

# **CITY OF SILVER LAKE**

## **ORDINANCE CODE**

### **CHAPTER 14**

#### **PART 3**

#### **ZONING ORDINANCE**

**Adopted July 5, 1994**

**Amended July 5, 2023**

**Amended November 2025**

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## PREAMBLE

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF SILVER LAKE, MINNESOTA AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 462.351 TO 462.365, MINNESOTA STATUTES, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

Whereas, sections 462.351 to 462.365, Minnesota statutes, empowers the city to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

Whereas the city council deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the city to enact such an ordinance, and

Whereas, the city council, pursuant to the provisions of sections 462.351 to 462.365, Minnesota statutes, has appointed a city planning commission to recommend the boundaries of the various districts and appropriate regulations to be enforced therein, and

Whereas, the city planning commission has divided the city into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to: (1) lessen congestion in the streets (2) secure safety from fire, panic, and other dangers (3) promote health and the general welfare (4) provide adequate light and air (5) prevent the overcrowding of land (6) avoid undue concentration of population (7) facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, and

Whereas the city planning commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, and

Whereas the city planning commission has made a preliminary report and held public hearings thereon, and submitted its final report to the city council, and

Whereas, the city council has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

Whereas these regulations are adopted under the authority granted by

Sections 462.351 to 462.365 of the Minnesota statutes. Therefore, the city council of Silver Lake, Minnesota ordains as follows:

This ordinance which shall be known and cited as the City of Silver Lake zoning ordinance, an ordinance setting minimum and maximum standards for the height and size of buildings, the size of yards, courts and other open spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence and other purposes; creating districts for said purposes and establishing the boundaries thereof; providing for changes in regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration and imposing penalties for the violation of this ordinance. The jurisdiction of this ordinance shall include all lands within the corporate limits of the City of Silver Lake, Minnesota.

The initial public hearing on this ordinance was held by both the planning commission and the city council on

It was adopted by the city council on and published as required.

Mayor attest: \_\_\_\_\_ city clerk

## **Section 1.00 ZONING DISTRICTS**

### Section 1.01. Establishment Of Districts.

For the purpose of this ordinance, the City of Silver Lake, McLeod County, Minnesota, is divided into the following districts:

- A. AG District - Agricultural District
- B. R-1 District - Low Density Residential District
- C. R-2 District - High Density Residential District
- D. B-1 District - Central Business District
- E. B-2 District - Highway Commercial District
- F. B-3 District -
- F. M-1 District - Manufacturing District
- G. S-1 District - Shoreland Management District

### Section 1.02. Zoning Map.

The location and boundaries of the districts established by this ordinance are set forth on the map entitled "Zoning District Map For The City Of Silver Lake, McLeod County, Minnesota", dated \_\_\_\_\_. The original of this map shall be signed and dated by the mayor and the city clerk. The map and all the information and amendments shown on the map shall be a part of this ordinance.

### Section 1.03. District Boundaries.

The following rules shall apply with respect to the boundaries of the various districts as shown on the zoning district map:

- A. District boundary lines are the center lines of highways, streets, alleys, streams and trails; or right-of-way lines of railroads; or united states public land survey lines; or lot or property lines; or shorelines; or such lines extended, unless otherwise indicated.
- B. In areas not subdivided into lots and blocks, where a district is indicated as a strip adjacent to and paralleling a street or highway, the depth shall be in accordance with dimensions shown on the map measured at right angles from the center line of the street or highway.

### Section 1.04. Boundary Interpretation.

Questions concerning district boundary lines on the zoning map shall be decided by the board of adjustment.

### Section 1.05. Property Not Included - Annexations.

Annexations or consolidations with the city shall be placed in the AG district, unless the annexation ordinance temporarily places the land in another district. Within one (1) year the planning commission shall evaluate and recommend a permanent district classification to the city council.

## **Section 2.00. GENERAL REGULATIONS**

The following general regulations in this section shall apply equally to all districts except where special provisions provide otherwise.

### **Section 2.01. Lot Area Requirements.**

No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed herein, nor shall the number of dwelling units be increased in any manner except in conformity with the area regulations herein prescribed, nor shall the area of any lot be reduced below the minimum requirements herein established.

### **Section 2.02. Use Regulations. *(Amended July 5, 2023)***

Only the following uses and their essential services shall be allowed in any district:

- A. Principal uses - specified for a district.
- B. Accessory uses - and structures are permitted in any district but not until their principal structure is present or under construction. Uses accessory to residential district development shall not involve the conduct of any business trade, or industry except for home and professional occupations as defined herein. An accessory structure cannot be occupied as a separate dwelling unit unless allowed under a Conditional Use Permit and will be subject to inspection by Public Works.
- C. Conditional uses - and their accessory uses shall be permitted in specified districts after review, public hearing, recommendation by the board of adjustments, and approval by the city council in accordance with procedures and standards established in this ordinance.
- D. Uses not specified - in this ordinance may be permitted by the city council after the planning commission has made a review and written recommendation and provided that such uses are similar in character to the permitted uses in the district.

### **Section 2.03. Building Area.**

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building and not allowed as part of the required space for yards, courts or unoccupied space. This provision shall allow one (1) fireplace or one (1) chimney, not more than eight (8) feet in length and projecting not more than thirty (30) inches into the allowable side yard space. This provision shall allow overhang not exceeding twenty-four (24) inches in width.

### **Section 2.04. Buildings Under Construction.**

Any building or structure for which a land use permit has been issued and the construction of the whole or a part of which has been started, prior to the effective date of this ordinance may be completed and used in accordance with the plans and application on which said building permit was granted.

### **Section 2.05. Fences And Other Vision Obstructing Objects.**

No fence, wall, structure, coniferous trees or obstruction shall be erected, established or maintained on a corner lot within a triangular area bounded by the lot lines and a line connecting points on each lot line forty (40) feet from the intersection of such lot lines. An object within this area not exceeding forty-two (42) inches in height as measured from the center line elevation of the street shall be allowed. This section does not apply to the B-1 district.

Section 2.06. Front Yard Exceptions.

When the majority of residential or commercial buildings have been built in a block at the time of adoption of this ordinance, no building or structure hereafter erected or altered, shall project beyond the average setback line established by existing structures, provided no building will be required to set back more than thirty (30) feet from the property line.

Section 2.07. Greenbelts.

In all commercial and industrial districts adjacent to residential districts and not divided by streets there shall be provided along the property line an eight (8) foot wide planting strip composed of grass, trees and shrubs. Trees at least one and one-half (1-1/2) inches in diameter, shall be planted not more than forty (40) feet apart. Shrubs shall be planted not more than five (5) feet apart and be at least five (5) feet in height after five (5) full growing seasons and attain a height of eight (8) feet at maturity. A decorative masonry wall not less than five (5) feet in height and not less than eight (8) inches in thickness may be substituted for the above greenbelt upon approval of the planning commission. The greenbelt or wall area shall be maintained in an attractive condition at all times.

Section 2.08. Home Occupations.

In any zoning district where home occupations are authorized, the following regulations governing said home occupations shall be complied with:

- A. Said use shall not occupy an area of more than twenty-five (25) percent of the total floor area of the dwelling.
- B. No such home occupation shall require substantial interior or exterior alterations of the dwelling.
- C. Said use shall not create odor, dust, noise, electrical disturbances, glare or noticeable vibrations outside of the dwelling nor shall it be visually detrimental to the neighborhood.
- D. There shall be no outside storage of material or equipment or display of merchandise.
- E. The occupation is to be conducted solely by permanent occupants of the dwelling in which it is located except that one (1) accessory person necessary to the occupation may be employed.
- F. Parking shall be governed by section iv of this ordinance.

Section 2.09. Structures, Not Included In Height Of Building.

Chimneys, cooling towers, elevator bulk head, fire towers, drive-in movie theater screens, grain elevators, silos, stacks, tanks, water towers, water slides, pumping towers, radio or television towers, monuments, cupolas, and mechanical accessories pertaining to and necessary to the permitted use of the district in which they are located, shall not be included in calculating the height of principal structure.

Section 2.10. Lot, Double Frontage.

Double frontage lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.

Section 2.11. Lot, Corner.

Corner lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.

Section 2.12. Lot Of Record.

A parcel legally created and existing at the time of passage of this ordinance need not conform to the lot width or lot area of the district in which it is located. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

Section 2.13. Setback Measurements.

All setbacks shall be measured from property lines.

Section 2.14. Signs.

- A. Permits required. All sign construction shall require a permit.
- B. Permitted locations of signs.

Zoning District	Sign Types Permitted
R-1	2, 3, 6
R-2	3, 6
B-1 & B-2	2, 3, 4, 5, 6, 7
M-1	2, 3, 4, 5, 6, 7
Ag	1, 2, 3, 6, 7,

C. Types of signs, maximum size, number and location

Type 1. Directory signs advertising a business or activity conducted, an area of interest or a service available at a specific location. Such signs shall be not more than 22 square feet in gross area. There shall be not more than 2 such signs relating to any one such use in the approaching direction along any one street. Such signs may be placed at the right-of-way line of the street,

Type 2. Signs advertising a customary home occupation, professional office or signs used as a warning to the public. Such signs shall not exceed 2 square feet in gross area, shall be attached to the building and, if illuminated, shall be indirectly lit.

Type 3. Signs advertising the sale, rent or lease of the property on which the sign is placed. Temporary signs, such as rummage, garage sale and political election signs. Such signs shall not exceed 6 square feet in gross area and may be placed at the right of way line of the street.

Type 4. Signs located off premises advertising a general brand or product, an area of interest, a business conducted or a service available. Such signs shall not be more than 100 square feet per side in area and erected outside a line parallel to and 25' from the street right-of-way line.

Type 5. Signs on the premises of commercial and industrial buildings advertising a business conducted or a service available on the premises. No sign shall exceed 200 square feet in gross area, be higher than 10' above the top of the roof line, extend more than 6" outside of building's wall surface and exceed 20' in height above the main centerline of street.

Type 6. On premises self-supporting signs advertising public or semipublic use. Such signs shall not exceed 32 square feet in gross area. On premises wall signs advertising a public or semi-public use shall not exceed 200 square feet there shall be no more than one sign for each street upon which the property faces.

Type 7. Recreational directory signs indicating the direction to a cottage, resort, residence or similar use. Such signs shall not be more than one square foot in gross area. Where a common posting standard is provided, all such signs shall be attached to the standard recreational directory.

D. Characteristics for commercial and industrial signs.

1. Wall signs placed against the exterior walls of buildings shall not extend more than 6" outside of a building's wall surface, exceed 200 square feet in area for any one premises and exceed 20' in height above the mean centerline street grade.
2. Projecting signs fastened to, suspended from or supported by structures shall not exceed 100 square feet in area for any one premises, extend more than 6' into any required yard, extend more than 3' into any public right-of-way, be less than 10' from all side lot lines, exceed a height of 20' above the mean centerline street grade and be less than 10' above the sidewalk nor 15' above a driveway or alley.
3. Ground signs shall not exceed 20' in height above the mean centerline street grade, shall meet all yard requirements for the district in which it is located, shall not exceed 100 square feet on all sides for any single premises.
4. Roof signs shall not exceed 10' in height above the roof, shall meet all the yard and height requirements for the district in which it is located and shall not exceed 200 square feet on all sides for any one premises.
5. Window signs shall be placed only on the inside of commercial, buildings and shall not exceed 25% of the glass area of the pane upon which the sign is displayed.
6. Combinations of any of the above signs shall meet all the requirements of the individual sign.

E. Prohibited characteristics of signs.

1. No sign shall be so placed as to interfere with the visibility or effectiveness of any official traffic sign or signal or with driver vision at any access point or intersection.
2. No sign will be permitted that resembles the size, shape, form or color of official traffic control signs, signals or devices.
3. No sign shall contain more than 100 square feet in gross area.
4. No sign shall contain or be illuminated by a flashing light in any residential district.
5. No sign in a conspicuous state of disrepair shall be permitted to exist. The planning commission may order removal on a 20-day public notice or immediately if public danger exists.

F. Existing signs. Any sign which becomes a nonconforming sign at the effective date of this ordinance or which becomes a nonconforming sign at any future date may be continued, provided that no increase in size, illumination or flashing of such sign shall be made and further provided that any sign, including structures and all supporting members, shall be discontinued and removed not more than 5 years after the date that such sign becomes a nonconforming sign, unless such nonconforming sign shall be made to conform to all of the regulations of the district in which it is located.

G. Bonds and insurance. Every applicant for a permit for a "type 4" sign may, before the permit is granted, be required by the building inspector and/or zoning administrator, planning commission or board of adjustments to execute a surety bond or show evidence of liability insurance coverage in an amount to be set by the above mentioned individual or agency. Removal of any sign shall be the financial obligation of the sign and/or property owner.

H. Penalties. Failure to obtain a permit prior to commencement of work under this section shall double the fees for the required permit.

Section 2.15. Fences. *(Amended June 20, 2002)*

A. Permits required. All fence construction shall require a permit.

B. Fences placed on property lines.

1. All fences placed on property lines must file a *Boundary Fence Authorization* form signed by the adjoining property owners.

2. If the adjoining property owner does not grant permission, the fence can be placed no closer than 2 feet from the property line.

3. If a new fence is constructed or erected on the property line without the expressed approval of the adjoining property owner, whether requiring a permit or not, a written complaint may be filed with the zoning administrator who shall serve notice to the owner that the fence must be removed. If the fence owner does not comply within 30 days, the zoning administrator may request the city to remove it at the owner's expense.

C. Setbacks.

1. Any fence may be placed 2 feet from the property line without permission of adjoining property owners.

2. All fences must be set back at least 5 feet from the front property line.

3. See section 2.05 for additional setback requirements.

D. Construction. All fences hereafter erected shall have the structural components thereof facing the side of the property for and on which the same are erected.

E. Wire fences. No boundary fence construction shall be permitted wholly or in part of barbed wire, woven wire, welded wire, chicken netting, electric wire or other agricultural wire shall be located in the city, except in any industrial and utility areas, none of which may be within 5 feet of any public street, alley or sidewalk. Chain link fences are acceptable if constructed with steel poles and framing and properly stretched.

F. Wooden fences must be of commercial construction with commercially turned fence posts. Home-made wooden fences must be reviewed for a conditional use permit by the planning commission.

G. Swimming pools. Every owner of an outdoor, below grade swimming pool or any pool of more than two feet in depth, located in the city, shall erect and maintain a fence or barrier of not less than 4' in height around such swimming pool of such construction as to safeguard the area.

H. Snow fences. Utility snow fences may be used only during the winter snow parking months and shall be removed at the end of each winter season.

- I. Dog kennels shall be constructed of chain link fencing. Commercial enclosures for that purpose are preferred.

#### Section 2.16. Retaining Walls.

- A. Purpose. The purpose of this section is to protect public and private property from the effects of poorly designed and constructed retaining walls.
- B. Permit required. A permit shall be required for all retaining walls constructed that exceed 24" in height, including terraced retaining wall projects where the total height of all walls exceeds 24", and are closer than 15' to a property line.
- C. Application. Application shall be made to the zoning administrator on forms provided and shall include a site plan and a set of construction plans. Plans sealed by a professional engineer registered in the state and/or other information necessary to adequately review the proposed retaining wall may also be required by the zoning administrator.
- D. Performance standards. A retaining wall shall be designed to resist the lateral pressure of the retained material in accordance with accepted engineering practice. Walls retaining drained earth may be designed for pressure equivalent to that exerted by an equivalent fluid weighing not less than 30 pounds. Per cubic foot and having a depth equal to that of the retained earth. Any surcharge shall be in addition to the equivalent fluid pressure.
- E. Setbacks. Setbacks for retaining walls shall be the same as for fences under section 2.15 b and c.

#### Section 2.17. Bed And Breakfast Inns.

- A. Authority granted. Any person shall have the right and privilege to request a conditional
- B. Obligation to comply. The bed and breakfast owner shall at all times be subject to all lawful exercise of the police power of the city and to such reasonable regulations as the city hereafter by ordinance provides.
- C. Regulations. The following restrictions shall apply to bed and breakfast:
  1. Location. All bed and breakfast units shall be established within a principal structure only.
    - A. A bed and breakfast may be located in a formally designated local, state or national historical structure with an area of not less than 1,000 square feet of living space.
    - B. A bed and breakfast may be located in an existing single-family dwelling with an area of not less than 1,000 square feet of living space, however, a new single-family dwelling shall not be constructed for the purpose of establishing a bed and breakfast.
  2. Number of units. A maximum of 6 bed and breakfast units maybe established in a structure.
  3. Domicile requirement. The bed and breakfast shall be the domicile for the owner or manager.
  4. Employee restriction. The bed and breakfast shall employ not more than the equivalent of 2 full-time people who are not domiciled in the principal structure.
  5. Dining and other facilities. Dining and other facilities shall not be open to the public but shall be used exclusively by the registered guests and residents, unless allowed by a separate permit.
  6. Parking. See section iv.

7. Permit and license.

- A. The bed and breakfast shall have a valid, current conditional use permit.
- B. The bed and breakfast shall have a valid, current state license (hotel and/or food).

Section 2.18 Permanent Foundations (*Added July 20<sup>th</sup>, 2000*)

- A. Any buildings used as living quarters in any zoning district must be constructed or placed upon a permanent foundation with frost footings as set forth in section 1300.6100 of the MN Uniform Building Code.
- B. Any accessory buildings of over 120 square feet in any residential district or on any lot or lots of primary residential use must be placed on a permanent foundation which shall include a "floating slab".
- C. Mobile homes shall be only permitted to be placed upon permanent foundations as would be appropriate for a similar structure as built on site.

Section 2.19 Cannabis and Hemp Regulations (*Added August 2025*)

The City of Silver Lake adopts by reference Minnesota Office of Cannabis Management Rule 9810 and all appendages pursuant to Minnesota Statute 342.

- A. The City of Silver Lake prohibits the operation of cannabis and hemp business within:
  - a. 1000 500 feet from the property boundary of a school or church.
  - b. 500 feet from property boundary of a daycare.
  - c. 500 feet from property boundary of a residential treatment facility.
  - d. 500 feet from the property boundary of a public park, playground, or athletic field.
- B. The City of Silver Lake restricts cannabis businesses to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer projects between the hours of 10am-9pm Monday – Saturday and 10am – 2pm Sunday.
- C. Temporary cannabis events shall be conditionally permitted in the B-2 Highway Business or M-1 Manufacturing District per the following:
  - a. Permitted events shall be via conditional use permit approval.
  - b. Hours of event shall be Monday – Saturday 10am-6pm.

Section 2.3 Solar Energy Regulations (*Added April 19, 2021*)

2.31 Establishment

Silver Lake ("City") believes it is in the public interest to encourage renewable energy systems that have a positive impact in energy conservation with limited adverse impact on the community. While Silver Lake strongly encourages increased energy conservation and improved energy efficiency, the city also finds that increased use of appropriate renewable energy systems will be an important part of improving urban sustainability.

The renewable energy regulations are intended to supplement existing zoning ordinances and land use practices and ensure these systems are appropriately designed, sited, and installed. These regulations are in place to balance the need to improve energy sustainability through increased use of renewable energy systems with concerns for preservation of public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood social and ecological stability.

2.32 Definitions

- A. ACTIVE/SOLAR ENERGY EQUIPMENT/SYSTEM. A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

- B. BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS. A solar energy system that consists of integrating photovoltaic modules into the building structure by replacing typical building material, such as the roof or the façade and which does not alter the relief of the roof.
- C. FREESTANDING OR GROUND-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is installed directly in the ground or by means of brackets or poles and is not attached or affixed to an existing structure.
- D. PHOTOVOLTAIC (PV) SYSTEMS. A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.
- E. QUALIFIED SOLAR INSTALLER. A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.
- F. ROOF OR BUILDING-MOUNTED SOLAR SYSTEM. A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.
- G. SOLAR COLLECTOR. A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.
- H. SOLAR PANEL. A device for the direct conversion of solar energy into electricity.
- I. SOLAR ENERGY SYSTEM. A set of devices whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating cooling, electricity generation, or water heating.
- J. SOLAR ENERGY SYSTEM, RETAIL. A solar energy system established for the primary purpose of meeting all or part of the energy needs of the host building, whether residential, commercial, industrial or agricultural.
- K. SOLAR ENERGY SYSTEM, WHOLESALE. A solar energy system established for the primary purpose of generating and selling the converted or transferred energy directly to a third party.
- L. SOLAR-THERMAL SYSTEMS. Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.

### 2.33 Permits and Standards

- A. Rooftop, Building-Mounted, and BIPV Solar Collectors. Rooftop, building-mounted, and BIPV solar collectors are permitted in all zoning districts in the City subject to the following conditions:
  - 1. Building permits are required for installation of all rooftop, building-mounted, and BIPV solar collectors.
  - 2. Rooftop, building-mounted, and BIPV solar collectors shall be installed in accordance with the Minnesota State Building Code and shall not occupy more than 75% of the area of the roof plain it is affixed to.

3. Rooftop, building-mounted, and BIPV solar collectors on roofs with slopes greater than two units vertical in 12 units horizontal shall be mounted parallel to the plane of the roof, shall not extend more than one foot above the plane of the roof, and shall not be located any closer than three feet from any side or bottom edge of the roof.
  4. Rooftop, building-mounted, and BIPV solar collectors on roofs with slopes of two units vertical in 12 units horizontal or less shall not project more than four feet above the plane of the roof and there shall be a minimum six-foot wide clear perimeter around the edges of the roof.
- B. Ground-Mounted and Free-Standing Solar Collectors. Ground-mounted and free-standing solar collectors are permitted as accessory structures in the AG, B-1, B-2, and M-1 zoning districts in the City, subject to the following conditions:
1. Building permits are required for the installation of all ground-mounted solar collectors.
  2. The location of the solar collector shall not be closer than 15 feet to a side or rear lot line, and shall not be located closer than 100 feet to an existing adjacent residence.
  3. The solar collector shall not exceed 10% lot coverage or 10,000 square feet, whichever is less. The square footage of the ground mounted collector is calculated by the area encumbered by the outermost measurements of the solar equipment layout.
  4. The height of the solar collector and any mounts shall not exceed 15 feet when oriented at maximum tilt.
  5. Solar energy equipment shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access for collectors.
  6. Solar energy collectors shall be screened when possible and practicable through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.
  7. Solar energy systems are to be located in the rear yard only.
- C. Wholesale Solar Energy Systems. Wholesale systems are prohibited within the corporate limits of the City of Silver Lake and only Retail Solar Energy Systems shall be allowed.
- D. Solar-Thermal Systems. Solar-thermal systems are permitted in all zoning districts subject to the following conditions: Building permits are required for the installation of all solar-thermal systems.

## 2.34 Planning, Design, and Compliance

- A. Plan Applications. Plan applications for solar energy systems shall be accompanied by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or the property for a ground-mounted system, including property lines.
1. Pitched Roof Mounted Solar Energy Systems. For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
  2. Flat Roof Mounted Solar Energy Systems. For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

- B. Plan Approvals. Applications that meet the design requirements of this ordinance and do not require an administrative variance shall be granted administrative approval by the Zoning Administrator and shall not require Planning Commission review. Plan approval does not indicate compliance with Building Code or Electric Code.
- C. Compliance with Building Code. All active solar energy and solar thermal systems shall meet approval of local building code officials consistent with the State of Minnesota Building Code.
- D. Compliance with State Electric Code. All photovoltaic systems shall comply with the State of Minnesota Electric Code.
- E. Compliance with State Plumbing Code. Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.
- F. Utility Notification. The owner of a solar energy system that will physically connect to a house or other building's electrical system and/or the electric utility grid must enter into a signed interconnection agreement with the utility prior to the issuance of a building permit.
- G. Feeder Lines. All power exterior electrical or other service lines must be buried below the surface of the ground.

## 2.35 Safety

- A. Solar energy systems and equipment shall be permitted only if they are determined by the City not to present any unreasonable safety risks, including, but not limited to, the following:
  1. Weight load
  2. Wind resistance
  3. Ingress (entrance) or egress (an exit) in the event of fire or other emergency.
- B. All solar collector installations must be performed by a qualified solar installer.
- C. Solar energy system components shall be certified by Underwriters Laboratories Inc., and the Solar Rating and Certification Corporation. The City reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.
- D. An electrical permit is required for solar electrical systems and systems would need to be inspected and approved prior to operation.
- E. Any connection to the public utility grid must be inspected by the appropriate public utility.
- F. Solar energy systems shall be maintained in good working order.
- G. Rooftop and building-mounted solar collectors shall meet Minnesota's Fire Safety Code and Building Code standards.
- H. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the Minnesota State Building Code when in use and when no longer used shall be disposed of in accordance with current laws and regulations.

## 2.36 Appeals

- A. If an individual is found to be in violation of the provisions of this Ordinance as determined by the Zoning Administrator or his or her designee, the property owner has a right to appeal the decision of the Zoning Administrator or his or her designee to the Planning Commission by requesting a hearing in writing within 14 days of the Notice of violation. The written request must be made to the Zoning

Administrator or his or her designee. The Planning Commission will schedule a hearing and may call witnesses and review documents as needed to make a determination of the issue. The property owner shall have the right to present evidence on their behalf and cross-examine witnesses. A simple majority of the members of the Planning Commission is necessary to uphold the violation. The burden of proof is preponderance of the evidence. The decision of the Planning Commission shall be in writing with 10 days of the hearing.

- B. If a building permit for a solar energy device is denied because of a conflict with other goals of the City, the applicant may seek relief by appealing to the City's Planning Commission, which shall regard solar energy as a factor to be considered, weighed and balanced along with other factors.

2.37 Abandonment

If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.

2.38 Violation Constitutes a Misdemeanor

Violation of the provisions of the ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

Section 2.5: OCCUPANCY REGULATIONS FOR MULTI-UNIT HOUSING COMPLEXES *(added January 1, 2016) (amended July 16, 2018)*

2.51 Applicability. The provisions of this chapter shall apply to multi-unit housing complexes used or designed or intended to be let for human habitation.

Multi-unit housing complexes in existence at the time of the adoption of this code may have their existing use or occupancy continued, if such use or occupancy was legal at the time of the adoption of this ordinance, providing such continued use is not dangerous to life, health, property or public welfare and such use shall be re-inspected, whether or not they have been inspected prior to this ordinance. All multi-unit housing complex structures, however, regardless of their existence at the time of the adoption of this code, shall be in full compliance by July, 31, 2016.

2.52 Definitions. For the purposes of this chapter, the following terms shall have the meanings given to them:

- a. Dwelling. Any building or other permanent or temporary structure, including a manufactured or mobile home which is wholly or partly used, or intended to be used, for living or sleeping by human occupants.
- b. Multiple dwelling. Any dwelling of two (2) or more dwelling units.
- c. Occupant. Any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.
- d. Occupancy Inspector. The Silver Lake Fire Chief or his or her designee.
- e. Operator. A person who is in charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.
- f. Owner. A person, firm or corporation who, alone, jointly or severally with others own or has an ownership interest in a multi-unit housing complex within the city.
- g. Premises. The dwelling and its land and all buildings thereon and areas thereof.

- h. Rent. A stated return or payment for the temporary possession of a dwelling, dwelling unit or rooming unit. The return or payment may be money or service or property.
  - i. Rental Unit or Residential Rental Unit. Any house, apartment, condominium, townhouse, manufactured home, mobile home, mobile or manufactured home lot, room or group of rooms, constituting or located within, a dwelling and forming a habitable unit.
  - j. State Fire Code Standards. Standards required by the State Fire Code including all appendices sub-codes, attachments and related codes as have been adopted and promulgated by the state of Minnesota and in force and effect in the City of Silver Lake.
  - k. Variance. A difference between that which is required or specified and that which is permitted.
- 2.53 Modifications. Whenever there is a practical difficulty involved in carrying out a provision of this chapter, the Occupancy Inspector shall grant a modification, provided the Occupancy Inspector shall first find a particular reason which makes strict application of the provision impractical, and that such modification will not lessen the life safety, structural, stability or environmental health requirements.
- 2.54 Right of Entry. The Occupancy Inspector is hereby authorized and directed to enforce the State Fire Code. Whenever it is necessary to make an inspection to enforce the State Fire Code or whenever there is cause to believe that there exists a violation of the State Fire Code, the Occupancy Inspector is authorized to enter the building or premises at all reasonable times to perform any duties imposed upon the Occupancy Inspector by the chapter. The Inspector shall present proper credentials and request entry. The inspector shall make a reasonable effort to contact the owner or other persons having charge or control of the building to request entry. If entry is refused the Inspector shall have recourse to every remedy provided by law to secure entry, including the commencement of an action in District Court with necessary temporary motions and proceedings thereon to secure such entry. When the Occupancy Inspector shall have obtained a proper remedy by law to enter a building, no owner or occupant or operator of a building or premises, shall fail or neglect to permit entry for the purpose of inspection pursuant to the chapter.
- 2.55 Responsibilities.
- a. Owner. An owner shall be responsible for maintaining the multi-unit housing complex in accordance with the State Fire Code.
  - b. Occupant. An occupant of a multi-unit housing complex shall be responsible for keeping it in compliance with the State Fire Code.
- 2.56 Inspection. The Occupancy Inspector shall inspect a unit upon receiving a legitimate complaint. That being a complaint in which the complainant provides the complainant's name and address and specifies the complaint. Upon receipt of this complaint, the inspector shall notify the owner or tenant to correct the problem which prompted the complaint. A complaint could show cause for a complete inspection of a unit. Anonymous complaints shall not be handled. An owner may request an advisory inspection of a unit.
- 2.57 Housing Certificate.
- a. Application. An owner of a multi-unit housing complex in which multiple dwelling units or rooming units are let or are intended to be let, shall make application for a housing certificate, unless such unit has been previously certified. An owner of such a unit shall not allow occupancy of the unit unless and until a housing certificate has been issued. The Occupancy Inspector may issue a temporary housing certificate not exceeding six months in duration in order to bring the unit into compliance with this code.
  - b. Issuance. The Occupancy Inspector shall issue a housing certificate for the multi-unit housing complex when upon inspection the Occupancy Inspector finds such unit meets or exceeds the

minimum requirements set by the State Fire Code; such certificate shall show the number of occupants for which the dwelling, dwelling unit or rooming unit is approved and once issued shall remain valid until expiration of the certificate or until such time as the Occupancy Inspector determines that the dwelling, dwelling unit or rooming unit does not meet the minimum requirements set by this chapter.

- c. Renewals. A housing certificate shall expire two (2) years after the date of issuance. Re-inspection of multi-unit housing complexes shall be required prior to the issuance of a new certificate. The city will mail renewal forms to rental unit owners or their designated local property managers on or about 90 days prior to the date of renewal and shall state the date of renewal. Completed renewal forms must be delivered to the city offices no later than 60 days prior to the renewal date. Failure of the city to mail renewal forms and failure of an owner or local property manager to receive a renewal form, does not excuse or waive the renewal required by this chapter.
- d. Failure to Grant Renewal of Housing Certificate. The city reserves the right not to renew a housing certificate for a rental unit unless it complies with the requirements of this chapter. Any renewal of a housing certificate under this chapter is subject to the right, which is hereby expressly reserved by the city, to deny, suspend, revoke or not renew the same should the housing certificate holder or their agents, employees, representatives or lessees directly or indirectly fail to comply with the requirements of this chapter or operate or maintain the rental dwellings contrary to the provisions of this chapter or any ordinance of the city or any special permit issued by the city, or the laws of the state; provided, however, renewal of the housing certificate shall not be denied, suspended, revoked or not renewed if the housing certificate holder complies with a compliance order or orders in a reasonably timely manner as determined by the city.

The city shall notify the applicant that the renewal for the housing certificate has been denied, or the housing certificate holder that the housing certificate is being suspended, revoked or not renewed. The suspension, revocation or non-renewal shall occur 35 days after the date of the notification order, or at such later date as set out in the notification. If a housing certificate is revoked, suspended, denied or not renewed, it shall be unlawful for the Owner or the Owner's agent to thereafter permit the occupancy of the rental units after the 35 days, until such time as a valid housing certificate is obtained for the rental units/dwelling.

- e. Certificate Fee. A fee shall be charged for each dwelling unit to be paid at the time of the application for any housing certificate. This fee shall be imposed for all new applications or in the case of renewal of certificates upon reapplication. Fees are outlined in the City's fee schedule.
- f. Special/Re-Inspection Fee. A fee shall be imposed for any inspections that are the result of receipt of a valid complaint and in cases where the Occupancy Inspector has determined the dwelling unit does not meet the minimum requirements set by this chapter. Fees are outlined in the City's fee schedule.

- 2.58 Buildings Not in Compliance. Whenever the Occupancy Inspector has inspected any multi-unit housing complex and has found and determined that it is not in compliance with the State Fire Code, the Occupancy Inspector shall serve a written notice on the owner in person or by certified mail. The notice shall describe the property, the nature of the violation, the time in which compliance must be affected, and a copy of the State Fire Code provision that is not in compliance. The notice shall also state that an appeal may be taken to the City Council and notice of the appeal must be filed 15 days after the date of service or mailing of the notice. The notice may contain a compliance order stating that compliance with this chapter shall be made immediately and, in that case, the notice shall advise the housing certificate holder that the property may be re-inspected at a time to be determined by the person conducting the inspection. The notice may contain such other and different information as the Occupancy Inspector believes will help the owner to remedy the violation.
- 2.59 Unfit Dwellings and Condemnation. The designation of a multi-unit housing complex as unfit for human habitation and the procedure for the condemnation and placarding of such dwelling units shall be carried out in compliance with the following requirements:

- a. Any dwelling or dwelling unit which shall be found to be so damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants shall be condemned as unfit for human habitation and shall be so designated and placarded by the Occupancy Inspector.
- b. Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the Occupancy Inspector, shall be vacated within a reasonable time as ordered by the Occupancy Inspector.
- c. No dwelling or dwelling unit condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured form and such placard is removed by the Occupancy Inspector. The Occupancy Inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.
- d. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such, except as provided in subparagraph (c) of this section.
- e. Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter.

2.60 Appeal to the City Council.

- a. The City Council shall meet for the purpose of hearing the appeals as required in this ordinance within 30 days of the Notice of Appeal. The City Council shall tape record all testimony, keep evidence given to it in the course of any appeal and keep minutes as to its activities and shall prepare written findings of any of its appeals.

2.61 Appeals.

- a. All appeals heard by the City Council shall be conducted in open proceedings with full opportunity of all parties to be heard, including cross examination of any witness. The City Council may hear and consider any evidence it deems appropriate whether or not such evidence may properly be admitted in a Court of Law. Any part to the proceedings may be represented by an Attorney.
- b. Appeals shall commence by filing a written request with the City Clerk no later than 15 days from the date of the issuance of any order or citation by the Occupancy Inspector. The City Clerk shall give notice of the time and date the appeal is to be heard to the appellant and the appellant's attorney, if any, in writing at least 10 days prior to the hearing. The hearing shall be held within 30 days of the filing of the notice of appeal and may be adjourned or continued from time to time at the discretion of the chairperson of the City Council.
- c. The Chairperson of the City Council shall be in charge of the conduct of all hearings and shall have the power to ensure that such hearings are conducted in an orderly fashion. It shall be the obligation of the Occupancy Inspector to set forth all of the facts and particulars of the Occupancy Inspector's determination at said hearing and thereafter such interested parties may present such evidence and information as is relevant. The City Council shall then determine whether or not the decision of the Occupancy Inspector was justified under the circumstances.
- d. Upon the close of the evidence and information presented to the City Council, the City Council shall issue a written decision in 15 days (unless waived in writing by the person making the appeal) including Findings of Fact to support the decision.

2.62 Conduct on Licenses Premises.

- a. It shall be the responsibility of the Owner or their local property manager to take appropriate action, with the assistance of the local law enforcement agency, following conduct by tenants and/or their guests on the premises of the multi-dwelling rental unit which is determined to be disorderly, in violation of any of the following statutes or ordinances, to prevent further violations.
  - (1) Minnesota Statute 504B.171 which prohibits the following illegal activities: Prostitution, unlawful sale of controlled substances, unlawful possession, transport, sale, or use of weapons, possession of stolen property.
  - (2) Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling.
  - (3) Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages.
  - (4) Minnesota Statutes, Section 609.72, which addresses disorderly conduct.
  - (4) Minnesota Statutes, Section 609.224, which addresses assaultive behavior.
  - (5) Minnesota Statutes, Section 609.33, which addresses a disorderly house.
  - (6) Section 7 of the Silver Lake City Code, which addresses noise-related issues.
- b. Upon determination by the local law enforcement agency utilizing established procedures, that a premises with a housing certificate was used in a disorderly manner, as described in Subsection (a), the local law enforcement agency shall notify the housing certificate holder by mail of the violation and direct the housing certificate holder to take appropriate action with the assistance of the local law enforcement agency to prevent further violations.
- c. If another instance of disorderly use of the premises occurs within 12 months of an incident for which a notice in Subsection (b) was given, the matter shall be referred to the city and the city shall notify the housing certificate holder by mail of the violation. The housing certificate holder shall then submit a written management plan to the city within 10 days of receipt of notice of disorderly use of the premises. The written management plan shall detail all actions taken by the housing certificate holder in response to all notices of disorderly use of the premises within the preceding 12 months. The written management plan shall also detail all actions taken by the housing certificate holder to prevent further disorderly use of the premises. The notice provided to the housing certificate holder of the violation shall inform the housing certificate holder of the requirement of submitting a written management plan and that non-compliance with said requirement may result in the City Council taking action to deny, refuse to renew, remove or suspend the housing certificate.
- d. If another instance of disorderly use of the premises occurs within 12 months, after the second of any 2 previous instances of disorderly use for which notices were sent to the housing certificate holder pursuant to this Section, the housing certificate for the premises may be denied, revoked, suspended, or not renewed. Any action to deny, revoke, suspend, or not renew a housing certificate under this Section shall be initiated by the city and shall proceed according to the procedures established in Section 2.57.
- e. Exceptions.
  - (1) An "emergency call," within the definition of Minnesota Statutes section 609.78, subd. 3, will not be considered an instance of disorderly behavior for purposes of determining whether a housing certificate will be denied, suspended, non-renewed or revoked where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2(b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2(a).

- (2) An "emergency call," within the definition of Minnesota Statues, Section 609.78, Subd. 3, will not be considered an instance of disorderly behavior for purposes of determining whether a housing certificate will be denied, suspended, non-renewed or revoked where the call is a result of a tenant, a member of a tenant's household, or guest taking action to seek emergency assistance that is protected by Minnesota State Statute 504B.205, Residential tenant's right to seek police and emergency assistance.
- f. No adverse housing certificate action shall be imposed where the instance of disorderly use of the premises occurred during the pendency of eviction proceedings or after proper notice is given by the housing certificate holder to a tenant to vacate the premises. Eviction proceedings shall not be a bar to adverse housing certificate action, however, unless they are diligently pursued by the housing certificate holder. A notice to vacate shall not be a bar to adverse housing certificate action unless a copy of the notice is submitted to the city within 10 days of receipt of the violation notice. Further, an action to deny, revoke, suspend, or not renew a housing certificate based upon violations of this Section may be postponed or discontinued by the city at any time if it appears that the housing certificate holder has taken appropriate action to prevent further instances of disorderly use.
- g. A determination that the premises have been used in a disorderly manner as described in Subsection (a) shall be made by a preponderance of the evidence to support such a determination. It shall not be necessary that criminal charges be brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse housing certificate action under this Section.
- h. The city shall review Section 2.62 three (3) years after the effective date of these revisions to determine its impact upon landlords and tenants, and to recommend any changes which may be appropriate. The city shall keep records of all actions and proposed actions under Section 2.62 to facilitate the committee review requirements herein.

2.63 Summary Action. As a condition of receiving a housing certificate for a rental unit, each housing certificate holder is presumed to agree and consent that when the conduct of any housing certificate holder or holder's agent, representative, employee or lessee, or the condition of his or her rental unit, or the property in or on which it is located, is detrimental to the public health, sanitation, safety and general welfare of the community at large, or residents of the rental units so as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency, the city shall have the authority to summarily condemn or close individual rental units or such areas of the rental dwelling as the city deems necessary. Notice of summary condemnation shall be posted at the units or areas affected and shall describe the units or areas affected. No person shall remove the posted notice, other than the Fire Chief, City Clerk or their designated representative.

2.64 Interim Housing. As a condition of receiving a housing certificate for rental of a multiple dwelling, the housing certificate holder agrees that in the event that the renewal of the housing certificate is denied, suspended, revoked or not renewed due to the action or inaction of the housing certificate holder, all tenants or sub-tenants of the residential rental unit shall be provided, at the housing certificate holder's expense, suitable interim housing approved by the Fire Chief or his or her designee. The housing certificate holder shall provide such interim housing until the housing certificate for the unit is restored or until the end of the lease term, whichever is shorter.

2.65 Written Notices. Notices from the city required by this chapter shall be effective if personally delivered or if mailed to the addressee by first class mail, return receipt requested, to the address shown in the city file pertaining to the rental unit involved in the notice.

2.66 Penalty. Any person violating any of the provisions of this chapter by doing any act or omitting to do any act which constitutes a breach of any section of this chapter shall, upon conviction thereof by lawful authority, be punished by a fine not to exceed the maximum penalties for misdemeanor crimes, together with applicable fines and court costs. Each day that a violation continues shall be deemed a separate punishable offense. No provision of this chapter designating the duties of any official or employee of the city shall be so construed as to make such an official or employee liable for the penalty provided in this section because of failure to perform such duty.

## Section 2.8: SEDIMENT AND EROSION CONTROL REGULATIONS (added August 20, 2018)

- Purpose:** This ordinance is adopted for the purpose of 1) regulating the movement of sediment and the installation/maintenance of approved Best Management Practices (BMP's) as well as 2) regulating uncontained debris, at building and construction projects involving earth-disturbing activities within the jurisdiction of the City of Silver Lake. The objective of the City in adopting this ordinance is to provide for a uniform method of regulating the runoff of soil, dirt or other organic or inorganic material into Waters of the State as well as regulating wind borne or otherwise uncontrolled construction debris.
- Scope:** These standards are derived from and in agreement with National Pollutant Discharge Elimination System (NPDES) standards and other local Water Resource Management Rules. The provisions of this ordinance shall be in effect from the first land disturbance to the establishment of permanent yard or ground cover.
- Applicability:** The requirement of this ordinance will apply to an owner or authorized agent who intends to build new construction or an addition to existing improvements or excavate over five cubic yards of soil or disturb established vegetation over 500 sq. feet.

### 2.81 DEFINITIONS

**ACCESS AVENUE** – A strictly construction related access to a construction site or property not considered a driveway due to it not being in front of a house or garage.

**APPROVED METHOD** – A practice or widely used process that is recognized and accepted throughout the industry or, an acceptable alternative able to achieve or exceed the standards of the prescribed method.

**BEST MANAGEMENT PRACTICE (BMP)** – Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water.

**BOARD OF APPEALS** – The Silver Lake City Council or the group designated by the City Council as the board of appeals.

**CITY** – City of Silver Lake

**CODE OFFICIAL** – The Sediment and Erosion Control Inspector, Building Official, Code Enforcement officer, or other designated authority charged by the Silver Lake City Council, County or State with the duties of administration and enforcement of this ordinance, or a duly authorized representative.

**DAY** – Any calendar day or portion thereof.

**EARTH-DISTURBING ACTIVITIES** – Any construction activity involving significant movement, disturbance, or removal of permanent ground cover of the soil from the construction site. Examples would include new construction, additions, or other activity deemed by the inspector to qualify as significant.

**EROSION CONTROL** – Measures employed to prevent erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

**JURISDICTION** – Municipal limits of the City of Silver Lake.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)** – The program for issuing, modifying, revoking, terminating, monitoring, and enforcing permits under the Clean Water Act (sections 301, 318, 402, and 405) and the United States Code of Federal Regulations Title 33, sections 1317, 1328, 1342, and 1345.

PERMANENT YARD or GROUND COVER – 70% density vegetation or permanent ground cover over 100% of the pervious area.

S.E.C. - Sediment and Erosion Control.

SEDIMENT CONTROL – Methods employed to prevent sediment from leaving the site including but not limited to: silt fence, sediment traps, earth dikes, storm drain inlet protection.

THIS ORDINANCE - All the provisions of this document as adopted, signed and dated.

WATERS of the STATE – (As defined in Minn. Stat. 115.01, subd. 22) All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulation of water, surface or underground, natural or artificial, public or private, which are contained in, flow through, or border upon the state or any portion thereof.

## 2.82 PENALTIES

- A. Any responsible party who shall violate any of the provisions of this Ordinance or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein or therein, shall be guilty of a Civil offense. If upon subsequent warnings and prescribed and documented communication, the violation remains substantially unresolved, the violator shall be guilty of a misdemeanor and subject to the provisions of State Statute regulating the administration thereof.
- B. The sequence of violations and penalties:
  1. When a violation is noted, the party responsible shall be given notice of the violation in writing on site, and will be notified by phone, fax, or e-mail. A reasonable amount of time, not to exceed 24 hours, will be given to abate the violation. A re-inspection fee will apply.
  2. If the violation noted is not abated or addressed upon re-inspection, a STOP WORK ORDER will be posted, and a \$50 fine will be levied for each day of the violation including the day of first notification through the day of satisfactory follow-up inspection. The party responsible shall remedy the violation and call for a follow-up inspection. Upon satisfactory re-inspection, the party responsible will be required to pay the fine prior to the removal of the Stop Work Order.
  3. If the violation continues, the Stop Work Order shall remain on the premises and the fine will continue to accrue for each calendar day the violation is present. After seven (7) days of non-compliance, the City will have the option of correcting the violation and assessing all costs to the party responsible. All fines and costs must be paid prior to the removal of the Stop Work Order. At this time all of the prior civil judgments will be due, and the city will have the option of filing Criminal charges. Criminal Charges being defined as a misdemeanor and subject to State Statute regulating the enforcement of such penalties.

## 2.83 ENFORCEMENT

- A. The S.E.C. Inspector (SECI), Building Official, Code Enforcement Official or their representatives or other authorities designated by the city is authorized to administer and enforce the provisions of this ordinance.
- B. The authority for enforcement of this ordinance rests exclusively with the City of Silver Lake.
- C. Prior to the commencement of any construction activity, the contractor/homeowner shall schedule a site inspection to verify the proper placement, installation, and efficacy of installed BMP's.

## 2.84 SEDIMENT CONTROL MEASURES.

- A. Silt Fences: Silt fences shall be inspected and maintained to these standards:

1. Silt Fences shall be established at down slope perimeters prior to disturbing upslope areas, shall be maintained to the standards of this ordinance and shall not be removed until the site has been permanently re-established with lawn or 70% permanent vegetative growth or other approved permanent ground cover.
2. Be entrenched a minimum of six (6) inches unless such trenching will substantially damage tree roots or other natural resources. Alternatives such as berthing the silt fence shall be used to prevent such damage.
3. Be of construction substantial enough to hold all sheet flow run-off generated at an individual site until it can either infiltrate or seep through silt fence pores.
4. Receive maintenance within 24 hours when silt has filled 1/3 of silt fence height.
5. Shall be re-stretched or re-established within 24 hours when allowed to sag more than 1/3 its intended height.
6. Silt fencing damaged or removed due to construction practices shall be repaired or re-installed within 24 hours of the conclusion of the practice.

B. Other Sediment Control Methods:

1. Methods other than silt fences may be installed, provided that the selected method is effective in preventing sediment from leaving the property and approved by (SECI). They must be installed pursuant to BMPs and any applicable manufacturer's installation instructions. If a selected other method is determined to be inappropriate or ineffective, the Inspector may order that a silt fence be installed to provide the protection required.

C. Alternative Sediment Control Methods:

2. Alternative Sediment Control Methods such as shredded wood mulch or compost shall be temporarily allowed when conditions make it infeasible or impractical to erect silt fences. Silt Fences or an approved Sediment Control method shall be installed prior to disturbing upslope areas and maintained according to this ordinance.

## 2.85 EROSION CONTROL MEASURES

A. Ground Cover:

1. Time frames for temporary and permanent vegetation for all exposed pervious areas shall be as follows: 21 days for slopes 10:1 and flatter, 14 days for slopes between 10:1 and 3:1, and 7 days for slopes 3:1 and steeper. If sod or permanent seed and mulch cannot be applied within the given timeframe, temporary ground cover of type one mulch (straw/hay) shall be applied within the given timeframe until permanent cover/vegetation is established.

## 2.86 TEMPORARY CONSTRUCTION DRIVEWAYS

Temporary driveways or site access avenues shall be established and maintained throughout the construction process or until a permanent driveway is established. Driveways and access avenues shall meet and be maintained according to the following standards:

A. Design:

1. The temporary driveway and/or site access avenue(s) shall be constructed to eliminate the passage or tracking of mud or other material from the site to a public road, street, sidewalk or right of way.
2. The drive shall be constructed of aggregate 1" to 3" in diameter and shall be a minimum of 6" thick. The aggregate shall extend the full width of the entrance/exit. The S.E.C. inspector or other code official shall have the authority to increase the required width as necessary on a case by case basis.
3. The utilization of an alternative method shall meet or exceed the requirements and intent of the 1" to 3" aggregate method described in 6.1.2 and shall meet the definition of "Approved Methods" as described in the definitions section of this ordinance.

B. Maintenance:

1. The temporary driveway shall be maintained in such a way that

- vehicles will not rut the area and that mud, dirt, clay or other material will not be conveyed to the street, road, sidewalk or right of way. This may include regular maintenance and topdressing of the material as it accumulates sediment from traffic.
2. Streets, sidewalks, and curbs shall be swept or scraped whenever sediment tracking occurs and at the completion of each workday.
  3. Curbs, gutters and sidewalks shall be protected from damage due to construction related activities.

## 2.87 GENERAL SITE MAINTENANCE

- A. Debris Containment: It shall be the responsibility of the contractor to maintain the construction site in such a manner that it does not detract from or interfere with the adjoining neighborhood.
  1. All construction sites shall have an adequate and approved method for the containment of construction debris.
  2. Dumpsters and/or trailers shall be sized appropriately for the project and shall be emptied at intervals that do not allow for the accumulation of debris above the recommended limit of the container.
  3. Fenced areas used as debris containment shall be permitted so long as they are properly maintained and emptied as needed. The Inspector shall have the authority, after sufficient warning, to require the removal of the fenced area and require a dumpster or other means of commercial debris removal should the fenced area not be maintained adequately and regularly.
  4. Dumpsters, trailers, or other approved containers shall be maintained in such a way as to prevent the contents from becoming windborne. Any debris blown out of the container or otherwise blown from the construction site shall be immediately retrieved and secured properly.
- B. Storage of Construction Debris or Byproducts:
  1. Construction debris or byproducts shall not be allowed to accumulate on construction sites or adjacent lots. Items such as pallets, used lumber, discarded excess concrete or other material shall be properly disposed of in a timely manner according to state and local laws.
- C. Weeds or Underbrush
  1. Weeds or underbrush shall not be allowed to propagate on a construction site. Measures shall be taken to mitigate tall weeds or underbrush that may harbor rats, mice or other animals.

## 2.88 APPEALS

- A. When it is claimed that the provisions of this ordinance have been wrongly applied or interpreted by the S.E.C. Inspector, Building Official or Code Enforcement Officer, the aggrieved person may appeal the decision of the code official as provided in this section.
- B. The aggrieved person must first request the code official to reconsider his decision. The request to reconsider must be made within ten (10) days from the date of the code official's initial decision and must submit in writing the reasons for the request for reconsideration.
- C. A person aggrieved by the final decision of the code official may appeal the decision to the City Council or their designated Board of Appeals. The appeal must be in writing and made within ten (10) days of the date of the final decision of the code official.
- D. All requests and appeals specified in this section shall be made in writing. An aggrieved party who does not appeal within the time limits specified shall be deemed to have waived his right to appeal and shall be bound by the latest decision in the appeal process.

## **Section 3.00 NONCONFORMITIES.**

### **Section 3.01. Nonconforming Structures.**

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

- A. No such structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof hereof may be altered to decrease its nonconformity.
- B. Should such a structure be destroyed by any means to an extent of more than sixty (60) percent of its current appraised value, exclusive of the foundation, it shall not be reconstructed except in conformity with the provisions of this ordinance. If less than sixty (60) percent damaged, exclusive of the foundation, it may be restored, reconstructed or used as before, provided that it is done within twelve (12) months of such happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the planning commission and the building inspector.
- C. If the nonconforming structure is moved to another lot, it shall thereafter conform to the regulations for the district to which it is moved.

### **Section 3.02. Repairs And Maintenance.**

any nonconforming structure or portion of a structure containing a nonconforming use may be main,, maintained and improved by ordinary repairs or by repair or replacement of non-bearing walls, fixtures, wiring or plumbing if the cubic content existing when it became nonconforming is not increased. This ordinance does not prevent the strengthening or restoring of any structure or part declared to be unsafe by order of an official charged with protecting the public safety.

### **Section 3.03. Nonconforming Use, Land.**

The nonconforming lawful use of land where a structure thereon is not so employed or existing at the time that this ordinance becomes effective, may be continued provided:

- A. The nonconforming use of land shall not in any way be expanded or extended either on the same or adjoining property.
- B. That if the nonconforming use of land, existing at the time this ordinance became effective, is thereafter discontinued or changed, then the future use of such land shall be in conformity with the provisions of this ordinance.

### **Section 3.04. Nonconforming Use, Change.**

A nonconforming use cannot be changed to a comparable nonconforming use. Once a use has been brought into conformity with regulations of the district, it must remain in conformity.

### **Section 3.05. Nonconforming Use, Discontinuance.**

In the event that a non-conforming use of any building or building and land is discontinued for a period of one (1) year, any future use shall conform to the provisions of this ordinance.

### **Section 3.06. Nonconforming Use, Zone Change.**

The above provisions shall apply to buildings, land and uses which may become nonconforming due to classification or reclassification of districts under this ordinance.

## **Section 4.00 OFF-STREET PARKING AND LOADING.**

### **Section 4.01. Off-Street Parking Requirements.**

In all zoning districts, with the exception of allowed uses in B-1 districts, off-street parking and loading facilities shall be provided and maintained as provided below.

- A. Loading space shall not be construed as supplying off-street parking space.
- B. When units or measurements used in determining the number of required parking spaces result in the requirement of a fractional space and fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
- C. Whenever the use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this ordinance, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
- D. Floor area in the case of offices, merchandising or service types of uses, shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients as tenants, including areas occupied by fixtures and equipment used for display or sale of merchandise.
- E. Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.
- F. The location of the required off-street parking facilities for other than dwellings shall be within three hundred (300) feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.
- G. Where a use is not specifically mentioned, off-street parking requirements shall be the same as for a similar use.
- H. Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses provided, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table.
- I. If a building is extended into a parking area, the existing parking area must be expanded to provide the same number of parking spaces which existed before the building expansion. j. The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the space so required and shall be irrevocably reserved for such use.

Use	Required Parking Space
Residential.	Two (2) for each dwelling unit; the area of which may include driveways for one (1) and two (2) family dwellings.
Supervised living.	One (1) for each two (2) facilities employees
Tourist homes, bed & breakfast inns, motels, hotels, boarding & rooming houses.	One (1) for each guest or sleeping room or suite plus two (2) for owner, management or service personnel.
Health care facilities.	One (1) for each three (3) beds plus one (1) for each two (2) employees.

Libraries, museums, post offices and other similar uses.	An improved area which shall be not less in size than two (2) times the floor space of the building.
Theaters and auditoriums.	One (1) for each four (4) seats.
Churches, auditoriums and sports arenas incidental to schools.	One (1) for each four (4) seats in the main assembly unit.
Schools.	One (1) for each employee and one (1) for each eight (8) students beyond ninth grade.
Dance hall, pool and billiard rooms, assembly and exhibition halls, community centers, civic clubs, fraternal Orders, union halls and similar uses.	One (1) for each four (4) people allowed within the maximum occupancy load as established by the state fire marshal.
Bowling alleys.	Six (6) for each alley.
Mortuaries, funeral homes.	One (1) for each fifty (50) square feet of floor space in the slumber rooms, parlors or individual funeral service rooms.
Establishments for sale and consumption on the premises of alcoholic Beverages, food or refreshments.	One (1) for each seventy-five (75) square feet of floor area.
Drive-in restaurants and roadside stands.	One (1) for each fifty (50) square feet of ground floor area of the building.
Medical or dental clinics, banks, business or professional offices.	One (1) for each two hundred (200) square feet of floor area.
Drive-in banks.	One (1) for each two hundred (200) square feet of floor area.
Furniture and appliance stores, personal service shops (not including Beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, wholesale stores and machinery sales.	One (1) for each five hundred (500) square feet of floor area.
Beauty parlors and barber shops.	Two (2) for each barber and/or beauty shop chairs.
All retail stores, except as otherwise specified.	One (1) for each one hundred (100) square feet of floor area.
Service garages, automobile sale rooms, auto-mobile repair, body Shops.	Two (2) per service stall and wash rack plus one (1) per employee.
Gasoline service stations.	One (1) for each employee, plus one (1) for the owner and/or management plus two (2) for each grease rack, service stall or wash rack.

Industrial establishments including manufacturing, research and testing laboratories, creameries, bottling works, printing and engraving shops, warehousing and storage buildings.

Provide for each establishment an improved area which shall be sufficient in size to provide adequate facilities for the parking of automobiles and other motor vehicles used by the firm or employees or people doing business therein. Such space shall not be less than one (1) for each three (3) employees computed on the basis of the greatest number of people be employed at any one period during the day or night. Parking of automobiles and other motor vehicles is permitted in the front and side yards in manufacturing districts if landscaped.

#### Section 4.02. Off-Street Parking Facilities.

In all districts where off-street parking lots are permitted or required, such off-street parking lots shall be constructed and maintained subject to the following regulations:

- A. Adequate ingress and egress shall be provided.
- B. Such parking lots shall be maintained in a usable dustproof condition and shall be kept graded and drained to dispose of surface water.
- C. Whenever such parking lot boundary adjoins property zoned for residential use, a setback of eight (8) feet from said lot line shall be required.
- D. Necessary curbs or other protection against damage to adjoining properties, streets and sidewalks shall be provided and maintained.
- E. Plans for the construction of any such parking lot must be approved by the zoning administrator before construction is started.

#### Section 4.03. Loading Space.

On the premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel hospital, mortuary, laundry, dry cleaning or other uses similarly involving receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets or alleys. Such space shall be sufficient for the proposed use as determined by the planning commission and approved by the planning commission and the city council.

## **Section 5.00 AG - AGRICULTURAL DISTRICT.**

### **Section 5.01. Purpose.**

The AG agricultural district is intended to preserve for a limited time those lands devoted to agricultural enterprises located within the city where urban expansion is planned to take place. In this manner, conflicts between agricultural and non-agricultural land uses shall be minimized. Its effect is to control the infiltration of urban development into areas generally devoted to agriculture until the city council determines that it is financially and economically feasible to provide public services and facilities, thereby promoting orderly urban development. It is intended that the status of all areas in this district be reviewed by the planning commission no less frequently than every five (5) years in order to determine whether, in light of current land development trends, there should be a transfer of all or any part of such areas to some other appropriate use district. Any such review shall be considered in relation to the land use plan in addition to the need for permitting other uses on such land, the nature of the use or uses to be permitted, the cost and availability of the public services and facilities which will be necessitated by such new use or uses.

### **Section 5.02. Permitted Uses.**

The following uses shall be permitted in the AG agricultural district:

#### **A. Agricultural activity including:**

1. Field crops
2. Livestock
3. Nurseries and greenhouses
4. Orchards
5. Agricultural buildings

#### **B. Game refuge and preserve areas**

#### **C. Publicly owned parks, playgrounds and community buildings**

#### **D. Single-family and duplex residences for resident landowners, their children and laborers engaged in permitted agricultural activity**

#### **E. Home occupations**

#### **F. Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property**

### **Section 5.03. Conditional Uses.**

The following uses may be permitted in the AG agricultural district upon recommendation of the planning commission and approval of the city council.

- A. Churches, chapels and similar places of worship**
- B. Public schools and similar private education institutions**
- C. Hospitals, nursing, rest or convalescent homes**

- D. Public utility buildings such as substations, transformer stations and regulator stations without storage yards
- E. Cemeteries
- F. Day care or nursery schools
- G. Temporary produce stands on premises used for agricultural purposes provided there is adequate off-street parking
- H. Commercial radio, television and telephone towers and transmitters
- I. Stables
- J. Veterinary and animal clinics
- K. Excavating of sand and gravel
- L. Parks, campgrounds, gun clubs, golf courses, golf driving ranges, race tracks, historical sites and museums
- M. Carnivals, outdoor circuses and migratory amusement enterprises
- N. Airports and landing fields
- O. Accessory buildings and structures and uses customarily incidental to any of the above listed uses when located on the same property.
- P. Indoor Cannabis and Hemp Cultivation.

#### Section 5.04. Bulk Regulations.

The following minimum requirements shall be observed:

##### A. Lot area, width and yard requirements

Use	Lot Area	Lot Width	Yards		
			Front	Rear	Side
Single Family Dwelling	30,000 sq. ft	150'	30'	50'	25'
Other Uses	100,000 sq. ft	300'	50'	50'	50'

##### B. Height restrictions. The following height restrictions shall be observed:

1. No residential building hereafter erected or altered shall exceed thirty-six (36) feet.
2. Public or semipublic buildings, churches, schools, hospitals, nursing homes and similar uses may be erected to a height of sixty (60) feet.
3. Agricultural uses and accessory buildings shall be exempted from height requirements.

##### C. Building dimension requirements. The main exterior walls of each residential structure shall not be less than twenty (20) feet wide at the narrowest point of the structure.

## **Section 6.00 R-1 - LOW DENSITY RESIDENTIAL DISTRICT**

### **Section 6.01. Purpose.**

The R-1 district is intended to provide for low density residential development with a limited number of institutional and recreational uses permitted. The district is designed to protect residential areas now developed and to regulate the efficient use and orderly development of vacant land designated for residential uses. It is essential that areas be designated, and regulations imposed for various kinds of residential developments in order that the city can plan ahead for services, future schools, parks, streets and utilities. The regulations are designed to promote a suitable environment for family life. Recreational and institutional uses which are compatible with residential areas are also permitted on parcels of adequate size to allow required parking and building needs. A site plan, as described in section XI, is required by the planning commission.

### **Section 6.02. Permitted Uses.**

The following uses shall be permitted in the R-1 residential districts:

- A. Single-family dwellings with garage
- B. Attached duplex dwellings
- C. Publicly owned parks and playgrounds
- D. Home occupations
- E. Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property, provided such accessory buildings or structures are less than 800 square feet in area and located a minimum of five (5) feet from the back and side lot line and have a ten (10) feet maximum side wall height with a nine (9) feet maximum door height. The entrance of a garage must be at least twenty (20) feet from the property line.

### **Section 6.03. Conditional Uses.**

The following uses may be permitted in the R-1 residential district upon recommendation of the planning commission and approval of the city council.

- A. Single family dwellings with garage to be built by a date as specified by the planning commission
- B. Accessory buildings and structures of over 800 square feet in size.
- C. Attached three- and four-unit dwellings
- D. Churches, chapels and similar places of worship
- E. Public schools and similar private education institutions
- F. Hospitals, nursing, rest or convalescent homes
- G. Public utility buildings such as substations, transformer stations and regulator stations without storage yards
- H. Day care or nursery schools
- I. Funeral homes with adequate parking
- J. Community buildings

K. Bed and breakfast inns

L. Accessory buildings and structures and uses customarily incidental to any of the above listed uses when located on the same property

Section 6.04. Bulk Regulations.

The following minimum requirements shall be observed:

A. Lot area, width and yard requirements

Use	Lot Area	Lot Width		Yards			
		At Street	At Building	Front	Rear	Least Side	Sum of Sides
Single Family Dwelling	10,000 sq. ft	45'	75'	30'	25'	6'	16'
Two Family Dwellings	14,000 sq. ft	50'	80'	30'	25'	6'	16'
Other Uses	20,000 sq. ft	100'	100'	30'	45'	12'	24'

B. Building height. No residential building hereafter erected or altered shall exceed thirty-six (36) feet in height. Provided, however, public and semipublic buildings, churches, cathedrals, temples, hospitals or schools may be erected to a height of sixty (60) feet when set back from all lot lines not less than one (1) foot, in addition to required yard dimensions, for each foot such building exceeds thirty-six (36) feet in height.

C. Corner lot, special requirements. On any corner lot or lot fronting on more than one street, no building or structure shall be placed or erected closer than twenty-five (25) feet to any property line abutting and paralleling a street. All corner lots shall be at least ten (10) percent larger in lot frontage at the building line and lot area than is required above for one (1) and two (2) family dwellings.

D. Maximum impervious surface coverage shall not exceed forty (40) percent.

E. Building dimension requirements. The main exterior walls of each residential structure shall not be less than twenty (20) feet wide at the narrowest point of the structure.

## **Section 7.00 R-2 - HIGH DENSITY RESIDENTIAL DISTRICT.**

### **Section 7.01. Purpose.**

The R-2 high density residential district is intended to provide for high density residential development. It is designed to accommodate single-family and multiple-family structures in an acceptable relationship with one another and to regulate the efficient use and orderly development of vacant land designated for such use. Mobile home parks and institutional uses which are compatible with residential areas are also permitted on parcels of adequate size to allow required parking and building needs.

### **Section 7.02. Permitted Uses.**

The following uses shall be permitted in the R-2 residential district:

- A. Any permitted use as permitted in the R-1 residential district
- B. Dwellings in groups of not more than four (4) housekeeping units in any one (1) building
- C. Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property

### **Section 7.03. Conditional Uses.**

The following uses may be permitted in the R-2 residential district upon recommendation of the planning commission and approval of the city council.

- A. Any conditional uses permitted in the R-1 residential district
- B. Mobile home parks
- C. Institutions of a philanthropic or charitable nature
- D. Bed and breakfast inns
- E. Boarding and rooming house for up to five (5) people
- F. Dwellings in groups of five (5) or more housekeeping units in any one (1) building
- G. Accessory buildings and structures and uses customarily incidental to any of the above listed uses when located on the same property

### **Section 7.04. Bulk Regulations.**

The following minimum requirements shall be observed:

- A. Lot area, width and yard requirements

Use	Lot Area	Lot Width		Yards			
		At Street	At Building	Front	Rear	Least Side	Sum of Sides
Single Family Dwelling	10,000 sq. ft	45'	75'	30'	25'	6'	16'
Two Family Dwellings	14,000 sq. ft	50'	80'	30'	25'	6'	16'

Three Family Dwellings	20,000 sq. ft	55'	85'	30'	25'	12'	28'
Four or More Family Dwellings	25,000 sq. ft	60'	90'	30'	25'	12'	28'
Row Houses	7,000 sq. ft per unit	16' per unit		30'	25'	10' (b)	20'
Other Uses (c)	25,000 sq. ft	100'	100'	30'	45'	12'	28'

(b) side yard exempt for interior units.

(c) special requirements exist for mobile home parks.

B. Building height. No residential building, hereafter erected or altered, shall exceed thirty-six (36) feet in height. Provided, however, public and semipublic buildings, churches, cathedrals, temples, hospitals or schools may be erected to a height of sixty (60) feet when set back from all lot lines not less than one (1) foot, in addition to required yard dimensions, for each foot such building exceeds thirty-six (36) feet in height.

C. Corner lot. On any corner lot or lot fronting on more than one street, no building or structure shall be placed or erected closer than twenty-five (25) feet to any property line abutting or paralleling a street. All corner lots shall be at least ten (10) percent larger in lot frontage at the building line and lot area than is required for one (1) and two (2) family dwellings.

D. Impervious surface coverage shall not exceed fifty (50) percent of the lot and common area.

E. Multi-family structures, townhouses/row houses and condominiums shall have at least twenty-five hundred (2,500) square feet per unit.

F. Zero lot line requirements. When interior units of townhouses are placed on interior side property lines with zero (0) setbacks, the structure setback for end units shall be a minimum of sixteen (16) feet. All developments using the zero (0) lot line provision must submit a site plan according to the provisions of this ordinance. The site plan shall include a plat drawn to the specifications of the city's subdivision ordinance. Each structure shall be located on its own individually platted lot. The plat shall indicate the zero (0) lot lines, easements and provisions for common areas and their maintenance.

G. Building dimension requirements. The main exterior walls of each residential structure shall not be less than twenty (20) feet wide at the narrowest point of the structure.

## **Section 8.00 B-1 - CENTRAL BUSINESS DISTRICT. (Amended 4/4/96; 34)**

### **Section 8.01. Purpose.**

The B-1 central business district is intended to provide for a wide variety of retail activities and could act as a banking and financial center, entertainment and hotel center, or as a center for business and professional offices. The district comprises the "downtown" section of the city. The use of land is intensive, this being one of the main determinants of its vitality. It is the purpose of these regulations to encourage such intensity of use and to exclude activities which have a negative effect upon the proper functioning of the central business district.

### **Section 8.02. Uses Permitted.**

- A. Business services including banks, offices and postal stations.
- B. Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking, millinery and tailor shops, shoe repair shops.
- C. Equipment services including radio and television shops, electrical appliances shops, show room of a plumber, decorator or similar trade.
- D. Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessens, candy shops and bakeries.
- E. Personal services including barber and beauty shops, reducing salons, photographic shops and funeral homes.
- F. Retail services including drug stores, hardware stores, haberdashery, stationery and bookstores, news shops, apparel shops, show room for articles to be sold at retail, flower shops and commercial greenhouses.
- G. Buildings used for storage or distributing stations.
- H. Any similar commercial establishment or professional service or commercial service not specifically stated or implied elsewhere in this section.
- I. Residence when included as an integral part of the principal building to be occupied by the owner or his/her employee.
- J. Rental units may be maintained above the ground floor.
- K. Buildings and uses customarily necessary to any of the above uses which may include the repair, alteration, finishing, assembly, fabrication or storage of goods. Such use shall not be detrimental either by reason of odor, smoke, noise, dust or vibration nor visually detrimental to the surrounding neighborhood.

### **Section 8.03. Commercial Restrictions.**

The uses permitted shall be subject to the following conditions:

- A. Such businesses and sales or display or storage areas shall be confined within a building beyond normal business hours except that the city council by resolution or by ordinance may allow an exception for city-wide promotions and activities.
- B. All public entrances to such businesses shall be from the principal street upon which the property abuts or within fifty (50) feet thereof, except that an additional rear entrance may be provided from a public parking area.

Section 8.04. Conditional Uses.

The following uses may be permitted upon recommendation of the planning commission and approval of the city council:

- A. Automobile service including auto equipment sales, car wash service, new and used car sales lots, trailer sales areas, gasoline service stations and auto repair garages.
- B. Recreation services including theaters, bowling alleys, pool and billiard rooms, dance halls, roller- and ice-skating rinks
- C. Hotels, motels, private clubs and lodges; wholesale establishments, taverns, night clubs, on and off liquor stores, trade schools, commercial parking garages and ramps.
- D. Drive-in restaurants, drive-in banks and other drive-in services.
- E. Open air display areas for the sale of products such as garden furniture, hardware items, nursery stock or automobiles or areas used to display rental equipment such as tools or trailers. Buildings and uses customarily incidental to any of the uses listed in this section when located on the same property and which will not be detrimental either by reason of odor, smoke, noise, dust or vibration to the surrounding neighborhood.
- F. Buildings and uses customarily incidental to any of the uses listed in this section when located on the same property and which will not be detrimental either by reason of odor, smoke, noise, dust, or vibration to the surrounding neighborhood.
- G. Ground Floor residential units.

Section 8.05. Building Height.

No building or structure hereafter erected or altered shall exceed forty (40) feet in height.

Section 8.06. Lot Area, Frontage, Lot Coverage, Yard Size and Loading Space.

For allowed uses in B-1 districts there will be no requirements for lot area, frontage, lot coverage, yard sizes or loading space. For uses requiring special exception permits, lot area, frontage, lot coverage, yard size, parking and loading space shall be specified by the planning commission.

## **Section 9.00 B-2 - HIGHWAY BUSINESS DISTRICT.**

### Section 9.01. Purpose.

The purpose of the B-2 highway business district is established to encourage the functional grouping of those commercial enterprises which cater primarily to either "local" or "through" motorists. Typical uses offer accommodation and services to motorists, specialized outlets and commercial amusement enterprises. The requirements of this district are developed to minimize traffic hazards and interference with other related uses in the vicinity.

### Section 9.02. Uses Permitted.

- A. Automobile service including auto equipment sales, car wash service, new and used car sales lots and trailer sales areas, gasoline service stations and auto repair garages
- B. Business services including banks, offices and postal stations
- C. Clothing services including dry cleaning and laundry establishments, laundromats, dressmaking, millinery and tailor shops and shoe repair shops
- D. Equipment services including radio and television shops, electrical appliance shops, showrooms
- E. Medical services including clinics, hospitals, rest homes and animal clinics
- F. Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessens, candy shops and bakeries
- G. Personal services including barber and beauty shops, reducing salons, photographic shops and funeral homes
- H. Retail services including drug stores, hardware stores, haberdashery, stationery and bookstores, news shops, apparel shops, showroom, flower shops and commercial greenhouses
- I. Recreation services including theaters, bowling alleys, pool and billiard rooms, dancing academies and roller- and ice-skating rinks and miniature golf courses
- J. Hotels, motels, private clubs and lodges; wholesale establishments, taverns, night clubs and on and off liquor stores; trade schools; commercial parking garages; sales rooms, public transportation terminals, public utility buildings and transformer stations without storage yards
- K. Residence when included as an integral part of the principal building to be occupied by the owner or his employee
- L. Any similar commercial establishment or professional service or commercial service not specifically stated or implied elsewhere in this section
- M. Drive-in restaurants, drive-in banks and drive-in services or businesses not herein strictly prohibited
- N. Buildings used for closed storage, distribution stations, but not including fuel yards, junk yards or used automobile parts or wrecking establishments or businesses handling waste or junk and those businesses which are offensive by reason of sight, odor, noise, smoke or vibration to the surrounding neighborhood.
- P. Buildings and uses customarily necessary to any of the above permitted uses, which may include the repair, alteration, finishing assembly, fabrication or storage of goods

Q. Buildings and uses customarily necessary to any of the above permitted uses, but which will not be detrimental either by reason of sight, odor, smoke, noise, dust or vibration to the surrounding neighborhood

R. Rental units may be maintained above the ground floor. In such buildings the ground floor must be commercial space only

S. Lumber yards

#### Section 9.03. Conditional Uses.

The following may be permitted upon recommendation of the planning commission and approval of the city council:

A. Recreational camping areas

B. Open air display areas for the sale of manufactured products such as garden furniture, hardware items and nursery stock, or rental of manufactured products or equipment

#### D-Temporary Cannabis Events

a) Temporary Cannabis Events shall be allowed Monday – Saturday 10am-6pm.

b) Temporary Cannabis Events shall not allow use of cannabis or hemp products at the event unless the premise or establishment is permitted/licensed for on-site consumption.

c) No Temporary Cannabis Events shall be allowed on city property.

#### Section 9.04. Building Height.

No building or structure hereafter erected or altered shall exceed forty (40) feet in height.

#### Section 9.05. Lot Area, Frontage And Yard Requirements.

The following minimum requirements shall apply:

Use	Lot Area	Lot Width	Yards			
			Front	Rear	Least Side	Sum of Sides
All	5,000 sq. ft (c)	50'	45'	30' (b)	0'	20' (a)

(a) A minimum side yard of thirty (30) feet shall be required on that side of the property abutting any AG, R-1 or R-2 district.

(b) where alleys exist, the measurements of the rear yard may include one-half (1/2) the width of the alley.

(c) commercial condominiums shall have a minimum of seven thousand (7,000) square feet of lot area per unit.

A. Zero lot line requirements. When structures are placed on one (1) interior side property line with a zero (0) setback, the structure setback on the other interior side property line shall be a minimum of twenty (20) feet. When interior units of townhouses/row houses are placed on interior side property lines with zero (0) setbacks, the structure setback for end units shall be a minimum of sixteen (16) feet. All

developments using the zero (0) lot line provision must submit a site plan according to the provisions of this ordinance. The site plan shall include a plat drawn to the specifications of the city's subdivision ordinance. Each structure shall be located on its own individually platted lot. The plat shall indicate the zero (0) lot lines, easements and provisions for common areas and their maintenance.

## **Section 9-2 B-3 Transitional Business District**

### Section 9.21. Purpose

The B-3 transitional business district is intended to provide for a variety of commercial activities that would be considered compatible with neighboring residential districts. The term transitional is used to describe the need to create a desirable land use transition from the business districts to residential districts that may develop over time to a more intensive land use. The use of land is less intense than that of the B-1 district. Typical uses are those of low traffic day hour enterprises normally considered suitable for close proximity to residences.

### Section 9.22 Uses permitted.

### Section 9.23 Conditional uses

The following may be permitted upon recommendation of the planning commission and approval of the city council:

- A. Personal services including barber and beauty shops, reducing salons, photographic shops and funeral homes.
- B. Buildings for storage or storage rental as the planning commission shall determine appropriate to the specific immediate residential neighborhood.
- C. Public schools, academies and similar educational institutions.
- D. Day care or nursery schools.
- E. Medical services including clinics, hospitals, rest homes and animal clinics.
- F. Residence when included as an integral part of the principal building to be occupied by the owner, employee or a lessee.
- G. Business services including banks, offices and postal stations.
- H. Dwellings in groups of two (2) or more housekeeping units in any one (1) building.
- I. Any similar commercial establishment or professional service or commercial service not specifically stated or implied in this section.
- J. Buildings and uses customarily necessary to any of the above permitted uses, but which will not be detrimental either by reason of sight, odor, smoke, noise, dust or vibration to the surrounding neighborhood.

## **Section 10.00 M-1 - MANUFACTURING DISTRICT**

### **Section 10.01. Purpose.**

the regulations for the m-1 manufacturing district are intended to provide for areas for manufacturing, warehousing and related commercial operations. It is their intent to encourage industrial development which is compatible with surrounding uses and districts. All activities in the district shall be carried on in a manner not injurious or offensive to the occupants of adjacent premises due to odors, dust, smoke, noise or vibrations and shall not be visually detrimental to the neighborhood.

### **Section 10.02. Permitted Uses.**

All uses in this district are conditional and must be approved in accordance with the procedures of this ordinance.

### **Section 10.03. Conditional Uses.**

The following uses may be permitted upon recommendation of the planning commission and approval of the city council:

- A. Any production, processing, assembly, manufacturing, cleaning service, repair, testing or storage of goods or products excepting those which may be injurious or offensive to the occupants of adjacent premise by reason of the emission of or creation of noise, vibration, smoke, dust, odors or noxious materials.
- B. Accessory buildings or structures and uses customarily necessary to any of the above permitted uses, which will not be detrimental either by reason of sight, odor, smoke, noise or vibration to the surrounding neighborhood.
- C. Cannabis manufacturing, processing, packaging, testing, treatment, transportation operation, or assembly or products and materials associated with cannabis products.

### **D.-Temporary Cannabis Events**

- a) Temporary Cannabis Events shall be allowed Monday – Saturday 10am-6pm.
- b) Temporary Cannabis Events shall not allow use of cannabis or hemp products at the event unless the premise or establishment is permitted/licenses for on-site consumption.
- c) No Temporary Cannabis Events shall be allowed on city property.

### **Section 10.04. Manufacturing District Special Requirements.**

- A. Storage, auxiliary to the permitted use, is permitted in the open, but not within twenty (20) feet of the property lines
- B. Open storage of lumber, metals, machinery or other materials shall be enclosed by an eight (8) foot wood-screening fence.
- C. Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and shall be removed and emptied periodically so no waste shall be piled on open grounds. Storage of waste materials must be in accordance with all applicable state and federal regulations and laws.
- D. Screening shall be provided at lot boundaries abutting a residential district, and may consist of solid fencing or dense hedge or shrub to a minimum of eight (8) feet in height

Section 10.05. Bulk Regulations.

The following requirements shall be observed: a. Lot area, width and yard requirements

Use	Lot Area	Lot Width	Yards			
			Front	Rear	Interior Side	Street Side
All	20,000 sq. ft (c)	100'	45'	30' (b)	10' (a)	25'

(a) A minimum side yard of thirty (30) feet shall be required on that side of the property abutting any AG or residential district.

(b) A minimum rear yard of thirty (30) feet shall be required when the use backs up to any AG or residential district.

B. Height restrictions. 1. No building or structure hereafter erected or altered shall exceed forty (40) feet in height.

C. Lot coverage. 1. Impervious surface coverage shall not exceed sixty (60) percent of the total lot area.

D. Zero lot line requirements. When structures are placed on one (1) interior side property line with a zero (0) setback, the structure setback on the other interior side property line shall be a minimum of sixteen (16) feet. When interior units of townhouses/row houses are placed on interior side property lines with zero (0) setbacks, the structure setback for end units shall be a minimum of twenty-four (24) feet. When structures are placed on one (1) interior side property line and one (1) rear property line with a zero (0) setback on each, the structure setback on the other side and the front property lines shall be a minimum of twenty-five (25) feet for each. All developments using the zero (0) lot line provision must submit a site plan according to the provisions of this ordinance. The site plan shall include a plat drawn to the specifications of the city's subdivision ordinance. Each structure shall be located on its own individually platted lot. The plat shall indicate the zero (0) lot lines, easements and provisions for common areas and their maintenance

## **Section 11.00 SITE PLAN**

### **Section 11.01. Exempt Uses.**

The following shall be exempt uses and shall not have to comply with the site plan requirements described herein.

A. Temporary uses (not to exceed six (6) months) of land different from its existing state.

### **Section 11.02. Site Plan Required.**

All planned buildings and/or structures or uses of land unless exempted, whether they be new, substantially changed, converted or reconstructed, must secure approval of a site plan from the planning commission. No land use permit shall be issued prior to approval of the site plan. The site plan need not be drawn by an architect or engineer.

### **Section 11.03. Procedure.**

The following procedure shall be followed in the preparation of site plans.

A. Preparation of site plans in the R 1, low density residential district and in the AG, agricultural district.

1. The person, developer, contractor or builder shall be responsible for preparation of the site plan. 2. The site plan shall contain the following information as is pertinent to the proposed use of the land

A. Name and address of the developer and property owner

B. Small key (location) map

C. Zoning classification of the land and names of adjoining landowners and zoning classification of adjacent lands

D. Proposed buildings and/or land use

E. Area of land in square feet f. Survey and engineering information including distances with angles, bearings, lengths and legal description of property involved shall be shown on drawings at a scale not to exceed one (1) inch equaling fifty (50) feet and including the following information:

(1) proposed buildings with location dimensions, building area and height

(2) distances on all sides from buildings to property lines and between buildings

(3) location, dimensions and area of existing buildings not to be razed

(4) existing and proposed street curb cut radii and curb cut width

(5) location and approximate diameter of proposed or existing trees and other woody stemmed plantings together with the common names of the plantings

(6) location of underground utilities, e.g. wells, fuel tanks or septic tanks

(7) such other or different information as may be required by the design standards set forth hereinafter or as required elsewhere in this ordinance

B. Preparation of site plans in other districts

1. The person, developer, contractor or builder shall be responsible for preparation of the site plan.
2. The site plan shall contain the following information as is pertinent to the proposed use of the land.
  - A. Name and address of the developer and property owner
  - B. Small key (location) map
  - C. Zoning classification of the land and names of adjoining landowners and zoning classification of adjacent lands
  - D. Proposed buildings and/or land use
  - E. Area of land in square feet
  - F. Survey and engineering information including distances with angles, bearings, lengths and legal description of property involved shall be shown on drawings at a scale not to exceed one (1) inch equaling fifty (50) feet and including the following information:
    - (1) proposed buildings with location dimensions, building area and height
    - (2) distances on all sides from buildings to property lines and between buildings
    - (3) location, dimensions and area of existing buildings not to be razed
    - (4) location and use of all buildings and adjacent lands that are within fifty (50) feet of the property line in question
    - (5) existing and proposed contours or spot grades at no more than two (2) foot intervals
    - (6) drainage design for roof areas, parking lots and driveways showing area for or method of disposal of surface runoff waters
    - (7) existing and proposed street curb cut radii and curb cut width
    - (8) limits and location of proposed or existing streets, cartways, curbs, sidewalks, easements and rights of way
    - (9) location, size and elevation of proposed or existing sanitary sewerage facilities, storm sewers, catch basins and drywells
    - (10) location and approximate diameter of proposed or existing trees and other woody stemmed plantings together with the common names of the plantings
    - (11) limits and location of plantings or physical structures designed for screening
    - (12) limits, location and size of retaining walls and the type of material to be used in construction
    - (13) limits and location of parking lots, driveways, parking bays, outside storage, rubbish and garbage areas, loading and unloading areas and surfacing and screening thereof

- (14) directions of vehicular traffic flow to, from and within the area, together with traffic control signs and markings
- (15) locations, height, candle power and type of all outside lighting including street lighting and sign lighting
- (16) locations, size, height and overall dimensions of outside signs
- (17) location of underground utilities, e.g. Wells, fuel tanks or septic tanks
- (18) such other or different information as may be required by the design standards set forth herein, after or as required elsewhere in this ordinance

3. The following general principles of design shall be incorporated into the site plan.

A. Landscaping

- (1) all front yards shall be landscaped to soften the effect the building creates at ground level
- (2) existing trees shall be preserved where possible
- (3) surface denuded of vegetation shall be seeded or sodded to prevent soil erosion.

B. Light glare from vehicles

- (1) When a building, parking lot or driveway adjoins or is within two hundred (200) feet of a residential area, provision shall be made to screen all vehicle lights so as to curtail direct illumination of the residential area. Screening provided on the land may be provided by the use of closely spaced evergreen trees, shrubs or physical structures which will harmonize with the developed use of the land and with the residential area
- (2) vehicle lights need not be screened on that portion of a site bound by and parallel to a street.

C. Surface water, sewage disposal and erosion control

- (1) storm water and sanitary sewage systems shall be laid out by a professional engineer
- (2) run-off water from parking lots, roofs and driveways shall not be allowed to cross sidewalks or to run onto private property that is not a part of the site unless easements have been obtained
- (3) surface run-off waters shall be directed into municipal facilities where such facilities are available. Where municipal facilities are not available, a drywell or drainage area owned or controlled by the owner or developer shall be provided
- (4) sanitary sewage shall be directed into municipal facilities where such facilities are available. Where municipal facilities are not available, other disposal methods approved by the planning commission may be used
- (5) retaining walls shall be constructed where necessary for land stabilization.

D. Parking lots

- (1) parking lots shall be designed to avoid creating large open expanses
- (2) parking lots shall be designed to avoid the problem of vehicles backing onto streets, alleys and sidewalks
- (3) vehicle traffic flows to, from and within land containing a parking lot shall be controlled by appropriate traffic control signs and surface markings
- (4) adequate provision shall be made for vehicular ingress and egress
- (5) provisions shall be made for a safe and convenient circulation pattern within any parking lot
- (6) proposed curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety. Curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin. Existing curb cuts and curb radii shall be used only if they comply with appropriate standards for proposed curb cuts and curb cut radii.

E. Parking lot lighting

- (1) a parking lot shall be lit for vehicular and pedestrian safety

C. Processing

1. Adequate copies of the complete site plan shall be filed with the zoning administrator
2. The zoning administrator shall forward the site plan to the planning commission and to applicable reviewing agencies as instructed by the planning commission.
3. The planning commission or a delegation thereof shall view the area being considered within the site plan.

D. Decision

1. The planning commission shall review the site plan and any written comments from reviewing agencies and recommend notification as necessary within forty-five (45) days from the time it is filed.
2. Decisions and recommendations of the planning commission shall be filed and recorded with the zoning administrator. Copies shall be sent to the applicant and/or his representative.

E. Compliance Required

1. It shall be the duty of the zoning administrator to ensure that the approved site plan is followed by the owner and/or developer.
2. The land area of a site developed pursuant to an approved site plan shall not thereafter be reduced in size, and no departure from the approved site plan shall be made without the express written permission of the planning commission. The procedure for review and approval or disapproval of changes shall be the same as for the initial application.
3. No building or site shall be used or occupied until all requirements and provisions of this ordinance and any special conditions as provided by this section have been complied with.

#### F. Appeal

1. If the site plan applicant is denied a building permit, the decision may be appealed to the city council. The city council may grant a variance from the provisions of this section only when all other requirements for the granting of a variance have been met.

#### Section 11.04. Bonds.

The city may require performance bonds in adequate amounts to insure that development proposed in the plan submitted is actually completed.

## **Section 12.00 BOARD OF ADJUSTMENTS**

### **Section 12.01. Establishment.**

A board of adjustments is hereby established for the purpose of hearing appeals and granting variance under the provisions of this ordinance in harmony with the purpose and intent of this ordinance.

### **Section 12.02. Membership And Organization. (Amended Ord. 62 7/28/05)**

The City Council shall serve as the board of adjustments. The officers of the City Council shall be the officers of the board of adjustments.

### **Section 12.03. Rules.**

The city council hereby adopts rules for the conduct of the business of the board of adjustments in accordance with the provisions of this ordinance. The council may adopt further rules as necessary.

A. Meetings shall be held at the call of the chairperson and at such other times as the board may determine. All meetings shall be open to the public. A quorum shall consist of two-thirds (2/3) of the members of the board. No board member shall sit in hearing nor vote in passing upon any case in which he/she is personally or financially interested.

B. Minutes shall be kept for all board meetings. The minutes shall include all important facts pertaining to each meeting which will include, but not be limited to, names and addresses of all persons appearing before the board, a record of all hearings and testimony, all exhibits presented to the board, a copy of each resolution acted upon by the board, the vote of each member upon each question, the reasons for the board's determination and the members absent or failing to vote. These records shall be immediately filed in the office of the zoning administrator and shall be a public record.

### **Section 12.04. Powers And Duties.**

The board of adjustments shall have the following powers and duties with regard to this ordinance:

A. Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator in the enforcement and interpretation of this ordinance.

B. Variances. To authorize upon appeal in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. As used in this ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Under no circumstances shall a variance be granted to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The presence of nonconformities in the district or uses in an adjoining district shall not be considered as grounds for a variance.

### **Section 12.05. Procedure.**

The following procedure shall be followed for appeals and applications for variances:

#### **A. Application**

1. Appeal. An appeal may be taken by any aggrieved person or by any city officer, department, board or commission. Such an appeal shall be filed within thirty (30) calendar days after the date of the decision or determination of the zoning administrator. The appeal shall be made in the following manner:

- A. The applicant requests the proper form from the zoning administrator
- B. The application shall be filed with the zoning administrator accompanied by the fee as set by the city council. The application shall contain the following information:
  - (1) the applicant's name, address and phone number
  - (2) the section of the zoning ordinance in question
  - (3) the nature of the difficulty encountered with the zoning ordinance
  - (4) the nature of the action by the zoning administrator
  - (5) the manner in which it is believed that an error in action, determination or decision has occurred

2. Variance. A variance from the terms of this ordinance shall not be granted by the board of adjustments unless and until a written application for a variance is submitted in the following manner:

- A. The applicant requests the proper form for a variance from the zoning administrator.
- B. The application shall be filed with the zoning administrator accompanied by the fee as set by the city council. The application shall contain the following information:
  - (1) applicant's name and address
  - (2) legal description and local address of the property
  - (3) a map showing the locations, dimensions and use of the applicant's property and all property within three hundred fifty (350) feet thereof including streets, alleys, railroads and other physical and cultural features
  - (4) statement on what is intended to be done on or with the property which does not conform with this ordinance

C. (amended 6/20/11, Ord. 76) The following practical difficulties shall be considered in the decision of whether or not a variance is to be granted and must be addressed within the application:

- (1) Is the proposed variance in harmony with the general purposes and intent of the zoning ordinance?
- (2) Is the proposed variance consistent with the comprehensive plan?
- (3) Is the proposed use reasonable?
- (4) Is the need for the variance caused by circumstances unique to the property not created by the landowner?
- (5) Will the variance not alter the essential character of the neighborhood?

D. Application processing

1. Upon receipt of the application by the zoning administrator, a copy of the completed application (appeal or variance) shall be forwarded immediately to the board of adjustments

2. In the case of an application to the board for granting a variance, the board shall set the date for a public hearing within thirty (30) days from the submittal date of the application. The zoning administrator shall be instructed to give notice of time, place and purpose of the public hearing in the following manner:

- A. Notify by mail all property owners within three hundred fifty (350) feet of the property at least ten (10) days prior to the date of the public hearing
- B. Give public notice in a newspaper of general circulation at least ten (10) days prior to the public hearing
- C. Notify the appropriate township board of supervisors, city planning commission and other agencies as instructed or deemed necessary

3. In the case of an appeal, all proceedings in furtherance of the action appealed are stayed, unless the zoning administrator certifies to the board of adjustments after the application for appeal is filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and property

C. Public hearing

1. The chairperson of the board of adjustments shall conduct the public hearing
2. The applicant and/or his representative shall appear before the board of adjustments and answer questions related to the application for variance
3. An accurate record of all testimony shall be kept by the secretary of the board of adjustments. This record shall include the names of all people who participated in the meeting

D. Decision

1. In the case of an appeal, the board of adjustments shall adopt a resolution stating its interpretation and determination of the provisions of this ordinance being appealed through the application
2. In the case of an application for a variance, the board of adjustments shall make a finding that the reasons set forth in the application justify the granting of the variance as the minimum variance that will make possible the reasonable use of the land, building or structure. The board of adjustments may further attach any condition to the grant of the variance as it shall determine is necessary and desirable to bring it within the purpose and intent of this ordinance. Violations of such conditions shall be deemed a violation of this ordinance and punishable there under
3. The board of adjustments shall make a recommendation to the City Council pertaining to a decision on the application within one hundred (100) days of receipt of the application. Such recommendations shall show the reasons for the determination and may reverse or affirm, wholly or in part, or may modify the order or determination appealed from. Such recommendations shall also state in detail, in the case of variances, any exceptional difficulty or unusual hardships upon which the appeal was based and which the board found present. The recommendation should also state in detail what, if any, conditions and safeguards are required
4. The concurring vote of a majority of the members of the City Council shall be necessary for the approval or denial of an application for appeal or variance
5. Decisions of the City Council shall immediately be filed and recorded with the zoning administrator

Administration. Copies shall be sent to the applicant and/or his representative by United States mail

**E. Issuance**

1. The zoning administrator shall issue a variance or modify the order or determination appealed from
2. Unless otherwise stated in the decision, any order or decision of the City Council shall become void if significant construction has not been undertaken within twelve (12) months

**F. Rehearing**

1. An application for a rehearing shall be made in the same manner as for an original hearing. The application for a rehearing shall be denied by the board if from the record it shall appear that there has been no substantial change in facts, evidence or condition

**G. Appeal**

1. Any recommendation by the board of adjustments may appeal to the city council.

## **Section 13.00 ADMINISTRATION, PERMITS AND FEES**

### Section 13.01. Zoning Administrator Duties.

The city council should appoint a zoning administrator. It shall be the duty of the zoning administrator to:

- A. Administer the requirements of this ordinance for land use permits and issue or deny each application in accordance with the provisions of this ordinance
- B. Conduct inspections of buildings and the use of land to determine compliance with the terms of this ordinance
- C. Publish and attend to the service of all notices required under the provisions of this ordinance
- D. Receive, file and forward applications for appeals, variances, conditional use permits, amendments or other action to the appropriate official bodies
- E. Maintain permanent and current records pertaining to this ordinance including, but not limited to, maps, amendments, conditional uses, variances, appeals and applications thereof
- F. Provide technical assistance to the planning commission and the board of adjustments
- G. Make recommendations to the city council, planning commission and board of adjustments as necessitated by this ordinance
- H. Refer to the city attorney all violations of this ordinance which cannot be handled administratively

### Section 13.02. Land Use Permits Required.

No building or structure shall be erected, reconstructed, moved or structurally altered to increase the exterior dimensions, height or floor area or remodeled to increase the number of dwellings or accommodate a change in use of the building and/or premises or part thereof without a land use permit issued by the zoning administrator.

### Section 13.03. Land Use Permit Applications.

All applications for land use permits shall be accompanied by the fee as set by the city council and shall be made on forms furnished by the zoning administrator and shall include the following where applicable:

- A. Names and addresses of the 1) applicant, 2) owner of the site, 3) architect, and 4) professional engineer or contractor
- B. Description of the site by lot, block and record subdivision or by metes and bounds and the address of the proposed site
- C. Lots shall have all corners clearly marked with stakes. Side property lines will have stakes placed at intervals not to exceed thirty (30) feet.
- D. Site plans as appropriate and required by this ordinance
- E. Type of structure, existing and/or proposed operation or use of the structure or site and the zoning district in which the site is located
- F. Where applicable, the number of housekeeping units, families, rental units or employees the proposed building is designed to accommodate

G. Additional information may be required by the city planning commission, zoning administrator or other city office or officials

Section 13.04. Compliance Required.

The zoning administrator shall examine all applications for land use permits and the necessary site plan to determine whether the proposed construction, alteration, extension, repair and proposed use shall comply with the provisions of this ordinance. Upon examination, a land use permit shall be issued or denied

Section 13.05. Approval Or Denial Of Land Use Permit.

Upon approval or denial, the zoning administrator shall attest to same by his signature on the land use permit. If the land use permit is approved, one (1) copy shall be returned to the applicant and one (1) copy shall be retained by the zoning administrator. If the land use permit is denied, the zoning administrator shall, in addition to the above, notify the applicant with a memorandum stating the reason for denial of the land use permit.

Section 13.06. Expiration.

A land use permit shall become void if the work described therein has not begun within six (6) months from the date of issuance. If the work described in any land use permit has not been substantially completed within one (1) year of the date of issuance, said permit shall expire and be canceled by the zoning administrator. Further work shall not proceed unless and until a new land use permit has been obtained.

Section 13.07. Construction And Use To Be Same As Application And Plans.

Land use permits issued on the basis of plans and applications approved by the zoning administrator authorize only that use, arrangement and construction set forth in such approved site plan and applications and for no other use, arrangement or construction. Any use, arrangement or construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided herein.

Section 13.08. Violations.

If it is found that any of the provisions of this ordinance are being violated, it shall be the duty of the zoning administrator to take the following action:

- A. Document the violation in writing, with photographs, historical records and dates of information
- B. Notify in writing the person responsible for such violations indicating the nature of the violation and outlining action necessary to correct it
- C. Order the discontinuance of illegal use of land, buildings or structures
- D. Order the removal of illegal buildings or structures or of illegal additions, alterations or structural changes
- E. Order discontinuance of any illegal work being done
- F. Take any other action authorized by this ordinance to ensure compliance with or to prevent violations of its provisions

Section 13.09. Appeal.

It is the intent of this ordinance that all questions of interpretation and enforcement shall first be presented to the zoning administrator, and that such questions shall be presented to the board of adjustments only on appeal from the decision of the zoning administrator.

### Section 13.10. Fees.

The city council shall establish a schedule of fees, charges and expenses and a collection procedure for land use permits, appeals, amendments, conditional uses, variances and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the zoning administrator and may be altered or amended only by the city council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

### Section 13.11. Conditional Uses.

Any proposed conditional use permitted by the provisions of this ordinance shall be submitted to the planning commission and the city council for review and determination of its applicability to the district in which it is proposed. The following procedure shall be followed for conditional use permit application:

#### A. Application

1. The applicant requests proper form for a conditional use permit from the zoning administrator
2. The application shall be filed with the zoning administrator accompanied by the fee as set by the city council. The application shall contain the following information:
  - A. The legal description and local address of the property
  - B. The names and addresses of the owners of all property within three hundred fifty (350) feet of the property for which the conditional use permit is being applied
  - C. Detailed description of the proposed conditional use
  - D. Detailed plans of all buildings, roadways and any other structural or cultural improvements
  - E. A map showing the locations, dimensions and use of all property within three hundred fifty (350) feet of the applicant's property including streets, alleys, railroads and other physical and cultural features
  - F. A statement describing the reasons for the request of the conditional use permit g. Other information or exhibits as required by the planning commission and city council in making recommendations, determinations and dispositions on the application

#### B. Application processing

1. Upon receipt of the application by the zoning administrator, a copy of the completed application and attachments shall be forwarded immediately to the planning commission
2. The planning commission shall set the date for a public hearing and instruct the zoning administrator to give notice of time, place and purpose of the public hearing in the following manner:
  - A. Notify by mail all property owners within three hundred fifty (350) feet of the property at least ten (10) days prior to the date of the public hearing
  - B. Give public notice in a newspaper of general circulation in the city at least ten (10) days prior to public hearing
  - C. Notify the appropriate township board of supervisors, county planning commission and other agencies as instructed or deemed necessary

3. The planning commission or delegation thereof shall view the area being considered for a conditional use permit

C. Public hearings

1. The chairperson of the planning commission shall conduct the public hearing
2. The applicant and/or his representative shall appear before the planning commission and answer any questions related to the proposed conditional use permit
3. An accurate record of all testimony shall be kept by the secretary of the planning commission. This record shall include the names of all people who participated in the meeting

D. Recommendation

1. The planning commission shall consider all possible adverse effects of the proposed conditional use permit and what, if any, additional requirements may be necessary to prevent such adverse effects
2. The planning commission, in considering an application for a conditional use permit, shall make findings on the following criteria and report these findings in its recommendation to the city council:
  - A. That the establishment, maintenance or operation will not be detrimental to or endanger the public health, safety or general welfare and is not contrary to established standards, regulations or ordinances of other governmental agencies
  - B. That each structure or improvement is so designed and constructed that it is not unsightly, undesirable or obnoxious in appearance to the extent that it will hinder the orderly and harmonious development of the city and of the district proposed
  - C. That the use will not be substantially injurious to the permitted uses nor unduly restrict the enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values within the area
  - D. That the establishment of the use will not impede the orderly and normal development and improvement of the surrounding property for uses permitted in the zoning district
  - E. That adequate water supply and sewage disposal facilities are provided and in accordance with applicable standards
  - F. That adequate access roads, on-site parking, on-site loading and unloading berths and drainage have been or will be provided
  - G. That adequate measures have been taken to provide ingress and egress so as to minimize traffic congestion on public roads
  - H. That the use will not be in major conflict with the comprehensive city plan
  - I. That the use will conform to all other applicable regulations as required in this ordinance
3. The planning commission shall make a decision and forward its report and recommendations to the city council within forty-five (45) days from the date of public hearing

E. Decision

1. Upon receipt of the report and recommendations from the planning commission, the city council shall place the consideration of the application for a conditional use permit on the agenda for its next regular meeting
2. The city council shall make a decision on the application for a conditional use permit within forty-five (45) days after the regular council meeting following the receipt of the report and recommendations from the planning commission
3. The concurring vote of a majority of the full council membership shall be necessary for the approval or denial of an application for a conditional use permit
4. Decisions of the city council shall immediately be filed and recorded with the zoning administrator. Copies shall be sent to the applicant and/or his representative
  - A. The council shall detail its reasons for denial or approval
  - B. Upon approval of an application, the council may impose any special additional conditions if considered necessary to protect the public health, safety and welfare

#### F. Issuance

1. The zoning administrator shall issue a conditional use permit for a particular use on a particular tract of land
2. The conditional use permit, if granted, shall also be recorded with the county recorder and become a part of the title to the property
3. A conditional use permit shall become void one (1) year from the date of issuance if significant construction has not been undertaken

## **Section 14.00 CHANGES AND AMENDMENTS**

### **Section 14.01. Annual Review.**

The planning commission, in cooperation with the zoning administrator, shall annually prepare and file with the city council a report on the operations of the zoning ordinance as amended, including when necessary, recommendations as to the enactment of amendments or supplements thereto. This report shall include, but not be limited to, the study of the following:

- A. Development of property uses
- B. Nature of population trends
- C. Commercial and industrial growth, both actual and prospective
- D. Effect upon the community as a whole in view of the city's comprehensive plan and how the ordinance has assisted in implementing the plan

### **Section 14.02. Amendment Procedure.**

The regulations, restrictions and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed or repealed. No such action may be taken unless it shall have been proposed by, or shall have been first submitted to the planning commission for review and recommendation in the following manner:

- A. Application
  - 1. Applicant requests the proper form for zoning amendment from the zoning administrator
  - 2. Application shall be filed with the zoning administrator accompanied by the fee as set by the city council. The application shall contain the following information:
    - A. The legal description and local address of the property
    - B. The present zoning classification and the zoning classification requested for the property
    - C. The existing use and proposed use of the property
    - D. The names and addresses of the owners of all property within three hundred fifty (350) feet of the property for which the change is
    - E. A statement of the reasons why the applicant believes the present zoning classification is no longer valid f. A map showing the locations, dimensions and use of the applicant's property and all property within three hundred fifty (350) feet thereof, including streets, alleys, railroads and other physical features
  - 3. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant
- B. Application processing
  - 1. Upon receipt of the application by the zoning administrator, a copy of the completed application shall be forwarded immediately to the planning commission for study and recommendation

2. The planning commission shall schedule a date for public hearing within forty-five (45) days of receipt of application and instruct the zoning administrator to give notice of time, place and purpose of the public hearing in the following manner: the zoning administrator shall:

- A. Notify by mail all property owners within three hundred fifty (350) feet of the property at least ten (10) days prior to the date of the public hearing
- B. Give public notice in a newspaper of general circulation in the city at least ten (10) days prior to the public
- C. Notify the appropriate township board of supervisors, county planning commission and other agencies as instructed and deemed necessary

3. The planning commission or delegation thereof shall view the area being considered

C. Public hearing

1. The chairperson of the planning commission shall conduct the public hearing
2. Any person with legitimate interest in the application may present his or her views to the planning commission either verbally or in writing
3. An accurate record of all testimony shall be kept by the secretary of the planning commission. This record shall include the names and addresses of all people who participated in the meeting

D. Planning commission decisions and recommendations

1. The planning commission shall, prior to making a recommendation, consider the following:
  - A. All relevant facts and findings brought out in public hearings
  - B. Physical inspection of property in question by all members or a delegation of members of the planning commission
  - C. The following items should be considered in reaching a decision:
    - (1) would the granting of the rezoning request conform to the presently accepted future land use plans for the city as well as present land uses
    - (2) is it in the community's best interest for additional land space to be zoned to the class requested
    - (3) if it is in the community's best interest for additional land to be zoned as requested, should the rezoning be done in areas requested or would the community's interest be better served if the rezoning were done in other areas of the city
    - (4) would the granting of the rezoning request adversely affect property values of adjacent landowners to an unreasonable degree
    - (5) if the request was granted, what additional public services would be required
    - (6) is the capacity of existing roads and sewer and water facilities sufficient to accommodate this proposal

(7) was there an error or oversight in preparing the original zoning map which indicates that this zoning should have been included at that time

(8) is this change beneficial to the community or is it merely a convenience to the applicant

2. The planning commission shall make a written recommendation with reasons for approval or denial of the application to the city council

E. City council decisions

1. The city council may approve or deny the application by simple majority vote of the entire city council when concurring with the planning commission's recommendation

2. The city council may override the recommendation of the planning commission and thereby approve or disapprove an application. Such action shall require a concurring four-fifths (4/5) vote of the entire city council

F. Approval

1. The city council officially adopts the ordinance change

2. The zoning administrator shall forward a certified copy to the county recorder and make map and/or ordinance changes

G. Denial

1. If the application is denied by the city council, a period of not less than one (1) year is required between presentation of the same petitions for a change or amendment applying to a specific piece of property unless there has been a substantial change of facts

## **Section 15.00 VIOLATION, PENALTIES, CLAIMS, CONFLICTS OF LAW AND SEVERABILITY**

### **Section 15.01. Compliance Required.**

It shall be the duty of all architects, contractors, subcontractors, builders and other persons having charge of the erecting, altering, changing or remodeling of any building or structure including mobile homes, before beginning or undertaking any such work, to see that such work does not conflict with and is not a violation of the terms of this ordinance. Any such architect, builder, contractor or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling and in violation of, or in conflict with the terms of this ordinance, shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom such buildings are erected, repaired, altered, changed or remodeled in violation hereof and shall be held accountable for such violation.

### **Section 15.02. Violations.**

Any building or structure being erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or site hereafter erected or maintained, or land use made or permitted in violation of this ordinance, is hereby declared unlawful. In the event of violation or threatened violation of this ordinance or other official control adopted under Minnesota statutes 394.21 to 394.37, in addition to other remedies, the city council or any member thereof may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violations and it is the duty of the city attorney to institute such actions.

### **Section 15.03. Penalties.**

Any person, firm, corporation or entity who violates any of the provisions of this ordinance or any order of the zoning administrator issued in accordance with this ordinance, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine and/or imprisonment as defined by law for each offense, plus the costs of prosecution. Each day that a violation is committed, or permitted to exist, shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this ordinance, and the city may pursue, by appropriate actions or proceedings, any or all additional remedies.

### **Section 15.04. Relief From Personal Responsibility.**

Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this ordinance and any claim based upon the performance of the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to Minnesota statutes, section 466.02 and said section does not apply. The city shall defend, save harmless and indemnify any of its officers or employees whether elective or appointed, against any tort claim or demand whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this zoning ordinance except as provided in Minnesota statutes, section 466.07

### **Section 15.05. Conflicts Of Law.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

### **Section 15.06. Severability.**

This ordinance and the various articles, sections, paragraphs, sentences and clauses herein are hereby declared to be severable. Should any of the contents or provisions of this ordinance be declared by the courts to be unconstitutional or invalid, the decision shall not affect the validity of the ordinance as a whole, or any part thereof other than that part declared to be unconstitutional or invalid.

## **Section 16.00 CITY COUNCIL**

### Section 16.01. Powers And Duties.

It is the intent of this ordinance that the duties of the city council shall include the following:

- A. Review formulation and adoption of this ordinance and applicable maps as empowered by the Minnesota statutes 1974, 462.357, Subdivision 2, as amended
- B. Appoint members to and delegate certain powers and duties to the city planning commission, board of adjustments and zoning administrator for the purpose of implementing and enforcing the requirements of this ordinance in a fair, conscientious and intelligent manner
- C. Review all applications for changes and amendments and make disposition of applications as provided in this ordinance
- D. Review all applications for conditional use permits, hear and make disposition of applications as provided in this ordinance
- E. Review all appeals from decisions of the city planning commission
- F. Establish a schedule of fees and charges relating to this ordinance

### Section 16.02. Decisions.

All actions and recommendations of the city council pertaining to this ordinance shall require the vote of a majority of the members of the full city council.

## **Section 17.00 CITY PLANNING COMMISSION**

### **Section 17.01. Powers And Duties.**

It is the intent of this ordinance that the duties of the city planning commission shall include the following:

- A. Review all applications for appeals and variances to this ordinance and report the findings and recommendations to the board of adjustments and city council as provided in this ordinance
- B. Review or initiate applications for amendments and changes to this ordinance and report the findings and recommendations to the city council as provided in this ordinance
- C. Review, hear and make disposition of all applications for conditional use permits as provided in this ordinance
- D. Review all applications for conditional use permits and report the findings and recommendations to the city council as provided in this ordinance
- E. Prepare, in cooperation with the zoning administrator, an annual review related to the effectiveness of this ordinance as provided in this ordinance

### **Section 17.02. Decisions.**

All actions and recommendations of the city planning commission pertaining to this ordinance require the vote of a majority of the members of the entire commission.

### **Section 17.03: Composition *(added May 21, 1998 Ordinance 44)***

It is the intent of this ordinance that the planning commission be composed of the following:

- A. The planning Commission shall consist of seven (7) members. Four (4) members shall be appointed by the City Council and may be removed by four-fifths vote of the Council; the City Engineer and City Attorney shall be members ex-officio; and the mayor shall appoint one member of the Commission from among members of the City Council.
- B. Of the members first appointed, one shall be appointed for the term of one (1) year; one for the term of two (2) years, one for the term of (3) three years, and one for the term of four (4) years. Their successors shall be appointed for the term of four (4) years. Both original and successive appointees shall hold their offices until their successors are appointed and qualified. The terms of ex officio members shall correspond to their official tenures. Vacancies during the term shall be filled by the Council for the unexpired portion of them. Every appointed member shall, before entering upon discharge of that person's duties, take an oath that that person will faithfully discharge the duties of the office. All members shall serve without compensation.

# **SECTION 18.00 GENERAL FLOOD PLAIN MANAGEMENT (Amended 5/19/14 Ord. 79)**

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## **SECTION 18.1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE**

18.1.1 **Statutory Authorization:** The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Silver Lake, Minnesota, does ordain as follows:

### **18.1.2 Purpose:**

18.1.21 This ordinance regulates development in the flood hazard areas of Silver Lake, Minnesota. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote public health, safety, and general welfare by minimizing these losses and disruptions.

18.1.22 National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

18.1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

## **SECTION 18.2.0 GENERAL PROVISIONS**

18.2.1 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of the City of Silver Lake shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts.

18.2.2 **Overlay Districts:** The Floodway and Flood Fringe are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

18.2.3 **Incorporation of Maps by Reference:** The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached materials include the Flood Insurance Study, McLeod County, Minnesota and Incorporated Areas and the Flood Insurance Rate Map panels for McLeod County numbered 27085C0065E and 27085C0075E; all documents being dated July 7, 2014, and prepared by the Federal Emergency Management Agency. The attached materials are on file in the City Clerk's office.

18.2.4 **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway. The RFPE for Silver Lake is 1043.4 feet (NAVD 1988).

18.2.5 **Interpretation:** The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

18.2.51 Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

18.2.52 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the (*Planning Commission*) and to submit technical evidence.

18.2.6 **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

18.2.7 **Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land use permitted within such districts will be free from flooding or flood damage. This ordinance does not create liability on the part of the City of Silver Lake or its officers or employees for any flood damage that results from reliance on this ordinance, or any administrative decision lawfully made hereunder.

18.2.8 **Severability:** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

18.2.9 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must be interpreted according to common usage and so as to give this ordinance its most reasonable application.

18.2.911 Accessory Use or Structure – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

18.2.912 Base Flood Elevation – The elevation of the “regional flood.” The term “base flood elevation” is used in the flood insurance survey.

18.2.913 Basement – any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

18.2.914 Conditional Use – a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

(a) Certain conditions as detailed in the zoning ordinance exist.

(b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

18.2.915 Development – any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

18.2.916 Equal Degree of Encroachment – a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

18.2.917 Farm Fence – A fence as defined by Minn. Statutes Section 344.02, Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this ordinance.

18.2.918 Flood – a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

18.2.919 Flood Frequency – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

18.2.920 Flood Fringe – that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for McLeod County, Minnesota

18.2.921 Flood Prone Area – any land susceptible to being inundated by water from any source (see “Flood”).

18.2.922 Floodplain – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

18.2.923 Floodproofing – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

18.2.924 Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

18.2.925 Lowest Floor – the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor.

18.2.926 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

18.2.927 Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

- 18.2.928 Principal Use or Structure – all uses or structures that are not accessory uses or structures.
- 18.2.929 One Hundred Year Floodplain – lands inundated by the “Regional Flood” (see definition).
- 18.2.930 Reach – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- 18.2.931 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- 18.2.932 Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in a flood insurance study.
- 18.2.933 Regulatory Flood Protection Elevation (RFPE) - an elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway. The RFPE for Silver Lake is 1043.4 feet (NAVD 1988).
- 18.2.934 Repetitive Loss: Flood related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.
- 18.2.935 Special Flood Hazard Area – a term used for flood insurance purposes synonymous with “One Hundred Year Floodplain.”
- 18.2.936 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 18.9.31 of this ordinance and other similar items.
- 18.2.937 Substantial Damage - means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 18.2.938 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
  - (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this ordinance, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.
- 18.2.10. **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Section 18.2.3 above may include floodplain areas that lie outside of the corporate boundaries of the City of Silver Lake at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

## SECTION 18.3.0 ESTABLISHMENT OF ZONING DISTRICTS

### 18.3.1 Districts:

- 18.3.11 Floodway District. Shall include those areas shown on the Flood Insurance Rate Map as adopted in Section 18.2.3 as being within Zone A and that are at or below the ordinary high-water level of 1040.5 feet (NAVD 1988) for Silver Lake.
- 18.3.12 Flood Fringe District. Includes those areas those areas shown on the Flood Insurance Rate Map as adopted in Section 18.2.3 as being within Zone A and above the ordinary high-water level of 1040.5 feet (NAVD 1988) for Silver Lake.
- 18.3.2 **Compliance:** Within the floodplain districts established in this ordinance, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of this ordinance and other applicable regulations. All uses not listed as permitted uses or conditional uses in Sections 18.4.0 or 18.5.0, respectively, are prohibited.

In addition, a caution is provided here that:

- 18.3.21 New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this ordinance and specifically Section 18.9.0.
- 18.3.22 Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this ordinance and specifically Section 18.11.0.
- 18.3.23 As-built elevations for elevated or floodproofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this ordinance and specifically as stated in Section 18.10.0 of this ordinance.

## SECTION 18.4.0 FLOODWAY DISTRICT (FW)

- 18.4.1 **Permitted Uses:** The following uses, subject to the standards set forth in Section 18.4.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
  - 18.4.11 General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
  - 18.4.12 Industrial-commercial loading areas, parking areas, and airport landing strips.
  - 18.4.13 Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
  - 18.4.14 Residential lawns, gardens, parking areas, and play areas.
  - 18.4.15 Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuing of any permit, and that the standards in Sections 18.4.41, 18.4.43(a) and 18.4.46 of this ordinance are met.
- 18.4.2 **Standards for Floodway Permitted Uses:**
  - 18.4.21 The use must have low flood damage potential.
  - 18.4.22 With the exception of the uses listed in Section 18.4.15, the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.
  - 18.4.23 Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

**18.4.3 Conditional Uses:** The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 18.10.4 of this ordinance and further subject to the standards set forth in Section 18.4.4, if otherwise allowed in the underlying zoning district or any applicable overlay district.

- 18.4.31 Structures accessory to the uses listed in 18.4.1 above and the uses listed in 18.4.32 – 18.4.37 below.
- 18.4.32 Extraction and storage of sand, gravel, and other materials.
- 18.4.33 Marinas, boat rentals, docks, piers, wharves, and water control structures.
- 18.4.34 Storage yards for equipment, machinery, or materials.
- 18.4.35 Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in section 18.2.917, are permitted uses.
- 18.4.36 Travel-ready recreational vehicles meeting the exception standards in Section 18.9.3.
- 18.4.37 Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

**18.4.4 Standards for Floodway Conditional Uses:**

- 18.4.41 All Uses. Conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damage in the reach or reaches affected.
- 18.4.42 Fill; Storage of Materials and Equipment:
  - (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
  - (b) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable methods. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
  - (c) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.
- 18.4.43 Accessory Structures:
  - (a) Accessory structures must not be designed for human habitation.
  - (b) Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
    - (1) Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and
    - (2) So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.
  - (c) Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. All floodproofed accessory structures must meet the following additional standards:
    - (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
    - (2) Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
  - (c) As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking vehicles and limited storage. All structures must meet the following standards:

- (1) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- (2) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

18.4.44 Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.

18.4.45 A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

18.4.46 Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

## **SECTION 18.5.0 FLOOD FRINGE DISTRICT (FF)**

18.5.1 **Permitted Uses:** Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Sections 18.5.2. If no pre-existing, underlying zoning districts exist, then any residential or non-residential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

### **18.5.2 Standards for Flood Fringe Permitted Uses:**

18.5.21 All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

(a) As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with Section 18.4.43.

18.5.22 The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 18.5.21 of this ordinance, or if allowed as a conditional use under Section 18.5.33 below.

18.5.23 The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

18.5.24 The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

18.5.25 Fill must be properly compacted, and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable methods.

18.5.26 All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation or must have a flood warning /emergency evacuation plan acceptable to the City Council.

18.5.27 Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

18.5.28 Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

18.5.29 Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

18.5.30 Manufactured homes and recreational vehicles must meet the standards of Section 18.9 of this ordinance.

18.5.3 **Conditional Uses:** The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 18.10.4 of this ordinance. Conditional use must meet the standards in Sections 18.5.24 through 18.5.30 and Section 18.5.4.

18.5.31 Any structure that is not elevated on fill or floodproofed in accordance with Section 18.5.21 of this ordinance.

18.5.32 Storage of any material or equipment below the regulatory flood protection elevation.

18.5.33 The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 18.5.21 of this ordinance.

**18.5.4 Standards for Flood Fringe Conditional Uses:**

18.5.41 The standards listed in Sections 18.5.24 through 18.5.30 apply to all conditional uses.

18.5.42 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area is considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:

- (b) **Design and Certification** - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment, including ductwork, and other service facilities are placed at or above the regulatory flood protection elevation or are designed to prevent flood water from entering or accumulating within these components during times of flooding.
- (c) **Specific Standards for Above-grade, Enclosed Areas** - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood. The design plans must stipulate:
  - (1) A minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There must be a minimum of two openings on at least two sides of the structure and the bottom of all openings must be a maximum of one foot above grade. The automatic openings must have a net area of at least one square inch for every square foot of enclosed area subject to flooding, unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwater without any form of human intervention; and
  - (2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and will be used solely for building access, parking of vehicles, or storage.

18.5.43 Basements, as defined by Section 18.2.913 of this ordinance, are subject to the following:

- (a) Residential basement construction is not allowed below the regulatory flood protection elevation.
- (b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Section 18.5.44 of this ordinance.

18.5.44 All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.

18.5.45 The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

- (a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
- (b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
- (c) The plan may incorporate alternative procedures for removing the material from the floodplain if adequate flood warning time exists.

18.5.46 Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

## **SECTION 18.6.0 RESERVED FOR FUTURE USE**

*(In case City annexes into an A Zone, i.e., General Floodplain, without a defined RFPE)*

## **SECTION 18.7.0 LAND DEVELOPMENT STANDARDS**

18.7.1 **In General:** Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the city.

18.7.2 Subdivisions: No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this ordinance.

18.7.21 All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

18.7.22 All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual and must demonstrate that adequate time and personnel exist to carry out the evacuation.

18.7.23 For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

18.7.24 If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

- (a) All such proposals are consistent with the need to minimize flood damage within the flood prone area,
- (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (c) Adequate drainage is provided to reduce exposure of flood hazard.

### 18.7.3 Design Criteria for Flood-Prone Areas:

18.7.31 Structures on Riparian Lots. The lowest floor, including basement, of any principal structure on a riparian lot must be placed at or above the regulatory flood protection elevation of 1,043.4 feet (NAVD 1988). Accessory structures may be placed lower than the RFPE if:

- (a) the structure is only used for parking and/or storage.
- (b) the structure is constructed of flood-resistant materials to the RFPE,
- (c) electrical and mechanical equipment is placed above the RFPE; and
- (d) above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood as specified in Section 5.42 (b)

18.7.32 Building Sites: If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

- (a) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- (b) Constructed with materials and utility equipment resistant to flood damage,
- (c) Constructed by methods and practices that minimize flood damage, and
- (d) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

## SECTION 18.8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

18.8.1 **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

18.8.2 **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 4.0 and 5.0 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

18.8.3 **On-site Water Supply and Sewage Treatment Systems:** Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this Section.

## SECTION 18.9.0 MANUFACTURED HOMES, MANUFACTURED HOME PARKS, AND RECREATIONAL VEHICLES.

18.9.1 **Manufactured Homes:** New manufactured home parks, expansions to existing manufactured home parks, and new or replacement manufactured home units on lots of record are prohibited in the Floodway District. If allowed in the Flood Fringe District, these uses are subject to the requirements of Section 18.5 of this ordinance and the following standards.

18.9.2 **Placement of Manufactured Homes:** New and replacement manufactured homes in the Flood Fringe District must comply with the following standards:

18.9.21 New and replacement manufactured homes must be elevated in compliance with Section 18.5 of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation,

collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

18.9.22 New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 18.7.22.

18.9.3 **Recreational Vehicles:** Placement of recreational vehicles in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance.

18.9.31 Recreational vehicles are exempt from the provisions of this ordinance if they are placed in any of the following areas and meet the criteria listed in Section 18.9.32:

- (a) Individual lots or parcels of record.
- (b) Existing commercial recreational vehicle parks or campgrounds.
- (c) Existing condominium-type associations.

18.9.32 Criteria for Exempt Recreational Vehicles:

- (a) The vehicle must have a current license required for highway use.
- (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
- (c) No permanent structural type additions may be attached to the vehicle.
- (d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
- (e) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 18.9.22.
- (f) An accessory structure must constitute a minimal investment

18.9.33 Recreational vehicles that are exempt in Section 18.9.32 lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of Section 18.5.0 of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

18.9.34 New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five (5) units or dwelling sites may be allowed subject to the following:

- (a) On any new or replacement recreational vehicle site in the Flood Fringe District, the recreational vehicle and its contents must be placed on fill at or above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 18.7.22 of this ordinance.

Any new or replacement recreational vehicle site located in the Floodway District or as an alternative to (a) above in the Flood Fringe District, may be allowed as conditional use in accordance with the following provisions and the provisions of Section 18.10.4 of the ordinance.

- (1) The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the City Council as specified in Section 18.7.22. The plan must demonstrate that adequate time and personnel exist to carry out an evacuation, and that the exemption provisions of Section 18.9.31 of this ordinance will be met; and
- (2) All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 18.8.3 of this ordinance.
- (3) Any fill placed in the floodway to meet the requirements of this section must not increase the flood stage of the regional (1% chance) flood.

## **SECTION 18.10.0 ADMINISTRATION**

18.10.1 **Zoning Administrator:** A Zoning Administrator or other official designated by the City Council must administer and enforce this ordinance.

### **18.10.2 Permit Requirements:**

18.10.21 Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

- (a) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also require a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.
- (b) The use or change of use of a building, structure, or land.
- (c) The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this ordinance.
- (d) The change or extension of a nonconforming use.
- (e) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- (f) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- (g) Relocation or alteration of a watercourse, unless a public waters work permit has been applied for.
- (h) Any other type of "development" as defined in this ordinance.

18.10.22 Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

- (a) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
- (b) Location of fill or storage of materials in relation to the stream channel.
- (c) Copies of any required municipal, county, state or federal permits or approvals.
- (d) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

18.10.23 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.

18.10.24 Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.

18.10.25 Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

18.10.26 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

18.10.27 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

18.10.3 City **Council / Variances:**

- 18.10.31 Administrative Review. The City Council shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this ordinance.
- 18.10.32 Variance Applications. An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and Sections 12.04 – 12.05 of the zoning ordinances.
- 18.10.33 Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- 18.10.34 Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- (a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - (b) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 18.10.35 Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.
- 18.10.36 General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
- (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments.
  - (b) The danger that materials may be swept onto other lands or downstream to the injury of others.
  - (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions.
  - (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner.
  - (e) The importance of the services provided by the proposed use to the community.
  - (f) The requirements of the facility for a waterfront location.
  - (g) The availability of viable alternative locations for the proposed use that are not subject to flooding.
  - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - (i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area.
  - (j) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- 18.10.37 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

18.10.38 Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

18.10.39 Record-Keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

#### 18.10.4 Conditional Uses:

18.10.41 Administrative Review. An application for a conditional use permit under the provisions of this ordinance will be processed and reviewed in accordance with Section 18.13.11 of the zoning ordinance.

18.10.42 Factors Used in Decision-Making. In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 18.10.35 of this ordinance.

18.10.43 Conditions Attached to Conditional Use Permits. The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:

- (a) Modification of waste treatment and water supply facilities.
- (b) Limitations on period of use, occupancy, and operation.
- (c) Imposition of operational controls, sureties, and deed restrictions.
- (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- (e) Floodproofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

18.10.44 Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

18.10.45 Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional use must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

### SECTION 18.11.0 NONCONFORMITIES

18.11.1 **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 18.2.938(b) of this ordinance, are subject to the provisions of Sections 18.11.11 – 18.11.15 of this ordinance.

18.11.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

18.11.12 Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 18.11.13 and 18.11.17 below.

18.11.13 The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of

Section 4.0 or 5.0 of this ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

18.11.14 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

18.11.15 If any nonconformity is substantially damaged, as defined in Section 18.2.937 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 18.4.0 or 18.5.0 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

18.11.16 If any nonconforming use or structure experiences a repetitive loss, as defined in Section 18.2.934 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.

18.11.17 Any substantial improvement, as defined in Section 18.2.938 of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 18.4.0 or 18.5.0 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

## **SECTION 18.12.0 PENALTIES AND ENFORCEMENT**

18.12.1 **Violation Constitutes a Misdemeanor:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

18.12.2 **Other Lawful Action:** Nothing in this ordinance restricts the city from taking such other lawful action as is necessary to prevent or remedy any violation. If the party responsible does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

18.12.3 **Enforcement:** Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of Sections 18.12.1 – 18.12.2 of the zoning ordinance. In responding to a suspected Ordinance violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

## **SECTION 18.13.0 AMENDMENTS**

18.13.1 **Floodplain Designation – Restrictions on Removal:** The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, land is adequately protected for the intended use.

18.13.2 **Amendments Require DNR Approval:** All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

18.13.3 **Map Revisions Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 18.2.3 of this ordinance.

## **Section 22.00 DEFINITIONS**

Captions, headings, titles and the key words used in sections are inserted herein for convenience and to facilitate the use of this ordinance.

For the purpose of this ordinance, certain words and terms are herein defined.

Words used in the present tense include the future tense; the singular number includes the plural and the plural includes the singular; the word "shall" is mandatory and not merely directory.

Subd. 1. Accessory building. A subordinate building or structure on the same lot or a part of the principal building, occupied by or devoted exclusively to an accessory use.

Subd. 2. Accessory use. A use clearly and customarily subordinate and incidental to the principal permitted use of the premises.

Subd. 3. Alley. A public or private right-of-way primarily designed to serve as secondary access to land or structures on a property whose principal frontage is on a street.

Subd. 4. Apartment. A single room or set of rooms occupied as a dwelling unit which is part of a multiple-family dwelling.

Subd. 5. Basement. That portion of a building which is one-half (1/2) or more below grade. If the height of the ceiling is five (5) feet or more above grade such a basement shall be considered a story.

Subd. 6. Block. A tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines, township lines or county lines.

Subd. 7. Board, lodging or rooming house. Any residential building, or portion thereof, containing lodging rooms which accommodate people who are not members of the keeper's family. Lodging or meals or both are provided for compensation on a weekly or monthly basis. Motels, hotels or apartment hotels are not included in this category.

Subd. 8. Buildable area. The part of a lot that is not included within the yards required by this ordinance.

Subd. 9. Building. Any structure, permanently affixed to a lot, used for the support, shelter, protection or enclosure of people, animals, equipment, machinery, materials or property of any kind. When any portion of a building is completely separated from every other part by division walls from the ground up and is without openings, each portion of such building shall be deemed as a separate building. The connection of two (2) buildings by means of an open porch, breezeway, passageway or other such open structure, with or without a roof, shall not be deemed to make them one (1) building.

Subd. 10. Building, detached. A building surrounded by an open space on the same lot as another building.

Subd. 11. Building permit. A permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this ordinance for the zone in which it is to be located.

Subd. 12. Building, principal. A non-accessory building in which a principal use of the lot on which it is located is conducted.

Sub. 13 Cannabis. Unless otherwise noted in this section, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meaning in this ordinance.

- A. **Cannabis Cultivation:** A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis business, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
- B. **Cannabis Retail Businesses:** A retail location and the retail locations(s) of a mezzo businesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, excluding lower-potency hemp edible retailers.
- C. **Cannabis Retailer:** Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
- D. **Daycare:** A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
- E. **Lower-potency Hemp Edible:** As defined under Minn. Stat. 342.01 subd. 50.
- F. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.
- G. **Place of Public Accommodation:** A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
- H. **Public Place:** A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings and other places of public accommodation.
- I. **Residential Treat Facility:** As defined under Minn. Stat. 245.462 subd. 23.
- J. **Retail Registration:** An approved registration issued by the City of Silver Lake to a state-licensed cannabis retail business.
- K. **School:** A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirement under Minn. Stat. 120A.24.
- L. **State License:** An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.
- M. **Temporary Cannabis Event:** Public events organized and licensed to allow vendors to display and sell cannabis and hemp products to the public for a maximum of four (4) consecutive calendar days, no more than twice (2) per calendar year on the same property or part thereof.

Subd. 14. Clinic. A public or proprietary institution providing diagnostic or preventive treatment for ambulatory patients by a group of doctors or dentists, or both, who have their offices in the same building.

Subd. 15. Club or lodge. Structures and facilities owned and/or operated by an association of people, for a social, educational or recreational purpose but not primarily for profit and not primarily to render a service which is customarily carried on as a business. Said people shall be bona fide members paying annual dues and the use of such premises is restricted to members and their guests. It shall be permissible to serve food, meals and beverages on such premises provided it is secondary and incidental to some other common objective of the organization and all applicable local and state laws are complied with.

Subd. 16. Conditional use. The use of such variable nature as to make control by rigid regulation impractical. After due consideration in each case, by the city council, upon receiving a report and recommendation of the planning commission relative to the requirements of this ordinance, approval of a conditional use may or may not be granted by the city council.

Subd. 17. Drive-in restaurant. Any place or premises used for sale, dispensing or serving of food, refreshments, or beverages in auto- mobiles including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.

Subd. 18. Dwelling. Any building or portion thereof designed or used exclusively for residential occupancy but not including a tent, cabin, trailer, hotel or motel.

Subd. 19. Dwelling, multiple families. A residence designed for or occupied by three (3) or more families, in separate dwelling units.

Subd. 20. Dwelling, single family. A detached residence designed for or occupied by one (1) family in a single dwelling unit.

Subd. 21. Dwelling, two families. A residence designed for or occupied by two (2) families only, in separate dwelling units.

Subd. 22. Dwelling unit. One (1) or more rooms which are arranged, designed or used as living quarters for one (1) family only. Independent cooking facilities, permanently installed and individual sanitary facilities shall always be included for each "dwelling unit".

Subd. 23. Essential services. Utilities such as underground or over- head gas, electrical or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for the furnishing of adequate service by public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.

Subd. 24. Family. A family is any number of people living together in a room or rooms comprising a single housekeeping unit and related by blood, marriage, adoption or any unrelated person who resides thereon as though a member of the family including the domestic employees thereof. Any group or persons not so related but inhabiting a single house shall, for the purpose of this ordinance, be considered to constitute one (1) family for each five (5) persons, exclusive of domestic employees, contained in each such group.

Subd. 25. Farming. An area which is used for the growing of the usual farm products such as vegetables, fruits and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activity.

Subd. 26. Garage, community. An accessory building or series of structures for the storage of motor vehicles by two (2) or more occupants of property or dwellings in the vicinity and having no public shop or service therein.

Subd. 27. Garage, private. An accessory building designed or used for the storage or shelter of vehicles by the occupants of the building to which it is accessory.

Subd. 28. Grade. The average level of the finished surface of the ground that is adjacent to the exterior walls of the building or structure.

Subd. 29. Greenbelt. A planting strip of grass, trees or shrubs established and maintained for the purpose of screening or limiting the view of certain property uses from surrounding uses and the general public.

Subd. 30. Home occupation. An occupation which is customarily and traditionally conducted within a dwelling by its occupants and is clearly incidental and secondary to the principal use of the dwelling.

Subd. 31. Hotel. A building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests. Customary hotel services such as maid service, furnishing and laundering of linen, telephone and desk service, and the use and upkeep of furniture shall be provided.

Subd. 32. Incompatible use. A use or service which is unsuitable for direct association with other uses because it is contradictory, incongruous or discordant with respect to sight, sound, odor, vibration or any other injurious or offensive variable.

Subd. 33. Institution. A building or premises occupied by a non- profit corporation or establishment for public use.

Subd. 34. Junkyard. Any open area of any lot or parcel where waste, discarded or scrap materials are bought, sold, exchanged, bailed or packed, disassembled, kept, stored or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles or other vehicles, or parts thereof. A "junkyard" does not include uses established entirely within enclosed buildings.

Subd. 35. Kennel. Any lot or parcel of land where small animals are boarded for compensation or where dogs are bred or raised on a commercial scale.

Subd. 36. Livestock. Cattle, horses, sheep, goats, poultry or swine.

Subd. 37. Loading space, off-street. Space logically and conveniently located for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when off-street parking spaces are filled.

Subd. 38. Lot. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yard and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; and a parcel of land described by metes and bounds provided that in no case of division or combination- shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Subd. 39. Lot area. The area of horizontal plane bounded by the front, side and rear lot lines, but not including any area occupied by the waters of a recorded lake or river.

Subd. 40 lot, corner. A lot situated at the intersection of two (2) streets with two (2) adjacent sides abutting a street for their full length providing that the interior angle of such intersection shall not exceed one hundred and thirty-five (135) degrees.

Subd. 41. Lot, double frontage. A lot having two (2) opposite lot lines along two (2) more or less parallel public streets, and which is not a corner lot. On a "double frontage lot" both lot lines abutting the street shall be deemed front lot lines.

Subd. 42. Lot, interior. Any lot which is not a corner lot.

Subd. 43. Lot depth. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot line in the rear.

Subd. 44. Lot width. The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard. Width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eight (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the eighty (80) percent requirement shall not apply.

Subd. 45. Lot line, front. Any lot line which is along an existing or dedicated public street.

Subd. 46. Lot line, rear. A lot line which is most distant from, and is, or is most nearly, parallel to the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line, not less than ten (10) feet long, lying most distantly from the front lot line and wholly within the lot. With the exception of a double frontage lot, every Lot shall have a rear lot line.

Subd. 47. Lot line, side. Any lot line not a front or rear lot line.

Subd. 48. Lot of record. A lot which is part of a subdivision, the map of which has been recorded in the office of the county recorder or a lot described by metes and bounds, the deed to which has been recorded in the office of the county recorder.

Subd. 49. Lot of record, existing. A lot which is part of a subdivision, or a lot described by metes and bounds, with the map and/or deed for such a lot having been recorded in the office of the county recorder prior to the adoption of this ordinance.

Subd. 50. Mobile home. A dwelling unit designed to be transportable and suitable for year-round occupancy and containing the same water supply, waste disposal and electrical conveniences as immobile housing whether mounted on wheels, jacks or permanent foundation.

Subd. 51. Mobile home park. A lot, parcel or tract of land upon which two (2) or more occupied mobile homes are sited either free of charge or for revenue purposes, including any building, structure, or enclosure used or intended for use as a part of the equipment of such mobile home park.

Subd. 52. Motel. Any building or group of buildings containing guest rooms for occupancy for use by transient guests with stay not exceeding twenty-nine (29) out of sixty (60) consecutive days. Such buildings or groups of buildings may include quarters for the use of the operating personnel. (Amended 10/7/19)

Subd. 53. Motor vehicle. Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

Subd. 54. Non-conforming building or use. Any building or use or building and use which does not comply with all of the regulations of this ordinance or of any amendment hereto for the zoning district in which it is located.

Subd. 55. Nursing home. A building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent or physically disabled or injured persons, in which three (3) or more persons not of the immediate family are received, kept and provided with food and shelter for compensation.

Subd. 56. Parking lot. A parcel of land devoted to unenclosed parking spaces.

Subd. 57. Parking space. A graded and surfaced area of not less than two hundred (200) square feet plus necessary maneuvering space for the parking or storage of a motor vehicle, which affords satisfactory ingress and egress to a street or alley.

Subd. 58. Permitted use. A use which may be lawfully established in a particular zoning district provided it conforms with all applicable requirements and regulations of such district and this ordinance.

Subd. 59. Principal use. The main use of land or structures as distinguished from an accessory use.

Subd. 60. Person. Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law.

Subd. 61. Premises. A tract of land together with all structures thereon.

Subd. 62. Porch, unenclosed. An entrance to a building which may include steps, a landing, railings and a roof but not enclosed either partially or completely above the landing by windows, screens or siding.

Subd. 63. Public utility. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing to the public under government regulation electricity, gas, steam, water, sewage disposal, communication or transportation facilities.

Subd. 64. Recreational camping vehicle. The words "recreational camping vehicle" shall mean any of the following:

- A. Travel trailer means a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational or vacation use.
- B. Pick-up coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
- C. Motor home means a portable temporary dwelling to be used for travel, recreation and vacation and constructed as an integral part of a self-propelled vehicle.
- D. Camping trailer means a folding structure mounted on wheels and designed for travel, recreation and vacation use.

Subd. 65. Roadside stand. A temporary and unenclosed structure for the display and sale of agricultural products, produced or grown on the premises.

Subd. 66. Setback, building. The horizontal distance between the front line of a building or structure and the front lot line.

Subd. 67. Story. That portion of a building that is included between the surface of any floor and the surface of the floor next above it, or the space between such a floor and the ceiling next above it. A basement shall be considered a story if its ceiling is over five (5) feet above the average established grade.

Subd. 68. Story, half. A half story is an uppermost story lying under a sloping roof, the useable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it and not used or designed, arranged or intended to be used, in whole or in part, as an independent housekeeping unit or dwelling. A half story containing independent apartments or living quarters shall be deemed a full story.

Subd. 69. Street. A public way which affords the principal access to abutting property excepting a public alley. The term street shall include road, avenue, highway, boulevard, drive, lane, circle, place, court, parkway or other similar designation.

Subd. 70. Structure. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walks, fences, billboards and poster panels.

Subd. 71. Structural alteration. Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or exterior walls, beyond ordinary repairs and maintenance.

Subd. 72. Town house. A building comprised of single-family dwelling units erected in a row as a single building on adjoining lots, each separated from the adjoining unit or units by a common wall or walls extending from the basement floor to the roof along the dividing lot line and having a yard space on the front, rear and both sides.

Subd. 73. Use. The purpose for which land or buildings thereon are designed, arranged or intended to be occupied or used or for which they are occupied or maintained.

Subd. 74. Variance. A relaxation of the requirements of this ordinance regarding height, area, size of structure or size of yards. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance. Variances are granted only through the board of adjustments.

Subd. 75. Yard. A required open space not occupied by a building or buildings, open to the sky and on the same lot as the principal building. A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the applicable zoning district.

Subd. 76. Yard, front. A yard extending across the full width of the lot and lying between the front lot line and a line at a distance therefrom as specified by the regulations.

Subd. 77. Yard, rear. A yard extending across the full width of the lot and lying between the rear lot line and a line at a distance therefrom as specified by these regulations.

Subd. 78. Yard, side. A yard between the side lot line and a line at a distance therefrom as specified by the district regulations. Interior side yard is a side yard which is located adjacent to another lot. Street side yard is a side yard which adjoins a public street.

Subd. 79. Zoning administrator. The individual appointed by the city council to administer and enforce the provisions of this ordinance.

Subd. 80. Zoning map. The areas comprising these zoning districts and boundaries of said districts as shown upon the map attached hereto and made a part of this ordinance being designated as the official zoning map for the city with all proper notations, references and other information shown thereon.