

LAKE COUNTY
ORDINANCE NUMBER 13

July 22, 1981

PROVIDING FOR THE ZONING
OF THE SILVER BAY MUNICIPAL AIRPORT HAZARD AREA

*Supersedes Lake County Ordinance Number 3
Adopted on December 27, 1973*

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SILVER BAY AIRPORT
ZONING ORDINANCE
CREATED BY
LAKE COUNTY, MINNESOTA

AN ORDINANCE BY LAKE COUNTY, MINNESOTA, REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE SILVER BAY MUNICIPAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO THE SILVER BAY AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

IT IS HEREBY ORDAINED BY LAKE COUNTY PURSUANT TO THE AUTHORITY CONFERRED BY MINNESOTA STATUTES 360.061 - 360.074, AS FOLLOWS: THAT:

SECTION I: PURPOSE AND AUTHORITY

- A. An airport hazard endangers the lives and property of users of the Silver Bay Municipal Airport, and property or occupants of land in its vicinity, and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Silver Bay Municipal Airport and the public investment therein.
- B. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Silver Bay Municipal Airport.
- C. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.
- D. The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.
- E. The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds, and acquire land or interests in land.

SECTION II: SHORT TITLE

This ordinance shall be known as "Silver Bay Municipal Airport Zoning Ordinance." Those sections of land affected by this Ordinance are indicated in "Exhibit A" which is attached to this Ordinance.

SECTION III: DEFINITIONS

As used in this Ordinance, unless the context otherwise requires:

"AIRPORT" means the Silver Bay Municipal Airport located six (6) miles west-southwest of the City of Silver Bay, Minnesota, in Section Thirteen (13) and Eighteen (18), Township Fifty-five (55), Range Eight (8) and Nine (9).

"AIRPORT ELEVATION" means the established elevation of the highest point on the usable landing area which elevation is established to be 1096 feet above mean sea level.

"AIRPORT HAZARD" means any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

"DWELLING" means any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

"ESTABLISHED RESIDENTIAL NEIGHBORHOOD IN A BUILT-UP AREA" (ERN-BUUA) means an area, which, if it existed on or before January 1, 1978 (for low density structures and lots) and an area which, if it existed on or before July 2, 1979 (all other land uses), shall be considered a conforming use that shall not be prohibited except as provided below in V B 5 EXEMPTIONS-ESTABLISHED RESIDENTIAL NEIGHBORHOODS. The following criteria shall be applied and considered in determining what constitutes an ERN-BUUA:

- (1) Location of the airport;
- (2) Nature of the terrain within Safety Zones A and B;
- (3) Existing land uses and character of the neighborhood around the airport;
- (4) Population of the community;
- (5) That the average population density in all areas within one mile of any point on a runway be equal to or greater than one dwelling unit per acre;
- (6) Population density near the airport compared with population density in other areas of the community;

- (7) The age and the economic, political and social stability of the neighborhood and the community as a whole;
- (8) The proximity of supporting school, commercial, religious, transportation and other facilities and their degree of integration with residential land uses;
- (9) Presence or absence of public utilities including, but not limited to, public sanitary sewer system, electric service and gas mains;
- (10) Whether or not the factors listed in subparagraphs (8) and (9) above tend to make the community surrounding the airport a self-sufficient unit;
- (11) Whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character; and
- (12) Other material factors deemed relevant by the governmental unit is distinguishing the area in question as established, residential, urban and built-up.

"HEIGHT" for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"LANDING AREA" means the area of the airport used for the landing, taking off or taxiing of aircraft.

"LOW DENSITY RESIDENTIAL STRUCTURE" means a single-family or two-family home.

"LOW DENSITY RESIDENTIAL LOT" means a single-lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residences.

"NONCONFORMING USE" means any pre-existing structure, tree, natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment hereto.

"NONPRECISION INSTRUMENT RUNWAY" means a runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.

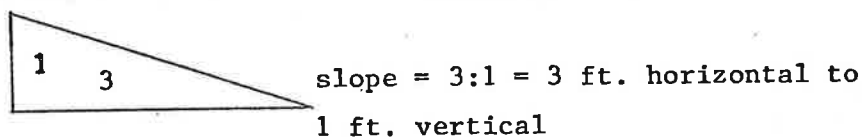
"PERSON" means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

"PLANNED" as used in this Ordinance refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the Federal Aviation Administration, the Department of Transportation, Division of Aeronautics and _____ (Municipality owning the airport).

"PRECISION INSTRUMENT RUNWAY" means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). Also, a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

"RUNWAY" means any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of aircraft.

"SLOPE" means an incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.



"STRUCTURE" means an object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks, and overhead transmission lines.

"TRAVERSE WAYS" for the purpose of determining height limits as set forth in this Ordinance shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

"TREE" means any object of natural growth.

"UTILITY RUNWAY" means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

"VISUAL RUNWAY" means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

"WATER SURFACES" for the purpose of this Ordinance shall have the same meaning as land for the establishment of protected zones.

SECTION IV: AIRSPACE OBSTRUCTION ZONING

A. AIRSPACE ZONES: In order to carry out the purpose of this Ordinance, as set forth above, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone and whose locations and dimensions are as follows:

1. PRIMARY ZONE: All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and;
 - a. extending 200 feet beyond each end of runway 7 and 25. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:
 - b. 500 feet.

2. HORIZONTAL ZONE: All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 1246 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - a. 6,000 feet.

3. CONICAL ZONE: All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface.
 4. APPROACH ZONE: All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the primary surface. The approach surface inclines upward and outward at a slope of 40:1 for runway 7 and 25. The approach surface expands uniformly to a width of 3,500 feet for runway 7 and 25 at a distance of 10,000 feet, then continues at the same rate of divergence to the periphery of the conical surface.
 5. TRANSITIONAL ZONE: All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7 to 1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.
- B. HEIGHT RESTRICTIONS: Except as otherwise provided in this Ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any airspace zone created in Subsection IV A so as to project above any of the imaginary airspace surfaces described in said Subsection IV A hereof. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.
- C. BOUNDARY LIMITATIONS: The municipality may regulate the location, size and use of buildings and the density of population in that portion of an airport hazard area under the approach zones for a distance not exceeding two miles from the airport boundary and may regulate height restriction zoning for a distance not to exceed one and one-half miles beyond the perimeter of the airport boundary.

SECTION V: LAND USE SAFETY ZONING

A. SAFETY ZONE BOUNDARIES: In order to carry out the purpose of this Ordinance, as set forth above and also, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Silver Bay Municipal Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of an accident, there are hereby created and established the following land use safety zones.

1. SAFETY ZONE A: All land in that portion of the approach zones of a runway, as defined in Subsection IV A hereof, which extends outward from the end of primary surface a distance equal to two-third of the planned length of the runway, which distance shall be:
 - a. 3000 feet for runway 7 - 25.
2. SAFETY ZONE B: All land in that portion of the approach zones of a runway, as defined in Subsection IV A hereof, which extends outward from Safety Zone A a distance equal to one-third of the planned length of the runway, which distance shall be:
 - a. 1500 feet for runway 7 - 25
3. SAFETY ZONE C: All that land which is enclosed within the perimeter of the horizontal zone, as defined in Subsection IV A hereof, and which in not included in Zone A or Zone B.
4. EXCEPTIONS - ESTABLISHED RESIDENTIAL NEIGHBORHOODS: The following described lands are designated as Established Residential Neighborhoods in Built-Up Urban Areas, based upon the state of development of the areas on July 2, 1979. Land uses which were in existence in these areas on July 2, 1979 are exempt from the USE RESTRICTIONS of Sections V B 2 and 3 below, and are subject to the provisions of V B 5 below. There are no properties under the runway approach to either Runway 7 or Runway 25 that fall within the exceptions of this section.

5. EXCEPTIONS - ISOLATED LOW DENSITY RESIDENTIAL BUILDING LOTS AND LOW DENSITY RESIDENTIAL STRUCTURES: The following properties are hereby designated as either isolated, low-density residential building lots or low-density residential structures. A low-density residential structure shall mean a single-family or two-family home and an isolated low-density residential building lot shall mean a single lot located in an area which is zoned for single-family or two-family residences and in which the predominant land use is such type of residence. These low-density uses which were in existence on January 1, 1978 are subject to special provisions set forth in Section V B 5, EXEMPTIONS, below.

The appropriate properties under the runway approach are as follows:

- a. Runway 7, Lying Southwest of Runway 7 Approach.

NONE

- b. Runway 25, Lying Northeast of the Runway 25 Approach.

- (1) Clarence and Hazel Kofstad, their heirs and assigns,
NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 18, Township 55 Range 8 West,
including a residence.
- (2) Howard and Sharon Nopola, their heirs and assigns,
The W $\frac{1}{2}$ of NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 18, Township 55, Range 8 West,
including a residence.
- (3) Sherry Louise Grindeland, her heirs and assigns,
E $\frac{1}{2}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 18, Township 55, Range 8 West,
including a residence.

It is intended by this section to insure minimum disruption of existing land uses. Except for uses permitted in Safety Zones A and B, no further development shall be permitted other than the three (3) property owners listed herein, their heirs and assigns. These property owners shall continue to have the right to replace, or re-build residential structures and accessory buildings incidental to the land use. No additional residences or commercial buildings will be permitted in this area, and any building that is permitted shall not be constructed or re-constructed closer to the runway centerline extended than the existing structures or buildings.

B. USE RESTRICTIONS:

1. GENERAL: Subject at all times to the height restrictions set forth in Subsection IV B, no use shall be made of any land in any of the safety zones defined in Subsection V A which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.

2. ZONE A: Subject at all times to the height restrictions set forth in Subsection IV B and to the general restrictions contained in Subsection V B 1 areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (nonspectator), cemeteries, and auto parking.

3. ZONE B: Subject at all times to the height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1, areas designated as Zone B shall be restricted in use as follows:
 - a. Each use shall be on a site whose area shall not be less than three acres.
 - b. Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage.
 - c. Each site shall have no more than one building plot upon which any number of structures may be erected.

d. A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area:

Site Area at least (Acres)	But Less Than (Acres)	Ratio of Site Area to Bldg. Plot Area	Building Plot Area (sq. ft.)	Max. Site Population (15 persons/A)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
	6	10:1		
6		8:1	32,700	90
	10	8:1		
10		6:1	72,600	150
	20	6:1		
20	and up	4:1	218,000	300

e. The following uses are specifically prohibited in Zone B: Churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, camp grounds, and other places of frequent public or semi-public assembly.

4. ZONE C: Zone C is subject only to height restrictions set forth in Subsection IV B, and to the general restrictions contained in Subsection V B 1.

5. EXEMPTIONS - ESTABLISHED RESIDENTIAL NEIGHBORHOODS:

a. Land uses which existed as of July 2, 1979 in the Established Residential Neighborhoods set forth in Section V A 4 above, and as shown on the zoning map are subject to the height restrictions of Section IV B and the general restrictions of Section V B 1. Land uses which come into existence after July 2, 1979 are treated as though they were not in a designated Established Residential Neighborhood and are subject to the Zone A or Zone B restrictions as the case may be.

b. Land uses in Established Residential Neighborhoods which violate any of the following restrictions are prohibited as safety hazards and must be acquired, altered or removed at public expense. Those conditions are as follows:

(1) The following land uses if they exist in Safety Zones A or B and in an "Established Residential Neighborhood in a Built-Up Urban Area" are considered by the Commissioner to constitute airport safety hazards so severe, either to persons on the ground or to the air-traveling public, or both, that they must be prohibited under local airport zoning ordinances;

(a) any structure which a person or persons customarily use as a principal residence and which is located entirely inside Safety Zone A within 1000 feet of the end of the primary zone;

(b) any structure which a person or persons customarily use as a principal residence and which is located entirely within Safety Zones A or B and which penetrates an imaginary approach surface as defined by Section IV A;

(c) any land use in Safety Zone A or B which violates any of the following standards:

(i) the land use must not create or cause interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft;

(ii) the land use must not make it difficult for pilots to distinguish between airport lights and other lights;

(iii) the land use must not result in glare in the eyes of pilots using the airport or impair visibility in the vicinity of the airport.

- (d) any isolated residential building lot zoned for single-family or two-family residences on which any structure, if built, would be prohibited by subparagraphs e.(1) (a), (b) or (c) above. An "isolated" residential building lot is one located in an area in which the predominant land use is single-family or two-family residential structures; and

- (e) any other land use which presents, in the opinion of the Commissioner, a material danger to the landing, taking off or maneuvering of aircraft or to the safety of persons on the ground. In making such a determination, the Commissioner shall consider the following factors:
 - (i) possibility that the land use may contribute to or cause a collision of two or more aircraft or an aircraft and some other subject;
 - (ii) possibility that the land use may, in case of an aircraft accident, cause an explosion, fire or the release of harmful or noxious fumes, gases or substances;
 - (iii) tendency of the land use to increase the number of persons that would be injured in case of an aircraft accident;
 - (iv) effect of the land use on availability of clear areas for emergency landings; and
 - (v) flight patterns around the airport, the extent of use of the runway in question, the type of aircraft using the airport, whether the runways are lighted, whether the airport is controlled, and other similar factors.

C. BOUNDARY LIMITATIONS: The municipality may regulate the location, size, and use of buildings and the density of population in that portion of an airport hazard area under the approach zones for a distance not to exceed two miles from the airport boundary and in other portions of an airport hazard area not to exceed one mile from the airport boundary.

SECTION VI: AIRPORT ZONING MAP

The several zones herein established are shown on the Silver Bay Municipal Airport Zoning Map consisting of three (3) sheets, prepared by Ralph Burke Assoc., and dated April 1979, attached hereto and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereof, shall be and the same is hereby adopted as part of this Ordinance.

SECTION VII: NONCONFORMING USES

Regulations not retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted and completed within two years thereof.

SECTION VIII: PERMITS

- A. FUTURE USES: Except as specifically provided in Paragraphs 1 and 2 hereunder, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the zoning administrator, hereafter, provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
1. However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height limit prescribed for the respective zone.

2. Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this Ordinance as set forth in Section IV, and the land use limitations set forth in Section V.

3. A copy of the application shall be filed with the Clerk of the City of Silver Bay. The City shall file any objections within seven days after receipt of the application.

B. EXISTING USES: Before any existing use or structure may be replaced, substantially altered, repaired, built or rebuilt within any zone established herein, a permit must be secured authorizing such construction, replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

C. NONCONFORMING USES ABANDONED OR DESTROYED: Whenever the Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than 80% damaged, destroyed, or torn down, permit shall be granted that would exceed the applicable height regulations. Whether application is made or not, the Zoning Administrator, upon application, shall order or partially destroyed nonconforming structure, to lower, remove, reconstruct or necessary to conform to the regulations. In the event the owner of the nonconforming use fails to comply with such order for reconstruction, the Zoning Administrator shall order the structure demolished.

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Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within ninety days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight per cent per annum from the date of the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

SECTION IX: VARIANCES

- A. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this ordinance may apply to the Board of Adjustment, hereinafter provided for, for a variance from such regulations. If a person submits an application for a variance by certified mail to the members of the Board and the Board fails to grant or deny the variance within four months after the last member receives the application, the variance shall be deemed to be granted by the Board. When the variance is granted by reason of the failure of the Board to act on the variance, the person receiving the variance shall notify the Board and the Commissioner of Transportation by certified mail that the variance has been granted. The applicant shall include a copy of the original application for the variance with this notice to the Commissioner. The variance shall be effective 60 days after this notice is received by the Commissioner subject to any action taken by the Commissioner pursuant to Section 360.063, Subdivision 6. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this Ordinance provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment or Commissioner may deem necessary to effectuate the purpose of this ordinance.

- B. The City of Silver Bay shall be notified of any application for a variance under this section and shall be given reasonable opportunity not to exceed 60 days to make recommendations or comments before issuance.

SECTION X: HAZARD MARKING AND LIGHTING

- A. NONCONFORMING USES: The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Lake County Planning and Zoning Officer to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Silver Bay Municipal Airport.
- B. PERMITS AND VARIANCES: Any permit or variance granted by the Zoning Administrator or Board of Adjustment as the case may be, may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question at his own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

SECTION XI: AIRPORT ZONING ADMINISTRATOR

It shall be the duty of the Lake County Planning and Zoning Officer to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Lake County Planning and Zoning Officer upon a form furnished by him. Permit applications shall be promptly considered and granted or denied by him. Variance applications shall be forthwith transmitted by the Lake County Planning and Zoning Officer for action by the Board of Adjustment hereinafter provided for.

- a. Fee Schedule. The fee schedule for Zoning Permits, Variance and Conditional Use Applications shall be as established by the County Board by Resolution.

SECTION XII: BOARD OF ADJUSTMENT

A. ESTABLISHMENT: The Lake County Board of Adjustment shall serve as the Board of Adjustment for the Airport Zoning Ordinance.

B. POWERS: The Board of Adjustment shall have and exercise the following powers:

1. To hear and decide appeals from any order, requirement, decision, or determination made by the Lake County Planning and Zoning Officer in the enforcement of this Ordinance.
2. To hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass.
3. To hear and decide specific variances.

C. PROCEDURES:

1. The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Ordinance, and the provisions of M.S.A. 360.071. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Lake County Planning and Zoning Officer and shall be a public record.
2. The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision or determination which comes before it under the provisions of this Ordinance.

3. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Lake County Planning and Zoning Officer or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.
4. The City of Silver Bay shall be notified of any appeals or hearings to be conducted by the Board of Adjustment.

SECTION XIII: APPEALS

- A. Any person aggrieved or any taxpayer affected by any decision of the Lake County Planning and Zoning Officer made in his administration of this Ordinance may appeal to the Board of Adjustment. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the zoning administrator is an improper application of this ordinance as it concerns such governing body or board.
- B. All appeals hereunder must be commenced within 30 days of the Zoning Administrator's decision, by filing with the Lake County Planning & Zoning Officer a notice of appeal specifying the grounds thereof. The Lake County Planning & Zoning Officer shall forthwith transmit to the Board of Adjustment, and the City of Silver Bay, all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decisions of the Lake County Planning and Zoning Officer made in his administration of this Ordinance who desires to appeal such decision shall submit an application for a variance by certified mail to the members of the Board of Adjustment in the matter set forth in Minnesota Statute 360.067, Subdivision 2.

- C. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Lake County Planning & Zoning Officer certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Lake County Planning and Zoning Officer and on due cause shown.
- D. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.
- E. The Board of Adjustment may, in conformity with the provisions of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decisions or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the Lake County Planning and Zoning Officer.

SECTION XIV: JUDICIAL REVIEW

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal may present to the District Court of Lake County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Adjustment. The petitioner must exhaust the remedies provided in this Ordinance before availing himself of the right to petition a court as provided by this section.

SECTION XV: PENALTIES

Every person who shall construct, establish, substantially change, alter or repair any existing structure or use, or permit the growth of any tree without having complied with the provision of this Ordinance or who, having been granted a permit or variance under the provisions of this Ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, or any other person who violates any provision of this Ordinance, shall be guilty of a misdemeanor and each day a violation continues to exist shall constitute a separate offense. The Airport Zoning Administrator may enforce all provisions of this Ordinance through such proceedings for injunctive relief and other relief as may be proper under the laws of Minn. Stat. 360.073 and other applicable law.

SECTION XVI CONFLICTS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail.

SECTION XVII: SEVERABILITY

A. In any case in which the provision of this Ordinance, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this Ordinance as to other structures and parcels of land, and to this end the provisions of this Ordinance are declared to be severable.

B. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole or any part there other than the parts so declared to be unconstitutional or invalid.

SECTION XIX: EFFECTIVE DATE

This Ordinance shall take effect from and after its passage by the Lake County Board and Publication according to law. Copies thereof shall be filed with the Commissioner of Aeronautics, State of Minnesota, City Clerk, City of Silver Bay, and the County Recorder, Lake County, Minnesota.

EXHIBIT A

SILVER BAY MUNICIPAL AIRPORT

ZONING ORDINANCE

This Ordinance affects all or a portion of the following sections of land:

NAME AND NUMBER OF TOWNSHIP	AIRSPACE OBSTRUCTION ZONING Section IV of Ordinance Pages <u>1</u> of Zoning Map.	LAND USE SAFETY ZONING Section V of Ordinance Page <u>2</u> of Zoning Map.
Town of Beaver Bay T 55 N R 8 W	Sections: 5,6,7,8,17,18, 19,20,29,30	Sections: 7,8,17,18,19, 20
Town of Silver Creek T 55 N R 9 W	Sections: 1,2,10,11,12,13,14, 15,22,23,24,25,26	Sections: 11,12,13,14, 23,24

Duluth News-Tribune 7/8/81, 7/13/81, 7/20/81
Publication of Public Notice: Lake Co. News-Chronicle 7/1/81, 7/8/81, 7/15/81

Public Hearing Held: July 22, 1981

Effective Date: July 22, 1981

Passed and adopted after public hearing by the Lake County Board of
Commissioners this 22nd day of July, 19 81.

Attest:

McRoy Peterson
Lake County Auditor

Lenore M. Johnson
Chairman, Lake Co. Board of
Commissioners

DOC. NO. 106880

DOC. NO. 16,118

OFFICE OF COUNTY RECORDER

OFFICE OF REGISTRAR OF TITLES

STATE OF MINNESOTA, }
COUNTY OF LAKE } ss.

STATE OF MINNESOTA, }
County of Lake } ss.

I hereby certify that the within instrument was filed in this office the
ment was filed for record in this office 11th day of August, 19 81
on the 11th day of August at 8:50 A. M. and was duly
A.D. 19 81 at 8:50 o'clock of Register
A. M., and was duly recorded in book
of Mar records page 120

I hereby certify that the within
instrument was filed in this office the
ment was filed for record in this office 11th day of August, 19 81
on the 11th day of August at 8:50 A. M. and was duly
A.D. 19 81 at 8:50 o'clock of Register
A. M., and was duly recorded in book
of Mar records page 120

Robert D. Miller
County Recorder

Robert D. Miller
Registrar of Titles
Deputy

By _____
Deputy