

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 17, 2012, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 9

Absent: None -- 0

- - -

The minutes of council meetings held on July 2, 12 and 16, 2012, were approved upon a unanimous vote.

- - -

PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

12-1217-07 Jodi Broadwell communication regarding state and local government funding and the impact of Pentagon spending (12-0639R). -- Received

12-1217-01 Ritch Makowsky acceptance of terms, conditions and provisions of a concurrent use permit granted by Ordinance No. 10191 on December 3, 2012. -- Received

12-1217-02 RT Quinlan's Saloon communication regarding the proposed 2013 liquor license fees (12-0608R). -- Received

12-1217-08 The following communications regarding the proposed procedure to correct errors related to eligible salary reporting to the Public Employees Retirement Association (PERA) (12-0642R): (a) Claudia Johnson; (b) Public Employee Retirees Group. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

12-1217-03 Duluth economic development authority minutes of October 24, 2012, meeting. -- Received

12-1217-04 Duluth parking commission: (a) Minutes of: (1) September 7; (2) October 5, 2012, meetings; (b) Resolutions, pursuant to Section 33-78 of the Duluth City Code: (1) Adding three parking meters on the west side of Second Avenue East just below First Street (2012-18); (2) Charging for parking only from 8:00 a.m. to 5:00 p.m. and only on weekdays at the Library/ Depot Upper Lot (2012-19); (3) Approving a parking advisory committee and development of a strategic plan (2012-20); (4) Approving a Duluth parking logo (2012-21); (5) Recommending that revenue recapture be utilized as a collection tool for parking ticket debts (2012-22); (6) Converting a portion of East Eighth Street to alternate side parking (2012-23); (7) Converting a portion of East College Street to alternate side parking (2012-24); (8) Prohibiting parking in the cul-de-sac terminus of East Eighth Street (2012-25); (9) Recommending that the city council add the eastern half of East Clover Street to the UMD resident permit parking zone (2012-26); (10) Prohibiting parking on a portion of East College Street (2012-27); (11) Converting the western half of a portion of East Clover Street to parking on the north side only (2012-28). -- Received

12-1217-05 Housing and redevelopment authority of Duluth minutes of: (a) August 28; (b) October 30, 2012, meetings. -- Received

12-1217-09 Spirit Mountain recreation area authority minutes of November 15, 2012, meeting. -- Received

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

REPORTS OF COUNCIL COMMITTEES

12-1217-06 City council civil service reform working group recommendations dated: (a) December 7; (b) December 13; (c) December 14, 2012, pursuant to Resolution 12-0130. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Tim Peterson reviewed the need for community development block grant funding for Life House programs and the successes that they have had.

- - -

Shawna Mulleneardly noted the harm of plastic bag littering and that they get into Lake Superior which then causes harm to humans and wildlife.

- - -

Loren Martel commented on the Duluth School District, noting: their financial plans such as projected savings and value of excess property was risky and unrealistic; school officials refused to listen to anyone else; escrow accounts have fallen 43 percent; a larger red plan tax bill is likely coming down the road and the red plan has never been audited.

- - -

MOTIONS AND RESOLUTIONS

CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)

President Hartman moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the city council hereby authorizes a line of credit in the amount of \$300,000 for the Arrowhead Zoological Society subject to a fully executed promissory note, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-10, requiring loan repayment at 2.5 percent interest with the entire outstanding principal amount due and payable on August 1, 2013, funds to be paid from the zoo fund, loans receivable (Fund 200-1330).

Resolution 12-0634 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On September 5, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Ridgeview Country Club, 700 West Redwing Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-11;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-11 regarding any suspension, revocation and/or civil penalty relating to the on sale club liquor license of Ridgeview Country Club, 700 West Redwing Street, are adopted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

Resolution 12-0552 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 3, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Roto of Duluth, Inc. (University Liquor), 1603 Woodland Avenue, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-12;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-12 regarding any suspension, revocation and/or civil penalty relating to the off sale liquor license of Roto of Duluth, Inc. (University Liquor), 1603 Woodland Avenue, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

Resolution 12-0605 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On October 3, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Osaka Duluth, Inc. (Osaka Sushi Hibachi Steakhouse), 5115 Burning Tree Road, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-13;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-13 regarding any suspension, revocation and/or civil penalty relating to the on sale liquor license of Osaka Duluth, Inc. (Osaka Sushi Hibachi Steakhouse), 5115 Burning Tree Road, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

Resolution 12-0606 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On November 7, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

liquor license of Azteca's Mexican Grill, Inc. (Azteca's Mexican Grill), 2224 Mountain Shadow Drive, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-14;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-14 regarding any suspension, revocation and/or civil penalty relating to the on sale liquor license of Azteca's Mexican Grill, Inc. (Azteca's Mexican Grill), 2224 Mountain Shadow Drive, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$500 for the first offense payable within 30 days of final city action.

Resolution 12-0607 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Carlton County Sheriff's Mounted Posse and A Race Worth Winning - ALS, Inc., and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 12-0610 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

WHEREAS, the city council approved, with passage of Resolution 12-0048 on January 30, 2012, a proprietary annual contract with All Computer Service for consulting services, as well as hardware maintenance and support for mainframe operations during year 2012. The purchasing agent issued Purchase Order 12-0120 on January 31, 2012, for consulting services in the amount of \$70,000; and

WHEREAS, the city now requires additional consulting services from All Computer Service through December 31, 2012, with services to remain proprietary since the vendor maintains the equipment as well and city has no other options for this mainframe system support.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to increase the annual contract with All Computer Service by \$15,000 for consulting services in mainframe operations during 2012, for a new contract total of \$85,000; the increase of \$15,000 payable from General Fund 110, Department/Agency 117 (management information services), Division 1107 (MIS) and Object 5319 (other professional services).

Resolution 12-0620 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a contract with Structural Buildings, Inc., for the construction of a new communications tower on Park Point in Duluth in accordance with plans and specifications prepared by the city's project engineer MSA Professional Services, Inc., MSA Project No. 00616038, dated November 28, 2012, and the contractor's bid of \$130,003, payable from Capital Improvements Fund 450, Depart-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ment/Agency 030 (finance), Object 5520 (buildings and structures), Project No. CP2008-OTO810.

Resolution 12-0621 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Debbie Isabell-Nelson to the Duluth parking commission for a term expiring on March 31, 2013, is confirmed.

Resolution 12-0638 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby approves of that second amendment lease agreement between the Duluth economic development authority and AAR Aircraft Serves, Inc., for the lease of the MRO facility at Duluth International Airport, a copy of which is on file in the office of the city clerk as Public Document No. 12-1217-15, reducing rents for the facility for a five year period.

Resolution 12-0609 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to apply for and accept a grant from the Minnesota historical society (MHS) in the amount of \$7,000 and to execute a grant contract, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-16, for the purpose of Duluth's planning process for an ethnographic study of the American Indian heritage of Duluth project and agreeing to provide the city's in-kind contribution of \$3,000 in the form of city staff services, funds to be deposited in Fund 265-020-5441 (CD and housing administration, planning, other services and charges).

Resolution 12-0616 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, November 13, 2012, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted easement described below and as described and depicted on Public Document No. 12-1217-17:

An easement for utility and pedestrian purposes which lies over the easterly 10.0 feet of Lot 3, Block 5, and the westerly 10.0 feet of Lot 4, Block 5, Hartley Estates First

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Addition, according to the plat recorded January 28, 1992, as Document No. 543859, St. Louis County, Minnesota; and

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 12-1217-17 showing the platted easement to be vacated.

Resolution 12-0618 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

WHEREAS, Regulation 24 CFR Part 91 issued by the U.S. department of housing and urban development (HUD) requires the city to submit and receive HUD approval of an annual action plan as part of a HUD-approved five-year consolidated plan for the city of Duluth; and

WHEREAS, Title 1 of the Housing and Community Development Act of 1974, as amended, establishes a community development block grant (CDBG) program for the purpose of developing viable urban communities by providing decent housing and suitable living environment and expanding economic opportunities and preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income; and

WHEREAS, the city of Duluth desires to continue to carry out HUD-funded programs;

NOW, THEREFORE, BE IT RESOLVED, that the FY 2013 action plan portion of the FY 2010-2014 city of Duluth consolidated plan for housing and community development required by HUD federal legislation is hereby adopted and approved.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in Resolution 12-0626 are necessary and appropriate and, further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individuals/families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

BE IT FURTHER RESOLVED, that the city of Duluth hereby makes a finding that expenditures as set forth in resolutions 12-0625 and 12-0624 are necessary and appropriate and, further, that said expenditures for the HOME and ESG programs will serve to assist low- and moderate-income people.

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto and authorizing appropriate city officials to execute any documents with HUD to implement the program. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and emergency shelter grant programs.

Resolution 12-0623 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

WHEREAS, City Council Resolution No. 12-0623, adopted December 17, 2012, approved FY 2013 annual action plan portion of the 2010-2014 consolidated plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

McKinney Homeless Assistance Act of 1987, as amended (the emergency solutions grant - ESG - program);

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2013 ESG PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD13ES

SUBPROJECT	PROJECTS	AMOUNT
1244	CHUM emergency shelter	\$ 31,744
2109	MACV - Duluth	\$ 4,608
2509	Battered women's shelter - Safe Haven	\$ 19,968
2511	Transitional housing - Salvation Army	\$ 27,136
1974	HMIS data collection - Life House	\$ 7,680
1226	Transitional housing - Center City Housing Corporation	\$ 31,232
1050	Transitional housing and shelter - AICHO	\$ 10,752
6092	HMIS data administration - Wilder Foundation	\$ 8,000
AD-05	Prevention and rapid re-housing assistance	\$ 64,346
AD-04	Program administration - city	\$ 16,672
	Total	\$222,138

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above program:

Source of Funding

2013 ESGP grant	\$222,138
Total	\$222,138

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 12-0624 was unanimously adopted.
Approved December 17, 2012
DON NESS, Mayor

- - -

WHEREAS, City Council Resolution No. 12-0623, adopted December 17, 2012, approved FY 2013 annual action plan portion of the 2010-2014 consolidated plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency solutions grant - ESG - program);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2013 HOME PROGRAM - FUND 260, AGENCY 020, OBJECT 5434, PROJECT CD13HM

SUBPROJECT	ACTIVITY	PROJECTS	AMOUNT
GN13	1736	Homeless rental assistance program (TBRA)- HRA	\$125,000
GN13	1737	TBRA administration - HRA	\$ 7,500
GN13	1738	Homeowner rehabilitation - housing resource connection - HRA	\$ 79,619
CH13	1226	Housing redevelopment - Center City Housing	\$ 13,000
CH13	6915	Hillside Apartments - One Roof Housing	\$250,000
GN13	AD03	Program administration (city)	\$ 44,450
		Total	\$519,569

BE IT FURTHER RESOLVED, the following are hereby designated as the financial sources for the above program:

Year 2013	HOME grant	\$519,569
-----------	------------	-----------

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of approval of HUD funds.

Resolution 12-0625 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that subject to approval of conveyance by the Duluth economic development authority (DEDA), the proper city officials are hereby authorized to accept the conveyance on behalf of the general public of an easement from DEDA substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-18, for public street, roadway and utility purposes over, under and across a strip of land 66 feet wide lying in the Southwest Quarter of the Southeast Quarter (SW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota, the centerline of said easement being described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the SW 1/4 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320 on file in the office of the St. Louis County registrar of titles; thence North 89 degrees 23 minutes 03 seconds East along the centerline said Nick Glumac Drive, a distance

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

of 377.11 feet; thence northeasterly a distance of 131.00 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 43 degrees 57 minutes 09 seconds to the Point of Beginning of the centerline to be described; thence South 44 degrees 34 minutes 05 seconds East, a distance of 83.00 feet; thence southeasterly a distance of 79.00 feet along a tangential curve concave to the northeast having a radius of 100.00 feet and a central angle of 45 degrees 15 minutes 49 seconds; thence South 89 degrees 49 minutes 54 seconds East, a distance of 163.00 feet to a point hereinafter referred to as Point "A"; thence continuing South 89 degrees 49 minutes 54 seconds East, a distance of 350.32 feet to the east line of said SW 1/4 of the SE1/4 and said centerline there terminating.

The sidelines of said easement are prolonged or shortened to terminate on the easterly line of Nick Glumac Drive and the east line of the SW 1/4 of the SE 1/4 of said Section 34.

Subject to existing easements of record.

TOGETHER WITH

An easement for public street, roadway and utility purposes over, under and across that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota, not included in the above described easement which lies within the circumference of a circle having a radius of 75.00 feet. The center point of said circle being the aforementioned Point "A."

Subject to existing easements of record.

Resolution 12-0628 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that subject to approval of conveyance by the Duluth economic development authority (DEDA), the proper city officials are hereby authorized to accept the conveyance on behalf of the general public of an easement from DEDA substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-19, for public drainage purposes over, under and across that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota; said easement being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the SW 1/4 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 131.00 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 43 degrees 57 minutes 09 seconds; thence South 44 degrees 34 minutes 05 seconds East, a distance of 83.00 feet; thence southeasterly a distance of 79.00 feet along a tangential curve concave to the northeast having a radius of 100.00 feet and a central angle of 45 degrees 15 minutes 49 seconds; thence South 89 degrees 49 minutes 54 seconds East, a distance of 513.52 feet; to the east line of said SW 1/4 of the SE1/4; thence South 00 degrees 15 minutes 59 seconds East along said east line of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

said SW 1/4 of the SE1/4, a distance of 33.00 feet to the Point of Beginning; thence South 00 degrees 15 minutes 59 seconds East along said east line of said SW 1/4 of the SE1/4, a distance of 210.00 feet; thence North 89 degrees 49 minutes 54 seconds West, a distance of 70.00 feet; thence North 00 degrees 15 minutes 59 seconds West parallel with said east line, a distance of 210.00 feet; thence South 89 degrees 49 minutes 54 seconds East, a distance of 70.00 feet to the Point of Beginning.

Subject to existing easements of record.

Resolution 12-0629 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that subject to approval of conveyance by the Duluth economic development authority (DEDA), the proper city officials are hereby authorized to accept the conveyance on behalf of the general public of an easement from DEDA substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-20, for public street, roadway and utility purposes over, under and across a strip of land lying in the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, described in Document No. 851320 as recorded in the registrar of titles office, St. Louis County, the easement being described as follows:

A 17 foot wide easement for public street, roadway and utility purposes over, under and across that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota; lying between two lines 33.00 feet and 50.00 feet easterly of the centerline described in Document No. 851320 as recorded in the registrar of titles office, St. Louis County, Minnesota described as follows:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the SW 1/4 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet to the Point of Beginning of the line to be described; thence northeasterly a distance of 273.91 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 91 degrees 54 minutes 07 seconds; thence North 02 degrees 31 minutes 04 seconds West, a distance of 195.64 feet; thence northwesterly along a tangential curve concave to the southwest having a radius of 2140.85 feet, central angle of 15 degrees 05 minutes 48 seconds, a distance of 564.09 feet and said line there terminating.

The southerly sideline being a line 33.00 feet northeasterly of and parallel with the following described line:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the W 1/2 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

a distance of 131.00 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 43 degrees 57 minutes 09 seconds to the Point of Beginning of the line to be described; thence South 44 degrees 34 minutes 05 seconds East, a distance of 45 feet more or less and said southerly sideline there terminating.

AND

A 90 foot wide easement for public street, roadway and utility purposes over, under and across that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota; lying 40.00 feet northwesterly of and 50.00 feet southeasterly of the following described line:

Commencing at the South Quarter Corner of said Section 34; thence North 00 degrees 17 minutes 17 seconds West, assumed bearing, along the west line of the W 1/2 of the SE 1/4 of said Section 34, a distance of 653.51 feet; thence North 89 degrees 23 minutes 03 seconds East, a distance of 184.44 feet to the intersection of centerlines of Commonwealth Avenue (Minnesota Trunk Highway No. 23) and Nick Glumac Drive as described in Document No. 851320; thence North 89 degrees 23 minutes 03 seconds East along the centerline of said Nick Glumac Drive, a distance of 377.11 feet; thence northeasterly a distance of 273.91 feet along said Nick Glumac Drive being a tangential curve concave to the northwest having a radius of 170.77 feet, and a central angle of 91 degrees 54 minutes 07 seconds; thence North 02 degrees 31 minutes 04 seconds West along the centerline said Nick Glumac Drive, a distance of 195.64 feet; thence northwesterly along said Nick Glumac Drive and being a tangential curve concave to the southwest having a radius of 2140.85 feet, central angle of 15 degrees 05 minutes 48 seconds, a distance of 564.09 feet to the Point of Beginning of the line to be described; thence North 17 degrees 36 minutes 52 seconds West, a distance of 93.50 feet; thence northerly a distance of 184.70 feet along a tangential curve concave to the east having a radius of 330.00 feet, and a central angle of 31 degrees 46 minutes 46 seconds to a point hereinafter referred to as Point "A" and said line there terminating.

TOGETHER WITH

An easement for public street, roadway and utility purposes over, under and across that part of the West One-Half of the Southeast Quarter (W 1/2 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota not included in the above described easement which lies within the circumference of a circle having a radius of 90.00 feet. The center point of said circle being the aforementioned Point "A."

Resolution 12-0630 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that subject to approval of conveyance by the Duluth economic development authority (DEDA), the proper city officials are hereby authorized to accept the conveyance on behalf of the general public of an easement from DEDA substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-21, for public utility and drainage purposes over, under and across that part of the Northwest Quarter of the Southeast Quarter (NW 1/4 of the SE 1/4) of Section Thirty-Four (34), Township Forty-Nine (49) North, Range Fifteen (15) West of the Fourth (4th) Principal Meridian, St. Louis County, Minnesota; said easement being more particularly described as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Commencing at the Northwest Corner of the NW 1/4 of the SE 1/4 of said Section 34; thence North 89 degrees 38 minutes 47 seconds East, assumed bearing, along the north line of the NW 1/4 of the SE 1/4 of said Section 34, a distance of 835.29 feet; thence South 00 degrees 21 minutes 13 seconds East, a distance of 40.00 feet to south line of Commonwealth Avenue and being the Point of Beginning; thence South 00 degrees 34 minutes 17 seconds East, a distance of 400.00 feet; thence South 13 degrees 49 minutes 32 seconds West, a distance of 156.00 feet; thence South 33 degrees 02 minutes 18 seconds West, a distance of 196.00 feet; thence northeasterly a distance of 98.56 feet along a 90.00 foot radius curve concave to the south and being Nick Glumac Drive, having a chord bearing North 43 degrees 54 minutes 19 seconds West, and a central angle of 62 degrees 44 minutes 33 seconds; thence North 14 degrees 43 minutes 25 seconds East, a distance of 73.00 feet; thence North 23 degrees 49 minutes 29 seconds East, a distance of 151.71 feet; thence North 62 degrees 35 minutes 16 seconds East, a distance of 70.00 feet; thence North 00 degrees 15 minutes 38 seconds East, a distance of 384.00 feet; thence South 89 degrees 59 minutes 15 seconds West, a distance of 355.00 feet; thence South 40 degrees 18 minutes 19 seconds West, a distance of 105.00 feet; thence South 49 degrees 41 minutes 41 seconds East, a distance of 16.00 feet; thence South 20 degrees 24 minutes 43 seconds West, a distance of 164.36 feet; thence South 00 degrees 50 minutes 54 seconds East, a distance of 186.00 feet; thence South 89 degrees 39 minutes 52 seconds West, a distance of 75.26 feet to the east line of said Commonwealth Avenue and also being the most easterly line of Minnesota Trunk Highway No. 23; thence northerly along said most easterly line of Minnesota Trunk Highway No. 23 to the south line of Commonwealth Avenue; thence easterly along the south line of Commonwealth Avenue to the Point of Beginning.

AND

A 20.00 foot wide easement for drainage purposes over, under and across those parts of Lots Three (3) thru Eight (8), Block 4, MORGAN PARK FIRST ADDITION (formerly known as Gary Second Division of Duluth), St. Louis County, Minnesota; centered on the following described line:

Commencing at the Northwest Corner of the NW 1/4 of the SE 1/4 of said Section 34; of said Section 34; thence North 89 degrees 38 minutes 47 seconds East, assumed bearing, along the north line of the NW 1/4 of the SE 1/4 of said Section 34, a distance of 877.45 feet; thence North 00 degrees 21 minutes 13 seconds West, a distance of 40.00 feet to a point on the south line of Block 4, MORGAN PARK FIRST DIVISION and being the Point of Beginning of the line to be described; thence North 47 degrees 18 minutes 55 seconds East, a distance of 116.00 feet and said line there terminating.

Resolution 12-0631 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth does hereby approve the land sale agreement on file in the office of the city clerk as Public Document No. 12-1217-22, between the Duluth economic development authority (DEDA) and the housing and redevelopment authority of Duluth, Minnesota (HRA), conveying certain property to the HRA for the sum of \$1 related to the Park Place development project.

Resolution 12-0635 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-23, with Local 66 of AFSCME Council 5, addressing the separation of city assessor office employees from city employment and the transition of employment to St. Louis County.

Resolution 12-0640 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-24, with Duluth-Superior Public Access Community Television, Inc., (PACT) for providing cablecasting, training and production and administrative services in 2013 relating to public access television in the net amount of \$182,000, to be paid from 110-700-1414-5441 (general, transfers and other functions, public access television).

Resolution 12-0619 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file with the city clerk as Public Document No. 12-1217-25, with Fryberger, Buchanan, Smith and Frederick, P.A., under which that firm will provide professional services related to the city's 2013 state legislative program, at a cost to the city not to exceed \$46,500 for the year 2013, and ability for the administration to renew for a second year, which shall be payable from 110-700-1401-5312 (general fund, transfers and other functions, citywide dues and lobbying, lobbyist fees).

Resolution 12-0633 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a joint powers agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-26, with St. Louis County, Minnesota, authorizing the county to provide assessment services to the city for all real property located in the city effective January 1, 2013.

FURTHER RESOLVED, that pursuant to the terms of the agreement the city is authorized to make transition assistance payments to the county in a total amount not to exceed \$375,000, payable from Fund 110-125-1213-5441 (general fund, finance department, assessor, other services and charges.)

Resolution 12-0641 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that calculation of monthly steam customer charges as described in Public Document No. 10-0913-17 approved pursuant to Resolution No. 10-0464 is hereby amended by the rate calculation on file in the office of the city clerk as Public Document No. 12-1217-27,

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

to authorize inclusion of a rate normalization factor in the calculation of customer consumption charges, effective for steam provided to customers on and after January 1, 2013.

Resolution 12-0636 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-28, with Coulomb Technologies, Inc., for the purchase of a jumpstart program ChargePoint electric vehicle charging station at no cost to the city.

Resolution 12-0646 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

WHEREAS, Avrio Group Surveillance Solutions, LLC, Avrio RMS Group, has completed Contract 21242 with the city of Duluth for all phases of the purchase, installation and expansion of a port security camera system, following approval of resolutions 10-0496 (September 27, 2010) and 12-0285 (June 11, 2012); and

WHEREAS, the city desires to continue to enhance its security system and initiate a new contract with Avrio for additional installations.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to contract with Avrio Group Surveillance Solutions, LLC, Avrio RMS Group, for the purchase and installation of five additional cameras and related equipment for the city's port security system and impound lot for \$59,316.91 plus \$2,545.60 sales tax, for a combined total of \$61,862.51, in accordance with the vendor's quotes and payable as follows:

Requisition: 12-0652

\$19,284.22 Duluth Police Grant Programs Fund 215, Department/Agency 025 (Stimulus Act-ARRA), Division 2288 (2009 justice assistance grant), Object 5241 (small equipment-office/operating);

\$22,103.07 Duluth Police Grant Programs Fund 215, Department/Agency 200 (Police), Division 2295 (2010 justice assistance grant), Object 5241 (small equipment-office/operating);

\$9,775.44 Duluth Police Grant Programs Fund 215, Department/Agency 200 (Police), Division 2299 (2012 JAG), Object 5580 (capital equipment).

Requisition: 12-0651

\$1,208.00 Duluth Police Grant Programs Fund 215, Department/Agency 025 (Stimulus Act-ARRA), Division 2288 (2009 justice assistance grant), Object 5201 (computer supplies/software);

\$4,133.78 Duluth Police Grant Programs Fund 215, Department/Agency 025 (Stimulus Act-ARRA), Division 2288 (2009 justice assistance grant), Object 5241 (small equipment-office/operating);

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

\$5,358.00 Duluth Police Grant Programs Fund 215, Department/Agency 025 (Stimulus Act-ARRA), Division 2288 (2009 justice assistance grant), Object 5241 (small equipment-office/operating).

Resolution 12-0612 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-29, with the International Association of Chiefs of Police, to conduct 15 days of training and instruction on the subject of leadership, payable from Fund No. 110-160-1610-5448 (general, police, administration and investigation).

Resolution 12-0615 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to contract with Emergency Automotive Technologies, Inc., for the tax-exempt purchase and delivery of various equipment for outfitting fully-marked Duluth police squads in accordance with Minnesota State Contract Release V-30(5) specifications and pricing for a total amount of \$51,321.35, payable from Capital Equipment 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year-2012), Object 5580 (capital equipment), Project No. CE250-V1202.

Resolution 12-0637 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that in accordance with Section 33-125 of the Duluth City Code, 1959, as amended, the city council hereby indicates that on Monday, January 14, 2013, at 7:00 PM in the Council Chamber on the third floor in City Hall, the council will conduct a public hearing regarding whether to designate East Clover Street between East Eighth Street and East Seventh Street as a resident permit parking zone, as manifested by the map on file in the office of the city clerk as Public Document No. 12-1217-30.

FURTHER RESOLVED, that the city clerk is hereby directed to mail notice of such hearing by addressing such notice to the occupants at each address within or abutting the parking areas of the streets so proposed to be designated.

Resolution 12-0643 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, the proper city officials authorize amendment to Concession Management Agreement 21045, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-31, between the city and Professional Golf Management, Inc. The amendment extends operation and management of the Lester Park and Enger Park golf courses for an additional year, ending December 31, 2013. The annual cost in 2013 will be

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

\$416,160, payable from Fund 503 (golf), 400 (parks and recreation), ENGR and LSTR (Enger and Lester Golf Course).

Resolution 12-0622 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, the proper city officials authorize acceptance of a donation from the Senior Programs Advisory Board. The monies received from the Senior Programs Advisory Board are committed for use in senior activities and will be deposited into 210 (special funds), 030 (finance), 3133 (senior programs), 4660 (gifts and donations).

Resolution 12-0632 was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

The following resolutions were also considered:

WHEREAS, City Council Resolution No. 12-0623, adopted December 17, 2012, approved FY 2013 annual action plan portion of the 2010-2014 consolidated Plan; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties to finance local community development programs, approved in accordance with the provisions of Title I of said act, as well as grants under the Cranston-Gonzales National Affordable Housing Act of 1990, as amended, (the HOME program) and the Stewart B. McKinney Homeless Assistance Act of 1987, as amended (the emergency solutions grant - ESG - program);

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to make and submit appropriate documentation to HUD for those projects and corresponding funding levels as set forth below:

2013 CITY OF DULUTH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM-FUND 262, AGENCY 020, OBJECT 5434 PROJECT CD13CD

SUB

PROJECT ACTIVITY AMOUNT PROJECTS

HOUSING PROJECTS

HOUS 1734 \$514,400 Housing Resource Connection - One Roof/HRA
HOUS 1091 \$180,407 Weatherization Program - AEOA/Ecolibrium3

ECONOMIC DEVELOPMENT PROJECTS

ECDV 2412 \$120,000 SOAR Duluth At Work - SOAR Career Solutions
ECDV 1244 \$ 72,000 CHUM Support Services for Employment - Churches United in Ministry
ECDV 2264 \$ 64,000 Growing Neighborhood Businesses - Northeast Entrepreneur Fund, Inc.
ECDV 1974 \$ 24,000 Futures Program - Life House
ECDV 1291 \$ 48,000 Circles of Support - Community Action Duluth

PUBLIC FACILITY IMPROVEMENT PROJECTS

PFAC PF01 \$225,000 Hillside Apts. Facility - One Roof Housing

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

PFAC	PF03	\$142,000	Lifeline Building renovation - Life House
PUBLIC SERVICE PROJECTS			
PSVC	1244	\$ 65,550	Duluth Hunger Project - CHUM
PSVC	1929	\$ 62,890	Primary Health Care Services - Lake Superior Community Health Center
PSVC	1348	\$ 16,500	Clothes That Work and Social Services - Damiano Center
PSVC	124A	\$ 27,950	Homeless Stabilization Services - CHUM
PSVC	1974	\$ 28,870	LIFELINE Expressway of Youth Services - Life House
PSVC	1226	\$ 15,280	Permanent Supportive Housing - Center City
PSVC	2509	\$ 17,100	Battered Women's Shelter Program - Safe Haven Shelter
PSVC	2511	\$ 16,730	Transitional Housing Program - Salvation Army
PSVC	1168	\$ 20,810	Feeding Kids Through Youth Programs - YMCA
PSVC	2109	\$ 15,000	Services for Homeless Veterans - MACV
PSVC	122A	\$ 18,810	Transitional Housing Program - Center City
PSVC	1050	\$ 3,150	Oshki Transitional Housing - AICHO
PSVC		\$ 12,085	Coordinated Homeless In-take process

PLANNING/PROGRAM ADMINISTRATION

ADMC	AD01	\$407,633	CDBG Program Administration
ADMC	AD02	\$ 20,000	Neighborhood Revitalization Planning

BE IT FURTHER RESOLVED, that the following are hereby designated as the financial resources for the above program:

SOURCE OF FUNDING

Year 2013	CDBG grant - city	\$2,138,165
Total		\$2,138,165

BE IT FURTHER RESOLVED, that the city of Duluth and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto. This authorization shall also apply to existing programs with the city and HUD under the HUD CDBG, HOME and ESG programs.

BE IT FURTHER RESOLVED, that the appropriate city officials are authorized to execute the appropriate agreements with these agencies upon receipt of HUD funds.

Resolution 12-0626 was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug, Stauber and President Hartman -- 8

Nays: None -- 0

Abstention: Councilor Larson -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0585, distributing the estimated 2013 tourism taxes of hotel-motel and food and beverage, was introduced by Councilor Krug for discussion.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

President Hartman moved to amend the resolution by inserting the following language to the first paragraph:

“with an understanding that each entity will complete an annual performance review for their performance in 2013 (questions for the performance review shall be approved by resolution of the city council)”,

which motion was seconded and carried upon the following:

Yeas: Councilors Boyle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 8

Nays: Councilor Fosle -- 1

Resolution 12-0585, as amended, was adopted as follows:

RESOLVED, that the 2013 tourism taxes of hotel-motel and food and beverages, as estimated, be distributed in the following manner, with the understanding that each entity will complete an annual performance review for their performance in 2013 (questions for the performance review shall be approved by resolution of the city council):

	3% Hotel-Motel	1% Hotel-Motel	1.75% Food & Beverage	Add'l 2% Hotel-Motel	Total
DECC Amsoil Arena Debt Service	1,160,900		1,482,000		\$2,642,900
Visit Duluth	625,100	196,100	600,000	178,800	\$1,600,000
Transfer to General Fund	94,000	260,100	287,000	96,800	\$737,900
Lake Superior Zoo Fund			403,800	106,200	\$510,000
Spirit Mountain Debt/Capital				500,000	\$500,000
Great Lakes Aquarium Operations		53,300	184,000	112,700	\$350,000
Business Improvement District			200,000		\$200,000
Heritage and Arts Center		81,500	73,000	22,300	\$176,800
Capital Projects			17,500	82,500	\$100,000
Other Promotional Programs			88,400		\$88,400
DECC - Bayfront Park		36,000	50,700		\$86,700
Undesignated Fund Balance			6,600	43,200	\$49,800
Public Arts Fund			30,000	20,000	\$50,000
Duluth Sister Cities International			15,000	15,000	\$30,000

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

	3% Hotel-Motel	1% Hotel-Motel	1.75% Food & Beverage	Add'l 2% Hotel-Motel	Total
Lake Superior & Mississippi RR			20,000		\$20,000
Rail Alliance				12,500	\$12,500
TOTALS	\$1,880,000	\$627,000	\$3,458,000	\$1,190,000	\$7,155,000

Resolution 12-0585, as amended, was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson and President Hartman -- 7

Nays: Councilors Krause and Stauber -- 2

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0608, adopting license, permit, fine, penalty and other charges for 2013, was introduced by Councilor Krug for discussion.

Councilor Krause moved to amend the first paragraph of the resolution by inserting after the phrase, "are hereby established," language to the effect of:

"at the private sector cost of living increase and not the implicit price deflator as required by City Code Section 2-5(b)...," which motion was seconded and discussed.

Councilor Krause reviewed that his amendment would change the fee index to what citizens experience in their everyday, private lives.

Councilor Stauber supported the amendment because the inflation for government is higher than what consumers pay.

Chief Administrative Officer David Montgomery opposed the amendment because the index reflects what the city's inflation costs are, which the city has to pay, and the council should either approve, or have the city absorb, those increased costs.

Councilor Krause's amendment failed upon the following vote:

Yeas: Councilors Fosle, Krause and Stauber -- 3

Nays: Councilors Boyle, Gardner, Julsrud, Krug, Larson and President Hartman -- 6

Councilor Fosle opposed the liquor fee increases because activity in these businesses has slowed down. He thought that maybe the increases should be based on sales volume and an annual capped fee.

Resolution 12-0608 was adopted as follows:

RESOLVED, pursuant to sections 31-6(a) and 31-8 of the Duluth City Code, 1959, as amended, and the authority otherwise granted in said Code and the Duluth City Charter, the charges for those permits, licenses, fines, penalties and other charges listed in Public Document No. 12-1217-32 are hereby established as those set forth in said public document, effective as of January 1, 2013.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

RESOLVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said public document are hereby superseded as of January 1, 2013, and of no future effect.

Resolution 12-0608 was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Julsrud, Krug, Larson and President Hartman -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0614, approving the fiscal year January 1, 2013, to December 31, 2013, budgets of the Duluth economic development authority (DEDA), was introduced by Councilor Krug.

Councilor Stauber expressed his opposition to the internal transfer of funds from DEDA to the general fund, which has a significant impact on economic development.

Resolution 12-0614 was adopted as follows:

RESOLVED, that the DEDA operating fund, debt service fund, capital project fund, storefront loan funds and NWA maintenance facility fund budgets on file in the office of the city clerk as Public Document No. 12-1217-33 are hereby approved.

Resolution 12-0614 was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug, Larson and President Hartman -- 8

Nays: Councilor Stauber -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0642, establishing a procedure to correct errors related to eligible salary reporting to the public employees retirement association (PERA), was introduced by Councilor Krug for discussion.

Councilor Krug moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Patrick Alexander, president of the Public Employees Group, Mark Wick and Jim Wood supported the resolution, with Option B, for the reasons of: many retired employees were uncertain how they would make back payments if they were forced to; some have cancelled home purchases due to the uncertain settlement of this issue; in 1997, a new retiree never had an idea that they might have to pay part of their pension back and pensions have been reduced as health care costs have increased.

Councilor Krug moved to amend the ninth paragraph of the resolution to insert Option "B" in the blank, which motion was seconded and unanimously carried.

Councilors discussed at length the issue and its history.

Resolution 12-0642, as amended, was adopted as follows:

WHEREAS, the city auditor discovered in July of 2007 that certain employer-paid benefits, primarily city provided deferred compensation/family health care premium subsidies had been incorrectly treated as Public Employees Retirement Association (PERA) eligible salary since approximately 1995; and

WHEREAS, Chapter 8 of House File Number 14, and Senate File Number 7 of 2011 Minnesota 1st Special Session Laws, passed into law by Governor Mark Dayton on July 20, 2011, established procedures by which the executive director of PERA shall adjust erroneous

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

employee deductions and employer contributions paid on behalf of active employees and former members by the city of Duluth and by the Duluth Airport Authority on amounts determined by the executive director to be invalid salary under Minnesota Statutes, section 353.01, subdivision 10, reported between January 1, 1997, and October 23, 2008; and

WHEREAS, pursuant to the ruling *In re PERA Salary Determinations Affecting Retired & Active Employees*, 820 N.W.2d 563 (Minn. Ct. App. 2012) on August 6, 2012, the Minnesota Supreme Court found that the PERA board erred by adjusting employees' contributions and benefits and by recouping overpayments of benefits based on the city of Duluth's salary-supplement payments relating to deferred compensation; the Minnesota Court of Appeals ordered PERA to modify its adjustments to the contributions and benefits and to modify its recoupment of overpayments of benefits so as to ensure that the city of Duluth's salary-supplement payments related to deferred compensation were included in the calculation of PERA eligible salary, however salary-supplement payments relating to health care premiums were upheld to be non-PERA eligible salary; and

WHEREAS, the PERA board has not appealed the Minnesota Court of Appeals decision *In re PERA Salary Determinations Affecting Retired & Active Employees*, 820 N.W.2d 563 (Minn. Ct. App. 2012) to the Minnesota Supreme Court; all appeal deadlines have since passed; and

WHEREAS, the Minnesota Court of Appeals' decision *In re PERA Salary Determinations Affecting Retired & Active Employees*, 820 N.W.2d 563 (Minn. Ct. App. 2012) is legally binding on the amounts that the PERA board must deem to be valid versus invalid salary; and

WHEREAS, considering the provisions of the above-referenced 2011 Special Session Law, the city has three possible options available to it for the correction of erroneous employee deductions, employer contributions and the adjustment of overpaid benefits (1) follow existing law, (2) a compromise option, and (3) limit application to three years; and

WHEREAS, the city council has reviewed the options available and has determined which procedure is in the best interests of the city to pursue.

THEREFORE BE IT RESOLVED, that in accordance with Minnesota Statutes Section 645.021, Subd. 2, the Duluth City Council hereby approves the provisions of Chapter 8 of House File Number 14, and Senate File Number 7 of the 2011 Minnesota 1st Special Session Laws and directs the city clerk to file the applicable certificate of approval with the secretary of state.

FURTHER RESOLVED, that the city council hereby elects to employ Option B, as set forth on Public Document No. 12-1217-34 on file in the office of the city clerk, in order to correct erroneous employee deductions, employer contributions and adjusting overpaid benefits due to certain employer-paid benefits being incorrectly treated as PERA eligible salary since approximately 1995 through 2007.

Resolution 12-0642, as amended, was unanimously adopted.

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0644, authorizing the application for and acceptance of a \$50,000 grant from the U.S. department of energy and Minnesota department of commerce through the American recovery and reinvestment act of 2009 for a feasibility study on the expansion of Duluth's steam systems in Canal Park; and Resolution 12-0645, authorizing an agreement with Ever-Green Energy, LLC, for professional consulting services for the preparation of a feasibility

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

study for the expansion of Duluth's steam network in canal park in an amount not to exceed \$45,100, were introduced by Councilor Krug for discussion.

Councilor Fosle expressed his concerns that Ever-Green originally stated that they would not be looking to change from steam to hot water and now it shows that they will be making that change with the costs of this being on all the taxpayers of the city, even though they will not all receive this service.

Mr. Montgomery reviewed how this study is not for the full system, just the leg going to the Canal Park, which currently has hot water being used in some locations there.

Resolutions 12-0644 and 12-0645 were adopted as follows:

RESOLVED, that the proper city officials are authorized to apply for an accept a grant in the amount of \$50,000 from the U.S. department of energy and Minnesota department of commerce through the American Recovery and Reinvestment Act of 2009 (ARRA) and to execute a grant contract, substantially the same as that on file in the office of the city clerk as Public Document No. 12-1217-35, for the purpose of a feasibility study on the expansion of Duluth's steam systems in Canal Park, funds to be deposited in Fund 540-920-1496-4210 (steam fund, steam department, utility revenues, pass-thru federal grants).

Resolution 12-0644 was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 8

Nays: Councilor Fosle -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Ever-Green Energy, LLC, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-36, for professional consulting services for the preparation of a feasibility study for the expansion of Duluth's steam network in Canal Park in an amount not to exceed \$45,100, payable from Fund 540-920-1495-5319 (steam fund, steam department, steam general and administrative, other professional services).

Resolution 12-0645 was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 8

Nays: Councilor Fosle -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0604, in the matter of the off sale liquor license of Last Chance of Duluth, Inc. (Last Chance Liquor), 619 East Fourth Street, was introduced by Councilor Krause for discussion.

Councilor Krause moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Katie Hagglund, a member of the family owning this business, noted that there was a mitigating circumstance to the police department's sting of their employee since the employee did ask the decoy for his identification and when he did not have it, the employee asked him if he was 21 and the decoy then stated that he was, which is not proper procedure for the decoy to lie. She noted that they realize their employee broke the law, but there are mitigating

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

circumstances, as supported by alcohol, gambling and tobacco commission's recommendation.

Councilor Krause expressed concerns that other licensees with similar circumstances were charged \$500 and that the city should treat all licensees the same and not be discriminatory.

Resolution 12-0604 was adopted as follows:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On November 7, 2012, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Last Chance of Duluth, Inc. (Last Chance Liquor), 619 East Fourth Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 12-1217-37;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on December 17, 2012, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 12-1217-37 regarding any suspension, revocation and/or civil penalty relating to the off sale liquor license of Last Chance of Duluth, Inc. (Last Chance Liquor), 619 East Fourth Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: that the Duluth City Council fine the licensee \$100 for the offense payable within 30 days of final city action.

Resolution 12-0604 was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Hartman -- 8

Nays: Councilor Krause -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0613, authorizing execution of an agreement with the Duluth economic development authority (DEDA) relating to participation by DEDA in the city of Duluth self insurance fund program for 2013, was introduced by Councilor Stauber for discussion.

Councilor Krause expressed concerns that, with the city being self insured, when something happens on DEDA property, the city taxpayers would have to pay for it and with only one catastrophic incident it would significantly affect the city's operations.

Resolution 12-0613 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-38, which allows DEDA to participate in the city's self insurance fund program during 2013; DEDA funds in the amount of \$7,000 to be deposited into self insurance fund Fund 610 (self insurance liabilities fund), Agency 036 (insurance accounts), Organization 1656 (DEDA), Object 4904 (liabilities insurance charges).

Resolution 12-0613 was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Hartman -- 8

Nays: Councilor Krause -- 1

Approved December 17, 2012

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

Resolution 12-0627, by councilors Stauber and Krause, requesting the mayor and city administration remove any signage designating a free speech zone (first amendment area) in Bayfront Festival Park and terminate any enforcement thereof, was introduced for discussion.

Councilor Stauber commented at length about the issues of: historical free speech creation across the nation and locally; the creation of this free speech zone at Bayfront that the council was not made aware of prior to its creation and that the City Charter states the legislative duties and powers of the city council.

Mr. Montgomery noted that: the administration could have handled this process better; the city was sued and responded to it; the police officer there has been removed and the city is looking to resolve this situation and support Bentleyville.

City Attorney Gunnar Johnson noted that: the litigation is from an incident in 2010; no one has been arrested; a closed session should be conducted if the councilors have further questions about this case.

Councilors commented at length about the issue raised in the resolution and the administration's comments.

Councilor Stauber moved to remove the resolution from the agenda, which motion was seconded and unanimously carried.

- - -

Resolution 12-0639, by Councilor Gardner, regarding state and local government funding and the impact of Pentagon spending, was introduced for discussion.

Councilor Gardner moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Fletcher Hinds, Rodger Cragun, John Clark Pegg, Hal Moore, Justine Anderson, Scot Bol, Jan Karon, Jack Nelson-Pallmeyer, Tyler Nord, Tom Gilliam and Warren Howe supported the resolution for the reasons of: from a veteran's point of view supporting the troops means transporting the veterans back into a culture that is committed to care for them; this is a country who takes care of those who are in need; the federal budget should not be balanced on the back of those who have fought in the wars, that have put the country into debt; multi-million dollar military expenditures are supporting corporate welfare to executives; we are being destroyed and bankrupted with a budget that has over 50 percent spending on the military; the city and school board has had to make cuts because of state and federal funding cuts; a strong and realistic national defense is needed but an unchallenged national defense budget is creating a nation less stable and secure; it is respect and interest in the trust of others that brings about cooperation and goodwill, rather than the other way around which is practiced through the military; there are very serious issues that citizens have to deal with at home that will not be solved through the production of assault weapons; most students are drowning with education debt; this resolution has strong support across the state and country; the country is not broke, just that too much is spent on the military; there is so much that could be accomplished with reprioritizing our spending; the United States spends an enormous amount on military spending; our national priorities need to be changed to domestic spending; this is only a request to Minnesota representatives to make an effort to shift spending priorities; this starts a conversation of what needs are not being met in communities and what could be changed with less military spending; next year more dollars will be spent in Afghanistan than on the entire total food stamp program; the government has created a phony perception of terrorism and this is the business of the city council because this is a vote for the constituents, because, with less military spending, it could bring federal dollars back to the community.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Councilors Krause and Stauber opposed the resolution for the reasons of: military spending keeps local manufacturing businesses open and local residents employed; there is a great deal of research that is done for the military and then available to consumers; local guard bases employ citizens and support the community and a strong military is the most crucial service that the government can provide to its citizens.

President Hartman stated that he would be abstaining for professional reasons.

Resolution 12-0639 was adopted as follows:

WHEREAS, in 2011 the Minnesota state government shut down over disputes as to how to address a \$5 billion two-year budget shortfall; and

WHEREAS, many small towns, cities and rural communities throughout the state are managing austerity budgets, laying off police, firefighters, and teachers and cutting essential services in response to cuts in state aid and/or federal cuts to community development block grants; and

WHEREAS, communities throughout the state have suffered from a regressive property tax system due in part to state and federal cuts; and

WHEREAS, Duluth tax payers have contributed \$450 million and counting towards the Iraq and Afghanistan wars alone; and

WHEREAS, in addition to these costly wars, Minnesota tax payers are spending more than \$16 billion in 2012 for their share of the base Pentagon budget, a budget that increased from \$290.5 billion to \$526 billion between 2000 and 2011; and

WHEREAS, in 2012 \$.59 of every dollar of federal discretionary spending is funding military purposes; and

WHEREAS, on a local level the 148th Fighter Wing is an example of a military unit doing more with less, and serves as a model of prudent military spending; and

WHEREAS, the budget for veterans is separate from the military budget and the nation has a responsibility to provide veterans with quality medical care and other support, including opportunities for meaningful jobs; and

WHEREAS, although the council highly values our military, our nation needs to better balance its approach to national security to include the economic, social, and environmental needs of our local communities, state and nation.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests that our state and federal representatives make an effort to shift federal funding priorities from Pentagon spending to domestic economic, social and environmental priorities to better serve local communities.

Resolution 12-0639 was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Julsrud, Krug and Larson -- 5

Nays: Councilors Fosle, Krause and Stauber -- 3

Abstention: President Hartman -- 1

Approved December 17, 2012

DON NESS, Mayor

- - -

Resolution 12-0617, authorizing a license agreement with the Duluth economic development authority (DEDA) to dispose of snow on property owned by DEDA Lot D located west of Bayfront Park at no cost to the city, was introduced by Councilor Julsrud for discussion.

Councilors Stauber and Fosle expressed concerns of: every state except Minnesota has rules about dumping snow next to rivers and streams; states that prohibit this, because of the problem of what is in the snow and DEDA has a grant to clean up Lot D.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Mr. Montgomery reviewed that the Minnesota pollution control agency has to approve this annual process and have notified the city that this should have a negative effect.

Resolution 12-0617 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute a license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 12-1217-39, with the Duluth economic development authority (DEDA), to allow the city to dispose of snow from street plowing operations on certain DEDA-owned property known as DEDA Lot D located west of Bayfront Park.

Resolution 12-0617 was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Julsrud, Krause, Krug, Larson and President Hartman -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved December 17, 2012

DON NESS, Mayor

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

ORDINANCES TABLED

INTRODUCED BY COUNCILOR STAUBER

12-070(a) (10192) - AN ORDINANCE CREATING SECTIONS 50-15.7 AND 50-18.5, AND AMENDING SECTIONS 50-2, 50-13.3, 50-14.6, 50-14.7, 50-15.2, 50-18.4, 50-19.8, 50-20.3, 50-20.5, 50-35, 50-37.1, AND 50-37.11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING R-2 AND MU-N DEVELOPMENT STANDARDS, RESIDENTIAL PLANNED ZONING DISTRICTS, MIXED USE PLANNING ZONING DISTRICTS, SKYLINE PARKWAY OVERLAY DISTRICT, HIGHER EDUCATION OVERLAY DISTRICT, PERMITTED USE TABLE, VACATION DWELLING UNITS, SUMMARY TABLE, ADMINISTRATIVE ADJUSTMENTS, AND PLANNING REVIEW.

Councilor Stauber moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

12-070(b) - AN ORDINANCE CREATING SECTIONS 50-27, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS, NON-CONFORMING SIGNS, AND DEFINITIONS.

Councilor Stauber moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Todd Johnson commented that: businesses will be killed with these changes; permits for signs have been delayed; other cities in Minnesota and the city of Superior, Wisconsin, allows larger signs than this ordinance and measuring from the street curb is absurd for businesses built on hills.

Councilor Stauber moved to retable the ordinance, which motion was seconded and unanimously carried.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

12-073 (10193) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2013.

Councilor Krug moved to suspend the ordinance from a speaker, which motion was seconded and unanimously carried.

David Ross, executive director of the Duluth Area Chamber of Commerce, expressed concerns that additional economic initiatives be found within the city's proposed budget with no additional tax increases and that a tax increase would be counterproductive.

Councilors Stauber, Gardner, Krause and Fosle opposed the ordinance for the reasons of: if the levy increased for additional staff, the city would lose three times that many private sector jobs; the need is to pay attention to the basic services and support existing businesses; these are tough economic times with job losses already; the more that is done in one area, requires a reduction in a different area and when the maximum levy was passed in September, DEDA had already hired an employee.

Mr. Montgomery noted that the employee referenced was already in the existing budget and that the city cannot successfully increase the tax base without this staffing.

Councilors Boyle, Larson, Krug, Julsrud and President Hartman supported the ordinance for the reasons of: this is the time to support economic development; this could help bring a couple of big companies to Duluth; the city is understaffed in this area; it is one of the smallest increases; there is a lot of momentum to move forward at this time; even with our other business partners, this is needed to carry new business opportunities across the line; next to streets, this was the next highest priority for citizens and compared to other cities in Minnesota of our size, their economic staff is much larger than this.

Councilor Krug moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

- - -

INTRODUCED BY COUNCILOR KRUG

12-074 (10194) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2013.

Councilor Krug moved passage of the ordinance and the same was adopted as follows:

Yeas: Councilors Boyle, Gardner, Julsrud, Krug, Larson and President Hartman -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

- - -

INTRODUCED BY COUNCILOR KRUG

12-076 (10195) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2013; APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Stauber noted that the 2013 budget did not include any funding for street preservation and improvements.

Councilor Krug moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- - -

INTRODUCED BY COUNCILOR STAUBER

12-075 (10196) - AN ORDINANCE AMENDING ORDINANCE NUMBER 10162 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO CORRECT THE LEGAL DESCRIPTION (CITY OF DULUTH).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

COUNCILOR QUESTIONS AND COMMENTS

Councilor Boyle announced that he wished to be considered as a candidate for council president in 2013.

Councilors Krug and Stauber announced that they wished to be considered as candidates for council vice president for 2013.

- - -

The meeting was adjourned at 10:19 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10192

AN ORDINANCE CREATING SECTIONS 50-15.7 AND 50-18.5, AND AMENDING SECTIONS 50-2, 50-13.3, 50-14.6, 50-14.7, 50-15.2, 50-18.4, 50-19.8, 50-20.3, 50-20.5, 50-35, 50-37.1, AND 50-37.11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING R-2 AND MU-N DEVELOPMENT STANDARDS, RESIDENTIAL PLANNED ZONING DISTRICTS, MIXED USE PLANNING ZONING DISTRICTS, SKYLINE PARKWAY OVERLAY DISTRICT, HIGHER EDUCATION OVERLAY DISTRICT, PERMITTED USE TABLE, VACATION DWELLING UNITS, SUMMARY TABLE, ADMINISTRATIVE ADJUSTMENTS, AND PLANNING REVIEW.

The city of Duluth does ordain:

Section 1. That Section 50-2 of Chapter 50 be amended as follows:

Sec. 50-2. Purpose.

The purpose of this Unified Development Chapter is to protect public health, safety, and welfare and to implement the goals and objectives of the comprehensive land use plan using those authorities over the development, redevelopment, use, and occupancy of land and structures, and over the protection of the environment, granted to the city by the state. This general purpose includes, but is not limited to, the following:

- (a) To provide for more sustainable development within the city by reducing carbon emissions, vehicle miles travelled, energy consumption, and water consumption, and by encouraging production of renewable energy and food production;
- (b) To control or eliminate soil erosion and sedimentation within the city;
- (c) To protect and enhance the city's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
- (d) To enhance the visual and aesthetic character, diversity and interest of the city;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- (e) To promote the use and preservation of historic landmarks and districts for the educational and general welfare of the people of the city;
- (f) To regulate erection and maintenance of signs in the city in order that signs might fulfill their necessary and useful function in such a way to preserve the public welfare and safety;
- (g) To preserve the integrity of residential areas and the character and dignity of public structures, parks and other open spaces;
- (h) To enhance property values and the general appearance and natural beauty of the city;
- (i) To protect the public investment in streets and highways;
- (j) To establish a comprehensive system of sign controls governing the display, design, construction, installation and maintenance of signs and to promote the orderly and effective display of outdoor advertising;
- (k) To promote, preserve, and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development in wetlands, shorelands, and floodplains.

Section 2. That Section 50-13.3 of Chapter 50 be amended as follows:

50-13.3 Zone districts established.

For the purposes of this Article, the city is hereby divided into districts, as follows:

Table 50-13.3-1: Zone Districts Established		
District Type	Abbreviation	District Name
Residential	R-C	Rural-Conservation
	RR-1	Residential-Rural 1
	RR-2	Residential-Rural 2
	R-1	Residential-Traditional
	R-2	Residential-Urban
	R-P	Residential-Planned
Mixed Use	MU-N	Mixed Use-Neighborhood
	MU-C	Mixed Use-Commercial
	MU-I	Mixed Use-Institutional
	MU-B	Mixed Use-Business Park
	MU-W	Mixed Use-Waterfront
	MU-P	Mixed Use-Planned
Form Based	F-1	Form District 1
	F-2	Form District 2
	F-3	Form District 3
	F-4	Form District 4
	F-5	Form District 5
	F-6	Form District 6
	F-7	Form District 7
	F-8	Form District 8
	F-9	Form District 9
Special Purpose	I-G	Industrial-General
	I-W	Industrial-Waterfront
	P-1	Park & Open Space

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Overlay	NR-O	Natural Resources Overlay
	A-O	Airport Overlay
	SP-O	Skyline Parkway Overlay
	HR-O	Historic Resources Overlay
	HE-O	Higher Education-Overlay

Section 3. That Section 50-14.6 of Chapter 50 be amended as follows:

50-14.6 Residential-Urban (R-2).

A. Purpose.

The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods.

TABLE 50-14.6-1 R-2 DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area per family	One-family	4,000 sq. ft.
Minimum lot area per family	Two-family	2,500 sq. ft.
Minimum lot area per family	Multi-family	750 sq. ft.
Minimum lot area per family	Townhouse	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use.		
Minimum lot frontage	One-family, two-family, and townhouse	30 ft.
	Multi-family and non-residential	50 ft.
STRUCTURE SETBACKS		
Minimum depth front yard		The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard for structures less than 3 stories		6 ft.
Minimum width of side yard for structures 3 stories or more		10 ft.
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory structure	20 ft.
	Permitted non-residential structure	25 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of structure		45 ft.
Section 50.21 <i>Dimensional Standards</i> contains additional regulations applicable to this district.		

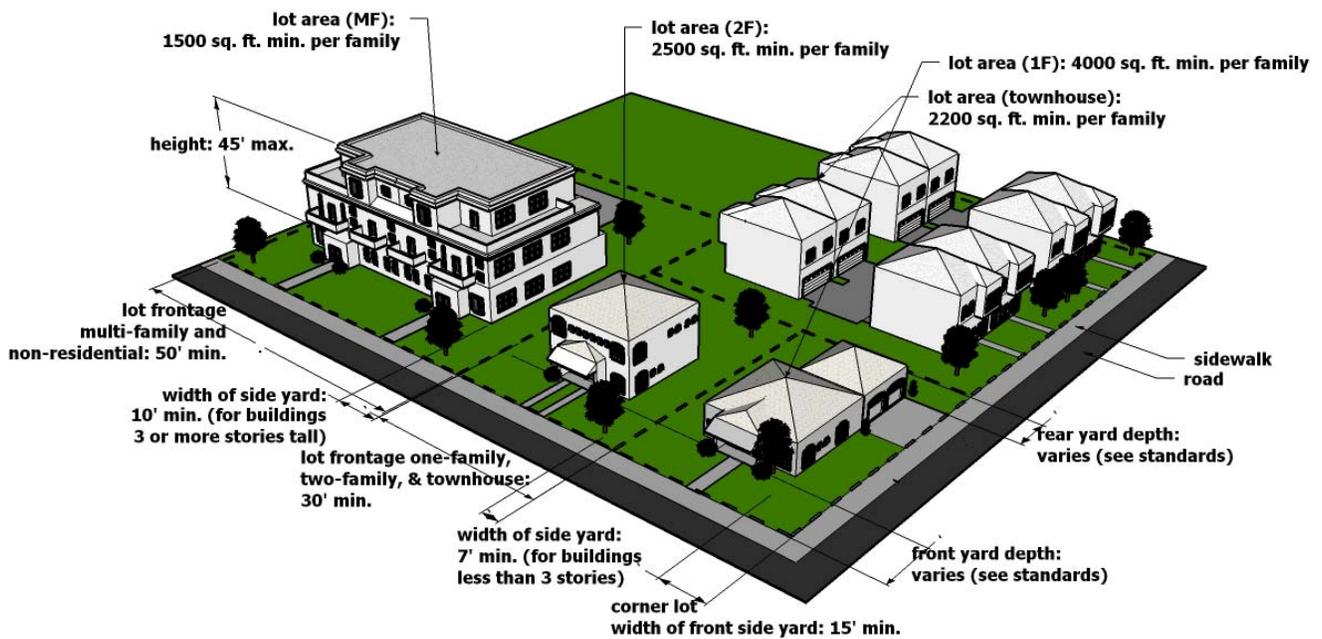
B. Example.

R-2 Example Building Form



C. Illustration.

R-2 Example Lot Layout



Section 4. That Section 50-14.7 of Chapter 50 be amended as follows:
50-14.7 Residential-Planned.

A Purpose.

The R-P district is established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types,

provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. Single-family residences, two-family residences, and townhouses, as well as accessory uses, are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved R-P plan.

B. **Examples.**

R-P Example Building Forms



C. **Modifications.**

An applicant may seek only the modifications in Table 50-14.7-1, based on demonstration of how the proposal supports the purpose of the R-P district as stated in Section 50-14.7.A and the following desired R-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas.
2. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by Section 50-28.
3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost.
4. Recreational facilities that are open to the public, such as parks and playgrounds.
5. Accommodations for and linkages to mass transit.
6. Creative site design as appropriate for the site, such as New Urbanist design for a walkable community or conservation development for a rural neighborhood.
7. Bike lanes and trails within the development and connecting to other trails and destinations.
8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Table 50-14.7-1: Modifications Allowed.	
Chapter Requirement	Maximum Modification Allowed
<u>Distance from property lines</u>	<u>Reduction in setbacks; minimum 5' setback from rights of way</u>
<u>Lot frontage</u>	<u>25% decrease</u>
<u>Lot area, general</u>	<u>20% decrease</u>
<u>Lot area, when clustering is used to preserve open space</u>	<u>Overall density of the R-P district should demonstrate a maximum of 20% decrease over base zone districts. Individual lot sizes are allowed up to a 50% decrease.</u>
<u>Building height</u>	<u>Up to a 5' increase</u>
<u>Landscaping</u>	<u>15% decrease</u>
<u>Street width</u>	<u>As determined by city engineer</u>

D. Applicability.

An R-P district shall only be established in the RR-1, RR-2, and R-1 districts provided the property meets the requirements in Table 50-14.7-2.

TABLE 50-14.7-2: Characteristics of R-P Areas	
<u>Current zoning</u>	<u>RR-1, RR-2, R-1</u>
<u>Minimum lot size</u>	<u>4 acres</u>

E. Rezoning approval and regulating plan required.

The establishment of an R-P district requires rezoning the property per Section 50-37.3 from a current zone district to R-P and the approval of an R-P plan per Section 50-37.11 that governs the uses, location, density, dimensional standards and character of the proposed project.

In accordance with the purpose of the R-P district, approval of the R-P plan is deemed to include subdivision approval; R-P districts are not required to submit a separate subdivision application under Section 50-37.5.

F. Development standards.

1. The development standards of the base zone district(s) where the property is located shall apply to any R-P zoned land unless waived or varied by the terms of an approved R-P regulating plan. The ordinance approving an R-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property.
2. Overall density in residential portions of the R-P shall follow the density requirements of the previous zone district unless modified as part of the R-P plan.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

3. Minimum percentage of property (excluding common open space) used for residential purposes shall be 66%.
4. Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 30% of the area of the project (not including right of way) and shall comply with the following requirements:
 - (a) Common open space shall include the shore and bluff impact zones;
 - (b) Common open space shall include, where possible, lands within the Skyline Overlay;
 - (c) Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
 - (d) No more than one-quarter of the required common open space shall consist of wetlands;
 - (e) Common open space shall not include areas within 25 ft. of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings;
 - (f) At least 50% of the common open space shall be retained in a contiguous area;
 - (g) Where possible, the design should utilize features such as vegetation, fences, topography, roads or trails to delineate the boundary of the common open space to minimize potential physical encroachments into the common open space by adjacent homeowners.
 - (h) Common open space shall not include land within rights-of-way.
 - (i) Ownership of common open space. Common open space shall be owned and managed by a property owners association and shall be encumbered through an easement, restrictive covenant or other instrument suitable to the city.
5. All shoreland setbacks and other dimensional requirements from Section 50-18.1 (NR-O) shall continue to apply and cannot be varied through the R-P process.

G. Required rezoning application and regulating plan contents.

1. The rezoning application (approved per Section 50-37.3) shall include the following information:
 - a) A concept map showing the property to be rezoned and general uses within the area;
 - b) Maximum residential densities and maximum square footage for nonresidential land uses;
 - c) Maximum building heights.
2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed R-P district and shall regulate all future development in the R-P district. An approved R-P plan is required before any building permits

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

may be issued within the R-P district. The R-P plan shall include maps and text describing the following information:

- a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
- b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;
- c) Previous base zone districts;
- d) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;
- e) A natural resources inventory and natural site features to be protected;
- f) Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the R-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
- g) Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8; special uses listed in the R-P plan will need to apply for and receive a special use permit prior to building.
- h) Maximum residential densities and maximum square footage for nonresidential land uses.
- i) A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;
- j) Details on buffering or transitioning between uses of different intensities both on- and off-site.
- k) A plan for stormwater collection and treatment that includes a summary of land use and technical methods used to minimize storm water run-off from the site;
- l) Off-street parking to be provided in driveways, surface lots and garages;
- m) Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use;
- n) Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- o) If a project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements, and provision of public amenities. Phasing plan shall include an approximate time frame for each phase of development. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the city attorney for the completion of the development according to the approved R-P plan.
- p) Cross sections demonstrating the proportions of buildings and the relationship between those buildings, pedestrian spaces, and the streetscape.

H. Previously approved developments.

All residential developments approved prior to November 19, 2010, as low-density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved R-P developments, and will be rezoned to the R-P zone district.

I. Amendments.

Applications to amend an existing R-P plan shall follow the process described in Section 50-37.3 if they relate to uses, densities, or height. All other amendments shall follow the process in Section 50-37.11.

Section 5. That Section 50-15.2 of Chapter 50 be amended as follows:

50-15.2 Mixed Use-Neighborhood.

A. Purpose.

The MU-N district is established to accommodate a mix of neighborhood-scale, neighbor-hood serving non-residential uses and a range of residential uses located in close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) types of mixed use. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood, as shown in Table 50-19.8.

TABLE 50-15.2-1 MU-N DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
	Townhouse or live-work dwelling	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use		
Minimum lot frontage	One-family, two-family, or townhouse dwelling	30 ft.
	Multi-family or non-residential	50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard	One-family, non-residential, and mixed use	The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard	Non-residential use adjacent to residential district or use	15 ft.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
	Minimum depth of rear yard	25 ft.
STRUCTURE HEIGHT		
Maximum height of structure	Non-residential use	35 ft.
	Residential or mixed use (general)	75 ft.
	Residential or mixed use (within 200 ft. of R-1)	35 ft.
	Residential or mixed use (within 200 ft. of R-2)	50 ft.

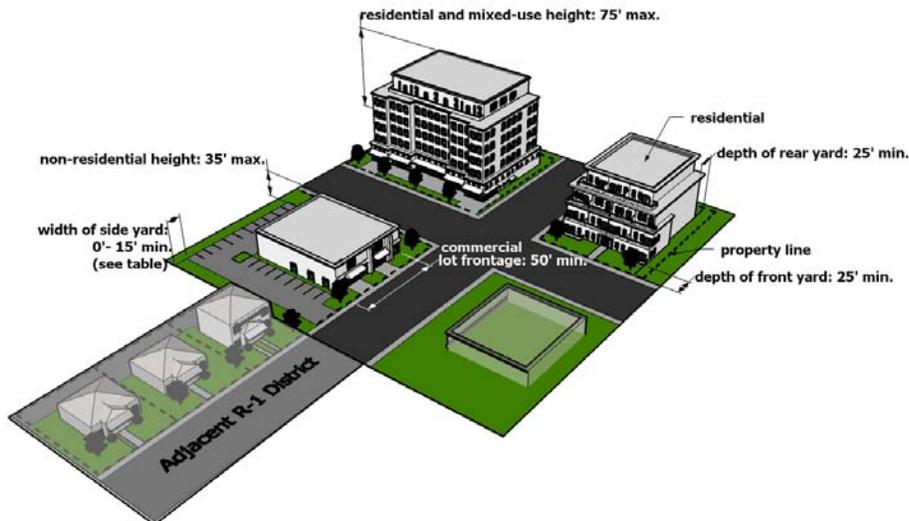
Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

B Example.

MU-N Example Building Form



C Illustration.



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 6. That Section 50-15.7 of Chapter 50 be created as follows:
50-15.7 Mixed Use-Planned.

A. **Purpose.**

The MU-P district is established to provide a flexible development option for mixed use projects that integrate creative site design, provide a variety of building types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each MU-P district requires approval of an MU-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. A variety of residential and commercial uses are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved MU-P plan.

B. **Examples.**



MU-P Example Building Forms

C. **Modifications.**

An applicant may seek only the modifications in Table 50-15.7-1, based on demonstration of how the proposal supports the purpose of the MU-P district as stated in Section 50-15.7.A and the following desired MU-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas.
2. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by Section 50-28.
3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost.
4. Recreational facilities that are open to the public, such as parks and playgrounds.
5. Accommodations for and linkages to mass transit.
6. Creative site and building design.
7. Bike lanes and trails within the development and connecting to other trails and destinations.
8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Table 50-15.7-1: Modifications Allowed.	
Chapter Requirement	Maximum Modification Allowed
<u>Distance from property lines</u>	<u>No required yards</u>
<u>Building height</u>	<u>20% increase if not within 200' of an R-1 or R-2</u>
<u>Lot frontage</u>	<u>10% decrease</u>
<u>Buildings per lot</u>	<u>More than one building may be placed on one lot</u>
<u>Parking</u>	<u>10% decrease in addition to other allowable chapter reductions or a 10% increase over the maximum</u>
<u>Landscaping</u>	<u>20% decrease</u>
<u>Street width</u>	<u>As determined by City Engineer</u>
<u>Building design standards</u>	<u>Can propose alternative standards</u>
<u>Higher Education Overlay</u>	<u>Can propose alternative standards</u>

D. Applicability.

An MU-P district shall only be established in the R-2, MU-N, MU-C, and MU-B districts provided the property meets the requirements in Table 50-15.7-2.

TABLE 50-15.7-2: Characteristics of MU-P Areas.	
<u>Current zoning</u>	<u>R-2, MU-N, MU-C, MU-B</u>
<u>Minimum lot size</u>	<u>2 acres</u>

E. Rezoning approval and regulating plan required.

The establishment of an MU-P district requires rezoning the property per Section 50-37.3 from a current zone district to MU-P and the approval of an MU-P plan per Section 50-37.11, that governs the uses, location, density, dimensional standards and character of the proposed project.

In accordance with the purpose of the MU-P district, approval of the MU-P plan is deemed to include subdivision approval; MU-P districts are not required to submit a separate subdivision application under Section 50-37.5.

F. Development standards.

1. The development standards of the base zone district(s) where the property is located shall apply to any MU-P zoned land unless waived or varied by the terms of an approved MU-P regulating plan. The ordinance approving an MU-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property.
2. Overall density in residential portions of the MU-P shall follow the density requirements of the previous zone district unless modified as part of the MU-P plan.

3. Height standards:

(a) Maximum building height within 200 ft. of an R-1 district is 35 ft.

(b) Maximum building height within 200 ft. of an R-2 district is 50 ft.

4. Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 20% of the area of the project and shall comply with the following requirements:

(a) Common open space shall include the shore and bluff impact zones;

(b) Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;

(c) At least 50% of the common open space shall be retained in a contiguous area;

(d) Common open space shall not include roads or right-of-way.

5. The development shall encourage walkable, bikeable communities through the use of complete streets, alleys, sidewalks and trails, interconnected street networks, small blocks, front porches, and buildings that are sited adjacent to streets;

6. All shoreland setbacks and other dimensional requirements from Section 50-18.1 (NR-O) shall continue to apply and cannot be varied through the MU-P process.

G. Required rezoning application and regulating plan contents.

1. The rezoning application (approved per Section 50-37.3) shall include the following information:

a) A concept map showing the property to be rezoned and general uses within the area;

b) Maximum residential densities and maximum square footage for nonresidential land uses;

c) Maximum building heights.

2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed MU-P district and shall regulate all future development in the MU-P district. An approved MU-P plan is required before any building permits may be issued within the MU-P district. The MU-P plan shall include maps and text describing the following information:

a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;

b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;

c) Previous base zone districts;

d) A traffic impact analysis;

e) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- f) A natural resources inventory and natural site features to be protected;
- g) Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the MU-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
- h) Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8; special uses listed in the MU-P plan will need to apply for and receive a special use permit prior to building.
- i) Maximum residential densities and maximum square footage for nonresidential land uses.
- j) A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;
- k) Details on buffering or transitioning between uses of different intensities both on- and off-site.
- l) A plan for stormwater collection and treatment that includes a summary of land use and technical methods used to minimize storm water run-off from the site;
- m) Off-street parking to be provided in driveways, surface lots and garages;
- n) Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use;
- o) Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time.
- p) If a project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements, and provision of public amenities. Phasing plan shall include an approximate time frame for each phase of development. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the City Attorney for the completion of the development according to the approved MU-P plan.
- q) Cross sections demonstrating the proportions of buildings and the relationship between those buildings, pedestrian spaces, and the streetscape.

H. Amendments.

Applications to amend an existing MU-P plan shall follow the process described in Section 50-37.3 if they relate to uses, densities, or height. All other amendments shall follow the process in Section 50-37.11.

Section 7. That Section 50-18.4 of Chapter 50 be amended as follows:

50-18.4 Skyline Parkway Overlay (SP-O).

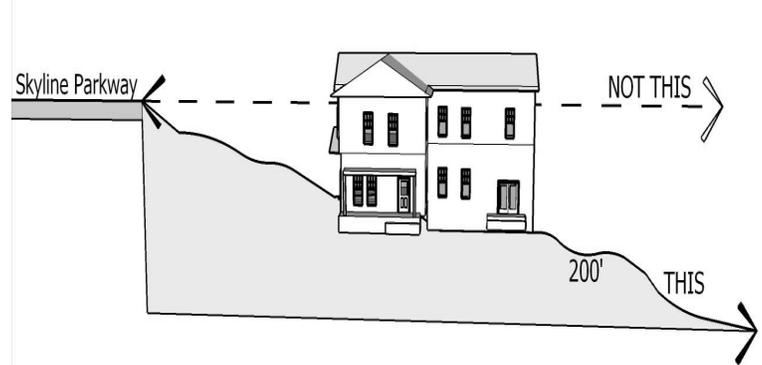
I. Purpose.

The purpose of this Section 50-18.4 is to protect the unique character and visual qualities of Skyline Parkway as documented in the Skyline Parkway corridor management plan and the Comprehensive Land Use Plan while protecting the property rights of private property owners affected by these regulations. One key purpose is to protect views from Skyline Parkway toward Lake Superior, the St Louis River, and the harbor, from a wide variety of vantage points along the parkway and to encourage the construction of narrower buildings located farther from the Skyline Parkway rather than wider buildings located closer to the parkway.

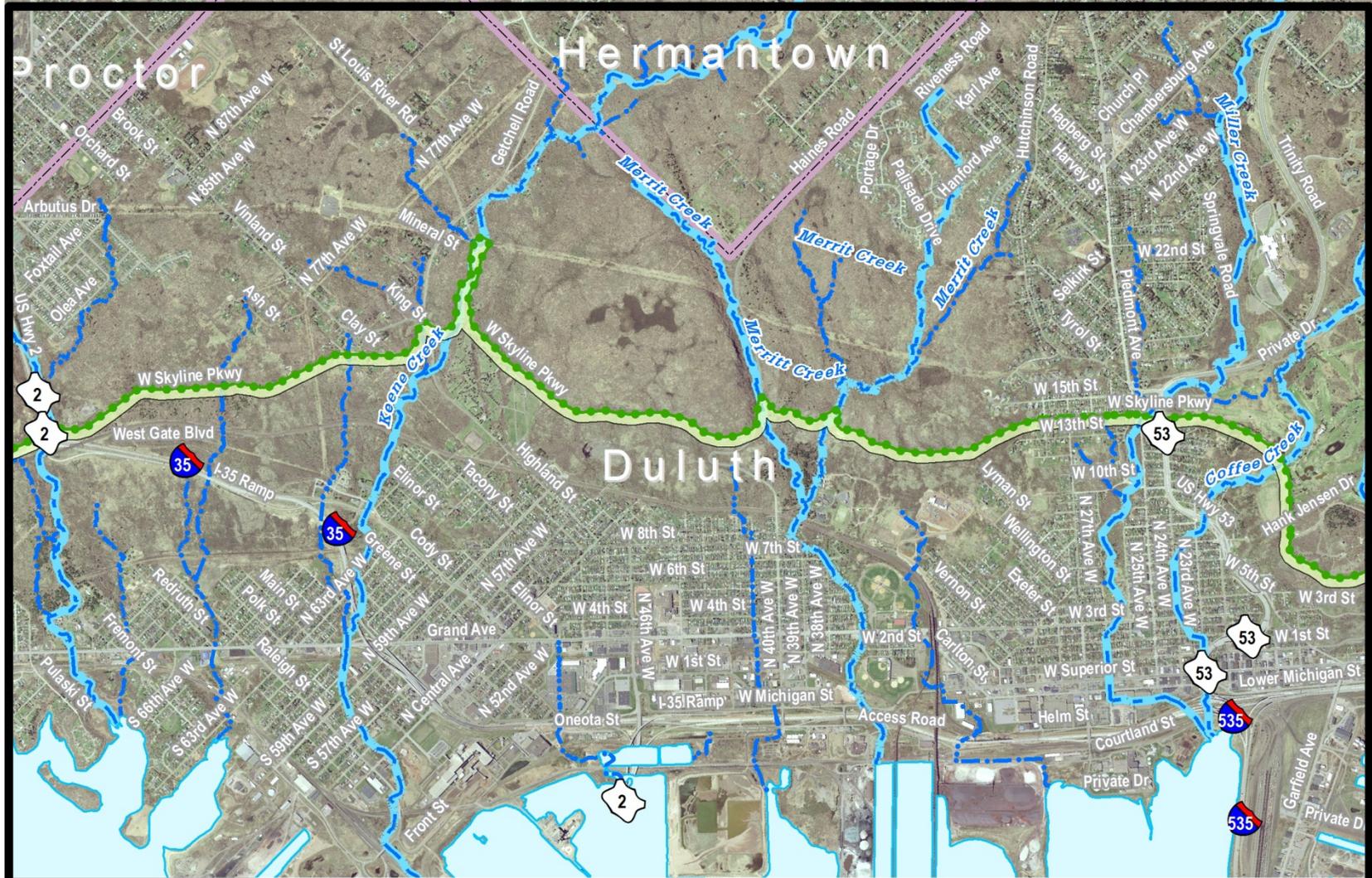
J. Land affected.

The regulations of this Section 50-18.4 apply to all private and public property located within 200 feet of the downhill side of Skyline Parkway as shown on exhibits 50-18.4-1 to 4. The 200 foot distance shall be measured from the edge of the right-of-way along the slope of the affected property (not horizontally from the road), as shown in Figure 50-18.4-1. The Skyline Parkway Overlay maps are shown only for illustrative purposes and are not intended to regulate the boundary of the 200 foot distance.

Figure 50-18.4-1: Measurement of 200' boundary





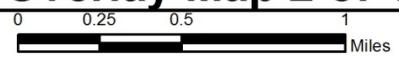


Legend

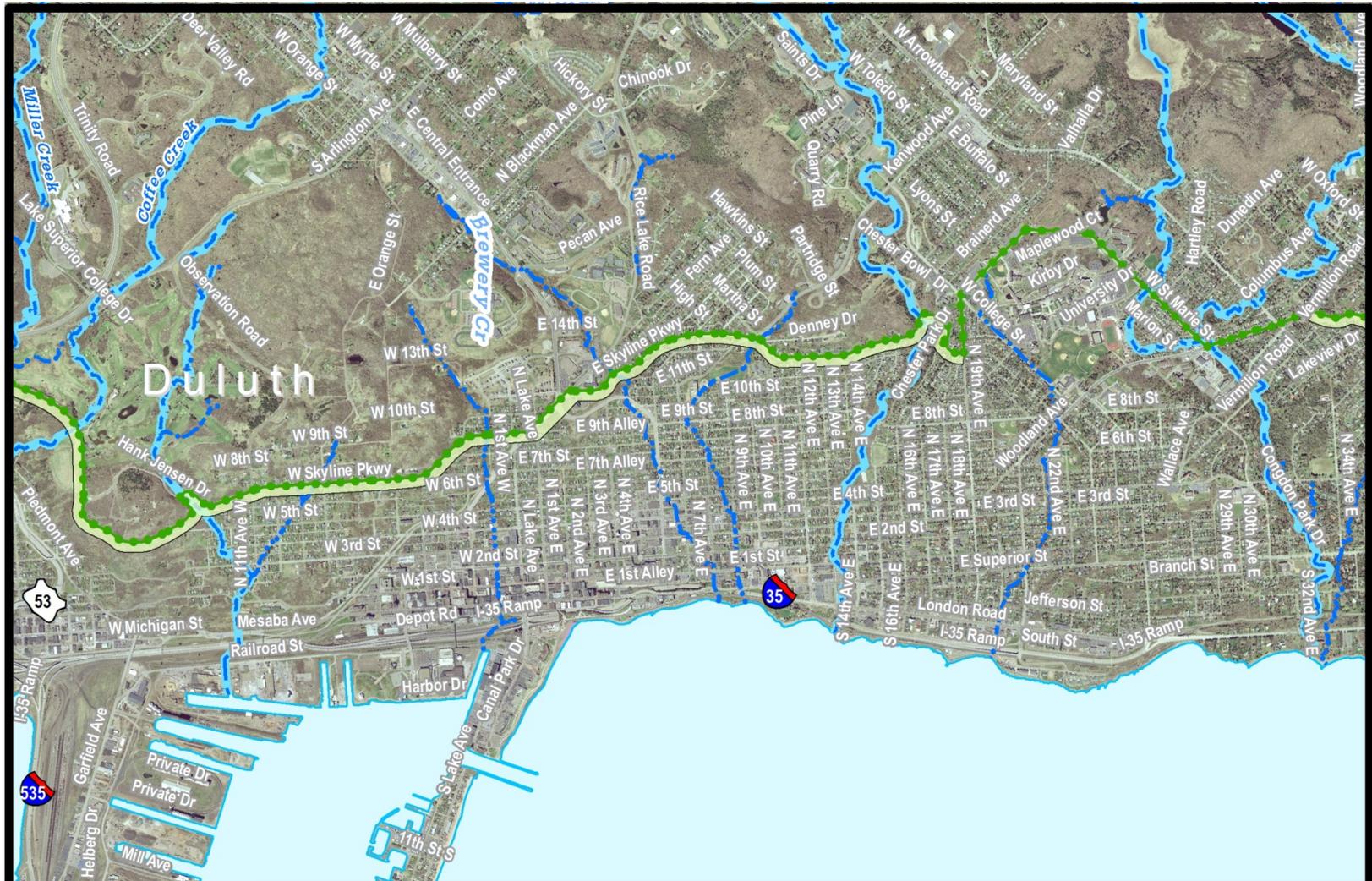
- Skyline Parkway
- Skyline Overlay
- Municipal Boundary



Exhibit 50-18.4-2
Skyline Parkway Overlay Map 2 of 4



Aerial photography flown 2011. Prepared by: City of Duluth Planning Division, June 6, 2012. Source: City of Duluth, MnDNR, MnDOT.



Legend

- Skyline Parkway
- Skyline Overlay
- Municipal Boundary



Exhibit 50-18.4-3
Skyline Parkway Overlay Map 3 of 4



Aerial photography from 2011. Prepared by: City of Duluth Planning Division, June 6, 2012. Source: City of Duluth, MnDNR, MnDOT.



K. Construction and reconstruction affected.

This Section 50-18.4 shall apply to (1) all construction of new buildings or additions to buildings, (2) all reconstruction of an existing building or addition, (3) all construction of fences and walls, and (4) all installation and maintenance of landscaping within the SP-O zone district, after November 19, 2010, Buildings, additions, fences and walls that are permitted or exist on November 19, 2010, shall not be required to comply with the provisions of this Section, and shall be considered conforming structures for zoning purposes.

L. Design Controls.

When construction of a building or an addition to a building, or reconstruction of an existing building or addition is proposed within the SP-O zone district, the following standards shall apply:

1. The building or addition shall be located at least 50 ft. from the right-of-way of Skyline Parkway, or as close to that distance as is reasonably possible without violating required side or rear setbacks;

Exhibit 50-18.4-6:
Measurement of Long Axis

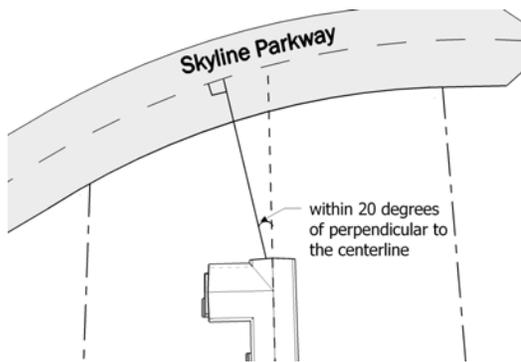
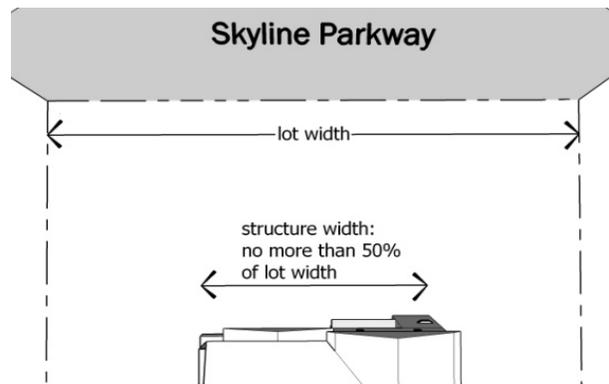


Exhibit 50-18.4-7:
Measurement of 50% of Lot Width



2. The long axis of a new structure shall be located within 20 degrees of perpendicular to the right-of-way line of Skyline Parkway at the midpoint of the front property line, or if that is not possible due to site or engineering constraints, then as close to that number as is reasonably possible;
3. The width of a new primary structure closest to Skyline Parkway shall not exceed 50% of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way. For purposes of this paragraph, the width shall include all portions of the structure, including attached garages or enclosed porches;
4. Where an addition to an existing structure is proposed, the location of that addition shall not result in the width of structure and addition, taken together, exceeding 50% of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

5. The provisions of subsections 18.4.D.1 through 4 above shall not apply to any structure located and designed so that no part of the structure (other than chimneys) extends taller than three ft. above the elevation of Skyline Parkway closest to the structure;
6. No wall located within 50 ft. of horizontal distance from the property line along Skyline Parkway shall exceed a height of 3 ft. above the elevation of the centerline of Skyline Parkway;
7. All portions of a fence located within 50 ft. of horizontal distance from the property line along Skyline Parkway and extending more than 3 ft. above the elevation of the centerline of Skyline Parkway shall be at least 75% transparent. No more than 25% of the area bounded by the top, bottom, and sides of the fence may be constructed of solid or opaque materials;
8. No landscaping located on the 50% of the lot width not occupied by the primary structure may be of a species that will have a height at maturity of more than 3 ft. above the elevation of the centerline of Skyline Parkway, and all installed landscaping in those areas shall be maintained so that its height does not exceed 3 ft. above the elevation of the centerline of Skyline Parkway.

Section 8. That Section 50-18.5 of Chapter 50 be created as follows:

50-18.5 Higher Education Overlay (HE-O).

A Purpose.

The purpose of this Section 50-18.5 is to minimize the impacts of potential student use on adjacent residential neighborhoods and to encourage the development of pedestrian friendly neighborhood destinations near the UMD and St. Scholastica campuses.

B Applicability.

This Section applies to land within the HE-O, shown in Exhibit 50-18.5-1, that (a) is zoned R-2 or MU-N; and (b) includes new development or redevelopment where the value of the redevelopment exceeds 75% of the market value of the land and buildings, as indicated by tax assessor's records; except for:

1. One-family or two-family dwellings
2. Any residential development where all of the dwelling units are restricted by development agreement or covenant for occupancy by those aged 50 and over or for occupancy by those individuals and households protected by the federal Fair Housing Act amendments of 1988.

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required unless exempt in the above applicability standards.

C Development standards.

1. General.
 - a. Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 districts and that reduces the potential for pedestrian-vehicular conflicts.
 - b. Primary buildings shall adhere to a build-to zone of 5 feet to 20 feet along primary streets. This requirement shall supersede building setbacks in Section 50-14.6 and 50-15.2. Alternatively, if the Land Use Supervisor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

determines that site conditions such as existing buildings or topography make this unfeasible, pedestrian walkways can be used to connect people from public sidewalks along primary streets to businesses and residences. These walkways shall:

- Include pedestrian-scaled lighting.
- Be raised or otherwise designed to encourage run-off and limit ponding during wet weather.
- Be visually recognizable to both pedestrians and motorists.
- Include trees and other landscaping along the length of the walkway; this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4.
- Be at least 5 feet wide.
- Include well-marked crossings where the walkway intersects with private vehicle drives.

c. Unless lighting meets exception criteria in Section 50-31.1.B, the maximum height of any light pole is 20 feet.

2. Residential.

a. Required resident parking spaces shall be provided at the ratio of 0.7 space per bedroom, with a minimum of one space per dwelling unit.

b. Visitor parking spaces shall be provided at the rate of 15% of required resident parking spaces.

c. At least one bicycle or motorized scooter parking space per five parking spaces shall be provided, which shall not be located in any required yard or between the principal dwelling and the street.

d. A development that provides an enhanced shelter with space dedicated solely for bicycle or motorized scooter parking shall be granted a reduction in the off-street parking requirement of 5% if the shelter complies with the following standards:

- The enhanced shelter shall not be located in any required yard setback.
- The enhanced shelter shall not be located between the principal building and a public street.
- The enhanced shelter shall be enclosed on at least three sides and covered to adequately protect bicycles from the elements.
- The enhanced shelter shall utilize primary exterior materials that match the primary exterior materials of the principal structure.

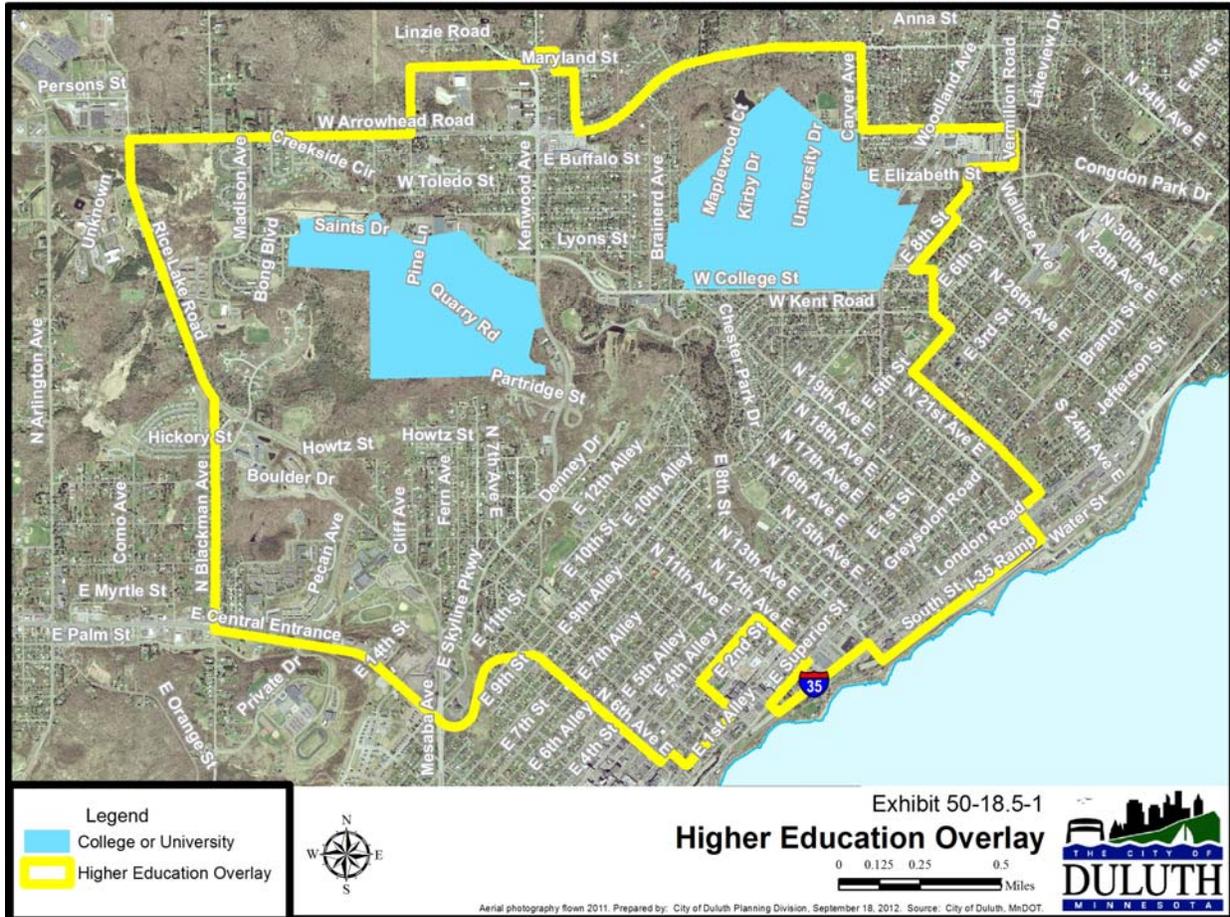
e. If the development or redevelopment is determined to have mitigated the impacts of potential student use in the adjacent residential neighborhood, the development or redevelopment may adjust the parking requirements as provided in either Section 50-24.3.A or 50-24.3.B if eligible, but may not utilize both adjustments.

f. No residential balcony, patio, or deck shall be located on any side of the property facing and within 200 feet of an R-1 district.

3. Commercial

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

a. Commercial development shall be concentrated on major roads, not on streets intended primarily for neighborhood traffic.



Section 9. That Section 50-19.8 of Chapter 50 be amended as follows:

50-19.8 Permitted use table.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
LAND USE CATEGORY																												
RESIDENTIAL USES																												
Household Living																												
Dwelling, one-family	P	P	P	P	P	P	P					P	U	U	U	U	U	P	U	U	U							
Dwelling, two-family				P	P	P	P					P	U	U	U	U	U	P	U	U	U							50-20.1.A
Dwelling, townhouse				S	P	P	P				P	P																50-20.1.B
Dwelling, multi-family					P	P	P	P	P		P	P	U	P	U	P	P	P	U	P	P							50-20.1.C
Dwelling, live-work						P	P	P	P		P	P	P	P	P	P	P	P		P	P							
Group Living																												
Co-housing facility				S	S	P	P					P																
Residential care facility/assisted living (6 or fewer)		P	P	P	P	P	P					P	U	P	U	P	P	U	U	P	P							50-20.1.D
Residential care facility/assisted living (7 or more)				S	P	P	P	P	P		P	P	U	P	U	P	P	U	U	P	P							50-20.1.D
Rooming house					S	P	P	P	P		P	P	U	P	U	P	P	U	U	P	P							50-20.1.E
PUBLIC, INSTITUTIONAL AND CIVIC USES																												
Community and Cultural Facilities																												
Bus or rail transit station							P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							
Cemetery or mausoleum	S	S	S	S	S	P	S	S	S	S																	S	
Club or lodge (private)					S	P	P	P	P		P	P	P	P	P	P	P	P	P	P								50-20.2.A
Government building or public safety facility		P	P	S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	S	S	S				
Museum, library, or art gallery				S	S	P	P	P		S	P	P	P	P	P	P	P	P	P	P				S				
Park, playground, or forest reserve	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P				P				
Religious assembly		P	P	S	P	P	P	P	P	S	P	P	P	P	P	P	P	P	P									50-20.2.C

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
LAND USE CATEGORY																												
Educational Facilities																												
Business, art, or vocational school							P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							
School, elementary		P	P	P	P	P	P	P				P	U	P	U	P	P	U	U	U							50-20.2.D	
School, middle or high		S	S	S	S	P	S	S				P	U	P	U	P	P	U	U	U							50-20.2.D	
University or college						I			P			P			U	P	P	U	U	U								
Health Care Facilities																												
Hospital									P																			
Medical or dental clinic					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							50-20.2.B	
Nursing home					P	P	P	P	P		P	P	P	P	P													
Other institutional support uses not listed in this table									P																			
COMMERCIAL USES																												
Agriculture and Animal-Related																												
Agriculture, general	P	P																									50-20.3.B	
Agriculture, urban		P	P	P	P	P						P																
Kennel	S	S						S	S	P		P																
Riding stable	S	S	S			P					S														S			
Veterinarian or animal hospital	S	S			P	P	P	P	P	P	P	P		P		P	P										50-20.3.U	
Food, Beverage, and Indoor Entertainment																												
Adult entertainment establishment																							P				50-20.3.A	
Convention or event center								P		P	P	P				P	P		P	P	P						50-20.3.H	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
LAND USE CATEGORY																												
Indoor entertainment facility								P		P	P	P		P		P	P		P	P	P							
Restaurant (no drive-in/drive-through)					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							50-20.3.P
Restaurant (with drive-in/drive-through)								P		P		P	P		P													50-20.3.Q
Theater							P	P			P	P	P		P	P			P	P	P							
Lodging																												
Hotel or motel						P	P	P	P	P	P	P		P		P	P		P	P	P							
Bed and breakfast				S	P	P	P	P	P	P	P	P		P		P		P										50-20.3.F
Seasonal camp or cabin	P	P				P					P												S				50-20.3.S	
Vacation dwelling unit		I	I	I	I	I	I										I											50-20.3.V
Offices																												
Bank						I	S	P	P	P	S	P	P	P	P	P	P	P	P	P	P							50-20.3.E
Office					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							50-20.3.M
Data center							S	P	P	P	S	P	U	U	U	U	U	U	U	U	U	P						
Outdoor Recreation & Entertainment																												
Golf course		S	S			P																					P	
Marina or yacht club											P												S	S				
Tourist or trailer camp	S	S	S								S													S				50-20.3.T
Other outdoor entertainment or recreation use not listed		S						S		S	S																	50-20.3.N
Personal Services																												
Business park support activities										P	P																	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
LAND USE CATEGORY																												
Preschool		S	S	S	P	P	P	P	P		P	P	P	P	P	P	P	P	S	P	S							
Day care facility, small (14 or fewer)	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P							50-20.3.I
Day care facility, large (15 or more)		S	S	S	S	P	P	P	P		P	P	P	P	P	P	P	P	S	P	S							50-20.3.I
Funeral home or crematorium					S		S	P	P	P		P	P			P						P						
Mini-storage facility										P												P	P					50-20.3.L
Personal service and repair, small						P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							
Personal service and repair, large						I	S	P	P	P	P	P	P			P						P						
Retail Sales																												
Adult book store																						P						Chapter 5
Building materials sales								S		P		P																50-20.3.G
Garden material sales		S						P				P				P												
Grocery store, small (less than 50,000 sq ft)						P	P	P			P	P	P			P	P	P	P	P	P							50-20.3.K
Grocery store, large (50,000 sq ft or more)								P				P																50-20.3.K
Retail store not listed, small (less than 15,000 sq ft)					S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P							50-20.3.R
Retail store not listed, large (15,000 sq ft or more)								P				P	P			P	P			P	P							50-20.3.R
Vehicle-Related																												
Automobile and light vehicle repair and service							S	P		P		P	P			P	P	P				P						50-20.3.C
Automobile and light vehicle sales, rental, or storage								P		P												P						50-20.3.D
Filling station					S	P	P	P		P	P	P	P			P	P	P				P	P					50-20.3.J
Parking lot or parking structure (primary use)						I		P	P	P	P	P	S	S	S	S	S	S	S	S	S	P	P					50-20.3.O

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
LAND USE CATEGORY																												
Truck or heavy vehicle sales, rental, repair, or storage										P															P			
INDUSTRIAL USES																												
Industrial Service																												
Contractor's shop and storage yard										P	<u>P</u>						P							P	P		50-20.4.B	
Dry cleaning or laundry plant										P														P				
Research laboratories									P	P	<u>P</u>													P	P			
Industrial services										P														P	P			
Manufacturing and Mining																												
Manufacturing, light									P	P	<u>P</u>						P							P			50-20.4.F	
Manufacturing, heavy																								P				
Manufacturing, hazardous or special																								S			50-20.4.G	
Mining, extraction and storage																								S	S		50-20.4.H	
Water-dependent manufacturing, light or heavy																									P			
Transportation-Related																												
Airport and related facilities	S																							P			50-20.4.A	
Railroad yard or shipyard and related facilities																								P	P			
Truck freight or transfer terminal										P														P	P			
Utilities																												
Electric power or heat generation plant																								P	P			
Electric power transmission line or substation	S	S	S	S	S	P	S	S	S	S	<u>P</u>	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C	

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
LAND USE CATEGORY																												
Major utility or wireless telecommunication facility	S	S	S	S	S	P	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S		50-20.4.E	
Radio or television broadcasting tower		S								S														S	S		50-20.4.I	
Solar, geothermal, or biomass power facility (primary use)		S				P		S	S	P		P												P	S			
Water or sewer pumping stations/reservoirs	S	S	S	S	S	P	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S		
Water or sewer treatment facilities																								P	P			
Wind power facility (primary use)		S							S	S														P	S		50-20.4.M	
Waste and Salvage																												
Junk and salvage services																								S	S		50-20.4.D	
Recycling collection point (primary use)								S	S	S														P	P			
Solid waste disposal or processing facility		S								S														S	S		50-20.4.J	
Wholesale Distribution and Storage																												
Storage warehouse										P							P							P			50-20.4.K	
Wholesaling										P							P							P			50-20.4.L	
Bulk storage not listed elsewhere																								P				
Water-dependent bulk storage or wholesaling not listed elsewhere																									P			
ACCESSORY USES																												
Accessory agriculture roadside stand	A	A																								A	50-20.5.A	
Accessory bed and breakfast	A	A	A	A	A	A	A	A		A																	50-20.5.B	
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A																50-20.5.C	
Accessory caretaker quarters										A														A	A	A		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

TABLE 50-19.8: USE TABLE

P = Permitted Use U = Upper Story

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

A = Accessory Use

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

S = Special Use or Interim Use

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
LAND USE CATEGORY																												
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Accessory dwelling unit	A	A	A	A	A	A	A																				50-20.5.D	
Accessory heliport	A								A		A												A				50-25.5.E	
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	A	A				50-20.5.F	
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				50-20.5.G	
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H	
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I	
<u>Accessory vacation dwelling unit</u>		I	I	I	I	I	I										I										<u>50-20.5.L</u>	
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J	
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K	
TEMPORARY USES																												
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.A	
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 10. That Section 50-20.3 of Chapter 50 be amended as follows:

50-20.3. Commercial uses.

A. Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this code.

B. Agriculture, general.

1. No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 ft. from any lot line.
2. All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 ft. from any lot line.

C. Automobile and light vehicle repair and service.

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 ft. from any public right-of-way.
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district.
3. All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property.

D. Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 ft. from any R district.

E. Bank.

1. In the MU-N district, banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises.
2. Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.
3. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities.

F. Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

1. Have no more than 12 habitable units;
2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 sq. ft. of area on the first floor of the main building;
6. Dining areas shall not exceed five seats per habitable unit. In addition to

resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to 6 days per year and shall be restricted to the period of October 15 through June 15;

7. Shall not have signage exceeding 12 sq. ft. in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days.

G. Building materials sales.

1. Outdoor storage is limited to 10% of the parcel's land area, and shall not be permitted in any required front yard area.
2. Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between 6 ft. and 8 ft. in height. The fence may exceed 8 ft. in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area.
3. A landscaped earth berm may be used instead or in combination with a required fence or wall.

H. Convention or event centers.

1. A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use.

I. Day care facility, small and large.

1. In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20% of the lot or parcel area.

J. Filling station.

1. No displays or storage of merchandise, parts or refuse may be located closer than 10 ft. from any public right-of-way.
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district.

K. Grocery stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas.
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock.

L. Mini-storage facility.

This use shall comply with the following standards:

1. The use shall be contained within an enclosed building or buildings;
2. If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;
3. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

4. At least 50% of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;
5. Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;
6. Signage shall be limited to one 40 sq. ft. illuminated pole and 20 sq. ft. of non-illuminated wall signage. Signs shall not be located closer than ten ft. to the front property line and no closer than 50 ft. to any side property line;
7. In the RR-1 district, there shall be a minimum of 50 ft. of landscaped or naturally vegetated buffer from all property lines;
8. In the R districts a dense urban screen shall be installed along all side and rear property lines.

M. Office.

1. In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted.
2. In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted.
3. In the F-6 district, offices may not have drive-through facilities.

N. Other outdoor entertainment or recreation use not listed.

1. No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 ft. of an R-C, RR-2 or R district.

O. Parking lot or parking structure (primary use).

1. In the MU-C district, any parking structure shall be located at least 50 ft. from any RC, RR or R district.
2. In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses.

P. Restaurant (no drive-in/ drive-through).

In the R-2 district, no use shall exceed 5,000 sq. ft. in gross floor area.

Q. Restaurant (with drive-in/drive-through).

Drive through lanes must be located at least 25 ft. from the boundary of any RR or R district and impacts along the boundary with those districts shall be buffered through the use of a dense urban screen.

R. Retail stores, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas.
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock.
3. Retail stores limited to one drive-through window.
4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.

S. Seasonal camp or cabin.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 ft. from any R district.
2. In the R-C district, the design of the site shall preserve the rural character by:
 - (a) Separating each camp or cabin site by at least 50 ft., measured from the closest points on each tent or cabin area;
 - (b) Preserving all natural vegetation not required to be removed for access roads, trails or public safety;
 - (c) Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites.

T. Tourist or trailer camp.

When located in a flood plain, this use is limited to trailers without foundations that can be easily moved should flooding occur.

U. Veterinarian or animal hospital.

1. In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 ft. from any lot line.
2. In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation.

V. Vacation dwelling unit.

1. The minimum rental period shall not be less than five nights during the period from June 15 to September 15. The minimum rental period shall not be less than two nights during the rest of the year.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
3. Off-street parking shall be provided at the following rate:
 - (a) 1-2 bedroom unit, 1 space
 - (b) 3-4 bedroom unit, 2 spaces
 - (c) 5+ bedroom unit, 3 spaces
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
5. The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days.
6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

Section 11. That Section 50-20.5 of Chapter 50 be amended as follows:

50-20.5. Accessory uses.

A. Accessory agriculture roadside stand.

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 sq. ft. and that it is located not nearer than 25 ft. to any street or highway.

B. Accessory bed and breakfast.

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

1. Have no more than five habitable units;
2. Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 sq. ft. of area on the first floor of the main building;
6. Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;
7. Shall not have signage exceeding 12 sq. ft. in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;
9. May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection.

C. Accessory boat dock, residential.

This use shall comply with the following standards:

1. Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;
2. If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;
3. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other

off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;

4. At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;
5. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted.

D. Accessory dwelling unit.

An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

1. Only one accessory dwelling unit may be created per lot;
2. No variances shall be granted for an accessory dwelling unit;
3. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;
4. One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;
5. Accessory dwelling units shall contain no more than 800 sq. ft. of floor space and shall be consistent in character and design with the primary dwelling;
6. If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building.

E. Accessory heliport.

1. All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals.
2. In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use.

F. Accessory home occupation.

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

1. The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot;
2. No business involving retail sales of goods from the premises is permitted;
3. No person not a member of the family residing on the premises shall work on the premises;
4. Not more than 25% of the floor area of one story of the dwelling shall be devoted to such home occupation;
5. The home occupation shall not require external alterations that would change the residential character of the property;
6. No display pertaining to such occupation shall be visible from the street;

7. Only one sign not exceeding one sq. ft. in area is permitted, and that sign may only contain the name and title of the business or proprietor and may not be illuminated;
8. No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;
9. All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times.
10. No motor vehicle repair is permitted as an accessory home occupation.

G. Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12.

H. Accessory solar or geothermal power equipment.

In all districts, solar collection systems shall comply with the following requirements:

1. Ground-mounted solar system:
 - (a) Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;
 - (b) Solar collectors shall be located a minimum of 6 ft. from all property lines and other structures;
 - (c) Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 sq. ft., whichever is greater. The size of solar collector areas in all districts except Residential Districts shall not exceed one-half of the footprint of the principal structure;
 - (d) Solar collectors shall not exceed 5 ft. in height.
2. Roof-mounted or wall-mounted solar system:
 - (a) A solar collection system shall be located a minimum of six ft. from all property lines and other structures except the structure on which it is mounted;
 - (b) Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three (3) feet above the ridge level of a roof on a structure with a gable, hip, or gambrel roof and shall not extend higher than ten (10) feet above the surface of the roof when installed on a flat or shed roof.
 - (c) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one (1) foot from the exterior perimeter of a roof for every one (1) foot that the system extends above the parapet wall or roof surface, if not parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three (3) feet above the roof surface shall be exempt from this provision.
 - (d) A solar collection system may be located on an accessory structure;
 - (e) A development proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.

3. Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system.

I. Accessory uses or structures not listed elsewhere.

1. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:
 - (a) The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;
 - (b) Prior to issuance of a building permit for such accessory use, a building demolition bond shall be approved by the city and in an amount sufficient to demolish such accessory structure be filed with the building official;
 - (c) The owner shall execute a license, in a form approved by the city, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this section.
2. In the RR-2 district, business shall not be conducted from a garage.
3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house.
4. In the MU-N district, accessory buildings shall be subject to the following restrictions:
 - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - (b) Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business.
5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
 - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - (b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business.

6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use.
7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article 2 and Section 50-20.

J. Accessory wind power equipment.

In all districts, accessory wind power systems shall comply with the following requirements:

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways;
2. Towers that are 50 ft. or less in height are permitted by right. Towers exceeding 50 ft. in height require approval of a special use permit, provided that in no case shall tower height exceed 130 ft.;
3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 ft. within any Migratory Bird Flight Path;
4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 ft. as measured at the lowest point of the arc of the blades;
7. No sign that is visible from any public street shall be permitted on the generator, tower, building or other structure associated with a small wind energy system other than the manufacturer's or installer's identification and appropriate warning signs;
8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
9. Any climbing ft. pegs or rungs below 12 ft. of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
10. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
11. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

K. Minor utilities and accessory wireless antennas attached to existing structures.

The following standards apply to accessory wireless antennas that are attached to existing structures and to minor utilities regardless of whether they are attached to an existing structure:

1. A special use permit is required to allow any antenna to exceed 150 ft. in height;
2. All building-mounted antennas shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennae and support structures;
3. The size, design and location of each attached antenna shall reduce visibility from surrounding buildings and from the public rights-of-way adjoining the property to the greatest extent feasible;
4. Building-mounted antennas or disguised antenna support structures shall be of a color identical to or closely compatible with the surface to which they are mounted;
5. Except when a support structure for a building-mounted antenna is an otherwise lawfully permitted sign, the placement of advertising on antennae is prohibited.

L. Accessory vacation dwelling unit.

An accessory vacation dwelling unit may be created within, or detached from, any one-family dwelling or vacation dwelling unit in those districts shown where allowed by Table 50-19.8, provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot.
2. No variances shall be granted for an accessory vacation dwelling unit.
3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling.
4. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building.
5. The minimum rental period shall not be less than five nights during the period from June 15 to September 15. The minimum rental period shall not be less than two nights during the rest of the year.
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
7. Off-street parking shall be provided at the following rate:
 - (a) 1-2 bedroom unit, 1 space
 - (b) 3-4 bedroom unit, 2 spaces
 - (c) 5+ bedroom unit, 3 spaces
8. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
9. The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days.
10. The property owner must provide required documents and adhere to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

additional requirements listed in the City of Duluth’s UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

11. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 12. That Section 50-35 of Chapter 50 be amended as follows:

50-35 Summary table.

TABLE 50-35-1: PROCEDURES SUMMARY TABLE								
Type of Application	Review, Decision, & Appeal Authority							
R = Review D = Decision A = Appeal <> = Hearing S = Sign Notice M = Mail Notice N = Newspaper Notice RES = Resolution ORD = Ordinance AL= Action Letter COA = Certificate of Appropriateness	Public Notice Required	Pre-Application Required	Staff	Land Use Supervisor	Historic Preservation Commission	Planning Commission	Council	Final Action
Comprehensive Land Use Plan	N			R		<R>	D	RES
UDC Text or Zoning Map Amendment								
Text Amendment	N			R		<R>	D	ORD
Map Amendment	N, S,	✓		R		<R>	D	ORD
District Plan Adoption/Amendment	S	✓		R		<D>	<A>	
Subdivision Plat Approval								
Concept Plan		✓		R				**
Preliminary Plat	S			R		<D>		AL
Final Plat				R		<D>		AL***
Quick Plat/Registered Land Survey				R		D		AL
Vacation of Street	S, M	✓		R		<R>	D	RES
Concurrent Use of Streets Permit	S	✓		R		<R>	D	ORD
Historic Resource Designation	M					<R>	R	D
Variance	S, M		R			<D>	<A>	AL
Special Use Permit	S, M	✓		R		<D>	<A>	AL
Interim Use Permit	S, M	✓		R		<R>	D	RES
Planning Review								
General				D		<A>		AL
When required in R-2 and Mixed Use Districts	S, M	✓		R		<D>	<A>	AL
Temporary and Sidewalk Use Permit				D		<A>		AL
Zoning Permit****			D			<A>		AL
Historic Construction/Demolition Permit	S					<D>	<A>	COA
Wetland/WCA Permits			D			<A>		AL

* Mailed notice is required to affected property owners within 350 ft. when the amendment involves changes in district boundaries affecting an area of five acres or less.

** Planning staff will provide applicant with a pre-application verification.

*** Applicant must provide documentation that the final plat has been recorded with the county recorder.

****This category includes shoreland permit, erosion and sediment control permit, sign permit, fence permit and airport environs permits. Appeals of airport environs permits related to Duluth International Airport are heard by the airport board of adjustment.

Section 13. That Section 50-37.1 of Chapter 50 be amended as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

50-37.1. Review and approval procedures.

A. **Pre-application meetings.**

A pre-application meeting is an informal discussion between a potential applicant, interested citizen, city staff and the historic preservation commission (if applicable) regarding a possible project subject to this Chapter. The purpose of the pre-application meeting is to assist the applicant by identifying the types of approval needed to complete the project, application material and impact studies required, applicable comprehensive plan provisions and applicable review criteria. A pre-application meeting may include a site visit at the request of the city. Pre-application meetings are required for the following types of applications:

1. UDC zoning map amendment;
2. District plan adoption or amendment;
3. Subdivision concept plan;
4. Vacation of street;
5. Concurrent use of streets permit.
6. Historic resource designation;
7. Special use or interim use permit.

B. **Authority to file applications.**

1. A property owner or a contract purchaser may apply for any type of permit or approval unless a more specific application is stated in this Section 50-37.1.B or in Sections 50-37.2 through 16 below. In the event of a conflict between the provisions of this Section 50-37.1.B and the provisions of Sections 50-37.2 through 16, the provisions of Sections 50-37.2 through 16 shall govern.
2. An agent of the property owner, or a resident of the property, may apply for any type of permit or approval provided the agent or resident has written authority of the property owner to do so.
3. Applications for designation of a historic resource are governed by Section 50-37.8.
4. Any person may request an interpretation of this Chapter, and the land use supervisor may issue interpretations of this Chapter as needed and shall post issued interpretations on the city web site.

C. **Application materials and fees.**

1. Each application for a permit or approval, or for a modification of a permit or approval, pursuant to this Chapter, shall include all those application materials listed for that type of application or modification listed in the UDC application manual for this Chapter and a fee in the amount listed for that type of application or modification shown in the latest schedule of fees approved by council.
2. The city may reject applications not meeting the requirements of this Chapter, the UDC Application Manual, or as required or authorized by MSA 15.99.
3. Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city.
4. The schedule of fees shall be adopted from time to time by the council by resolution, pursuant to Section 31-6 of the code, to defray estimated staff costs and expenses of processing applications.

5. The schedule of fees may provide for additional fees if an applicant submits more than two applications that are incomplete, pursuant to Section 50-37.1.D below, for the same proposed development.
6. All fees are non-refundable regardless of whether the applicant withdraws the application prior to a decision or whether the application is approved, approved with conditions or denied.

D. Determination of completeness.

A determination of completeness shall be made for each application pursuant to MSA 15.99.

E. Inactive complete applications.

If an application has been determined to be complete, but review of the application reveals possible additional impacts on the surrounding area, any request by the city for additional materials necessary to evaluate those impacts shall comply with the provisions of MSA 15.99.

F. Withdrawal of applications.

An applicant may withdraw an application at any time prior to a decision by the city by filing a written request to withdraw the application with the city. Any resubmission is subject to the provisions of subsection 50-37.1.G below. If the application is later resubmitted, it shall be treated as a new application for purposes of review and scheduling. Any fees paid for a withdrawn application shall not be refunded.

G. Successive applications.

If an application pursuant to this Chapter has been denied by the city, an application requesting the same or essentially the same approval shall not be accepted during the next 12 months.

H. Public notice.

1. Types of notice.

The city uses one or more of the following methods to notify the public about pending applications where there is an opportunity for public comment on the application. The type(s) of notice provided for different types of applications are shown in Table 50-35-1.

(a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least 10 days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing.

(b) Mailed notice means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least 10 days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 ft. from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of 5 acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 ft. of the area to be rezoned. Failure to give mailed notice as required by this section or any defect in the notice given shall not invalidate any action of the planning commission or

council, provided that a bona fide attempt to comply with this section has been made.

- (c) Sign notice means a sign with minimum dimensions of 24 in. by 30 in. posted as close as reasonably possible to each street frontage on the applicant's property with the text between 3 and 5 ft. above grade level, with a title line reading "Zoning Notice" in letters at least 3 in. tall, and with the remainder of the text in letters at least ½ in. tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way.

2. Content of notice.

Each required notice shall include the following information:

- (a) The name of the applicant;
- (b) The address of the property;
- (c) A narrative description of the project including the proposed land uses, size (in sq. ft.) and height (in ft. and stories) of any proposed buildings or building expansions;
- (d) The type of permit or approval being sought;
- (e) Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address or other electronic site or method);
- (f) Contact information for the assigned city staff member;
- (g) The date, time and place of the public hearing.

3. Special notice provision for appeals.

In the case of an appeal to the planning commission or council pursuant to Section 50-37.1.O, mailed notice shall be provided to any interested parties that were notified of the original application and the right to receive notice of any appeal, and who have notified the city in writing that they would like to receive notice of the appeal.

I. Public hearings.

- 1. Public hearings before the planning commission and public hearings before the council on matters related to this Chapter shall be conducted pursuant to rules and practices established by each of those bodies and in compliance with state law.
- 2. Attendance shall be open to the public.
- 3. All hearing and decision timeframes shall comply with MSA 15.99.

J. Review criteria.

- 1. The planning commission shall approve or recommend approval of an application if it makes a written finding that:

- (a) The application is consistent with the adopted comprehensive land use plan, as that plan may have been amended after adoption;
 - (b) The application complies with all applicable requirements of this Chapter, as those requirements may have been varied through a variance approved pursuant to Section 50-37.9;
 - (c) The application complies with all additional approval criteria listed in Section 50-37.2 below.
2. If the planning commission determines that the criteria in subsection 1 have not been met, the commission shall deny or recommend denial of the application or approve it with conditions to bring the application into conformance with the above criteria.
 3. The council is encouraged, but not required, to make decisions on applications under this Chapter pursuant to the criteria listed in subsection 1. In no case may the city's final action result in the approval of a use variance.
 4. The applicant bears the burden of proof that an application complies with all applicable standards and criteria in this Chapter.

K. Conditions on approval.

1. As an alternative to denying an application, the building official and the land use supervisor are authorized to approve applications with conditions necessary to bring them into compliance with the requirements of this Chapter or with any previously approved district plan for the property.
2. As an alternative to denying an application, the planning commission is authorized to recommend or impose conditions on approvals that it determines are necessary to (a) bring the application into compliance with the requirements of this Chapter, the purposes of the zone district where the property is located or any previously approved district plan for the property, or (b) prevent or minimize adverse effects upon surrounding areas or upon public facilities and services.
3. All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Chapter.
4. In the case of decisions made by the planning commission or council, where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.
5. Any conditions on approved applications shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Chapter.

L. Administrative adjustments.

Where an application concerns development or redevelopment of a lot and the applicant demonstrates practical difficulty in designing the redevelopment to comply with all requirements of this Chapter, the land use supervisor is authorized to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

approve applications that diverge from the requirements of this Chapter in up to two of the following ways.

1. The front, side or rear setbacks of a new or modified structure are no more than 1 ft. smaller than the minimum setbacks required by this Chapter;
2. The height of a new or modified structure is no more than 2 ft. taller than the maximum required by this Chapter;
3. For properties where Section 50-24 requires more than 3 off-street parking spaces, and the property does not contain a single-family residential structure (regardless of the use of that structure) the site contains 1 less parking space than is required.
4. Handicap accessibility structures can encroach into the yard setbacks.
5. For properties where 50-21.2 requires improved street frontage, exceptions limiting the street improvement to no more than 50' in length may be granted if the Land Use Supervisor determines that further extension of the street is not anticipated due to topography, Comprehensive Land Use Plan, or utility availability.
6. For properties where 50-21.2 requires that not more than 30% of the rear yard be occupied by any one accessory structure, exceptions may be granted for an accessory structure to occupy up to 40% of the rear yard.
7. The area of a new or modified sign is no more than 10% larger than the maximum allowed by 50-27.

M. Modifications of approvals.

1. Application
An applicant who has received a permit or approval from the city pursuant to this Chapter may apply to modify that approval pursuant to this Section 50-37.1. An application for a modification shall be made to the building official, who shall determine whether it requests a minor or major modification pursuant to the criteria in subsections 2 or 3, as applicable.
2. Minor Modifications
Minor modifications are those that (a) relate to redevelopment of a single building on one or more existing platted lot(s), (b) qualify as administrative adjustments pursuant to subsection 50-37.1.L or (c) that the city determines are otherwise consistent with any district plan approved for the zone district where the property is located. Applications for minor modifications may be approved by the city if it determines that the applicant would have practical difficulties designing or constructing the project without the minor modification. However, the city may require that an application meeting the criteria for a minor modification be treated as an application for a major modification if it determines that the application raises a significant public controversy on which numerous parties other than the owner of the property may want to offer testimony.
3. Major Modifications
Major modifications are those that do not qualify as administrative adjustments pursuant to subsection 50-37.1.L or minor modifications pursuant to subsection 2 above. Applications for major modifications shall be treated as a new application for an approval of the same type being modified. However, if the city determines that an application for modification is not consistent with a district plan applicable to the property,

and that the inconsistency may materially and adversely affect other property owners subject to the same district plan, the city may require that the applicant obtain approval of a revised district plan instead of a major modification. In the case of a major modification involving a natural resources permit, the city may require additional reports and data necessary to evaluate the impacts of the modification.

N. Lapsing of approvals.

Some permits and approvals issued pursuant to this Chapter shall lapse and be of no further force or effect if the action approved in the permit or approval does not begin within a specific period of time, as listed below:

1. Approved preliminary plats for subdivision shall lapse unless a complete application for a final plat of at least 50% of the land covered by the preliminary plat is submitted within 5 years of the preliminary plat approval;
2. Approved final subdivision plats shall lapse unless the approved final plat is recorded with the register of deeds within 90 days after approval;
3. Approved vacations of streets shall lapse unless a plat showing the vacation is recorded with the office of the county recorder within 90 days after final approval;
4. Approved planning reviews, zoning permits, special use permits, interim use permits, concurrent use of street permits, sidewalk use permits and variances shall lapse if the project or activity authorized by the permit or variance is not begun within 1 year of the permit date. The building official may extend this period one time for a period of up to 1 year if the property owner presents a written request showing the reasons for the delay was outside the owner's control;
5. Erosion and Sediment Control Permits (ESCP) shall lapse one year after approval if all construction activities are not completed or the entire site is not fully stabilized with 70% successful establishment of vegetation. In case of a lapse of the ESCP, a new permit shall be obtained;
6. Approved building permits shall lapse 1 year after issuance unless construction has begun by that date.
7. The MS-4 Statement of Compliance and accompanying drainage report will be valid for 2 years from the date of approval. If permanent stormwater facilities (BMPs) are not fully constructed and operational within 2 years, and extension of 1 year may be granted if a written request is submitted and approved by the City Engineer. The written request should document the reasons for the extension and the current state of completion of the project.

O. Appeals.

This section is intended to comply with the provisions of MSA 462.357 and MSA 360.068 as amended, and shall be interpreted to comply with those provisions wherever possible.

1. General Provisions for Appeal to Planning Commission
 - (a) Except as noted in subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be

filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the commission and specifying the grounds of the appeal.

- (b) If the appeal relates to a decision regarding the zoning of an airport or the Airport Overlay district, any person aggrieved by the decision, any taxpayer affected by the decision and any governing body of a municipality, county or airport zoning board, that believes the decision is an improper application of this Chapter as it concerns that governing body or board may appeal that decision to the airport board of adjustment. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the board and specifying the grounds of the appeal. If the appellant is a person aggrieved or a taxpayer affected by the decision regarding the zoning of an airport or the Airport Overlay district, the applicant shall submit an appeal to the city clerk in the manner set forth in Minnesota Statutes 360.068, Subdivision 2. All appeals shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that airport zoning ordinance and this Chapter, the provisions of the airport zoning ordinance shall govern.
 - (c) The building official shall promptly transmit to the commission, or to the airport board of adjustment, as applicable, the documents and records related to the decision being appealed.
 - (d) A timely appeal shall stay all proceedings involved in the appeal; and no appeal shall be deemed to permit the appellant to do or to continue doing, directly or indirectly, any act or thing prohibited by the decision being appealed. However, if the building official notifies the planning commission in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the planning commission may order that proceedings not be stayed pending appeal.
 - (e) The commission shall fix a time for a hearing on the appeal, shall provide notice of the hearing pursuant to Section 50-37.1.H, and shall hold a public hearing pursuant to Section 50-37.1.I.
 - (f) Any party may appear at the hearing in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant.
 - (g) If the appeal alleges that the boundaries of a wetlands or shorelands area on the Natural Resources Overlay map in Section 50-18.1 are in error, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence.
2. Exceptions.
- (a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I No Safety Obstructions, 50-27.1.L Attachment to Buildings, 50-27.1.M Wind Pressure Design, 50-27.1.N Electrical Wiring, or 50-27.1.O Certification of Structural Engineer must be taken to the state building official as provided in the State Building Code.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

- (b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Chapter 10 of the code or to the state building official.
 - (c) An appeal from any decision under the housing code provisions in Section 50-32 of this Chapter must be taken to the building appeals board.
 - (d) If an applicant believes that the decision of staff regarding compliance with the requirements of the SP-O zone district is incorrect or deprives the applicant of the reasonable use of his or her property, or is unreasonable given the size and shape of the property and its orientation to the protected views, the applicant may request review of the decision by the planning commission. The planning commission's review shall be based on the purpose and standards of this section, but may authorize variations to those standards, in accordance with the procedures in Article 5 of this Chapter, if unusual site conditions not generally shared along Skyline Parkway make compliance with the standards unreasonable or ineffective to protect the intended views of Lake Superior, the St Louis River and the harbor.
3. Powers of planning commission on appeal.
- (a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the building official or land use supervisor could have made regarding the application.
 - (b) In hearing permitted appeals of decisions regarding the sign regulations in Section 50-27, the planning commission shall have only the power to affirm, reverse or modify the decision of the building official.
 - (c) In the case of an appeal regarding the application of the NR-O Natural Resources Overlay district, no relief shall be granted that violates the limitations on variances applicable to that district.
 - (d) The decision of the planning commission shall be final unless a further appeal is filed pursuant to subsection 4 below.
4. Appeals of planning commission decisions to council.
- (a) Except as provided in subsection 5 below, any person aggrieved by, or any department of the city affected by, any decision of the planning commission on an appeal pursuant to subsection 1 above may appeal that decision to the council.
 - (b) Any appeal must be filed within ten days after the planning commission's decision by filing with the city clerk a written notice of appeal addressed to the council and specifying the grounds for the additional appeal.
 - (c) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. However, if the building official notifies the council in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the council may order that proceedings not be stayed pending appeal.

- (d) The council shall hear the appeal at the next scheduled meeting with time available, and may affirm, modify or reverse the board's decision, and may make any orders, requirements, decisions, or determinations it deems appropriate regarding the appeal.
 - (e) No decision on an appeal or variance shall have the effect of allowing a use that is not a permitted or special use in the zone district where the property is located.
 - (f) If the appeal is regarding an application in any district where the approval of a district plan is required or requested prior to development, the council shall only approve development plans if it finds that the requirements for the district plan in that district will be satisfied.
5. Appeal of planning commission decisions to the courts.
- (a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission.
 - (b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission.
 - (c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01.
6. Appeals of historic preservation commission decisions to council.
- (a) Where applicable, Section of 50-37.1.O.4 shall apply of historic commission decisions, when appealable to City Council

P. Security for improvements.

- 1. If the provisions of this Chapter or conditions attached to a permit or approval under this Chapter require the applicant to construct or make improvements to the property, to protect the city or adjacent property owners from injury or damage, or to return the property to a stated condition following the completion of operations or construction, and those actions have not been completed, then the city shall require the applicant to post security to ensure that those improvements are made in a timely manner, and that if the applicant fails to make those improvements the city will have adequate funds on hand to complete the improvements at the applicant's expense.
- 2. Security shall be posted in a form acceptable to the city, which may include but are not limited to cash, a promissory note, a letter of credit issued by a financial institution acceptable to the city, or a performance bond issued by a financial institution acceptable to the city. The security shall be in an amount equal to 110% of the estimated cost for the city to complete the improvements.
- 3. The city shall release posted financial security upon confirmation by the building official that the required improvements have been constructed in accordance with all applicable design and construction standards. In the case of any improvements to be dedicated to the city, the city shall release posted financial security upon acceptance of the improvements by the city. At the discretion of the building official, partial releases of financial security

may be made after construction or dedication of some but not all of the required improvements, but financial security equal to 110% of the estimated cost of for the city to complete the improvements shall be retained.

4. As an alternative to requiring the posting of financial security, the city may authorize the issuance of a temporary certificate of occupancy for the property, provided that the applicant signs a development agreement with the city agreeing to pay the city a specific financial penalty per month if the required improvements are not constructed by a certain date. The amount of the penalty shall be calculated so that if the applicant does not construct the improvements within one year after the required date the penalties will equal at least 110% of the estimated cost for the city to complete the improvements.

Section 14. That Section 50-37.11 of Chapter 50 be amended as follows:

50-37.11 Planning review.

This Section applies to all development and redevelopment activities except for the construction, reconstruction or modification of one- and two-family residential structures that are located (a) on lots platted and zoned for residential development, and (b) outside of the R-C district and SP-O district.

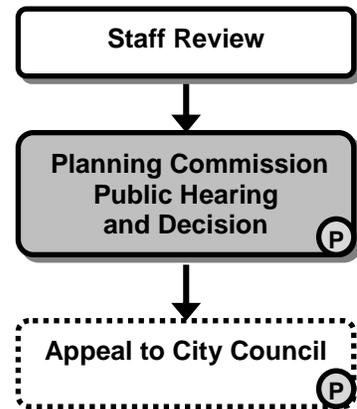
A. Applications.

An application for a planning review shall be filed pursuant to Section 50-37.1.B.

B. Procedure.

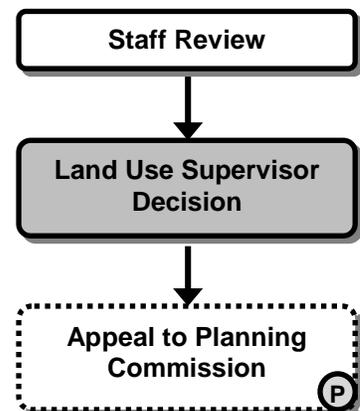
1. Building permit applications for certain types of development and redevelopment activities will trigger planning review for compliance with the standards of this Chapter. Except as stated in subsection 2 below, this planning review shall be conducted by the land use supervisor pursuant to the criteria in subsection 50-37.11.C.
2. For applications involving covered types of development and redevelopment activities in the MU-C, MU-I, MU-W, and HE-O zone districts, the planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection

Planning Review in MU-C, MU-I, MU-W, and HE-O



(P) Indicates Public Hearing Required

Planning Review General



(P) Indicates Public Hearing Required

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

50-37.11.C.

- 3. The land use supervisor or the planning commission may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection 50-37-11.C have been met.

C. Criteria.

The land use supervisor or planning commission shall approve the planning review or approve it with modifications, if it is determined that the application complies with all applicable provisions of this Chapter.

Section 15. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 18, 2012)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 9

Nays: None -- 0

Passed December 17, 2012
Approved December 17, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10193

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2013.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2013 for general operations is hereby determined to be the sum of \$19,441,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections.

Section 2. There will be levied for the support of the general fund the sum of \$12,072,000.

Section 3. For the pay of debt, there will be levied for the general obligation debt fund the sum of \$7,161,500.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$207,500.

Section 5. That this ordinance shall take effect January 1, 2013.

Councilor Krug moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Passed December 17, 2012
Approved December 17, 2012
DON NESS, Mayor

ATTEST:
JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10194

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2013.

The city of Duluth does ordain:

Section 1. The sum to be raised by taxation for the year 2013 for Duluth Transit Authority taxing district's operations is hereby determined to be the sum of \$1,391,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,391,900.

Section 3. That this ordinance shall take effect January 1, 2013.

Councilor Krug moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Boyle, Gardner, Julsrud, Krug, Larson and President Hartman -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Passed December 17, 2012
Approved December 17, 2012
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

ORDINANCE NO. 10195

AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2013 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the city of Duluth, and all amendments thereof and laws supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2013, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

budget may be credited to and added to the appropriate budget item upon approval by the chief administrative officer or their designee.

That use of general fund balance that has been designated for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the city auditor.

Section 2. That the city auditor be authorized to approve the payments of \$2,744,300 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,598,300 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$146,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the chief administrative officer or their designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of the Section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 110 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54 of the City Charter, the account numbered 205 in the parks fund, and the accounts numbered 510 in the water division, 520 in the gas division, 530 and 532 in the sewer division, 535 in the stormwater division, 540 in the steam division, 550 in the street light division, 503 in the golf division, and 505 in the parking division.

Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the city auditor be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this section constitutes the budget of the city of Duluth for the calendar year of 2013.

GENERAL FUND		
110	Legislative and executive - total	\$2,443,000
121	Public administration - total	21,802,200
125	Finance - total	3,166,400
132	Planning and construction services - total	2,232,300
135	Business and economic development - total	724,800
150	Fire - total	13,766,500
160	Police - total	18,333,300
500	Public works - total	1,726,800

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

700	Transfers and other functions - total	9,777,700
	Total general fund	\$73,973,000
PARKS FUND		
130	Community Resources	\$2,682,500
PUBLIC ENTERPRISE		
503	Golf fund - total	\$2,076,250
505	Parking fund - total	\$4,799,300
PUBLIC UTILITIES		
510	Water fund - total	\$11,765,000
520	Gas fund - total	\$35,565,400
530 and 532	Sewer and clean water fund - total	\$18,604,500
535	Stormwater fund - total	\$4,368,900
540	Steam fund - total	\$8,295,442
550	Street lighting - total	\$1,739,400

Section 8. That the chief administrative officer or their designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program's funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a one time revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

The programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secure. Local funding will be available after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2013.

Councilor Krug moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

ATTEST:
JEFFREY J. COX, City Clerk

Passed December 17, 2012
Approved December 17, 2012
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2012

ORDINANCE NO. 10196

AN ORDINANCE AMENDING ORDINANCE NUMBER 10162 AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO CORRECT THE LEGAL DESCRIPTION (CITY OF DULUTH.)

The city of Duluth does ordain:

Section 1. That the legal description as made part of Ordinance No. 10162 is hereby replaced with the following:

That part of Central Entrance Division, Duluth Heights Fifth Division, Duluth Heights Sixth Division and Maple Grove Acre Tracts, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the intersection of the center line of Central Entrance (State Highway 194) and the northerly extension of the center line of the north/south alley in Block 3, Duluth Heights Fifth Division; Thence south along center line of said north/south alley of Block 3 its extension, to the center line of West Palm Street; Thence west along said center line of West Palm Street to the east line of Central Entrance Addition; Thence west along said extension of West Palm Street centerline to the northeast corner of Lot 28, Central Entrance Addition; Thence west along the north lines of Lots 28 through 35, Central Entrance Addition, extending west to the center line of the platted pedestrian path between Lots 20 and 35, Central Entrance Addition; Thence north along said center line of the platted pedestrian path to the intersection of the center line of Anderson Road; Thence northeasterly along the center line of Anderson Road to the southeasterly extension of the center line of Apple Street, between Lots 4 and 5, Central Entrance Addition; Thence northwesterly along said center line of Apple Street to the south line of the Southeast Quarter of the Northwest Quarter of Section 20, Township 50 North, Range 14 West; Thence west along said south line of the Southeast Quarter of the Northwest Quarter of Section 20 to the southwest corner of said Southeast Quarter of the Northwest Quarter of Section 20; Thence north along the west line of said Southeast Quarter of the Northwest Quarter of Section 20 to the center line of Central Entrance (State Highway 194); Thence southeasterly along the center line of Central Entrance to the intersection of the center line of Myrtle Street; Thence northeasterly and easterly along the center line of Myrtle Street to the northerly extension of the east line of Lot 3, Block 31, Duluth Heights Sixth Division; Thence south along said east line of Lot 3 and its extension to the center line of the east/west alley of said Block 31; Thence west along said center line of east/west alley to the northerly extension of the east line of Lot 17 of said Block 31; Thence south along said east line of Lot 17 and its extension to the center line of Central Entrance (State Highway 194); Thence east along center line of Central Entrance to the point of beginning.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 18, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed December 17, 2012
Approved December 17, 2012
DON NESS, Mayor