

**Castle Danger Subordinate Service District
Phase I
Land Use Ordinance #1**

Effective February 2, 2010

Castle Danger Subordinate Service District Phase I Land Use Ordinance

SECTION I PURPOSE

The purpose of this ordinance is to create stricter land use standards as a supplement to the Lake County Comprehensive Plan and Land Use Ordinance #12 Effective May 26, 2006, or as may be amended here after, preserve the character of the Castle Danger District, provide for orderly growth, protect public investments, protect the natural environment, enhance the economic vitality of the Subordinate Service District, and otherwise protect the public health, safety, and general welfare.

SECTION II LAND TO WHICH THIS ORDINANCE APPLIES

This Castle Danger Subordinate Service District Phase I Land Use Ordinance applies to all land within the Castle Danger Subordinate Service District Phase I, Town of Silver Creek, Lake County and only to land within this District. The Lake County Comprehensive Plan and Land Use Ordinance #12 Effective May 26, 2006, or as may be amended here after, shall apply to all other lands in Town of Silver Creek.

SECTION III DEFINITIONS

1. Except as otherwise provided in this Section, the definitions included in Article 3.0 of the Lake County Comprehensive Plan and Land Use Ordinance #12 Effective May 26, 2006, or as may be amended here after, are hereby incorporated by reference.
2. The Land Use Administrator – An administrator appointed by the Town Board.
3. Land Use Permit – A permit required for any construction exceeding \$500 in value in the District.
4. Mixed Land Use Development – More then one permitted or conditional land use on a single parcel of land in a Resort Commercial Land Use District
5. Lighted Display – A sign or arrangement placed inside a business and lit internally or externally, such as open/closed signs, hours of business, product arrangements and all related displays.

SECTION IV BOARD OF ADJUSTMENT

The Board of Adjustment shall be the Town Board or a board appointed by the Town Board which shall have all the powers and duties assigned by Minnesota Statutes §462.354 and this ordinance. The Board of Adjustment shall:

1. Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by Land Use Administrator in the enforcement of the Land Use Ordinance.
2. Appeals to the Board of Adjustment shall follow the submittal and procedure requirements for a variance application as described in the Lake County Comprehensive Plan and Land Use Ordinance #12 Effective May 26, 2006.
3. Hear requests for variances from the literal provisions of this Land Use Ordinance in accordance with the Variance Section.

SECTION V PLANNING COMMISSION

The Planning Commission shall be the Town Board or a board appointed by the Town Board which shall have all the powers and duties assigned by Minnesota Statutes §462.354 and this ordinance

SECTION VI NONCONFORMING USES

Article 26.0 of the Lake County Comprehensive Plan and Land Use Ordinance #12 Effective May 26, 2006, or as may be amended here after, is hereby incorporated by reference, except that a single family home which exists as of January 1st 1999 in the Commercial District and Resort Commercial District may be restored, maintained, or repaired without restriction as permitted in Article 26.02 B) and 26.03 B)

SECTION VII ADMINISTRATION

A. APPLICATIONS

1. Application Review, Extension

- a. All applicants for land use permits, land use district amendments, conditional use permits, or variances shall submit applications to the Land Use Administrator. The Land Use Administrator will accept the application only if the required information is complete. Specific information requirements may be waived by and at the discretion of the Land Use Administrator if the specific information is not relevant to the requested application.
- b. The Land Use Administrator will notify the applicant in writing within ten (10) business days of application submittal if the application is incomplete. The notification will indicate which information is missing from the application.
- c. If the final approval or denial cannot be accomplished within 60 days from the receipt of the complete application, the Land Use Administrator, pursuant to MN Statute §15.99, may extend the time limit before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant. An applicant may by written notice to the agency request an extension of the time limit under this section.
- d. In order to determine whether an application meets the requirements of this ordinance, the Town Board may obtain a qualified consultant to review the application and report to the Planning Commission, Board of Adjustment and the Town Board. The cost of application review shall be borne by the applicant. The Land Use Administrator will schedule a public hearing and ensure that the required public notices are published, posted, and mailed.
- e. **Public Notice.** Notice of a public hearing for a land use district amendment, Land Use Ordinance amendment, conditional use permit, or variance shall be posted at the Town Hall. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the Town at least 10 days prior to the day of the hearing. Notice shall also be mailed by the Land Use Administrator, at least 10 days prior to the hearing, and in all cases except a Land Use Ordinance amendment to each owner of property situated wholly or partly within 1320 feet of the property to which the application relates.
- f. **Referral.** After the public hearing, applications for a land use district amendment, conditional use permit, or variance shall be forwarded by the Planning Commission or Board of Adjustment to the Town Board with findings and recommendations for the granting or the denial of the application. The findings shall identify ways in which the application meets or fails to meet the requirements, criteria or standards of the Land Use Ordinance.
- g. **Town Board Action.** The Town Board may not act upon the land use district amendment, amendment to the land use ordinance text, conditional use permit, or variance until the Board receives the Planning Commission's recommendation, Board of Adjustments recommendation or until sixty (60) days have elapsed from the date of referral to the Commission or Board of Adjustment without a recommendation. The Town Board may vote upon the zoning amendment, conditional use permit, or variance or refer it back to the Planning Commission or Board of Adjustment for further consideration. A zoning amendment, conditional use permit, or variance may be approved with or without conditions. Approvals of a land use amendment either to language of the Ordinance or the Land Use District Map requires a two-thirds vote of the Town Board.

A vote to approve or deny the application shall include findings supporting the decision. The failure of a motion to approve constitutes a denial and a finding that the application does not meet the criteria or standards for approval.

- h. Changes in Land Use District classifications shall be shown on the Castle Danger Subordinate Service District Phase I Land Use District Map.

- 2. **Required Submittal Information.** The Land Use Administrator shall not accept applications for a land use permit, land use district amendment, conditional use permit, or variance unless the application is complete. Unless otherwise waived by the Land Use Administrator, every application shall be accompanied by the prescribed administrative fee and escrow amount and shall include eight (8) copies of the following information:
 - a. Name, address, and telephone number of the applicant and property owner.
 - b. Plot and parcel number.
 - c. A copy of the appropriate deed to the property showing legal description and proof of the applicant's ownership of the property.
 - d. A drawing or plan of the site that shows all information as requested on the application.
 - e. For land use district amendments, conditional use permits, and variances – information shall be submitted as required on the application.

B. VARIANCES

- 1. The Board of Adjustment may grant a variance from the terms of this Land Use Ordinance if strict adherence to the requirements of the Ordinance would create a hardship. For a hardship to exist and a variance to be granted, it must be demonstrated that:
 - a. the property in question cannot be put to a reasonable use if used under the conditions allowed by the Land Use Ordinance, and
 - b. the plight of the landowner is due to circumstances unique to the property and not created by the landowner, and
 - c. the variance will not alter the essential character of the area.
- 2. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the Ordinance.
- 3. It shall be the burden of the applicant for a variance to demonstrate that the application meets the requirements for granting a variance.
- 4. No variance shall be granted that would allow any land use that is prohibited in the Land Use District in which the subject property is located.

C. CONDITIONAL USES

- 1. The Town Board may grant conditional use permits for uses listed as conditional uses. Conditional use permits may be granted upon the showing of the applicant that standards and criteria stated in this ordinance will be satisfied.
- 2. The Town Board may attach conditions that are reasonable and that are deemed necessary to mitigate anticipated adverse impacts associated with the use, to protect the value of other properties, and to achieve the goals and policies of the Castle Danger Land Use Plan.
- 3. Each conditional use must meet the performance standards of this ordinance that are relevant to that type of use.
- 4. A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed. Nothing in this section shall prevent the Town Board from amending the Land Use Ordinance or enacting other official controls provided for in Minnesota Statutes which change the status of conditional uses.
- 5. Where a conditional use does not continue in conformity with the conditions of the approval, the Town Board may terminate the conditional use permit after a public hearing is held by and recommendations are received from the Planning Commission.
- 6. If no substantial action to initiate any particular approved use is taken by the applicant within eighteen months from the date of approval, or if a conditional use has been discontinued for eighteen months, then that particular portion of the conditional use permit shall be terminated.
- 7. If property title transfers, new owner shall come to a regular planning commission meeting to review permitted conditions and uses.

SECTION VIII GENERAL PROVISIONS

The following provisions shall be in addition to the provisions of Article 6.0 of the Lake County Land Use Ordinance, or as may be amended here after:

1. All Land Use Permits shall be referred to the Town Engineer. The Town Engineer shall determine that the proposed building of land use does not exceed the capacity of the sanitary sewer. Any land use or building which exceeds the capacity assigned to property by the Town Engineer shall not be allowed without increasing the capacity of the sanitary sewer.

SECTION IX CASTLE SERVICE DISTRICT PHASE I LAND USE DISTRICTS AND LAND USE DISTRICT MAP ESTABLISHED

The Castle Danger District Subordinate Service District Phase I is divided into the land use districts as described in this Ordinance and shown on the Castle Danger Subordinate Service District Phase I Land Use District Map which is incorporated into this Ordinance by reference.

The following Districts are hereby established:

- Residential Non-Service District
- Residential Service District
- Commercial District
- Resort Commercial District
- Park district

Standards: Standards for all land use districts are listed in the table in Section XV.

SECTION X RESIDENTIAL NON-SERVICE DISTRICT

1. Purpose: The purpose of the Residential Non-Service District is to provide for orderly residential development in areas currently not served by public sanitary sewer and that is consistent with the goals and policies for residential uses in the Castle Danger Land Use Plan.
2. Permitted Uses:
 - Single-family dwellings
 - Farms excluding commercial livestock and feedlots
 - Forest management and utilization
 - Home Occupations
 - Customary accessory structures and uses
3. Conditional Uses:
 - Churches, fraternal organizations, clubs and other related uses
 - Bed & breakfasts
 - Residential Planned Unit Developments
4. Providing for future development: Residential development in this district shall provide for further lot division when public sanitary sewer is available. The review of plats or land use permits for individual lots shall ensure that the lot can be divided in the future to provide for additional building pads with sanitary sewer.

SECTION XI RESIDENTIAL SERVICE DISTRICT

1. Purpose: The purpose of the Residential Service District is to provide for orderly residential development in areas by and to be connected to public sanitary sewer and that is consistent with Castle Danger Land Use Plan.
2. Permitted Uses:
 - Single-family dwellings
 - Forest management & utilization
 - Home occupations
 - Customary accessory structures and uses
3. Conditional uses:

- Bed & breakfasts
- Residential Planned Unit Development

SECTION XII COMMERCIAL DISTRICT

1. Purpose: The purpose of the Commercial District is to provide for long-term commercial services to tourists and residents that is consistent with the Castle Danger Land Use Plan.
2. Permitted Uses:
 - Home Occupations
 - Forest management & utilization
 - Parking lots
 - Single Family home of the owner or care taker
 - On premise signs
 - Trails
 - Customary accessory structures and uses
3. Conditional Uses:
 - Eating and drinking establishments
 - Offices
 - Commercial Planned Unit Developments
 - Bed & breakfasts
 - Retail sales
 - Grocery Stores
 - Sale of flammable liquids
 - Auto Service & Repair
 - Schools
 - Community Service Buildings
 - Churches
 - Rest Homes, including assisted living & foster care
 - Water oriented commercial activities
 - Camping areas

SECTION XIII RESORT COMMERCIAL DISTRICT

1. Purpose: The purpose of the Resort Commercial District is to provide for facilities and businesses such as commercial resorts that support the continuation of tourism that is consistent with the Castle Danger Land Use Plan.
2. Permitted Uses:
 - Lodging with 4 or less units (two acres per unit - a sleeping room constitutes a unit)
 - Customary accessory structures and uses
 - Trails
 - Parking lots
 - Picnic areas
 - Home occupations
 - Single family home of the owner or caretaker
 - On premise signs
3. Conditional Uses:
 - Retail sales
 - Eating and drinking establishments
 - Commercial Planned Unit Development
 - Resorts
 - Campgrounds
 - Cabins
 - Town Homes as part of a mixed land use development
 - Grocery Store
 - Water oriented activities

- Sale of flammable liquid

SECTION XIV PARK

1. Permitted Uses:
 - Camping
 - Cabins
 - Picnic areas
 - Customary accessory structures and uses
 - Parking lots
 - Trails
 - Manager and caretaker living facilities
 - On premise signs
 - Interpretive centers
 - Scenic overlooks
 - Historical & archeological sites
2. Conditional Uses:
 - Retail Sales
 - Eating and drinking establishments
 - Harbor of refuge
 - Marinas
 - Camping
 - Lodging establishments with less than 4 units
 - Residential uses

SECTION XV LOT STANDARDS

	Residential Non-Service	Residential Service	Commercial	Resort Commercial	Park
Minimum lot size Unsewered Sewered	5 acres	2 acres	2 acres	2 acres	5 acres
Minimum lot width water frontage	200 feet	200 feet	200 feet	200 feet	300 feet
Minimum lot width	200 feet				
Maximum lot coverage by buildings	15%	20%	20%	15%	5%
Maximum lot coverage by impervious surface	40%	40%	50%	40%	40%
Building setbacks front side rear road ROW	50 feet 20 feet 20 feet 30 feet or 35 feet on Hwy 61	50 feet 20 feet 20 feet 30 feet or 35 feet on Hwy 61	50 feet 15 feet 20 feet 30 feet or 35 feet on Hwy 61	50 feet 20 feet 20 feet 30 feet or 35 feet on Hwy 61	100 feet 50 feet 50 feet 30 feet or 35 feet on Hwy 61
Setbacks from Lake Superior Vegetation Line in shorelands	40 feet				
Setbacks from all other public waters OHWL in Shorelands	75 feet				
Maximum structure height	35 feet				

Lands subject to Lake County Comprehensive Plan and Land Use Ordinance #12 Effective May 26, 2006, or as may be amended here after, Article 7.0 must comply with all provisions relevant to shorelands.

Town homes when part of a Mixed Land Use Development shall have a side yard of 0 feet from the adjacent Town Home.

SECTION XVI PERFORMANCE STANDARDS

1. **Purpose.** The performance standards established in this Section are designed to require a high standard of development by providing assurance that neighboring land uses will be compatible. All development in the District shall be required to meet these provisions.

2. SIGNS AND OUTDOOR LIGHTING

Except as otherwise provided in this Ordinance, Article 22.0 of the Lake County Comprehensive Plan and Land Use Ordinance #12 Effective May 26, 2006, or as may be amended here after, is hereby incorporated by reference except that any reference to Lake County shall be interpreted to refer to Town of Silver Creek and the appropriate Land Use Administrator.

The following provisions shall also apply:

1. Neon and internally lighted signs are prohibited
2. Internally lighted vending machines must not be visible from the property line
3. Signs shall not be more than 20 feet in height
4. Maximum sign size shall be 32 square feet
5. The number of signs is limited to two (2) signs per establishment or per property whichever is more restrictive.
6. All lighted displays inside a business and visible from the outside may only be lit during normal business hours.

3. **Bed and Breakfasts.** A bed and breakfast is a conditional use as long as the use does not exceed 4 bedrooms for rent in the Residential Non-Service District or a Residential Service District

SECTION XVII Enforcement and Penalties:

A. In the event that any person commences any land use activity that requires a permit under the provisions of this Ordinance, prior to the issuance of such permit, the Land Use Administrator shall issue a written order to cease and desist such activity until such permit is obtained. The person shall be instructed to obtain the necessary permit(s) pursuant to the terms of this Ordinance. If such permit is obtained, the person shall be given authorization to proceed with the activity. If the permit cannot be obtained the person shall be ordered to permanently abate all activities not permitted under this Ordinance, including the removal of all structures constructed in violation of the provisions of this Ordinance.

B. When assurance is deemed necessary to protect the health, safety and welfare of township residents, the Planning and Zoning commission, Board of Adjustment or Town Board may require a surety bond, cash escrow, certificate of deposit, securities, letter of credit or cash deposit prior to issuing a conditional use permit, initiation of work on the proposed improvements or development, or issuing a variance. The security shall be irrevocable and in an amount that shall reasonably guarantee conformance and compliance with the conditions issued, the Castle Danger Subordinate Service District Land Use Ordinance, Minnesota State law, and/or Lake County Comprehensive Plan and Land Use Ordinance #12 Effective May 26, 2006.

C. In the event of violation of this Ordinance, the Town Board may institute appropriate actions or proceedings to prevent, restrain, correct or abate such. Any remedies sought by the Town Board may be cumulative and in addition to any other remedies, either in law or equity, that may be available.

D. Failure to obtain a permit as required by this ordinance, or to cease and desist from pursuant to a cease and desist order shall result in a civil penalty of \$100.00 per day until such time as the permit is obtained or the activity halted. The Town Board may waive this penalty where strict enforcement would cause an undue hardship. In addition, when the Town incurs any expense, including reasonable attorney fees, costs and disbursements, or loss or damage as a result of a

violation or enforcement of this ordinance, the violator shall be liable to the Town for such expense, loss, or damage.

E. Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by such penalties and fines provided by law.

F. In any criminal action, upon the conviction of the defendant-violator, the court may order as part of the sentence that the defendant pay the whole or any part of the disbursements of the prosecution as provided by Minnesota Statute, Section 631.48.