be consistent with the Silver Bay Comprehensive Plan.

B. The land to be platted shall be suited to the purpose for which it is to be subdivided. No preliminary plan shall be approved if after consideration to the best interests of the public, the site shall not be suitable for a plat due to flooding, soil conditions, topography or adverse earth conditions.

C. The use of the land proposed to be platted is allowed under the land use regulations of this Code.

1100.07. Definitions.

Subd. 1. Cluster Development. "Cluster Development" shall mean a subdivision development planned with relatively tight patterns of group housing units while providing a unified network of open space and wooded areas.

Subd. 2. Collector Street. "Collector Street" shall mean a street that serves as a connection between an arterial and several minor streets. The term includes the principal entrance streets of a residential development and streets for major circulation within such the development.

Subd. 3. Cul-de-sac. "Cul-de-sac" shall mean a permanent street terminating at one end without connecting with another street and designed so that it cannot be further extended without condemnation or taking property not dedicated as a street.

Subd. 4. Drainage Course. "Drainage Course" shall mean a water course or indenture for the drainage of surface waters.

Subd. 5. Engineer. "Engineer" shall mean the City Engineer designated by the Council.

Subd. 6. Final Plat. "Final Plat" shall mean the drawing of a subdivision prepared in the manner and containing the data, documents and information required by this Chapter.

Subd. 7. Lot. "Lot" shall mean a parcel of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision.

Subd. 8. Marginal Access Street. "Marginal Access Street" shall mean a street or service road parallel with and adjacent to a thoroughfare which provides access from the thoroughfare to abutting properties.

Subd. 9. Minor Street. "Minor Street" shall mean a street that provides direct access to a limited number of abutting properties.

Subd. 10. Planning Commission. "Commission" shall mean the City Planning and Zoning Commission and its members.

Subd. 11. Preliminary Plan. "Preliminary Plan" shall mean a drawing of a proposed subdivision or greater area prepared in the manner and containing the data, documents and information required by this Chapter.

Subd. 12. Private Street or Reserve Strip. "Private Street or Reserve Strip" shall mean purported street, way or strip of land reserved for the use of a limited number of persons or purposes as distinguished from a publicly dedicated street.

Subd. 13. Public Walkway. "Public Walkway" shall mean a public way designed for the use of pedestrian traffic.

Subd. 14. Subdivider. "Subdivider" shall mean the owner, agent or person having control of the land to be subdivided.

Subd. 15. Subdivision. "Subdivision" shall mean the division of a tract of land into two (2) or more parcels, tracts or lots for transfer of ownership or development, if 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 into two (2) lots in any twelve (12) month period if the lots shall meet minimum lot and area requirements of the Zoning Ordinance and all sewage regulations of the Lake County Health Department.

C. Transfers of interest in land by will or court order.

Subd. 16. Surveyor. "Surveyor" shall mean a registered land surveyor.

Section 1110 - Standards

1110.01. Minimum Design Standards. All subdivisions shall be designed in accordance with the standards set forth in this section.

1110.02. Lots and Blocks. All lots and blocks shall meet the minimum following standards:

A. No lot shall have less area or width than shall be required by this chapter for the zone district in which the subdivision shall be located.

B. Each lot must front upon a public or private street.

C. Through lots or double-frontage lots shall not be allowed.

D. Residential lots shall be separated from thoroughfares and railroad rights-of-way by a landscape buffer strip or sand barrier not less than fifty (50') feet in width.

E. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines or radial to lake or stream shores unless topographic conditions shall necessitate a variation.

F. In residential areas, blocks shall generally be not less than six hundred (600) feet or more than thirteen-hundred twenty (1,320) feet in length measured along the greatest dimension of the enclosed block area unless minor variations shall be necessitated by topography or to conform with an adjoining plat.

G. Blocks shall be wide enough to allow two (2) tiers of lots except where adjoining a lake, stream, railroad or thoroughfare or where one (1) tier of lots shall be necessary because of topographic conditions.

1110.03. Structure. All structures to be constructed in a subdivision shall be permitted under the provisions of the zone district in which the subdivision is located, shall be located on the property in compliance with all setback and other requirements of this chapter, and shall be constructed in accordance with all applicable codes.

1110.04. Public Use and Service Areas. Unless a subdivider can show cause for a lower amount based upon use of the land to be developed, a minimum of five percent (5%) of the gross land area in any proposed subdivision shall be dedicated to the public or preserved for public use such as parks, playgrounds, trails or open space.

1110.05. Streets and Roads.

Subd. 1. General Requirements.

A. Streets shall be properly related to such street plans or parts thereof as have been officially prepared and adopted by the City and shall further conform to such City, County and State road and highway plans as have been prepared, adopted and/or filed as prescribed by law.

B. Streets shall be logically related to the topography to produce usable lots and reasonable grades. Streets shall be designed so that access to a street shall be given to all lots and portions of the tract in the subdivision and to adjacent non-subdivided territory

unless the topography clearly indicates that the access shall not be feasible. Streets giving such access shall be improved to the limits of the subdivision, except the streets providing access only to adjacent, non-subdivided territory need not be improved.

C. Minor streets shall be laid out to discourage their use by through traffic and, where possible, thoroughfares shall be protected for use by through traffic by marginal access streets through lots or other means.

D. Half or partial streets shall not be permitted except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of these regulations and where, in addition, satisfactory access to the street can be secured. Wherever a tract to be subdivided borders on an existing half or partial street, the other part of the street shall be platted within the tract.

Subd. 2. Cul-de-sac Streets. Cul-de-sac streets, permanently designed as such, shall not exceed five hundred (500) feet in length when designed to be permanent. Cul-de-sac streets shall be provided at the closed end with a turnaround having a minimum radius to the outside edge of the curb line or finished street of not less than sixty (60) feet.

Subd. 3. Design Requirements.

A. Minimum widths for each type of public street or road shall be as follows:

Type of Street	Right-of-Way-Width
Thoroughfare	100 feet
Collector Street	75 feet
Minor Street & Cul-de-sac	66 feet
Alley	20 feet

B. The minimum street driving surface width shall be twenty-six (26) feet. The minimum street surface shall not less than the minimum dimensions for each classification as recommended by the appropriate utility companies and/or the City engineer, as accepted and approved by the Council.

C. When a subdivision abuts, or contains an existing street or road of inadequate width, sufficient additional width shall be required to meet the above standards.

D. Street grades shall not exceed six percent (6%) on thoroughfares, eight percent (8%) on collector streets, or ten percent (10%) on other streets. Street profiles shall be required if grades exceed eight percent (8%).

E. When a subdivision or portion thereof adjoins a thoroughfare, no lot shall have direct access thereto. The lots shall be provided with frontage on a marginal access street or street other than a thoroughfare.

F. Where a deflection angle of more than five (5) degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced, to wit: On streets sixty-six (66) feet or more in width, the center line radius of curvature shall be not less than three-hundred (300) feet.

G. All changes in grade shall be connected by vertical curves of minimum length in feet equal to fifteen (15) times the algebraic difference in rates of grade for thoroughfares and one-half (½) this minimum length for other streets. Profiles of all streets showing natural and finished grades drawn to a scale of not less than one (1) inch equaling one-hundred (100) feet horizontal and one (1) inch equaling twenty (20) feet vertical may be required by the City Engineer if topographic conditions warrant. A three hundred (300) foot maximum sight distance shall be provided.

H. Street intersections shall be as nearly at right angles as possible and no intersection shall be an angle of less than seventy (70) degrees.

I. Street jogs with centerline offsets of less than one-hundred twenty-five (125) feet shall not be allowed.

J. A proposed street which shall be in alignment with and joins an existing and named street shall bear the name of the existing street.

1110.06. Water Supply. When a subdivision shall be located within one thousand (1000) feet of a City water line, the subdivision shall be required to provide water mains of not less than six (6) inches in diameter that shall serve all lots and tracts in the subdivision. Shut-off valves and fire hydrants shall be installed along all water mains at the minimum intervals required by the laws and statutes of the State of Minnesota. The waterline shall be designed per all applicable state and local codes. Subdivisions more than one thousand (1000) feet from a City water line shall be required to provide data on well water availability.

1110.07. Storm Drainage.

A. Surface water drainage shall be provided by storm sewers or drainage courses adequate to drain surface water from the subdivision and protect roadway surfaces. Storm drainage facilities shall be designed to provide positive drainage away from onsite

sewage disposal systems. In designing storm drainage facilities, special consideration shall be given to protect against erosion, siltation of surface waters, and runoff to adjacent properties.

B. Where storm water from adjacent areas naturally passes through a subdivision, adequate provision shall be included for facilities to route the storm water through the subdivision to its natural outlet to maintain or replace the natural water course.

1110.08. Sewage Disposal.

A. When a subdivision is located within one thousand (1000) feet of a City sewer line, the subdivision shall be required to provide sanitary sewer lines that shall serve all lots and tracts within the subdivision. Service wyes shall be provided for all lots. The sewer lines shall be designed per all applicable state and local codes.

B. When a subdivision is located more than one thousand (1000) feet from a City sewer line, provisions shall be made for sanitary sewage facilities consisting of a central treatment plant or individual onsite system for each lot, with all designed per current state and local regulations.

C. For all lots within the subdivision not provided with City sewer service, soil and percolation tests shall be made by the subdivision applicant to determine whether the lots meet minimum standards for health and sanitation. The tests shall be under the direction of City and the results of all tests shall be used in determining the approval of the subdivision.

1110.09. Utilities. Utility easements shall be provided across lots or centered on rear or side lot lines. Easements shall be not less than twenty (20) feet in width. Use of the easements shall be for erecting and maintaining poles, wires, conduits, storm sewers, drainage ways, sanitary sewers, water mains, electrical conduit and other public utilities. All such easements shall be placed along the rear lot lines whenever possible.

1110.10. Solar Energy Access. Appropriate consideration shall be given to protecting and assuring access to direct sunlight for solar energy systems to all lots within the subdivision.

Section 1120 - Procedure

1120.01. Pre-Application Conference. Prior to the submittal of a preliminary subdivision plan, an applicant shall be encouraged to confer with the Zoning Officer about the general scope of the

subdivision. The requirements of this chapter shall be reviewed at this session including the written and graphic materials required for consideration of the subdivision plat.

1120.02. Outline Subdivision. Following any pre-application conference, the subdivider shall furnish the Zoning Officer with three (3) copies of the proposed subdivision showing generally the proposed lots and the entire tract of land to be subdivided. Within ten (10) days the Zoning Officer shall by letter advise the subdivider of general comments to the prepared plat and if a formal preliminary application should be made. Failure of the Zoning Officer to respond to the applicant shall constitute general acceptance of the drawing.

1120.03. Preliminary Subdivision Plan. Following a report by the Zoning Officer, the applicant shall submit to the Administrator four (4) copies (unless otherwise requested) of a Preliminary Subdivision Plan, an application for approval of the plan and the application fee. The application shall contain all information necessary for the Commission to properly consider the application.

The following data shall be required for the preliminary subdivision plan and shall be shown on the plan drawing:

Subd. 1. Scale. One (1) inch equal to one hundred (100) feet. If size warrants, a scale of fifty (50) feet to one (1) inch may be used.

Subd. 2. Identification and Description. The following shall be identified:

A. Name of the subdivision, which shall not duplicate any other recorded subdivision in the city;

B. Location including the section, township, and range, and a location map showing subdivision within the section and tied into established section corners;

C. Name and address of owner, subdivider, surveyor and designer of the plan;

D. Graphic scale;

E. North arrow;

F. Date of preparation;

G. Existing natural conditions of the tract of land including swamps, lowlands, water features, rock formations, and including:

1. Property lines;
2. Acreage;
3. Platted streets and utility easements;

4. Permanent structures;
5. Location of city sewers, waterlines and all other public utilities;
6. U.S.G.S. contours shall be shown where available;
7. Storm water drainage patterns; and
8. Adjacent land uses;

H. Outline information as requested by zoning officer or the Commission;

I. Other information as requested by zoning officer or the Commission;

J. Preliminary Plat Design Features to include:

1. Street layout showing right-of-way width and street names;
2. Location and widths of all public walkways and easements;
3. Layout, numbers and dimensions of all lots and blocks;
4. Areas other than streets, walkways or easements that shall be dedicated to public use including dimensions of the areas;
5. Locations of all proposed water and sewer lines;
6. Storm water drainage patterns of subdivision when completed;
7. Solar access provisions; and

1120.04. Referrals for Review. Upon receipt of the preliminary plan and completed application, when deemed applicable by the Commission and/or the Attorney, the Administrator shall refer one (1) copy of the plan to the following:

A. City Engineer and/or City Surveyor.

B. Utility Companies including electric, telephone, gas and cable.

These officials and groups shall submit their comments on the proposed plan to the Commission within thirty (30) days of receipt of the plan. Failure to do so shall constitute acceptance of the preliminary plan.

1120.05. Public Hearing. The Commission shall hold a public hearing on the preliminary plat within thirty (30) days following the review period. The hearing shall be set by the Administrator and shall include notification of all property owners within the City located wholly or partly within three hundred-fifty (350) feet of the subdivision, shall set time and date of the hearing and shall cause notice of the hearing to be published in accordance with legal requirements.

1120.06. Preliminary Plan Approval.

A. The Commission shall consider the application for the Proposed Subdivision within sixty (60) days of the public hearing, unless an extension of the review period is agreed to by the applicant. If the Commission fails to act upon the application, the application shall be deemed preliminarily approved by the Commission and upon demand the Administrator shall execute a certificate to that effect.

B. All decisions made by the Planning and Zoning Commission shall be in writing with the factual basis and reasons supporting all decisions set forth.

C. Conditions and restrictions may be placed upon the subdivision to insure the spirit and intent of this chapter and the Comprehensive Plan are met.

D. The Commission may condition its approval on the construction and installation of sewers, streets, gas, electric, drainage, water and similar utilities and improvements if necessary.

1120.07. Governing Criteria. No preliminary subdivision plan shall be approved unless positive findings of fact are found and stated in writing by the Commission with respect to the following criteria:

A. The subdivision plan conforms to the Silver Bay Comprehensive Plan;

B. The subdivision plan conforms to the requirements of this chapter;

C. The proposed development is compatible with development permitted under the general provisions of the Zoning Ordinance on substantially all land near the disposal of sewage;

D. An effective manner of storm water drainage has been provided for;

E. Provision has been made for areas for public use;

F. Consideration has been given for providing solar access to all lots within the subdivision; and,

G. Appropriate safeguards have been given to the protection of all lots from flood hazards.

1120.08. Appeals. The decision of the Commission on any subdivision plan shall be subject to appeal to the Council by any person or persons who may be aggrieved.

1120.09. Final Subdivision Plan.

Subd. 1. Submission. Within ninety (90) days following approval of the preliminary

subdivision plan by the Commission, the applicant shall submit with the Administrator five (5) copies of a final plan containing in final form all information required and agreed upon under conditions set forth by the Planning and Zoning Commission. If the final subdivision plan is not submitted within the required period, the approval of the preliminary plan shall be deemed void. The Council, however, may for good cause shown extend the period for a reasonable period for filing of the final subdivision form. The applicant shall include with the final subdivision plan an Abstract of Title extended to a current date or Certificate of Title and Registered Property Certificate extended to a current date.

Subd. 2. Review. Upon receipt by the Administrator, a copy of the final plan shall be submitted to the City Engineer and/or City Surveyor (if the City has appointed an Engineer or Surveyor). The City Attorney shall be furnished with a copy of the final plan together with the Abstract of Title or Certificate of Title and Registered Property Certificate. These officials shall submit written reports to the City Council within thirty (30) days after receipt of the documents.

Subd. 3. Signatures and Notary. The final plan shall contain a notarized certification by owner and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas in the form approved by the City Attorney.

1120.10. Decision by City Council. The Council shall act on the final plat within sixty (60) days of the date after the final prints were submitted to the Administrator. The Council shall not approve the final plat unless positive findings are made on the following points:

A. The final plan conforms to the Preliminary Plan as approved by the Commission;

B. The final plan conforms to all engineering and surveying standards and specifications as set forth by State law and this chapter;

C. The final plan conforms to all municipal plans;

D. The Council determines that all conditions and requirements as set forth by the Commission have been met either through performance or execution of agreements assuring performance; and,

E. The Council may impose additional safeguards, conditions and restrictions on its approval to ensure that the Comprehensive Plan is met.

1120.11. Specifications.

Subd. 1. Street Improvements. All street improvements and work shall be done in accordance with State of Minnesota and City specifications and shall be subject to the

recommendations, supervision and approval of the City.

Subd. 2. Drainage. All lots shall be subject to having proper drainage to prevent the collection of storm water in pools.

Subd. 3. Corner Boundaries. All sections and/or quarter section corners used to create boundary lines for a subdivision plat shall be permanently marked and properly perpetuated.

Subd. 4. Corner Markings. All permanent markings of corners and establishment of reference or witness monuments shall be made in conformance with the standards established by the Lake County Surveyor's office and State standards.

Subd. 5. Curves. Complete curve data, including radii, internal angles, tangent bearings and length of all arcs shall be provided.

Subd. 6. Monuments. Accurate location of all monuments shall be indicated.

Subd. 7. Survey Markers. All subdivision boundary corners, block corners, street intersection corners and a point of tangency and curvature shall be marked with survey monuments consisting of galvanized pipes with caps (minimum 1½" diameter) or minimum one (1) inch deformed steel rods thirty-six (36) inches in length. Lot corners shall be marked with iron survey monuments acceptable to State regulations. All U.S., State, County, Township and other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise location.

1120.12. Preparation and Filing of Approved Plats. The final plat shall be prepared to conform to the requirements for plats imposed by Minn. Stat. §§ 505 et al. When the plat is approved and certified, the subdivider shall immediately comply with the filing requirements set forth in Minn. Stat. § 505.04.

1120.13. Variances. All applications for variances from the specific provisions of this chapter for any subdivision plan shall be made to the Commission. No variance shall be issued without approval of the Council.

1120.14. Vacation of Easements. The Council may vacate any publicly owned utility or street easement, or any portion thereof, which is not being used for utility or street purpose in the same manner as vacation proceedings are conducted for utility and street easement vacations under Minnesota law.

1120.15. Effect of Subdivision Approval. For one (1) year following preliminary plan approval and for two (2) years following final plat approval of a subdivision plan, unless

mutually agreed upon in writing by the subdivider and the City, no amendment shall be made to the Silver Bay Comprehensive Plan, Zoning Ordinance or other ordinances that apply to or effect the use, development density, lot size or layout, dedication, or platting required or permitted by the approved application.

1120.16. Control/Enforcement. Violations of any conditions, requirements, safeguards or other agreements when made as part of the approval of any subdivision plan shall be deemed a violation of this chapter and shall be subject to such penalties as may be imposed by this Code.

1120.17. Building Permits. No building permit may be issued for any tract, lot, or parcel for which required subdivision has not been obtained or for which any conditions, requirements, safeguards or other agreements have not been met.

1120.18. Subdividing and Platting Costs. Any person subdividing or platting land within the City, pursuant to this chapter, shall pay costs incurred by the City in the subdividing or platting procedure. Costs may include City Engineer fees and expenses, City Attorney fees and expenses, copying costs and other administrative expenses incurred by the City.

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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 a 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 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.

Subd. 2. Accessory Building. An "Accessory Building" is defined as a structure subordinate to the principal use of a building on the same lot or lots and serving a purpose customarily incidental to the use of the principal structure. It may be attached or unattached to the principal structure. No Accessory Building shall be built prior to completion of the principal 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 storage shed (secondary structure). The storage shed or similar structure shall not exceed two hundred square feet. However, if the buildable area of the lot size

permits, or the owner of the principal structure owns an additional adjacent lot or lots, the secondary structure may be larger than two hundred (200) square feet but shall not exceed one thousand forty (1040) gross square feet of floor area. The secondary structure may be built on such additional lot but that lot may not be sold separately from the lot on which the principal structure is located. The following conditions shall apply to any secondary structure built larger than two hundred (200) gross square feet of floor area:

A. No more than three (3) structures, including the principal structure, shall be allowed in a zoned residential area, regardless of the number or size of lots owned by the owner of the principal structure.

B. Shall comply with the provisions of the Chapter 8, Section 800 of the City Code (State Building Code).

C. Shall match the outside decor of the principal structure. Siding and shingles shall be similar in appearance.

D. Shall be used exclusively by the owner of the principal structure and shall not be leased or used commercially or as living quarters.

E. Permits shall be issued by the Zoning Administrator. In the event the Zoning Administrator refuses to issue the permit, the owner may apply for a variance in accordance with variance procedure as set forth in Section 1250 of the Code.

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 (½) 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.

Subd. 13. 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.

Subd. 14. 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. 15. Building Official. The person appointed by the Council pursuant to Minn. Stat. § 326B.133 to enforce and attend to all aspects of the State Building Code as designated in Section 800.02, Subd. 1 of the Code.

Subd. 16. 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. 17. 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. 18. Club or Lodge. A non-profit association of persons, who are bonafide members paying annual dues, and where the use of premises is 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 follows the applicable federal, state, and municipal laws.

Subd. 19. Commercial Recreation. Any privately owned for-profit recreational facility including ski trails, go-cart tracks, mini golf, amusement parks, or other similar activities.

Subd. 20. Commercial Use. Sale, lease, rental or trade of products, goods and services.

Subd. 21. Commission. "Commission" means the Silver Bay Planning and Zoning Commission.

Subd. 22. 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. 23. Conditional Use. A land use or development that would not be appropriate or conform to the provisions of this chapter in each zone district, but which may be allowed with restrictions as provided for in this chapter.

Subd. 24. 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. 25. Demolition / salvage / recycling. Any commercial salvaging and scavenging of any goods, articles, or merchandise other than automobiles.

Subd. 26. 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. 27. 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. 28. 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 be 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.

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. 29. Essential Services. Services provided by public or private utilities.

Subd. 30. Family. Any person or a group of persons, whether related by blood or marriage, occupying a single dwelling unit.

Subd. 31. 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. 32. Floor Area. The sum of the gross horizontal area of several floors of the building or portion thereof devoted to a 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. 33. Frontage. The length of the front property line of a lot or tract of land abutting a public right-of-way.

Subd. 34. 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. 35. Home. A family's place of residence or domicile. The social unit formed by the family living together.

Subd. 36. Home Occupation. Any occupation engaged in by the occupant of a dwelling for compensation.

Subd. 37. Hotel. A commercial establishment or building of usually two (2) stories, or more, in height, with a main entrance, providing several bedrooms, baths or other amenities, to the traveling public for compensation.

Subd. 38. Livestock. All animals, excluding dogs and cats, and including but not limited to mammals, horses, cows, sheep, goats, pigs, fish, fowl, chickens, insects and reptiles. Normal domestic pets are those traditionally kept in a household as defined in Subd. 23 of this section.

Subd. 39. 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 an existing corner lot, the front shall be the side where the designated postal address is located. For new lots, the front shall be as designated by the owner to the extent allowed by plat, subject to approval of the Zoning Administrator.

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. 40. 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. 41. 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 Minn. Stat. § 327.31, Subd. 6.

Subd. 42. 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. 43. 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. 44. 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. 45. 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. 46. Permanent Mobile Home. A manufactured home built in conformance with Minn. Stat. §§ 327.31 to 327.35 which meets all 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 Statues.

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

Subd. 47. Permitted Use. A use that is specifically allowed in a zone district without the requirement of a conditional use permit.

Subd. 48. Principal Use of Building. That use of building which determines the predominant use of the lot on which it is located.

Subd. 49. 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. 50. 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. 51. Recreational Vehicle. A mobile vehicle, including boats used for recreational purposes, capable of being towed, carried, or being self-propelled.

Subd. 52. Restaurant. An establishment where food is available to the public for consumption on the premises and/or take out.

Subd. 53. 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.

Subd. 54. 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 Conditional Use.

Subd. 55. Self-Service Storage Facility. A commercial building or group of buildings that contain individual compartmentalized and controlled access stalls or lockers for the storage of customers' goods, personal property or wares. May also be referred to as mini-storage.

Subd. 56. 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. 57. 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. 58. 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. 59. 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. 60. Structure. Anything constructed or erected the use of which requires 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. 61. 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. 62. Subdivision. The division of a district of land into two (2) or more parcels for 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 if 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 and other zoning regulations applying to the area in which the lots or parcels are located.

Subd. 63. 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. 64. Tower. Any structure exceeding 35 feet in height.

Subd. 65. Trailer. Every vehicle without motive power designed or used for carrying persons or property and for being drawn by a motor vehicle.

Subd. 66. Transitional Use. A non-conforming temporary use of a lot which may be conditionally allowed by the Commission for a limited period.

Subd. 67. Variance. Any modification or variation from the provisions of this chapter where it is determined that because of exceptional circumstances unique to the property under consideration, the strict enforcement of which would cause undue or unnecessary hardship.

Subd. 68. 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. 69. 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 water’s 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.

Subd. 70. Zoning Administrator. A person appointed by the Council to assist with the enforcement of and compliance with all aspects of the Zoning Code and subdivision regulations under Chapter 11 of the Code.

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.

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 functional, mobile and licensed 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 and recreational equipment 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. 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.

A. Definitions. For the purposes of this chapter, the terms and words below shall be defined as follows:

1. "Portable storage container" means a unit that is constructed to make it portable and capable of movement from one site to another, that can be or is used for the storage of personal property of any kind, that is located outside of an enclosed building, that is larger than 40 cubic feet, and that is not a permanent accessory building or shed complying with all building codes and zoning requirements.

2. "Temporary structure" means a structure or unit over seventy-five (75) square feet in size, consisting of a frame that is covered at any time with a covering made of plastic, fabric, canvas, metal, fiberglass or similar materials, that does not require a building permit, that is not intended for human occupancy, and that is intended or used to provide storage for vehicles, boats, recreational vehicles, or other personal property, whether fully or partially covered. "Temporary structure" includes structures commonly known as yurts, hoop houses, canopy-covered carports and tent garages, but does not include structures that are in place for less than five days, and structures that have been constructed pursuant to a building permit issued by the City.

B**. Containers and Structures Prohibited**. No portable storage containers or temporary structures shall be located, permitted, or placed in any R1 or R2 Zoning District.

1200.07. Certificate of Occupancy. Owners of buildings or land used for commercial purposes shall secure a Certificate of Occupancy within thirty (30) days of substantial completion of construction. Commercial uses shall include all permitted, non-conforming, accessory, or Conditional Uses as defined in this chapter for the "SC" and "HB" Zoning Districts. 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.

Subd. 2. Time for Completion.

A. 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.

B. The City Zoning Administrator may grant an extension, not to exceed twelve months from the date the extension is granted, to the time limit for completion contained in Subd. 2. A. or as otherwise set forth in the permit. Provided, however, that the City Zoning Administrator finds and states in writing on the extension permit that the reason for the extension are related to a unique circumstance and the activities authorized by the building permit have been engaged in a timely manner. A unique circumstance may include an unanticipated event such as product shortages, inclement weather, labor disputes, project complexity and size, governmental actions, or financial difficulties.

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. No person shall erect any fence as described in Section 1222 without first securing a Land Use Permit approved by the Zoning Administrator.

Subd. 2. Signs. Except for "For Sale", "For Rent" and "Election" signs, no person shall erect or place any sign as described in Section 1230 without first securing a Land Use Permit approved by the Zoning Administrator.

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

1200.11. North Shore Management Plan.

Subd. 1. 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.

Subd. 2. The North Shore Management Plan Update (June 2004) is hereby adopted by reference, shall have the same force and effect as if set forth in full, shall apply to all development within the non-sewered residential area of the City of Silver Bay lying within the North Shore Management Plan Area Boundary north of Highway 61, and to be known on the Zoning Map as the "North Shore Residential Overlay Zone."

1200.12. Temporary Family Health Care Dwellings. Pursuant to authority granted by Minn. Stat. § 394.307, Subd. 9, Temporary Health Care Dwellings, as defined by Minn. Stat. § 394.307, are prohibited within the City unless otherwise permitted in this chapter.

Section 1210 – Zoning District Provisions

1210.01. Zoning Districts Established. The following zoning 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 Administrator. The various zoning districts shall be shown on the official Zoning District Map. The Zoning District Map shall be maintained by the 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 non-subdivided 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.

H. Rental of a dwelling by the owner if the terms of any lease or rental contract have a minimum thirty (30) day term.

Subd. 3. Uses allowed by Conditional 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 which shall include a Manufactured Home that is not less than twenty-four (24) feet in width and not less than thirty-two (32) feet in length, when built on site. Width measurement shall not take account of overhangs, porches, decks or other projections. The structure shall be placed on an approved permanent foundation and connected to the required utilities. It shall have conventional roof and roof lines and the design, construction and materials shall not be so inconsistent with surrounding buildings that it will significantly diminish neighboring property values or otherwise impair the health, safety, and welfare of the community. Mobile Homes, House Trailers and any living quarters that do not meet the dimension requirements set forth herein shall not be allowed except in established Mobile Home Parks.

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:	
For principal structure	8 feet
On corner lot	20 feet
For accessory use to adjacent lot	3 feet
From Utility easement	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 Conditional Use Permit.

A. All Conditional 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
One-(1) Bedroom	600 square feet per
Two-(2) or more Bedrooms	750 square feet per

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. (SC) Shopping Center Commercial.

Subd. 1. Purpose. The purpose of the SC, Shopping Center 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.

E. Restaurant, bakery or café facilities.

F. Food Stores.

G. Pharmacies.

H. Real estate brokers.

I. Insurance agencies.

J. Appliance or fix-it repair shops.

K. Sales and service industries.

Subd. 3. Uses Allowed by a Conditional 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 District 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.

E. Assembly/packaging companies.

F. Warehouse/showrooms.

G. Equipment sales.

H. Daycare centers.

I. Adventure/tourism centers.

J. Medical clinics.

K. Hotels.

Subd. 3. Uses Allowed by a Conditional Use Permit.

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

B. Self-Service Storage Facility.

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.

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 Conditional Use Permit.

A. All uses identified as Conditional 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.

L. Self-Service Storage Facility.

Subd. 3. Uses Allowed by Conditional 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.

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 Conditional Use Permit.

A. All uses identified as Conditional 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	10 feet
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 Conditional 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 and number of allowed structures 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. 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.

K. Skate parks.

L. Dog parks.

M. Bike parks.

Subd. 3. Uses Allowed by a Conditional 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, horse parks, 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. (BP) Silver Bay Business Park - Mixed Use Zoning District.

Subd. 1. Purpose. To network businesses to work with each other and the Silver Bay Community to create and diversify living wage employment by improving resource productivity,

reducing pollution, and expanding markets through renewable, sustainable energy development. All proposed land uses must receive a Conditional Use Permit before a Land Use Permit or Building Permit can be applied for and issued.

Subd. 2. Permitted Uses. All proposed uses must be consistent with the "Purpose" of the park and the following goals:

A. Strive for continuous business, environmental and community improvement.

B. Establish networks to accomplish objectives.

C. Establish links to the local community and eco-system.

D. Achieve "beyond" compliance levels with federal, state and local regulations.

Subd. 3. District Requirements. These requirements are to be used as a guide for land development. Final requirements will be determined through the Application Process:

Minimum Lot Area	15,000 Square Feet
Minimum Lot Frontage	100 Feet
Minimum Front Setback	25 Feet
Minimum Side Setback:	
For Principal Structure	30 Feet
For Accessory Use	15 Feet
Minimum Rear Setback:	
For Principal Structure	N/A
For Accessory Use	3 Feet
For Utility Easement	3 Feet
Maximum Building Height	35 Feet
Maximum Building Coverage	N/A

Off Street Parking – requirements shall be in accordance with proposed land use, the Eco-Park Clustering Plan, existing infrastructure and/or future transportation plans.

1210.14. Table of Permitted Uses by Zone.

P = Permitted Use C = Conditional Use Permit Required

Type of Use										
Residential Uses	**R1**	**R2**	**SC**	**HB/ BP**	**LB**	**LI**	**GI**	**FR**	**RC**	**RR**
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	**R1**	**R2**	**SC**	**HB/ BP**	**LB**	**LI**	**GI**	**FR**	**RC**	**RR**
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	**R1**	**R2**	**SC**	**HB/ BP**	**LB**	**LI**	**GI**	**FR**	**RC**	**RR**
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	**R1**	**R2**	**SC**	**HB/ BP**	**LB**	**LI**	**GI**	**FR**	**RC**	**RR**
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 Administrator.

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 Conditional Use, the 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 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 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 Administrator.

Section 1221 - Hazardous Buildings

1221.01. Damaged Buildings. Any building damaged or destroyed by fire, explosion or wind 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. Minn. Stat. §§ 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 Minn. Stat. § 65A.50.

Subd. 2. Statutes Adopted. Minn. Stat., § 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.

Subd. 1. Height. All fences in Residential Districts (R1, R2) shall not be more than six (6) feet in height. Fences in the front yard from the building line to the front lot line shall be no more than three (3) feet in height, except fences on side lot lines extending to the setback maybe up to six (6) 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 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.

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 Conditional 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 Commission 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 (R1&R2)	**Highway Business/ Business Park (HB & BP)**	**Shopping Center (SC)**	**Industrial (LI & GI)**
Type of sign:	Identification Home Occupation	All permitted	Identification Business	All permitted
	(R1&R2)	**(HB & BP)**	**(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 100 sq.ft. of building area over 3,000 sq.ft.	No limit
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

1231.01. Findings. It has been determined by the Council that, although towers serve a public need, towers also must meet reasonable standards established by the community. Because of the potential visual impact of towers, all lands within the City, public and private, shall be subject to these guidelines and regulations.

1231.02. Intent and purpose. The placement of towers over 35 feet in height requires approval through a Conditional Use Permit and if over 195 feet in height, also requires a height variance. Because of the nature of public notice required for towers over 195 feet, the filing fee shall represent the sum of the Conditional Use and Variance application fees.

Subd. 1. Lighting. The Council finds that there is significant public concern with the maintenance of dark skies, and the reduction of light trespass. Consequently, additional lighted towers shall be discouraged and co-location on existing structures encouraged.

Subd. 2. Public Health and Safety. This section recognizes the need for protecting the health, safety and general welfare of all the citizens in the City while attempting to minimize possible adverse aesthetics related to the placement, construction or modification of tower facilities.

Subd. 3. Local Authority. The Telecommunications Act of 1996 affirms local government's right to control the sitting, construction, and modification of cellular and other wireless telecommunication facilities. The permitting process in this section does not discriminate among providers of functionally equivalent services and does not prohibit the provision of personal wireless services.

1231.03. Applicability. It shall be unlawful for anyone to erect, construct, or place any new tower facility over 35 feet in height without first receiving appropriate permits from the Planning & Zoning Commission. It shall be unlawful to alter, modify, transform, add to, or change in any way, an existing tower facility without first receiving permits from the Planning & Zoning Commission.

1231.04. Permits. The following tower related facilities and activities may be considered for a Land Use permit if they meet the application requirements and standards of this chapter.

Subd. 1. Existing structures. The addition of antennae on existing structures which do not increase the height or require structural modification of the facility.

Subd. 2. Accessory Utility Buildings. All buildings and structures serving a tower shall:

A. Show the number, size and location in relation to the tower of any cabinets or utility buildings servicing the tower.

B. Be buffered and screened from adjoining uses.

C. Meet the height and setback requirements of the zoning district, except as modified in Section 1321.05, Subd. 1.

D. Have integrated roof armoring to prevent equipment failure from falling ice.

1231.05. General Standards.

Subd. 1. Setback. The facility shall have a minimum distance to the part and/or recorded easement boundary equal to one and one-half (1½) times the height of the tower or the fall zone distance of the tower as set forth in the specifications of the tower manufacturer. The tower facility shall have a minimum distance of two times the height of the tower to the nearest residential structure. Towers are generally prohibited in shore land areas.

Subd. 2. Fencing. The tower facility which includes related equipment shall be protected by a perimeter security fence six feet or greater in height to prohibit access by unauthorized persons.

Subd. 3. Signage. The owner's name, telephone number and FCC registration number shall be posted on the gate of the perimeter fence. No other advertising or identification of any kind is permitted on the tower facility except applicable warning and equipment information as required by the manufacturer or by Federal, State or local authorities.

Subd. 4. Lighting. Lighting shall comply with this section's lighting standards.

Subd. 5. Facility Screening. Screening may be prescribed by the Planning & Zoning Commission depending on site location.

1231.06. Tower Design Requirements.

Subd. 1. Aesthetics. Towers and antennae shall minimize the tower's visual impact using color camouflaging, and architectural treatment, except where colors are dictated by Federal or State authorities.

Subd. 2. Monopole design. Towers on new sites shall be of a monopole design unless not suitable for the terrain, or unless otherwise authorized by the Planning & Zoning Commission.

Subd. 3. Certification. The proposal for a new tower shall not be approved unless the applicant successfully demonstrates under corporate letterhead that the telecommunications equipment plan for the proposed tower cannot be accommodated on an existing or improved tower or building within a two-mile search radius of the proposed tower due to one or more of the following reasons:

A. The planned equipment would exceed the structural capacity of the existing approved tower or building as documented by a qualified and licensed professional engineer and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.

B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.

C. The existing or approved towers or buildings within the search radius that cannot or are not allowed to accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed professional engineer.

D. Reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

Subd 4. Additional users. Any proposed tower shall be designed structurally, electrically and in all respects to accommodate both the applicant's antennas and comparable antennas for at least three additional users. Facilities providing greater antenna capacity will be considered more desirable than limited use towers. Towers must be designed to allow for future rearrangements of antennas and accept antennas mounted at varying heights.

1231.07. Additional submittal requirements. In addition to the information required elsewhere, applications shall include the following information:

Subd. 1. Engineer's report. A report from a licensed professional engineer that describes the tower's capacity including the number and type of antennas that it can accommodate.

Subd. 2 Letter of Intent. A letter of intent from the tower owner committing the tower owner and successors to allow the shared use of the tower for at least three additional users and that additional users agree in writing to meet reasonable terms and conditions for shared use. The Letter of Intent shall state the amount of the user fee for additional users and the time for the tower owner to process the additional user application. The amount of the user fee shall be of such reasonable amount, and the time for processing the additional user application shall be timely, so that it will not prohibit additional users the use of the tower facility or discriminate against other providers of similar or related services.

Subd. 3. Airport compliance. A report from all airports within a twelve-mile radius of the tower site acknowledging their awareness of the new tower location and evidence that the tower site has been appropriately reported to the Minnesota Department of Transportation Division of Aeronautics, Federal Aviation Administration, and the Federal Communications Commission.

1231.08. Abandoned or unused towers. Abandoned or unused towers and associated facilities shall be removed within six months of the cessation of operations unless a time extension is approved by the Commission. If a tower is not removed within six months of the cessation of the operations, the tower and associated facility may be removed by the City with costs being assessed against the permitee or property owner.

1231.09. Compliance with North Shore Management Plan Regulations. In addition to compliance with this section, the applicant shall demonstrate compliance with the North Shore Management Plan regulations now in force or hereafter adopted.

1231.10. Agreement. Before any Tower Permit is issued, or any work done in preparation for or construction of a Tower, the applicant shall sign a Tower Use Agreement in the form provided by the City.

Section 1240 - Conditional Uses

1240.01. Permit Required. Any use listed in this chapter as a Conditional 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 Council. Any person claiming exemption shall make application as provided herein.

1240.02. Applications.

Subd. 1. Filing. An application for a Conditional Use Permit or Exemption Certificate shall be filed with the Administrator on a form provided for that purpose. The completed Application shall be submitted in a timely manner by the Administrator to the Zoning Administrator and 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 Zoning 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 per applicable Minnesota Statutes and to the rules of procedure of the Commission.

1240.04. Decisions.

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

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

A. The use conforms to the land use and 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 consistent with a desirable pattern of development for the area.

1240.07. Home Occupation.

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 occupations shall be exempt from the requirements of a Conditional Use Permit for home occupations: telemarketing; computer based business; business conducted by telephone, email, or U.S. Mail that generates only occasional customer or client traffic; product sales associated with private social events (e.g., Tupperware, etc.) and similar type businesses, that do not generate additional traffic, or that do not generate customer or client traffic at the residence more than that usual in the residential neighborhood. Garage sales, limited to not more than two per year per residence shall also be considered exempt. All conditions listed in Subd. 3 shall apply to exempt businesses. Any occupation claiming exemption shall make an application to the Administrator for a Certificate of Exemption and pay the same fee as an application for a Conditional Use Permit.

Subd. 2. Intent. The purpose of this section 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 the City. The intent is to limit home occupations to provide those types of services and supplies that can be carried on within the residence without adversely impacting on the integrity of the residential area. This section is designed to prohibit any home occupations which are objectionable, incompatible, use hazardous materials, or are illegal in the residential districts or that do not comply with all the conditions set forth in this section.

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

A. The maximum area used for a Home Occupation within the principal structure, including that used 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. The area within any attached or detached structure used by the Home Occupation shall not exceed twenty percent (20%) of the structure's gross floor area. The Home Occupation shall be conducted only within the enclosed areas of the dwelling site.

B. There shall be no exterior evidence of the home occupation, including but not limited to the storage of materials, supplies, equipment, or commercial garbage dumpsters.

Outdoor storage or display of materials, goods, supplies, or equipment related to the conduct of the Home Occupation is prohibited.

C. Nothing shall be visible to neighboring residences indicating that a home occupation is being conducted from the dwelling or accessory buildings, except those signs permitted in residential areas.

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. For the purposes of this provision, more than five (5) customers or clients per day may be determined to be an excessive and detrimental level of traffic.

F. It shall not involve the use of commercial vehicles for delivery of home occupational materials to or from the premises not compatible with normal household use. Shipment and delivery shall be limited to single rear axle straight trucks, vans or smaller vehicles normally used in home delivery.

G. The conduct of the Home Occupation shall not generate noise, glare, light, vibrations, fumes, or odors detectable to normal senses outside the dwelling lot.

H. Equipment which creates electrical interference in any radio, television receivers, or cause fluctuations in power line voltage off the premises, shall not be permitted.

I. Not more than two employees other than the residents of the dwelling unit shall be permitted, provided their employment does not cause any congestion in the neighborhood and that the resident of the dwelling unit provides off street or screened parking for any employees.

J. Shipment and delivery of supplies and products shall be limited to the hours between 8:00 A.M. and 6:00 P.M. and shall not be allowed on Sundays or holidays.

K. Accessory structures and garages may be used in operation of a home occupation if its use will not adversely affect the use for which the accessory building and garage was intended, i.e., the storage of home equipment and motor vehicles.

Subd. 4. Performance Standards. 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 the Conditional Use Permit for the Home Occupation to ensure the proposed 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 hours of operation.

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

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

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

Subd. 5. Review and Compliance Procedure. All home occupations to be carried on as an accessory use either a permitted, exempt or conditional use, under the provisions of this section, shall be required to obtain a valid Conditional Use Permit or Exemption Certificate for the home occupation from the Administrator. All home occupations lawfully operating at the time this section is adopted shall not be exempted from this requirement. Procedure for a Conditional Use Permit and Exemption Certificate for home occupations are as follows:

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

B. The Zoning Administrator shall review the application for compliance with this chapter.

C. All persons intending to engage in a home occupation shall apply for a Conditional Use Permit or Exemption Certificate. Not all occupations will require a Conditional Use Permit. The Zoning Administrator may find that certain uses that do not generate any impact upon the area (such as those uses described as exempt in Subd. 1 above) do not require a Conditional Use Permit. If the home occupation qualifies for an exemption, the Zoning Administrator shall issue an Exemption Certificate. The Commission or City Council may, in its discretion, review, approve or disapprove the issuance of an Exemption Certificate. All applications for a Conditional Use Permit shall be forwarded to the Commission for consideration.

D. All Conditional Use Permits and Exemption Certificates for home occupations shall be valid for three (3) years, unless otherwise authorized by the Commission.

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

F. The Conditional Use Permit fee for a home occupation shall be established by Resolution of the Council. This fee is non-refundable and due at the time of application for the home occupation permit. The Council may, in special circumstances, allow refunding of the fee.

Subd. 6. Implementation.

A. All existing home occupation permit holders will be issued a three (3) year Conditional Use Permit for home occupation.

B. All permit renewals shall be reviewed and approved by the Commission.

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

Section 1241 - Planned Unit Development Standards and Criteria (P.U.D.)

1241.01. Goal. It is the goal of these standards and criteria to provide uniform standards for the optimization of development opportunities and maximum environmental protection on any given planned unit development site.

1241.02. Definition. For these guidelines, a planned unit development will be defined as: multiple residential or commercial dwelling units including but not limited to townhomes, condominiums, motels, hotels, resorts and related commercial activities, consisting of five or more units with a maximum density of four units per acre.

1241.03. Design Criteria. Structures, parking areas, and other facilities must be designed and placed to reduce visibility as viewed from Lake Superior, roads and adjacent shore lands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.

Subd. 1. Location. Units, recreation facilities, and commercial uses must be clustered into one or more groups and located on suitable areas of the development site.

Subd. 2. Open Space. At least 50% of the development area must be provided for open space for the users and residents of the development. Road right-of-way, land covered by road surfaces, parking areas, units, structures, except water-oriented accessory structures or facilities are considered developed areas and should not be included in the computation of minimum open space. This 50% open space dedication must be filed as a restriction against the property. At least 25% of the lot width at the structure setback line should be left as open space. The appearance of open space areas, including topography, vegetation, and allowable uses must be preserved, using restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means. Areas with physical characteristics unsuitable for development in their natural state, such as wetlands or areas containing significant historical sites shall be considered open space.

Subd. 3. Minimum Units. Each development shall be no less than five units and a lot area of two acres, and must provide another 10,000 square feet of lot area per additional unit. The development shall have no more than four units, including related commercial activities, per acre.

Subd. 4. Parking. The development shall provide at least one and one half parking spaces per unit, and one parking space for each non-resident employee, and for each 5 seats of seating capacity for restaurants and bars. Space for loading and unloading vehicles shall be provided for buildings used for commercial purposes.

Subd. 5. Public Access. The development must also provide access to developed public roads.

1241.04. Sewage Disposal Standards.

Subd. 1. Systems Centralized. On-site water supply and sewage treatment systems must be centralized and designed, installed and operated to meet or exceed applicable standards or regulations of the Minnesota Pollution Control Agency (MPCA) and Lake County regulations.

Subd. 2. Location. On-site sewage treatment systems must be located on the most suitable areas of the development.

Subd. 3. Public Systems. Public water and sewage service must be used where available.

Subd. 4. Permit Required. Developments which produce 5,000 gallons of sewage per day or contain more than 15 units require a MPCA State Disposal System permit. This would result in an average flow rate of 333 gallons per unit per day.

Subd. 5. Capacity. The potential person capacity of a dwelling shall be used to determine the potential gallons generated which in turn shall dictate the appropriate system(s) that should be utilized by the proposed development. Local and state standards and regulations apply and should be consulted.

Subd. 6. Water Conserving Plumbing Required. All new units must utilize water conserving plumbing fixtures and have water meters installed and accessible which serve all sewage generating appliances.

Subd. 7. Sewage Disposal System Required. No occupancy of any unit or use of any commercial structure of any planned unit development shall be allowed until the appropriate sewage disposal system is in place and fully operational.

1241.05. Plan Approval. At the time of application, planning, and scheduled development, the proposed facility shall be under unified control or ownership. The applicant will provide a detailed development plan which shall include a description of:

Subd. 1. Property Features. The property under consideration, including property boundaries, contours, on-site features, roads, lakes, rivers and other relevant features.

Subd. 2. Building Features. Building elevations, location on site, proposed uses, number of units, and commercial operations.

Subd. 3. Concept Statement. A concept statement, describing the project.

Subd. 4. Parking. Parking areas and driveways for both residences and commercial activities, vehicle loading/unloading areas, proposed public road entrances, and projected traffic generation of the proposed development.

Subd. 5. Plan for Final Development. Proposed phasing of the final development.

Subd. 6. Operation of Project. Description of how the project will operate after completion.

Subd. 7. Ownership. Nature of proposed ownership after completion.

Subd. 8. Fire Protection. Proposed fire protection.

Subd. 9. Association Agreements. Proposed homeowner, association agreement, where applicable.

Subd. 10. Landscape Plan. Detailed landscape plan which shows existing vegetation and proposed alterations and new plantings and landscaping.

Subd. 11. Recreation. Recreational space location and use.

Subd. 12. Water Supply. Water sources and water supply system plans.

Subd. 13. Sewage System. Proposed sewage treatment system plans.

Subd. 14. Storm Water System. Storm water runoff plans (construction/operation).

Subd. 15. Erosion Control. Shoreline. Erosion control plan for shoreline, where applicable.

Subd. 16. Erosion Control Site. Erosion control plan for site (construction/operation).

Subd. 17. Proof of Permits. Evidence of application for appropriate permits, state and federal.

Subd. 18. Public Utilities. Evidence of availability of necessary public utilities.

Subd. 19. Financial Plans. Proposed financial plans and necessary performance bonds or escrow agreements to protect the local unit of government's financial liability for site restoration, landscaping and erosion control measures, and sewage treatment systems.

Subd. 20. Conformance with adjacent property/other information. The proposed development plan will demonstrate that the development will conform with adjacent development and be screened from the lake, adjacent roads, and adjacent properties. Any other information deemed to be necessary by the Planning and Zoning Commission or Zoning Office will be provided by the applicant. Plan modifications or special conditions or performance standards may be required.

Subd. 21. Platting Required. All property within a Planned Unit Development shall be platted pursuant to the applicable subdivision provisions of Chapter 11 and Minn. Stat. Chapter 505. Plats, including preliminary plats, shall be prepared by a licensed surveyor.

1241.06. Processing Costs. The owner of the property to be developed or the developer shall pay all processing costs incurred by the City, including but not limited to fees and expenses of consulting engineers, architects, Building Inspector or the Zoning Administrator.

1241.07. Development Costs. The owner of the property to be developed or the developer shall pay all costs of the development, including but not limited to streets, sidewalks, sewer and water facilities, or extension of any public water and wastewater treatment systems to the development area.

Section 1242. Mary MacDonald School Commercial Planned Unit Development Standards & Criteria (P.U.D.)

1242.01. Purpose. The Lake Superior School District No. 381 intends to cease operations of the Mary MacDonald School for school purposes. To utilize this valuable site and make it available for other purposes, it is to the best interest of the City that the City Code be amended to allow additional uses in the zoned R-1 residential district. The Commercial Planned Unit Development concept can best accomplish this purpose in utilization of property owned by the Lake Superior School District No. 381 commonly known as the Mary MacDonald School site, excluding the recreation area, ball field and present School District garage.

1242.02. Goal. It is the goal of these standards and criteria to provide uniform standards for the optimization of development opportunities and maximum environmental protection on any given Commercial Planned Unit Development site. This section is intended to encourage planned unit developments for commercial purposes to offer greater creativity and flexibility in a site plan design that is provided under the strict application of zoning regulations, while at the same time preserving health, safety, order, convenience, prosperity and general welfare of the City. Commercial Planned Unit Developments may include one or a variety of land uses. Mixed uses may include any combination of residential, commercial or limited industrial uses, planned and developed in an orderly and compatible relationship to one another.

1242.03. Definition. A Commercial Planned Unit Development will be defined as: multiple family residential, commercial or limited industrial in a clustered setting with varied uses or greater density than otherwise allowed in the district.

1242.04. Authorized Uses.

A. Office/financial.

B. Health/medical.

C. Food, Retail and Wholesale, Food processing.

D. Community and Social Education.

E. Church and Church related functions.

F. Social Services.

G. Community Meeting rooms.

H. Recreational facilities.

I. Workshops that are compatible with the building site and other building occupants.

J. Specialty retail shops.

K. Inside Storage facilities.

L. Accessory uses incidental to the principal use.

M. All uses permitted in an R-1 district.

1242.05. Conditional Use Permits. Conditional Use Permits shall be required for any authorized use in a Commercial Planned Unit Development area. The Commission may impose conditions for granting the Conditional Use Permit consistent with the provisions of Chapter 12 of the City Code, including, but not limited to, modifications to the interior of the Mary MacDonald School building, placement of structures, parking areas, and other facilities to assure compatibility with surrounding areas. In granting or denying an application for a Conditional Use Permit, the Commission shall consider the following factors:

A. Traffic: traffic congestion, noise, adequate parking or traffic hazards.

B. Odors: odors that may be offensive and have an adverse impact on the neighborhood.

C. Noise: noise that may be disturbing and adversely affect the peace and tranquility of the neighborhood.

D. Hours of Operation: hours of operation may be restricted to assure that the operations do not have an adverse impact on the surrounding area. Impact of heavy truck deliveries late at night should be considered. Unless otherwise specifically authorized by the Commission or Council, no truck delivery shall be permitted between the hours of 10:00 PM and 6:00 AM.

1242.06. Site Modifications. Plans and specifications for any modifications of the Mary MacDonald School building and surrounding area, or any other facility or area where a Commercial Planned Unit Development is allowed, shall be submitted to the Commission for approval prior to the issuance of any Conditional Use Permit.

1242.07. Processing Costs. The owner of property to be developed or the developer shall pay all processing costs incurred by the City such as the Permit application fee, mailing and published notice costs and fees and expenses of the Building Inspector or the Zoning Administrator.

1242.08. Duration. Section 1242 shall remain in effect during the lifetime of the present Mary MacDonald school building and when it is no longer used for a Commercial Planned Unit Development. The area shall then continue as an R-1 zoned district.

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 Administrator 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 Administrator 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 per applicable Minnesota Statutes and to the rules of procedure of the Commission.

1250.04. Decisions.

Subd. 1. When Made. Decisions by the Commission shall be made within thirty-five (35) days of the date of the public hearing and submitted to the Council for approval prior to the sixty (60) day completion deadline.

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 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 Administrator 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 Administrator for any permit necessary to begin the structure or the use for which the request was made.

1250.05. Criteria for Decisions. When considering whether to grant a variance, the

Commission shall use the following criteria:

A. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance in question and consistent with the City's Comprehensive Plan.

B. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties" as used in the granting of a variance, means that: (1) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (2) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (3) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, access to direct sunlight for solar energy systems.

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 practical difficulties to sustain the need for a variance. Absent a showing of practical difficulties as provided in Minn. Stat. 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 of Silver Bay Comprehensive Plan and 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 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 Administrator 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 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, Conditional 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 Minn. Stat. § 462.357, Subd. 3.

Subd. 1. Zoning Ordinance Text Amendments.

A. Notice of public hearings regarding Zoning Ordinance text amendments shall be posted per 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 Administrator 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 Administrator, Administrator and Council.

1270.03. Hearing Procedures. Hearings shall be conducted per 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 Administrator. The Zoning Administrator shall aid 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 based on 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 Administrator 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 Administrator 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 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.

Subd. 1. Investigation and Enforcement. The Zoning Administrator may request the Police Department to issue Administrative Citations for Code violations as deemed necessary by the Zoning Administrator, and shall have the primary responsibility to investigate all alleged violations of this chapter, with the exception of nuisance and other offense violations contained in Chapter 5 which are the responsibility of the Police Department, and issue written notice to the property owners of violations, directing the property owners to correct violations within fifteen (15) days of the notice of the violation. If compliance is not obtained within fifteen (15) days, the Zoning Administrator 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.

1280.08. Certified Taxes Paid. As part of the necessary information on an application and as a condition of a grant of approval, an applicant for an amendment to an official control established pursuant to City Code, Chapter 12, or for a permit or other approval required under and official control established pursuant to City Code, Chapter 12, shall certify that there are no delinquent property taxes, special assessments, penalties, interest, and municipal utility fees due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order or confession of a judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this subdivision if all required payments that are due under the terms of the stipulation, order confession of judgment, or appeal have been paid.

Section 1290 - Board of Zoning Appeals

The Board of Adjustments and Zoning Appeals is abolished and all such appeals shall be handled by the Lake County Planning and Zoning Board.

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CHAPTER 13

FRANCHISES

Section 1300 - Franchises

1300.01. Franchise Required. Except as otherwise provided by law, no person, firm, or corporation shall place or maintain any permanent or semi-permanent fixtures in, over, upon, or under any street, right-of-way or public place for the purpose of operating a public utility or for any purposes, without a franchise granted by the City. A franchise shall be granted only by ordinance, which shall not be an emergency ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise.

1300.02. Grant of Franchise. The City Council is granted, the power to grant, regulate and control the exercise by any person, company, corporation, or entity of any public franchise, or privilege in, upon, or under the streets, rights-of-way or public places in the City, but no perpetual or exclusive franchise shall be granted. Every franchise shall, where no term is expressed, expire within fifteen (15) years. No franchise shall be granted for a longer term than twenty-five (25) years.

1300.03. Franchise Fee. With respect to franchises for the furnishing of natural gas, the transmitting and furnishing of electric energy for light, heat and power, and the furnishing of telephone, internet or cable television service, the franchise agreement shall be established in a franchise ordinance with the individual, company, corporation or entity providing the utility. All franchises shall be subject to and conditioned upon the payment of a franchise fee to the City as consideration for the granting of the franchise. The annual franchise fees shall be set by City ordinance.

1300.04. Public Hearing. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the Council, the Council shall hold a public hearing on the matter. Notice of such hearing shall be published at least twice in the official paper and posted in three public places within the City not less than 10 days prior to the date of the hearing.

1300.05. How Paid. The franchise fee shall be paid to the City in a timely manner in accordance with the terms of the franchise agreement. A franchisee shall, with each payment, file with the

City an accurate and sworn statement and report showing calculation of the franchise fee for the payment period. The franchisee shall provide all documentation requested by the City to verify its franchise fee calculations.

1300.06. Chapter To Be Part of Franchise. The acceptance of a franchise from the City by any person, company, corporation, or entity shall be an acceptance of all of the provisions of this chapter, whether or not referred to in the franchise agreement, and all of the provisions of this chapter shall be a part of the franchise agreement without any express reference being made hereto.

1300.07. Limitations and Restrictions. In granting any franchise, the city council shall impose such limitations and restrictions not herein specifically mentioned as the nature of the business and best interests of the public may require.

1300.08. Renewals or Extensions. Every extension, renewal, or modification of any existing franchise or of any franchise granted herein shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

1300.09. Existing Franchise Agreements. The provisions of Sections 1310 (gas) 1320A (cable tv) and 1321A (internet) eliminated from Chapter 13 of the City Code shall remain in effect as duly adopted Ordinances of the City until expiring by their own terms.

(REVISED BY RESOLUTION NO. 2025 - #21 adopted February 18, 2025.)

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CHAPTER 14

PARKS AND RECREATION

Section 1400 - Parks and Recreation

1400.01. Purpose. The purpose of this chapter enacted pursuant to Minn. Stat.§ 471.62 is to secure the orderly and suitable use and enjoyment of public parks, city recreation areas and facilities, city-wide trail systems, wildlife sanctuaries, forests, historical sites and public access to lakes, rivers and streams, in parks established by the city, and to further the safety, health, comfort and welfare of all persons in the use thereof.

1400.02. Definitions. For this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Subd. 1. Motor Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks, but including motorized bicycles, minibikes and snowmobiles.

Subd. 2. Nude. The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.

Subd. 3. Park. A park, playground, beach or other area within the city, owned, leased or used, wholly or in part, by the city for park and recreational purposes or which is designated by the City Council as a park to include, but not be limited to: Silver Bay Marina/Bayside Park, Recreation Park/Arena area including but not limited to the tennis courts, skate park, basketball court, outdoor volleyball court, horseshoe pits, tot lot playground, picnic areas, softball/baseball fields and parking areas, Mary MacDonald Park, Outer Drive Park, Mariner Mountain Park, Silver Bay Golf Course, North Shore Scenic Overlook Park, Black Beach Park and William M. Kelly School Park.

1400.03. General Regulations.

Subd. 1. Operation of motor vehicles. No person shall drive or operate a motor vehicle in any park except on roads or designated parking areas or other areas as the city shall designate,

and no person shall operate a motor vehicle within a park at a speed in excess of ten miles per hour.

Subd. 2. Parking of motor vehicles. No person shall park or stop any motor vehicle at any place in a park, except in designated parking areas or upon a public street and no person shall park or leave any unauthorized motor vehicle within a park when persons are not permitted in the park as set forth in Section 1400.04.

Subd. 3. Fires. No person shall light a fire in any park except in places or receptacles provided for the purpose. All fires must be extinguished before leaving the site.

Subd. 4. Littering. No person shall litter park grounds with waste material of any form.

Subd. 5. Handbills and posters. No person shall, in any manner, attach or affix any handbill or poster to any property or object within any park.

Subd. 6. Defacing and destroying park property. No person shall write upon, deface, break, destroy, injure, remove or carry away any tree, plant, flower, shrub, rock, soil, sand, fence, bench or any other structure or property within any park area.

Subd. 7. Boat launching and parking of trailers. No person shall violate the posted rules related to public boat launching and parking of trailers.

Subd. 8. Park animals. No person shall disturb or interfere with any birds or animals kept or found therein.

Subd. 9. Domestic animals. No person shall bring any animal into a park unless the animal is leashed or inside a motor vehicle or cage. Animal owners or their handlers shall remove any excreta dropped by their animals.

Subd. 10. Riding horses. No person shall ride a horse or other animal within any park unless in possession of a permit issued by the Council or as part of an organized community event.

Subd. 11. Erection of structures and public service utilities. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across any park lands except on special written permission from the Council.

Subd. 12. Throwing stones and other objects. No person shall throw or cast any stone or other object carelessly or heedlessly in disregard of the rights or safety of others, or in any manner to endanger or be likely to endanger any person or property.

Subd. 13. Nudity; committing nuisances; obscene language and behavior. No person shall appear nude, commit any nuisance or use threatening, abusing, insulting, obscene or indecent language or act in any indecent, lascivious or improper manner or do any act which constitutes a breach of the public peace.

Subd. 14. Operation of mini bikes, motor bikes, snowmobiles or other motorized recreational vehicles. No person shall operate minibikes, motor bikes, snowmobiles or any motorized recreational vehicle in parks other than at sites designated by the Council.

Subd. 15. Aircraft, hot air balloons, parachutes. No person shall use any park for a starting or landing field for any manned aircraft, hot air balloons or parachutes, except by permit from the Council.

Subd. 16. Peddling and selling. No person shall sell, solicit or carry on any business or commercial enterprise or service in any park except for an activity for which a park use permit has been issued by the Administrator or lease or contract granted by the Council.

Subd. 17. Exemptions. City agents, employees and police officers acting in their official capacity shall be exempt from the provisions of this section.

1400.04. Hours. Parks shall be opened at 5:00 a.m. and closed at 11:00 p.m. Except for marina boaters and patrons, no person other than a city agent, employee or police officer acting in his or her official capacity shall be in any park during the hours the park is closed.

1400.05. Penalty for Violations. Any violation of any provision of this chapter is a petty misdemeanor.