

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 11, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

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

Absent: None -- 0

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The minutes of the council meeting held on December 17, 2012, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0311-01 Pete Johnson communication regarding the proposed ordinances relating to civil service (13-008-O and 13-013-O). -- Received

13-0311-02 Communications regarding the proposed ordinance regarding sign regulations (13-009-O): (a) Jerry Kimball; (b) Todd Signs. -- Received

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REPORTS FROM OTHER OFFICERS

13-0311-03 Clerk application for exempt permit to the Minnesota gambling control board from St. Luke's Foundation on July 22, 2013 (raffle). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

13-0311-04 American Indian commission minutes of: (a) December 17, 2012; (b) January 28, 2013, meetings. -- Received

13-0311-05 Building appeal board minutes of: (a) November 14; (b) December 12, 2012, meetings. -- Received

13-0311-06 Commission on disabilities minutes of: (a) December 5, 2012; (b) January 2, 2013, meetings. -- Received

13-0311-07 Duluth citizen review board minutes of: (a) January 22; (b) February 19, 2013, meetings. -- Received

13-0311-08 Duluth economic development authority minutes of January 23, 2013: (a) Special; (b) Regular, meetings. -- Received

13-0311-09 Duluth parking commission: (a) Minutes of November 9, 2012, meeting; (b) Resolutions: (1) To prohibit parking near the intersection of East Eighth Street and East College Street (2013-1); (2) To rescind the weekly alternate side parking system for East Eighth Street between its cul-de-sac terminus just east of Woodland Avenue and East Clover Street (2013-2); (3) To prohibit parking on the north side of the east half of East Arrowhead Road between Wallace Avenue and Vermillion Road (2013-3); (4) To allow parking on the north side of Water Street between 22nd Avenue East and the west end of Beacon Pointe Resort, which is located at 2100 East Water Street (2013-4). -- Received

13-0311-10 Duluth public utilities commission resolution establishing natural gas rates effective with meter readings after March 31, 2013; superseding all prior inconsistent or conflicting rates as of April 1, 2013 (13PUC-003). -- Received

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

13-0311-11 Duluth transit authority: (a) Minutes of: (1) November 28; (2) December 12, 2012; (3) January 2, 2013, meetings; (b) Income statements for: (1) November 2012; (2) December 2012. -- Received

13-0311-12 Housing and redevelopment authority of Duluth minutes of January 29, 2013: (a) Annual; (b) Regular, meetings. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell noted that he has confirmed that letters written to the school board are not in the public file and that an individual who has written to the school board has received a harassing retaliation phone call.

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Lindsey Molstad thanked the city for their support of the AmeriCorps program through the parks and recreation levy and reviewed the types of programs.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license for the period ending August 31, 2013, subject to departmental approvals and the payment of sales and property taxes:

Grandma's Sports Bar & Grill, Inc. (Grandma's Hospitality #1), 250 Canal Park Drive, with Andy Borg, CEO and ten percent stockholder, and Michael Paulucci, 90 percent stockholder.

Resolution 13-0082 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Regents of the University of Minnesota Duluth 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 13-0124 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of architect, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0311-13, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay range for said classification shall be Range 1100-1110, \$5,373 to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

\$6,851 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0056 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SRF Consulting Group, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. 13-0311-14, for professional services in conducting a traffic impact study of the proposed downtown office tower project site at 425 West Superior Street in Duluth, Minnesota, in accordance with city planning and economic development guidelines and the consultant's revised proposal, dated February 25, 2013, for a total amount not to exceed \$27,500, and payable from Fund 450-030-5441, CP2013-1316b (capital improvement fund, finance department, other services and charges, corporate tower project public improvements).

Resolution 13-0118 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 13-0311-15, with Independent School District #709, accepting the grant of a utility and pedestrian easement, in trust for the general public, at no cost to the city over certain property in the vicinity of East 11th Street and Eighth Avenue East.

Resolution 13-0010 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit & Company, Inc., for reconstruction of Lift Station No. 14 in the amount of \$189,500, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Agency 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 0858SN.

Resolution 13-0107 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that Contract C21801 with Limnotech for professional services for assistance in evaluating, assessing and preparing applications to the Minnesota recovery task force (MRTF) and other grant agencies for stream restoration work to repair and restore city-owned property along streams that were damaged as a result of the June 2012 flooding and/or are in need of flood protection, be amended in the estimated amount of \$75,000 for a new total of \$175,000; payable from Disaster Recovery Fund 225, Division 125 (finance), Object 5303 (engineering services), Engineering Project No. 1186.

Resolution 13-0112 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

RESOLVED, that Contract C21800 with Barr Engineering for professional services for assistance in evaluating, assessing and preparing applications to the Minnesota recovery task force (MRTF) and other grant agencies for stream restoration work to repair and restore city-owned property along streams that were damaged as a result of the June 2012 flooding and/or are in need of flood protection, be amended in the estimated amount of \$75,000 for a new total of \$175,000; payable from Disaster Recovery Fund 225, Division 125 (finance), Object 5303 (engineering services), Engineering Project No. 1186.

Resolution 13-0113 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a proprietary contract with Novaspect, Inc., for the purchase and delivery of two Fisher 1098-EGR regulators, the same brand/model used throughout the Duluth city system, in fiscal year 2013 in the amount of \$27,044.04, and \$1,859.28 sales tax, for a combined total of \$28,903.32, terms net 30, FOB destination, payable from the Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1945 (utility operations), Object 5227 (utility systems maintenance supplies).

Resolution 13-0115 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a proprietary contract with Nelson Technologies, Inc., for the purchase and delivery of one YZ Model total system natural gas odorizer and related equipment and software to replace the old odorizer at TBS-1A town border station, the same brand/model already installed at three other town border stations, in fiscal year 2013, in the amount of \$34,000 plus \$2,337.50 sales tax, for a combined total of \$36,337.50, terms net 30, FOB destination, payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1905 (capital-incl. depreciation/debt service), Object 5580 (capital equipment).

Resolution 13-0116 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that Resolution 11-0663 amending Contract 21549 with LHB, Inc., for professional engineering services for construction administration and inspection for rehabilitation of Bridge No. L6007 on Skyline Parkway at Stewart Creek be amended to increase the amount by \$76,940 for a new total of \$166,802. This increase is to include the construction engineering phase for the bridge rehabilitation project. This increase is payable from Permanent Improvement Fund 411, Department/Agency 035 (capital project accounts), Object 5530 (improvements other than buildings), City Project No. 1016, S.P. 118-060-010.

Resolution 13-0119 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proper city officials are authorized to accept a grant from the Minnesota board of firefighter training and education in the amount of up to \$9,900, said funds to be deposited in Fund 210, Agency, 030, Organization 3178, Revenue Source 5331 (special

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

projects, finance, fire training fund, travel/training), for the purpose of supporting the Duluth fire department personnel training.

Resolution 13-0108 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with Superior Golf Cars for a three year seasonal lease of 60 2013 gas golf cars for Lester Park Golf Course, 60 2013 gas golf cars for Enger Park Golf Course, and ten turf utility vehicles from May through October, in accordance with city approved specifications and the vendor's low bid of \$81,698.40 for each of years 2013, 2014 and 2015, and a potential total contract amount of \$245,095.20, sales tax collected with each rental; said \$81,698.40 for year 2013 to be paid as follows:

(a) \$40,849.20, from Golf Fund 503, Department/Agency 400 (parks and recreation), Division ENGR (golf course Enger), Object 5415 (Enger-vehicle/equipment rental-short-term);

(b) \$40,849.20, from Golf Fund 503, Department/Agency 400 (parks and recreation), Division LSTR (golf course Lester), Object 5415 (Lester-vehicle/equipment rental-short-term).

RESOLVED FURTHER, that this three year lease is subject to the availability of funds.

Resolution 13-0091 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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The following resolutions were also considered:

RESOLVED, that the appropriate city officials are hereby authorized to allocate \$775,000 from the Tourism Tax Fund 258, \$100,000 from the reserve for capital improvements, and \$675,000 from the undesignated unreserved fund balance, to the following tourism-related improvement projects:

	Allocation	Recipient Match
Lakewalk repaving - Canal Park to Leif Erikson	\$50,000	-
Park Point current warning signs	\$50,000	-
Wayfinding - attractions and business	\$100,000	City/legacy
Duluth airport authority marketing plan	\$20,000	\$680,000
Aquarium technology upgrades	\$60,000	-
Piling work on bayside for tall ships	\$15,000	-
Glensheen parking	\$100,000	\$225,000
Leif Erikson ship relocation	\$40,000	\$50,000
Enger Park bathroom and deck work	\$200,000	\$100,000
Munger Trail extension to Irving	\$50,000	-

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

	Allocation	Recipient Match
Compenhensive plan study for DECC (Duluth Entertainment Convention Center) bayside area	\$30,000	-
Spirit Mountain bike trails (2)	\$60,000	-
	\$775,000	\$1,055,000

Resolution 13-0123 was unanimously adopted.
Approved March 11, 2013
LINDA KRUG, Acting Mayor

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Resolution 13-0125, by Councilor Hartman and President Boyle, regarding Leadership In Energy And Environmental Design® (LEED®) standards in the planning, design, construction and commissioning of municipal facilities, was introduced.

Councilors Krause and Fosle expressed concerns that: there are lots of other energy ideas out there; these ideas do not require a need to spend a lot of money to incur savings without achieving certification and a resolution of support is the same as a resolution of intent, thus making city staff think the city council supports this concept, which could be more costly in some cases.

Resolution 13-0125 was adopted as follows:

BY COUNCILOR HARTMAN AND PRESIDENT BOYLE:

WHEREAS, a variety of high performance, sustainable, or “green” building standards such as Leadership in Energy and Environmental Design® (LEED®) have been used in Minnesota and across the nation for the last 15 years and have been proven to reduce the consumption of energy and other natural resources; and to improve building performance, cost efficiency, and building longevity; and

WHEREAS, green building can assist in meeting sustainability indicator targets related to air quality, asthma morbidity, reduced greenhouse gas emissions, increased renewable energy, improved water quality, increased permeable surfaces, and brownfield site cleanup.

THEREFORE, BE IT RESOLVED, that the council hereby supports the use of Leadership in Energy and Environmental Design (LEED) standards in the planning, design, construction, and commissioning of municipal facilities.

FURTHER RESOLVED, that the city will endeavor to construct all new or significantly renovated municipal facilities to a LEED silver level of quality.

FURTHER RESOLVED, that annual actual energy data for a project should be submitted to the Minnesota B3 or SB 2030 database.

Resolution 13-0125 was adopted upon the following vote:

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

Nays: Councilors Fosle and Krause -- 2

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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Resolution 13-0110, approving a development agreement between the Duluth economic development authority and Ramsey IV, LLC relating to the Ramsey neighborhood townhome development, was introduced by Councilor Stauber.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Councilor Krause noted that there is a middle income housing shortage and, when trying to get businesses to town, this money should be used for the economic development of middle income housing.

Resolution 13-0110 was adopted as follows:

RESOLVED, that the city council of the city of Duluth does hereby approve the development agreement on file in the office of the city clerk as Public Document No. 13-0311-16, between the Duluth economic development authority (DEDA) and Ramsey IV, LLC, related to the Ramsey Neighborhood Townhome Development in an amount not to exceed \$480,000.

Resolution 13-0110 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities for construction of a new eight inch and 12 inch P.E. gas main, reconnection of local services and branch mains, and abandonment of an existing eight inch steel gas main in First Street from Mesaba Avenue to 15th Avenue West in the amount of \$480,525, payable from Gas Fund 520, Department 500 (public works and utilities), Agency 1905 (capital improvements), Object 5533 (capital improvements - revenue), City Project No. 0839GS.

Resolution 13-0114 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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Resolution 13-0120, authorizing application to the Minnesota department of natural resources regional trail grant program and to enter into a grant agreement for the Cross City Trail Phase 3; and Resolution 13-0121, authorizing application to the Minnesota department of natural resources regional trail grant program and to enter into a grant agreement for the Cross City Trail Phase 4, were introduced by Councilor Julsrud.

Councilor Krause noted that: these resolutions require a \$50,000 matching grant; ongoing operational costs come after that and the community centers need money for improvements before the city starts spending money on trails.

Resolutions 13-0120 and 13-0121 were adopted as follows:

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct Phase 3 of the Cross City Trail in 2014; and

(b) The estimated cost for design and construction of Phase 3 of the Cross City Trail is \$700,000. The Minnesota department of natural resources (DNR) has grant monies available through its regional trail program that are intended to accelerate the acquisition and development of long distance, destination recreational trails of regional significance; and

(c) To receive this money the city must submit the regional trail grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding of Phase 3 of the Cross City Trail as described in the application.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and is available on a 75 percent/25 percent local matching basis, and has local matching funds available through bonding as well as a \$500,000 FHWA transportation enhancement grant previously awarded to the project.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor
City of Duluth
411 West First Street
Duluth, MN 55802

Resolution 13-0120 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct Phase 4 of the Cross City Trail in 2014; and

(b) The estimated cost for design and construction of Phase 4 of the Cross City Trail is \$700,000. The Minnesota department of natural resources (DNR) has grant monies available through its regional trail program that are intended to accelerate the acquisition and development of long distance, destination recreational trails of regional significance; and

(c) To receive this money the city must submit the regional trail grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding of Phase 4 of the Cross City Trail as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and is available on a 75 percent/25 percent local matching basis, and has local matching funds available through bonding as well as a \$500,000 FHWA transportation enhancement grant previously awarded to the project.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor
City of Duluth
411 West First Street
Duluth, MN 55802

Resolution 13-0121 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Approved March 11, 2013

LINDA KRUG, Acting Mayor

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HARTMAN

13-018 - AN ORDINANCE REQUIRING RESOLUTION PRE-APPROVING LAND CONVEYANCES, AMENDING SECTION 2-176 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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BY COUNCILORS GARDNER, HARTMAN AND STAUBER

13-008 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

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

Tom Maida, President of the Duluth Police Union, urged support of this ordinance for reasons of: it is a product of the working group; it is a compromise agreed to by the working group and the administration, and fixes the ability of the administration to hire a lieutenant outside of the Duluth workforce, which would be detrimental to the internal workings of the department.

[Editor's Note: Due to a replacement of the ordinance by Councilor Gardner, it was read again for the first time.]

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INTRODUCED BY COUNCILOR STAUBER

13-011 - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

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INTRODUCED BY COUNCILOR STAUBER

13-012 - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

INTRODUCED BY COUNCILOR STAUBER

13-014 - AN ORDINANCE AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO P-1, MINNESOTA POINT FROM THE SKY HARBOR AIRPORT BOUNDARY TO PARCEL ONE OF THE CLARK'S TRACT REFEREE'S PLAT OF MINNESOTA POINT (CITY OF DULUTH).

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INTRODUCED BY COUNCILOR STAUBER

13-016 - AN ORDINANCE ALLOWING BICYCLES TO BE WALKED THROUGH THE NORTHWEST PASSAGE, AMENDING SECTION 44A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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INTRODUCED BY COUNCILOR STAUBER

13-017 - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT 3RD AVENUE WEST AND THE I-35 FRONTAGE ROAD TO DTA AT NO COST FOR THE MULTI-MODAL TRANSPORTATION CENTER, SUBJECT TO CONDITIONS.

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INTRODUCED BY COUNCILOR LARSON

13-015 - AN ORDINANCE PERTAINING TO CONDUCT ON DULUTH TRANSIT AUTHORITY ("DTA") BUSES, AT DTA FACILITIES, AND IN DTA SHELTERS AND AUTHORIZING DRIVERS AND OTHER DTA EMPLOYEES TO REFUSE SERVICE FOR DISORDERLY PERSONS.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRAUSE

13-013 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Krause moved to table the ordinance so that it could be considered with Ordinance 13-008 at a future meeting, which motion was seconded and unanimously carried.

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INTRODUCED BY COUNCILOR STAUBER

13-009 (10204) - 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, NONCONFORMING SIGNS AND DEFINITIONS.

Councilor Hartman moved to reconsider his prior amendment to the ordinance because of some legal aspects which need more review, which motion was seconded and unanimously carried.

Councilor Hartman's amendment failed unanimously.

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

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INTRODUCED BY COUNCILOR STAUBER

13-010 (10205) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N) AND RESIDENTIAL-URBAN (R-2), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6) FOURTH STREET FROM NORTH SIXTH

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

AVENUE EAST TO NORTH 14TH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

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

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The meeting was adjourned at 7:52 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10204

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, NONCONFORMING SIGNS AND DEFINITIONS.

The city of Duluth does ordain:

Section 1. That Section 50-27 of Chapter 50 be repealed and replaced as follows:

50-27. Signs.

50-27.1 Permit required.

- A. All signs that require a permit, as described in Section 50-27.5 (*Sign types – permit required*) must obtain a zoning permit as described in Section 50-37.13 (*Zoning permit*) of this Unified Development Chapter;
- B. When submitting a zoning permit application for a sign, the applicant must submit photographs and dimensions of all signs existing on the lot, including all signs that will be removed. The city may request that the applicant submit photographs of all new signs erected on the lot after permit issuance;
- C. The applicant must sign the zoning permit application attesting to the accuracy of the information provided. The city may revoke any sign permit where there has been a violation of the provisions of this section or misrepresentation of fact on the zoning permit application;
- D. All freestanding signs over seven feet in height must submit construction plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code.

50-27.2 Enforcement.

- A. No sign permit shall be required for the types of signs shown in Table 50-27-1, but each such sign shall be required to comply with the provisions of this Section 50-27. Any sign placed on public property or within a public right-of-way or public easement without authorization or without a required sign permit can be removed without notice. Such signs will be held by the city for 30 days. The owner of the sign may reclaim the sign within such period, subject to any fines imposed by the city. If not reclaimed, the city may destroy the sign following expiration of the 30 day period;
- B. If a sign is constructed illegally, either without a required permit or in violation of this section or previous sign regulations, the city may serve notice to the property owner that such sign must be removed or the violation corrected within 30 days. If the sign is not removed or the violation corrected within the 30 day period, the city may remove the sign at the property owner's expense. An extension of this

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

30 day period may be granted per Section 50-37.1.O (*Appeals*) of this Chapter, and must be applied for prior to expiration of the initial 30 day period.

50-27.3 Design and construction standards.

All signs constructed, erected, modified or altered must comply with the provisions of this Section and the requirements of the City Code.

A. Prohibited sign location.

1. No sign may be erected in a location that violates the Minnesota State Building Code, Minnesota State Fire Code or other regulations;
2. No sign, other than that placed by agencies of government or a sign whose placement is authorized by this Section or the city, may be erected in the public right-of-way or on public property;
3. Signs located on public right-of-ways or on/in public or private skywalks must comply with Chapter 44A of the City Charter;
4. No sign may be erected on private property without prior consent of the property owner;
5. No sign may be erected in violation of the view obstruction provisions of Section 50-25.2.M (*Protection of site distance*) with the exception of a freestanding pole sign, if permitted in the district, with a diameter no greater than one foot and where the sign face is mounted a minimum of eight feet above grade. No sign can be erected that obstructs free and clear vision of any street, intersection, parking lot ingress or egress, or driveway;
6. No sign may be erected in a manner that obstructs access to fire escapes, any ingress or egress, or standpipes;
7. No sign may be erected on the exterior of a building to cover any windows or doors;

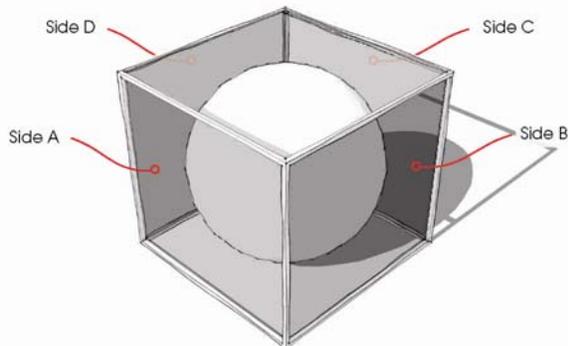
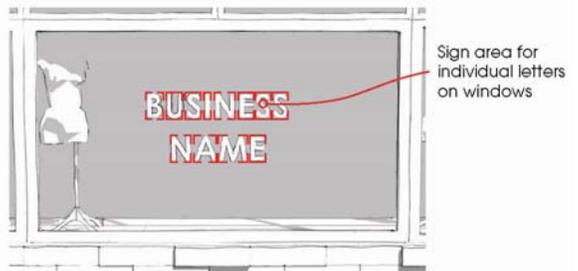
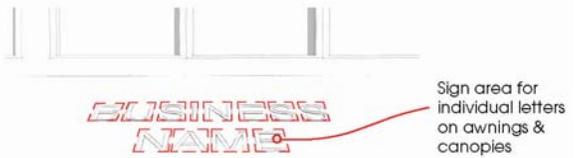
8. Signs on lots adjacent to state or county highways shall conform to the respective setbacks and other standards of the state and county highway departments;
9. Freestanding monument signs shall not be located closer than three feet from the lot line;
10. The supporting pole of a freestanding pole sign shall be setback from the lot line a minimum of three feet, but the sign itself may be up to the lot line. No part of a freestanding pole sign may encroach on a public right-of-way;

B. Sign dimension measurement methodology.

1. General measurement of sign area.

Sign area is measured as follows:

- (a) For signs on a background, the entire area of the framework or background of the sign is calculated as sign area, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed. Sign area does not include any supports or bracing, unless such framework or bracing is part of the message or sign face;
- (b) For signs consisting of freestanding letters or logos, the sign area is calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo. Sign area does



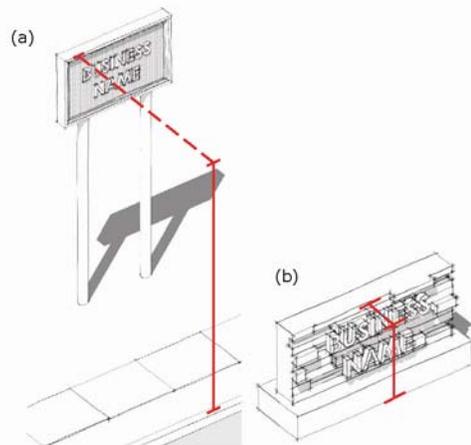
not include any supporting framework or bracing, unless such framework or bracing is part of the message or sign face;

- (c) For awning and canopy signs, the sign area is the printed area of the awning or canopy, calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo;
- (d) Window signs printed on a transparent film and affixed to the interior or exterior of a windowpane are calculated as individual letters or logos, provided that the portion of the transparent film around the perimeter of the individual letters or logos maintains 100 percent transparency of the window. Transparency is defined as both the ability to view into the interior of the establishment from the outside and to view the outside from the interior of the establishment through the same area;
- (e) The sign area of a three-dimensional, free-form or sculptural (non-planar) sign is calculated as 50 percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign;
- (f) If a sign has two or more faces, the area of all faces is included in determining the area of the sign, unless the two sign faces are placed back-to-back and are no more than two feet apart. In such case, the sign area is calculated as the area of one face. If the two faces are unequal in area, the area of the larger face is used to calculate sign area;
- (g) Necessary supports or uprights on which the sign is erected are not included in the sign area computation.

2. General measurement of sign height.

(a) Pole sign height is measured from the grade to the uppermost point of the sign. Grade is established by the elevation of the back of curb or, if no curb exists, from the edge of pavement at the center of the abutting street frontage where the sign will be erected. The pole sign height may also be measured from the natural slope of the lot where the sign will be erected;

(b) Monument sign height is measured from the existing lowest point of the ground where the monument sign is to be installed to the uppermost point of a sign;



C. Construction standards.

- 1. Supports and braces must be designed as an integral part of the overall sign design and hidden from public view to the extent technically feasible;
- 2. All signs attached to a building must be installed and maintained so that wall penetrations are watertight and the structure does not exceed allowable stresses of supporting materials;

3. All signs must be designed and constructed in accordance with Minnesota State Building and Fire codes. Marquee structures must be approved by the city engineer and building safety department;
4. Glass forming any part of a sign must be safety glass'
5. All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to or superimposed upon any sign must be safely and securely built into or attached to the sign structure;
6. Audio components are prohibited on any sign, with the exception of menuboards;
7. Any form of pyrotechnics is prohibited;

D. Electrical wiring.

1. All electrical fixtures, devices, circuits, conduits, raceways or apparatus used to illuminate, move or project any sign must be installed and maintained in accordance with Minnesota State Building Code, including the National Electrical Code. Electrical permits are required for sign installation in accordance with the Minnesota State Building Code;
2. Conduits and other components of a sign illumination system must be designed as an integral part of the overall sign structure and hidden from public view to the extent technically feasible;

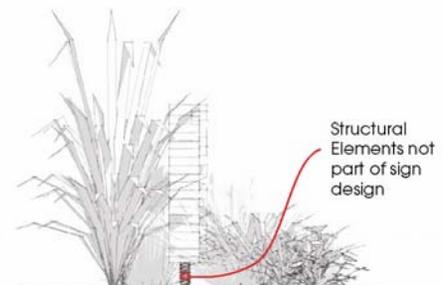
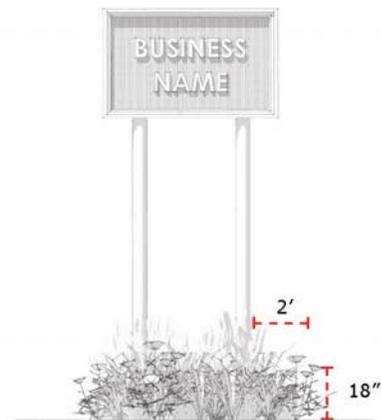
E. Permit identification.

Every sign must include an identification of the permit number and name of sign installer either painted on the sign or by the application of a metallic sticker. The information must be visible from the ground with the exception of signs mounted seven or more feet above grade;

F. Required landscaping.

All freestanding signs, except in lots zoned I-G and I-W, must be landscaped at the base of the sign in accordance with the following:

1. Freestanding signs must be landscaped with small shrubs a minimum of 18 inches in height at planting, spaced appropriately based on mature height and spread to provide continuous screening of sign base once shrubs have reached maturity. The remainder of the landscape area must be planted with perennials, turf or other live ground-cover;
2. Landscape must extend a minimum of two feet from the sign base on all sides. If this two foot



area extends into the right-of-way, landscape is not required within the right-of-way area. All landscape must be maintained in good condition, and free and clear of rubbish and weeds. Landscape around the base of a sign is included in the total amount of landscape required on a site, if applicable;

3. There is no requirement regarding the mature height of landscape, though landscape must be tailored to the scale of the sign. Landscape may be trimmed and maintained along the sign base to maintain visibility of the sign face;
4. When a monument sign is designed as a single structure where the pediment is constructed of similar or complimentary materials as the sign, and no structural elements that are not related to such overall design of the sign are visible, no landscape is required;

G. Required sign maintenance.

1. All signs must be maintained in a safe, neat and orderly condition and appearance, and must be repainted or otherwise maintained by the property owner to prevent corrosion or deterioration caused by the weather, age or any other condition;
2. All signs must be maintained to prevent any kind of safety hazard, including faulty sign structures, a fire hazard or an electrical shock hazard;
3. All unused sign hardware or wiring that is visible from the right-of-way must be removed;
4. If a sign is maintained in an unsafe or insecure condition, the city will give written notice to the property owner. If property owner fails to remove or alter the structure to comply with the standards of this Section, the sign may be removed by city at the expense of the property owner. The city may remove any sign that is an immediate peril to persons or property summarily and without notice.

H. Non-commercial messages.

A non-commercial message may be substituted for a commercial message on any sign permitted by this Section.

I. Permit identification.

All architectural signs on a structure announcing the original or historic name of the building, year of construction, or insignias must be maintained, and cannot be removed, altered, or covered. Such signs are not calculated as part of any sign area or maximum number of signs permitted by this Section.

50-27.4 Illumination standards.

The following illumination standards apply to on-premises signs. Illumination of billboards (off-premises) are regulated separately in Section 50-27.7. Additional illumination requirements for electronic message signs are found in Section 50-27.7.

- A Any sign illumination, including gooseneck reflectors, external illumination and internal illumination, must be designed, located, shielded and directed to prevent the casting of glare or direct light upon roadways and surrounding properties, or the distraction of motor vehicle operators or pedestrians in the public right-of-way;
- B The sign face of internally illuminated signs must function as a filter to diffuse illumination. The sign face must cover all internal illumination components so that no exposed bulbs are visible;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

- C All external illumination of a sign must concentrate the illumination upon the printed area of the sign face;
- D No sign illumination may exceed one footcandle of illumination at the property line;
- E The use of neon lighting as a sign material or sign accent is permitted for signs within the mixed-use, form-based and special purpose districts, with the exception of the MU-N and MU-B districts where it is prohibited. Neon lighting is subject to the following:
 - 1. When lit, neon lighting must be continuously illuminated. Flashing neon is prohibited;
 - 2. Neon lighting cannot be combined with any reflective materials (e.g., mirrors, polished metal, highly-glazed tiles, or other similar materials) that would cause glare and increase the spread of light;
 - 3. Neon lighting to outline doors and windows is prohibited;
- F The use of LED lighting as a sign accent is permitted, subject to the following:
 - 1. LED lighting as an accent is only permitted for non-residential uses in the mixed-use, form-based and special purpose districts where electronic message center signs are permitted. LED accent lighting is prohibited in any residential district;
 - 2. LED lighting as an accent must comply with all illumination requirements of an electronic message center sign;
 - 3. The addition of LED lighting as an accent to an existing sign requires a zoning permit;
 - 4. When lit, LED lighting must be continuously illuminated. Flashing LED is prohibited;
 - 5. LED lighting cannot be combined with any reflective materials (e.g., mirrors, polished metal, highly-glazed tiles, or other similar materials) that would cause glare and increase the spread of light;
 - 6. LED lighting to billboards, free standing monument signs, outline doors, windows, and automobile and filling station gas canopies is prohibited;
 - 7. LED lighting to outline free standing pole signs is allowed but lighting must conform to the same brightness standards as electronic message centers as identified in UDC Section 50-27.7.G.

50-27.5 Prohibited signs.

The following signs are prohibited:

- A Balloon and air-infused/air-inflated signs;
- B Electronic display screens;
- C Flashing or animated signs;
- D Illegally-affixed signs;
- E Moving signs, including signs moved by wind or mechanical or electrical components. No sign or part of any sign shall move or give the illusion of movement in any manner. Clocks and barber poles are exempt from this provision;
- F Portable signs. Portable signs include both signs mounted on a wheeled structure and those mounted on a stationary structure that can be moved and is not permanently installed on a site;
- G Roof signs;
- H Snipe signs;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

I Strobe lights, moving or fixed spotlights, and floodlights;

J Temporary off-premises signs;

K Traffic hazard signs. Any sign that constitutes a traffic hazard is prohibited, including signs that:

1. Interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal or device because of its position, shape or color, including signs illuminated in red, green or amber color to resemble a traffic signal;
2. Make use of the words STOP, LOOK, DETOUR, DANGER, CAUTION, WARNING or any other word, phrase, symbol or character in a manner that misleads, interferes with or confuses traffic;

L Vehicle signs. Signs placed or painted on parked vehicles where the primary purpose is to advertise a product or service, or to direct the public to a business or activity located on or off the premises, are prohibited. Signs painted on vehicles, trucks or buses, which are being operated and stored in the normal course of business, such as signs located on delivery trucks, promotional vehicles, moving vans and rental trucks, are permitted, provided that the primary purpose of such vehicles is not the display of signs, and that they are parked or stored in areas related to their use as vehicles. Vehicle for-sale signs are exempt from this provision.

50-27.6 Signs and activities exempt from permit requirements.

A. Alternation and maintenance operations.

The following activities are exempt from a zoning permit:

1. Painting, repainting, cleaning, and/or other normal maintenance and repair of a sign, not involving structural alterations or changes in the electrical components of the sign. Repairs to existing permitted illumination components are also exempt from sign permit requirements;
2. Changing of the message of an existing changeable message sign or electronic message sign;
3. Changing the sign face within an existing legal sign structure, provided no alterations are made to the sign structure and the sign area, sign height or any other dimension of the sign;

B. Illumination.

No exempt sign may be illuminated, except for the following:

1. Uplighting of official federal, state, county or city flags;
2. Lighting of official federal, state, county or city government signs as needed by the government body;

C. Exempt permanent signs.

This Section describes the types of permanent signs that are allowed without a zoning permit. All exempt signs must comply with all the regulations of this section. Exempt permanent signs are subject to the regulations of Table 50-27-1: *Exempt Permanent Sign Regulations*.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

TABLE 50-27-1: EXEMPT PERMANENT SIGN REGULATIONS

<u>SIGN</u>	<u>PERMITTED DISTRICT OR USE</u>	<u>PERMITTED SIGN TYPE</u>	<u>MAXIMUM SIZE</u>	<u>MAXIMUM HEIGHT (FREE-STANDING SIGNS)</u>	<u>REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)</u>	<u>NUMBER PER LOT</u>
<u>Agricultural Identification Sign</u>	<u>All agricultural uses</u>	<u>Freestanding or wall</u>	<u>RC, RR-1, RR-2: 20sf</u> <u>All other districts: 6sf</u>	<u>6'</u>	<u>20' from front lot line & 10' from any other lot line</u>	<u>1 per street frontage</u>
<u>Bed and Breakfast</u>	<u>Bed and breakfast uses</u>	<u>Freestanding or wall</u>	<u>12 sf</u>	<u>7'</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Building Directory Sign</u>	<u>All multi-family & non-residential uses</u>	<u>Freestanding or wall</u>	<u>6 sf</u>	<u>7'</u>	<u>Within 10' of building entry</u>	<u>1 per building entry</u>
<u>Day Care Facility</u>	<u>Residential Zone Districts</u>	<u>Wall or non-illuminated lawn sign</u>	<u>6 sf</u>	<u>7'</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Directional Sign - Parking Lot</u>	<u>All parking lots and structures</u>	<u>Freestanding</u>	<u>4 sf</u>	<u>7'</u>	<u>0' from any lot line</u>	<u>No limit</u>
<u>Flags – Federal, State or Local</u>	<u>All districts and uses</u>	<u>Freestanding</u>	<u>No Limit</u>	<u>Flagpole limited to maximum height of zoning district</u>	<u>5' from any lot line</u>	<u>No limit</u>
<u>Flags – Commercial</u>	<u>All non-residential uses</u>	<u>Freestanding</u>	<u>16 sf</u>	<u>Flagpole limited to maximum height of zoning district</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Government Information Sign (Federal, State, County or City)</u>	<u>All districts & uses</u>	<u>Freestanding or wall</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>
<u>Home Occupation Sign</u>	<u>All residential dwelling uses and permitted accessory uses</u>	<u>Wall, window, or freestanding including mounting on private lightposts</u>	<u>4 sf</u>	<u>4'</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Memorial Plaque</u>	<u>All districts and uses</u>	<u>Freestanding or wall</u>	<u>6 sf</u>	<u>5'</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Nameplate</u>	<u>All districts and uses</u>	<u>Wall</u>	<u>4 sf</u>	<u>(Not Applicable)</u>	<u>(Not Applicable)</u>	<u>1 per lot</u>
<u>Parking Lot Information Sign</u>	<u>All parking lots and structures</u>	<u>Freestanding or wall</u>	<u>16 sf</u>	<u>8'</u>	<u>0' from any lot line</u>	<u>2 per access point</u>
<u>Property Identification Sign</u>	<u>All multi-family residential uses</u>	<u>Wall</u>	<u>4 sf</u>	<u>(Not Applicable)</u>	<u>(Not Applicable)</u>	<u>1 per lot</u>

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

TABLE 50-27-1: EXEMPT PERMANENT SIGN REGULATIONS

<u>SIGN</u>	<u>PERMITTED DISTRICT OR USE</u>	<u>PERMITTED SIGN TYPE</u>	<u>MAXIMUM SIZE</u>	<u>MAXIMUM HEIGHT (FREE-STANDING SIGNS)</u>	<u>REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)</u>	<u>NUMBER PER LOT</u>
<u>Public Information Sign</u>	The following uses: All educational facilities; cemetery or mausoleum; museum, library or art gallery; park, playground or forest reserve	<u>Freestanding or wall</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>
<u>Public Information School and Field Identification Sign</u>	All districts. K-12 public and private schools. Only to identify name of school, recreation field, or athletic team.	<u>Nonilluminated wall sign</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>
<u>Permanent Window Sign</u>	<u>All non-residential uses</u>	<u>Window</u>	<u>Temporary & permanent signs (combined) are limited to 30% coverage of window</u>	<u>(Not applicable)</u>	<u>(Not applicable)</u>	<u>(Not applicable)</u>
<u>Time and Temperature Sign (Electronic)</u>	<u>All non-residential uses</u>	<u>Must be integrated into primary freestanding or wall sign</u>	<u>20% of sign area of freestanding or wall sign, or if standalone sign, 6 sf</u>	<u>(Not Applicable)</u>	<u>(Not Applicable)</u>	<u>1 per lot</u>

D. Exempt temporary signs.

This Section describes the types of temporary signs that are allowed without a zoning permit. All exempt signs must comply with all the regulations of this Section.

1. Exempt temporary signs are subject to the display periods in Table 50-27-2: Permitted Display Period.

TABLE 50-27-2: EXEMPT TEMPORARY SIGN PERMITTED DISPLAY PERIOD

<u>SIGN</u>	<u>PERMITTED DISPLAY PERIOD</u>
<u>Attention-Getting Device</u>	<u>When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event</u> <u>When not related to a time-specific event: 10 days</u> <u>Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays</u>
<u>Banner (General)</u>	<u>When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event</u> <u>When not related to a time-specific event: 30 days</u> <u>Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays</u>
<u>Community Event Sign</u>	<u>Limited to no more than 4 display periods in a year for a total aggregate display time of 20 days per year</u>
<u>Construction Sign</u>	<u>Erected only after approval of a building permit and must be removed within 7 days of issuance of an occupancy permit or completion of construction, whichever occurs first</u>
<u>Non-Commercial Message Sign</u>	<u>General: No display period limitation</u> <u>Election: Signs of any size related to an election or referendum may be posted in any number from 46 days before the state primary in a state general election year until 10 days following the state general election</u>

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Real Estate Sign	All real estate signs may only be erected on the specific property offered for sale or lease or the property holding an open house Real estate for sale/lease signs: Posted for the duration the property is offered for sale or lease, and must be removed within 7 days of closing or lease Real estate open house signs: Only during the day of the open house and must be removed within 2 hours of the end of the event
Temporary Window Sign	No display period limitation

**2. Exempt temporary signs are subject to the regulations of Table 50-27-3:
*Exempt Temporary Sign Regulations.***

TABLE 50-27-3: EXEMPT TEMPORARY SIGN REGULATIONS						
SIGN	PERMITTED DISTRICT OR USE	PERMITTED SIGN TYPE	MAXIMUM SIZE	MAXIMUM HEIGHT (FREESTANDING SIGNS)	REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)	NUMBER PER LOT
Attention-Getting Device	Nonresidential uses in MU-C	Freestanding	10sf	6'	10' from any lot line	1 per lot
Banner (general)	Non-residential uses	Wall or retaining wall	32sf	(Not applicable)	(Not applicable)	1 per lot
Community Event Sign	All districts and uses	Freestanding or wall	10sf	6'	10' from any lot line	1 per lot
Construction Sign	All districts and uses	Freestanding or wall	50sf	6'	10' from any lot line	50sf total per street frontage
Non-Commercial Message Sign	All districts and uses	Freestanding, wall or retaining wall	No limit	No limit	No limit	No limit
Real Estate Sign	All districts and uses	Freestanding or wall	Residential Districts: 4sf All Other Districts: 12sf	5'	10' from any lot line	1 per street frontage
Temporary Window Sign	All nonresidential uses	Window	Temporary & permanent signs (combined) are limited to 30% coverage of window	(Not applicable)	(Not applicable)	(Not applicable)

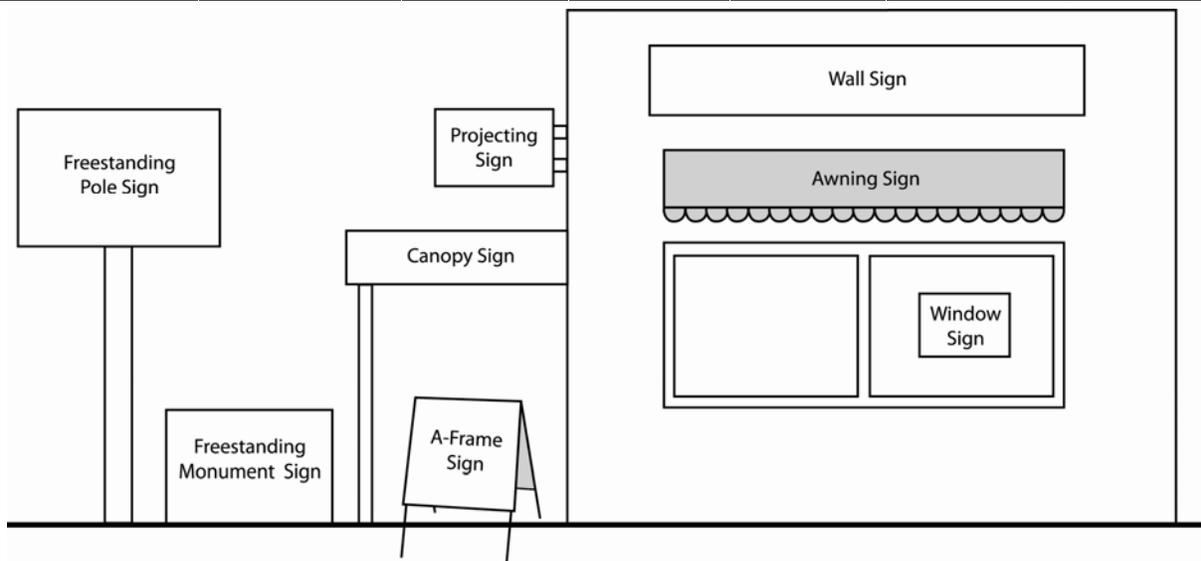


Figure 50-27.6-A: Examples of Common Sign Types

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

50-27.7 Sign types.

A. General regulation.

The following types of signs require a zoning permit before they can be erected on a site. Table 50-27-4: Sign Types – Permit Required: District and Use Permissions describes which sign types are permitted in each district. In many districts, multiple sign types for the same development may be permitted.

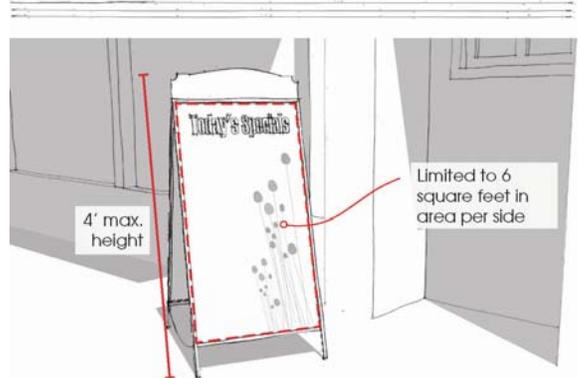
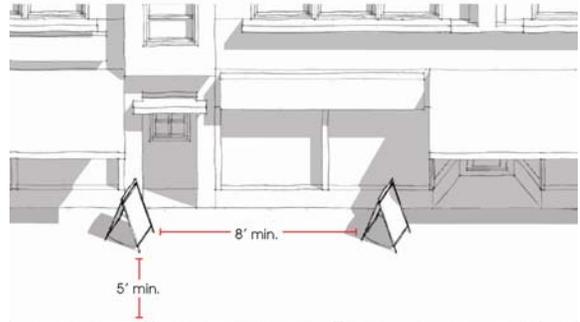
TABLE 50-27-4: SIGN TYPES – PERMIT REQUIRED: DISTRICT AND USE																								
KEY (REFERENCE TABLE 50-19.8 FOR USES)																								
1 : Residential Uses												3 : Commercial Uses												
1A : Multi-Family Dwelling Only												4 : Industrial Uses												
2 : Public, Institutional and Civic Uses																								
<i>NOTE: Accessory uses are subject to the home occupation sign standards</i>																								
	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
A-Frame Sign							3	3			3	3	3	3	3	3	3	3	3	3	3			2
Awning	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	2											
Banner - Exhibition	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Billboard ¹							3 4			3 4		3 4										3 4		
Canopy	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	2											
Electronic Message Sign ²	2	2	2	2	2	2	2 3	2 3 4	2 3 4	2 3 4	2	2 3 4	2 3	2 3 4	2 3 4	2	2							
Freestanding Signs – Pole	2	2	2	2	2	2	2 3 4	2 3 4	2 3 4	2	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2
Freestanding Signs – Monument	1 2	1 2	1 2	1 2	1 2	1 2	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	2
Marquee							3	3			3	3					3		3	3				
Menuboard ³	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Projecting Sign							3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4
Scoreboard	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Wall Sign	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2											

¹ Billboards are permitted on any lot within the noted districts, whether developed or undeveloped, unless such lot is developed for a one-family or two-family dwelling.
² Filling station uses in any district are permitted to display fuel prices by an electronic message component, and are subject to the restrictions of that section. Electronic message signs are not allowed in the Historic Canal Park area as identified in UDC Section 50-27.9.C
³ Menuboards are permitted only for a drive-through use. In the case of existing nonconformities within districts that contain drive-through facilities, menuboards are permitted for the drive-through use until such time as the structure is demolished.

B. A-frame signs.

A-frame signs are permitted as indicated in Table 50-27-4, subject to the following regulations.

1. A-frame signs are limited to six square feet in area per side and four feet in height;
2. The use of A-frame signs is limited to business hours only. Signs must be stored indoors at all other times. A-frame signs must not be used outdoors when high winds, heavy rain or heavy snow conditions are present. A-frame signs may be removed during city snow removal operations and the city is not liable for any damage to signs caused by snow removal operations;
3. One A-frame sign is permitted per business, per street frontage of that business. A minimum eight foot separation is required between all A-frame signs;
4. An A-frame sign must be placed on the property where the business is located and within ten feet of the primary entrance of the business or on the right-of-way in front of property. A-frame signs must provide an unobstructed sidewalk width of at least five feet for pedestrian passage and must not interfere with pedestrian traffic or violate standards of accessibility as required by the ADA or other accessibility codes;
5. The permit applicant must provide and maintain in force a certificate of insurance, in a form approved by the city, that evidences that the applicant has in force insurance in the minimum amounts required by the city for bodily injuries or property damage in any one year protecting such person or organization and the City against liability for injuries or damages resulting from the placement of such objects or materials in the public right-of-way;
6. For A-frame signs located within the right-of-way, the sign permit must be renewed on an annual basis;

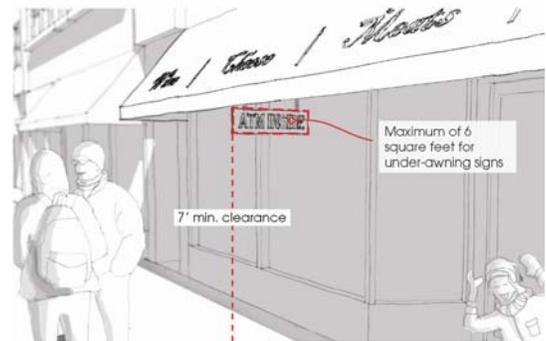
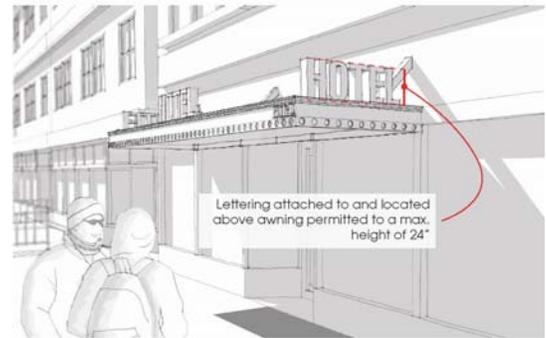
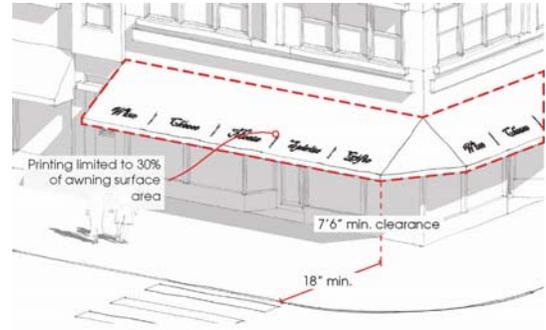


C. Awning.

Awnings without printing, with the exception of a street address number (number only), are considered an architectural feature and are not regulated by this Section. This Section regulates awning signs, which are used to identify a use by name or logo, the goods or services offered on-site, and similar sign information. Awning signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Awning signs must maintain a minimum vertical clearance of seven feet six inches (7' 6");
2. Awning signs must be located a minimum of 18 inches from the back of curb;

3. Awning signs must comply with Minnesota State Building and Fire codes, including provisions for encroachment into the public right-of-way, structural requirements, sprinkler protections and similar regulations;
4. Awning signs must be made of a durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric or metal;
5. Printing on any awning sign is limited to 30 percent of the surface area;
6. Awning signs are permitted lettering attached to and located above the top of a solid awning to a maximum height of 24 inches;
7. Awning signs may illuminate the printed area of the awning with gooseneck or similar external illumination. Back-lit awnings are prohibited;
8. Under-awning signs are permitted subject to the following:



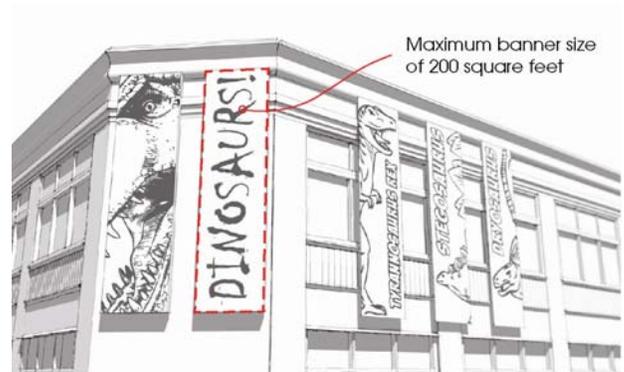
- (a) Under-awning signs must be attached to the underside of an awning. Under-awning signs must not project beyond the awning;
- (b) Under-awning signs must maintain a minimum vertical clearance of seven feet;
- (c) A maximum of one under-awning sign is permitted per business establishment with frontage on the street where the awning is mounted;
- (d) Each under awning sign is limited to a maximum of six square feet;
- (e) Under-awning signs must be securely fixed to the awning with metal supports;
- (f) Under-awning signs must be made of wood, metal or plastic;

D. Exhibition banners.

Exhibition banners are permitted for events and exhibitions as indicated in Table 50-27-4, subject to the following regulations:

1. Each use is permitted up to six exhibition banners during one display period. The display period is defined as the combined period of 30 days prior to the opening of the exhibit, the run of the exhibit, and for 14 days following the close of the exhibit;

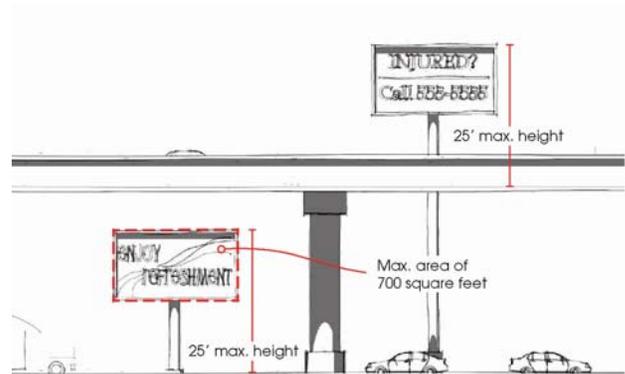
2. Exhibition banners must be made of a durable, weather-resistant material like canvas, nylon or vinyl-coated fabric;
3. Each exhibition banner is limited to a maximum sign area of 200 square feet;
4. Exhibition banners must be securely and tautly attached to the wall of the structure and no exhibition banner may be located higher than the roofline;



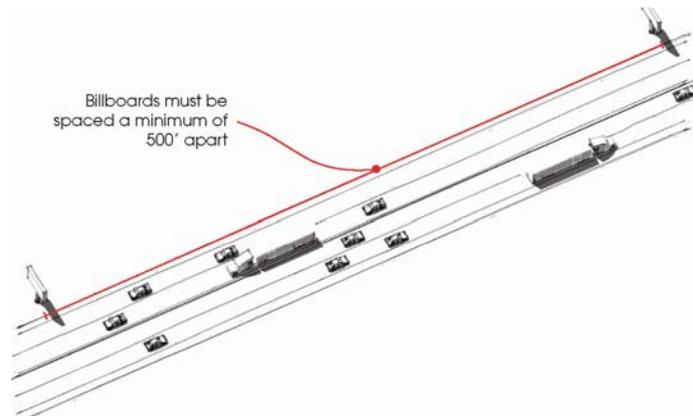
E. Billboard.

The following types of signs require a zoning permit before they can be erected on a site;

1. Billboards are permitted as indicated in Table 50-27-4 subject to the following regulations. However, billboards are only permitted in the MU-B and I-G districts with the use of an exception credit (Section 50-38.7). Billboards are also further restricted by the requirements of Minnesota State Statute Section 173.08,



2. The maximum sign area for a billboard is 700 square feet;
3. Billboards adjacent to on-grade roadways are limited to a maximum height of 25 feet. Billboards adjacent to grade separated/elevated roadways are permitted to measure the 25 foot height from the roadbed crown to the tallest projection of the structure. This measurement is taken at a perpendicular angle between the grade separated/elevated roadway and the sign location;
4. Billboards may only be mounted as freestanding pole signs. However, when an exception credit is used, billboards may be wall-mounted and are limited to the wall sign area allowed for that district;
5. Billboards are required to be spaced 500 feet apart, subject to the



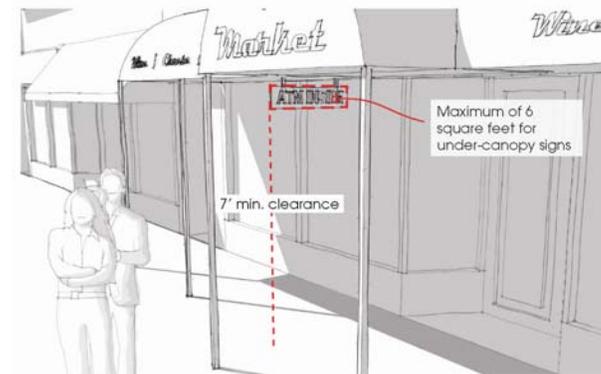
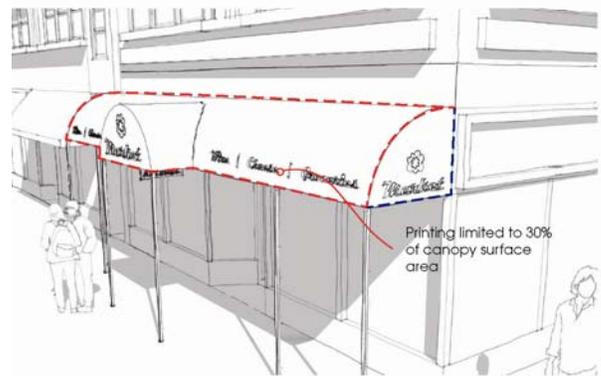
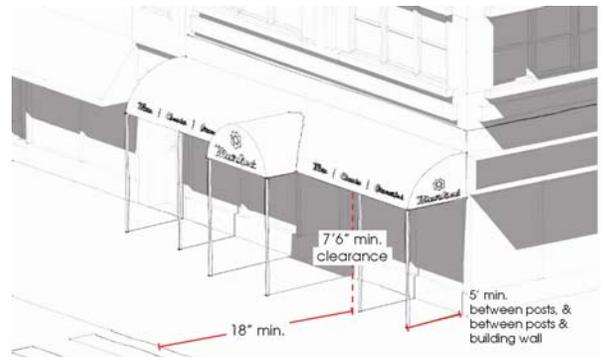
following:

- (a) Billboards located along Interstate Highway No. 35 and Interstate Highway No. 535 must be spaced 800 feet apart, unless erected under an exception credit in which case only the 500 foot spacing is required;
 - (b) Spacing is measured along the nearest edge of the right-of-way pavement to which the billboard is displayed and between points directly opposite the center of the billboard;
 - (c) Spacing requirements apply only to billboards located on the same side of the same highway.
 - (d) Multi-faced or back-to-back billboards, up to a maximum of a five foot separation between sign faces, are considered one billboard;
6. Electronic billboards are permitted only in the MU-C, MU-B, and I-G districts. Electronic billboards are subject to the following regulations:
- (a) An electronic billboard may only be erected if one of the following criteria is met:
 - (i) The electronic billboard is constructed using exception credits. The number of exception credits, in square footage, must equal three times the square footage of the electronic billboard to be constructed;
 - (ii) Nonconforming billboards of a total square footage are removed in an amount equal to three times the square footage of the electronic billboard to be constructed;
 - (b) Each message displayed on an electronic billboard must be static or depicted for a minimum of eight seconds. Any scrolling, flashing or movement of the message is prohibited;
 - (c) The maximum brightness of an electronic billboard is limited to 5,000 nits or 464 candelas per square foot during daylight hours, and 500 nits or 46 candelas per square foot between dusk to dawn. The billboard must have an automatic dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;

F. Canopy.

Canopies without printing, with the exception of a street address number (number only), are considered an architectural feature and are not regulated by this Section. This Section regulates canopy signs, which are used to identify a use by name or logo, the goods or services offered on-site, and similar sign information. Canopy signs are permitted as indicated in Table 50-27-4 subject to the following regulations:

1. Canopy signs must maintain a minimum vertical clearance of seven feet six inches (7' 6");
2. Canopy signs must be located at least 18 inches from the back of curb. Support posts must maintain a minimum separation of five feet between posts and between the posts and any building wall. No obstructions are permitted within this area;
3. Canopy signs must comply with Minnesota State Building and Fire codes, including provisions for encroachment into the public right-of-way, structural requirements, sprinkler protections and similar regulations;
4. Canopy signs must be made of a durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric or metal;
5. Printing on any canopy sign is limited to 30 percent of the surface area;
6. Canopies may include under-side, external illumination;
7. Under-canopy signs are permitted subject to the following:
 - (a) Under-canopy signs must be attached to the underside of a canopy. Under-canopy signs must not project beyond the canopy;
 - (b) Under-awning signs must maintain a minimum vertical clearance of seven feet;
 - (c) A maximum of one under-canopy sign is permitted;
 - (d) Each under-canopy sign is limited to a maximum of six square feet;
 - (e) Under-canopy signs must be securely fixed to the awning with metal supports;
 - (f) Under-awning canopy must be made of wood, metal or plastic;



G. Electronic message sign.

Electronic message signs are permitted as indicated in Table 50-27-4 subject to the following regulations. However, all filling stations in any district are permitted to display fuel prices by an electronic message component. Such component must only display numerical fuel prices and must be static.

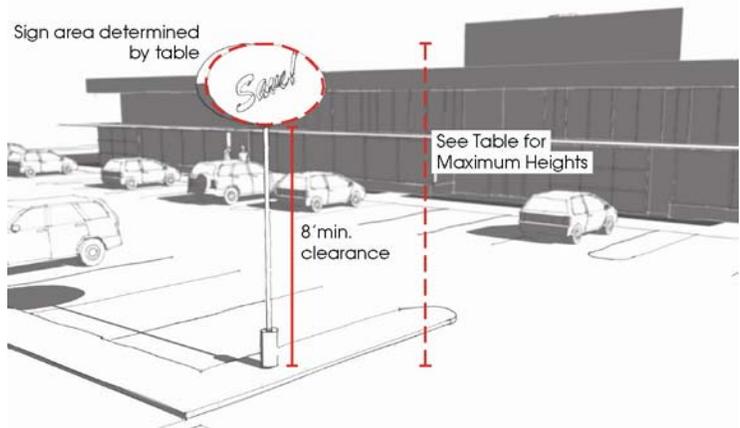
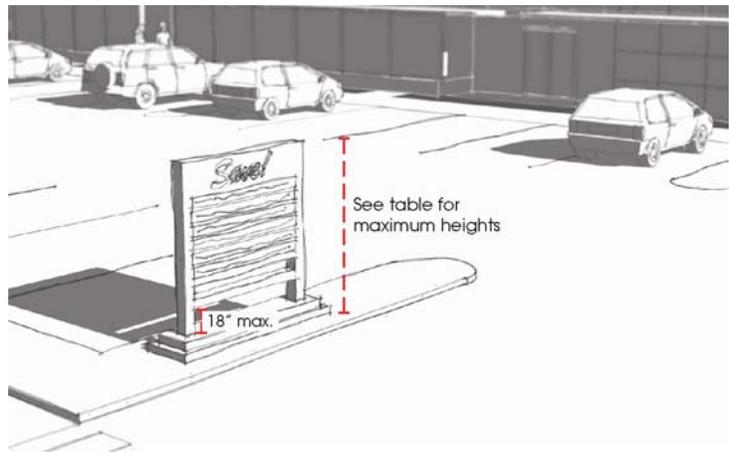
1. Only one electronic message sign per lot is permitted;

2. Each message or image displayed on an electronic message sign must be static or depicted for a minimum of eight seconds. Any scrolling, flashing or movement of the message is prohibited;
3. The maximum brightness of an electronic message sign is limited to 5,000 nits or 464 candelas per square foot during daylight hours, and 500 nits or 46 candelas per square foot between dusk to dawn. The sign must have an automatic dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;
4. Electronic message signs are permitted as part of a freestanding sign, wall sign or marquee and, in addition, are subject to the requirements for those sign types;
5. Electronic message signs must be integrated into the larger sign structure and must include the name of the use as a non-electronic component as part of the sign structure. Electronic message signs are limited to a maximum of 60 percent of the sign area of a freestanding or wall sign;
6. Electronic message signs cannot display any off-premises commercial advertising;
7. Electronic display screens are prohibited;

H. Freestanding signs-pole and monument.

Freestanding signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Freestanding sign maximum height and sign areas are as indicated in Table 50-27-5;
2. Only one freestanding sign, either pole or monument, is permitted per street frontage of a lot. For each additional 200 feet of street frontage, above an initial 200 feet of frontage, an additional freestanding sign, either pole or monument, is permitted, up to a maximum of three freestanding signs;
3. All freestanding signs over seven feet in height must submit construction



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code;

4. No part of a freestanding sign may project into, over or otherwise encroach on a public right-of-way;
5. A freestanding pole sign must maintain a minimum vertical clearance of eight feet. When the pole structure of a freestanding pole sign is wrapped in any decorative material, the decorative pole wrapping must be permanently installed. Decorative wrapping shall not be closer than three feet to the property line, and shall not be wider than 25 percent of the sign face. No temporary signs may be attached to the pole of a freestanding pole sign;
6. Freestanding monument signs may be internally or externally illuminated. If externally illuminated, all light must be directed onto the sign face. Freestanding pole signs may only be internally illuminated.

TABLE 50-27-5: FREESTANDING SIGN REGULATIONS

<u>DISTRICT</u>	<u>SIGN AREA</u>	<u>POLE SIGN</u>	<u>MONUMENT SIGN</u>
	<u>Maximum Sign Area (Square Feet)</u>	<u>Maximum Sign Height (Feet)</u>	<u>Maximum Sign Height (Feet)</u>
<u>R-C</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>RR-1</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>RR-2</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>R-1</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>R-2</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>R-P</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>MU-N</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>MU-C*</u>	<u>60 sf</u>	<u>25</u>	<u>8</u>
<u>MU-I*</u>	<u>50 sf</u>	<u>25</u>	<u>8</u>
<u>MU-B*</u>	<u>50 sf (Monument)</u>	<u>Prohibited</u>	<u>8</u>
<u>MU-W*</u>	<u>50 sf</u>	<u>20</u>	<u>6</u>
<u>MU-P*</u>	<u>60 sf</u>	<u>25</u>	<u>8</u>
<u>F-1</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>F-2</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>F-3</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>F-4</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>F-5</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>F-6</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>F-7</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>
<u>F-8</u>	<u>42 sf</u>	<u>15</u>	<u>6</u>
<u>F-9</u>	<u>60 sf</u>	<u>25</u>	<u>8</u>
<u>I-G*</u>	<u>60 sf</u>	<u>25</u>	<u>8</u>

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

<u>I-W*</u>	<u>60 sf</u>	<u>25</u>	<u>8</u>
<u>P-1</u>	<u>42 sf</u>	<u>17</u>	<u>6</u>

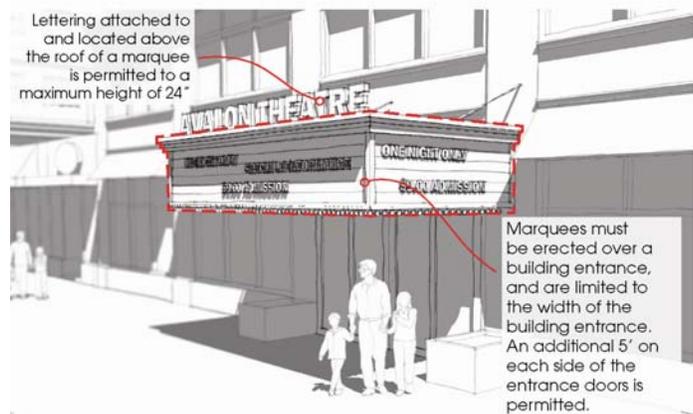
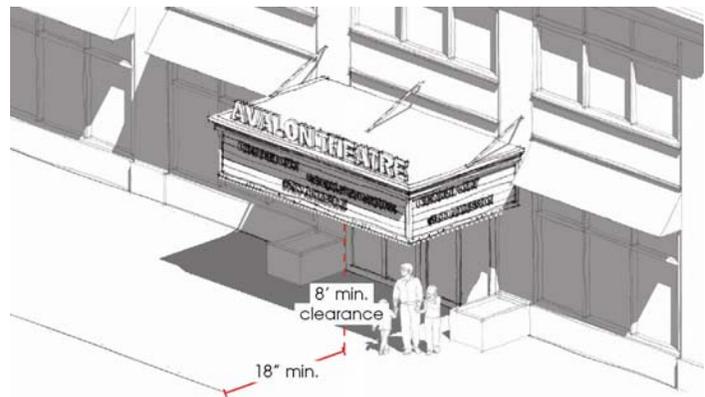
*Free Standing Pole and Monuments Signs in the MU-I, MU-B and MU-W zones are allowed a maximum of 50 square feet. However, for sites with lot frontage that exceeds 250 lineal feet, the maximum size area of the sign may equal up to 20 percent of the lineal street frontage on the street nearest the sign, up to a maximum sign area of 100 square feet.

*Free Standing Pole and Monument Signs in the MU-C, MU-P, I-G, and I-W zones are allowed a maximum of 60 square feet. However, for sites with lot frontage that exceeds 300 lineal feet, the maximum size area of the sign may equal up to 20 percent of the lineal street frontage on the street nearest the sign, up to a maximum sign area of 150 square feet.

I. Marquee.

Marquees are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Marquees must be supported solely by the building to which they are attached. No exterior columns or posts are permitted as supports;
2. No marquee may be erected on any building or other structure of wood frame construction;
3. The roof of a marquee may not be used for any purpose other than to form and constitute a roof and must be constructed of noncombustible material;
4. Water from the roofs of a marquee may not drain, drip or flow onto the surface of a public sidewalk. Sufficient downspouts, drains and gutters must be installed as part of each marquee to prevent water from the roof of the marquee from flowing onto the surface of a public sidewalk;
5. Marquees must be erected over a building entrance and are limited to the width of the building entrance. An additional five feet on each side of the entrance doors covered by the marquee is permitted;
6. All marquees must maintain a minimum vertical clearance of eight feet and the roof of the marquee structure must be erected below the second floor window sill. Marquees may encroach up to 18 inches from the back of curb;
7. Marquees are permitted lettering attached to and located above the roof of a marquee to a maximum height of 24 inches;

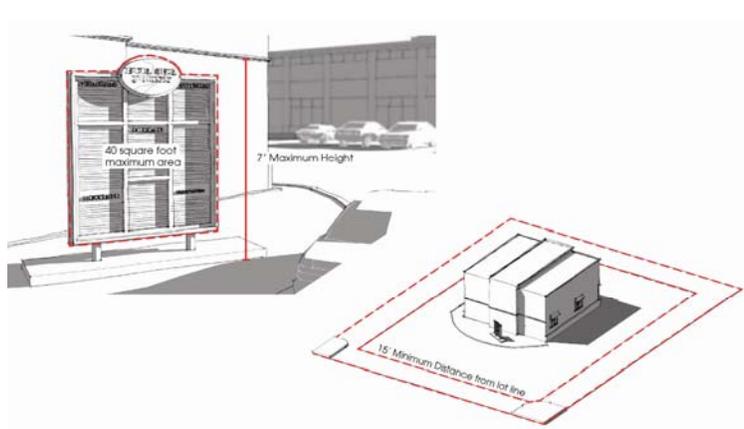


PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

- 8. Marquees may be internally illuminated. External Illumination is prohibited;

J. Menuboard.

Drive-through establishments are permitted one menuboard sign per drive-through lane, constructed as freestanding pole or monument sign, no more than 40 square feet in sign area, no more than seven feet in height and no less than 15 feet from any lot line. Menuboard may be internally or externally illuminated. For menuboard, the audio component is limited to communication between customer and service;



K. Projecting signs.

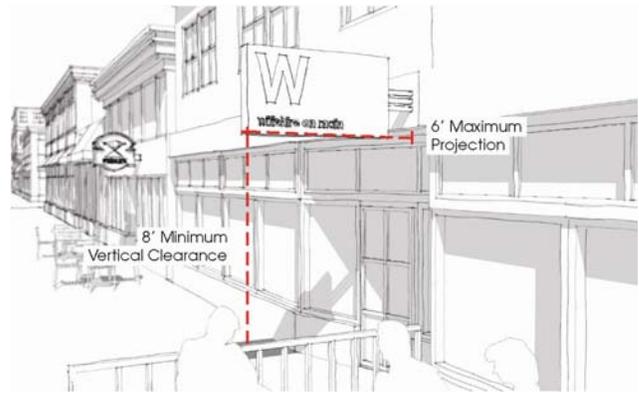
Projecting signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Projecting sign maximum area is as indicated in Table 50-27-6;
2. One projecting sign is permitted per establishment with frontage on a street. For a corner lot, one projecting sign is permitted for each street frontage. Projecting signs must be above or adjacent to the building entrance or, if a corner lot, the corner of the building;
3. Projecting signs may not project more than six feet from the face of the building to which they are attached, including the area between the sign and the face of the building;
4. Projecting signs must maintain a minimum vertical clearance of eight feet. No projecting sign affixed to a building may project higher than the building height, including the sign support structure;
5. Projecting signs, including frames, braces, and supports, must be designed by a licensed structural engineer or manufacturer. No projecting sign may be secured with wire, chains, strips of wood or nails nor may any projecting sign be hung or secured to any other sign. Any

TABLE 50-27-6: PROJECTING SIGN REGULATIONS	
DISTRICT	MAXIMUM AREA
R-C	Prohibited
RR-1	Prohibited
RR-2	Prohibited
R-1	Prohibited
R-2	Prohibited
R-P	Prohibited
MU-N	36sf
MU-C	48sf
MU-I	48sf
MU-B	48sf
MU-W	36sf
MU-P	48sf
F-1	36sf
F-2	36sf
F-3	36sf
F-4	36sf
F-5	36sf
F-6	36sf
F-7	36sf
F-8	48sf
F-9	48sf
I-G	48sf
I-W	48sf
P-1	Prohibited

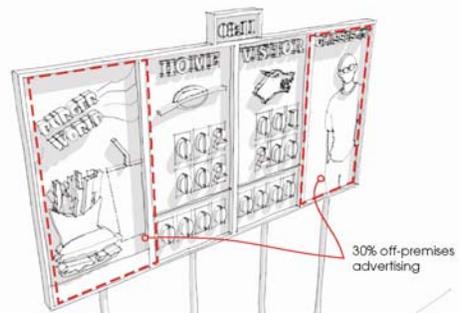
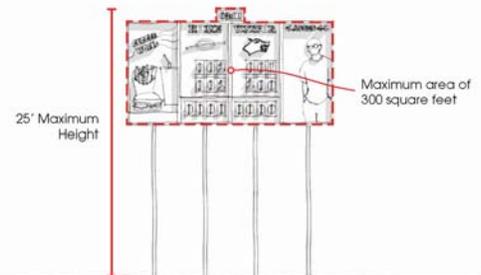
movable part of a projecting sign, such as the cover of a service opening, must be securely fastened by chains or hinges;

6. Projecting signs must be constructed of wood, metal, durable, weather-resistant material like canvas, canvas-like material, nylon or vinyl-coated fabric, or plastic. Projecting signs constructed of material must be mounted so that they are held taut between support posts;
7. Projecting signs may be internally or externally illuminated. If externally illuminated, all lighting must be directed onto the sign face from above;
8. Maximum projecting sign areas are provided in Table 50-27-6: *Projecting Sign Regulations*;
9. Projecting signs erected on properties within the Entertainment District and Historical Canal Park are subject to additional requirements as provided in 50-27.8;



L. Scoreboard and outfield signs.

1. Scoreboards and outfield signs are permitted as indicated in Table 50-27-4, subject to the following regulations. Such signs are further restricted to recreational playing fields only;
2. Scoreboards must be constructed as a freestanding pole sign, no more than 300 square feet in sign area and 25 feet in height;
3. The score-keeping portion of the scoreboard may utilize an electronic message component;
4. If the scoreboard cannot be viewed from any adjacent right-of-way as measured along 500 foot sight lines from the scoreboard, up to 30 percent of the sign area may be used for off-premises advertising. If the scoreboard can be viewed from any adjacent right-of-way, up to 25 percent of the sign area may be used for off-premises advertising;
5. There is no limit on the number of outfield advertising signs so long as no such signs are visible from an adjacent right-of-way. No permit is required for outfield advertising signs;
6. Scoreboards and outfield signs that are part of a sports stadium as a principal use are considered part of the structure and not subject to these standards;



M. Wall signs.

Wall signs are permitted as indicated in Table 50-27-4, subject to the following regulations.

1. The maximum size of a wall sign is established at two square feet per linear foot of building façade where the wall sign will be mounted or 40 square feet, whichever is greater;
2. In addition, any structure over seven stories in height is permitted



- one additional wall sign per façade to identify the building, that must be placed within the top 20 feet of the structure and cannot not cover any fenestration or architectural features. The maximum size is established at two square feet per linear foot of building façade, measured at the roof line, where the wall sign will be mounted;
3. Wall signs may be internally or externally illuminated. If externally illuminated, all light must be directed onto the sign face from above;
4. Wall signs must be safely and securely attached to the building wall. Wall signs must be affixed flat against the wall and must not project more than 18 inches from the building wall;
5. If a wall sign projects more than two inches from the surface, a minimum vertical clearance of eight feet is required;
6. No wall sign mounted on a structure may project above the roof of the structure to which it is attached, including the sign support structure. Wall signs may be mounted on a parapet wall when such parapet is consistent with the architectural design of the structure and/or the larger development, and such parapet wall is constructed of the same primary building materials as the structure, excluding any accent materials. When attached to a parapet wall, wall signs may not project more than eight feet above the roof of the structure, or 15 feet above the roof of the structure on properties zoned MU-C;
7. Wall signs must be constructed of wood, brick, metal or plastic. Wall signs constructed of material must be mounted so that they are held taut against the wall;
8. Wall signs must not cover windows, doors or architectural features. However, wall signs are permitted on architectural appurtenances, such as chimneys or penthouses, which are part of the original structure;
9. Ghost signs are considered wall signs. Existing ghost signs are exempt from these requirements and deemed confor-



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

ming. Ghost signs may be maintained and repainted but no new information or images may be added to the existing sign. No new wall signs may be painted over ghost signs.

50-27.8 Areas of special sign control.

A. Purpose.

The city recognizes that certain areas present a unique character that could be strengthened and enhanced with the application of specific sign standards. These commercial areas are:

1. Entertainment districts:
 - (a) Lake Avenue South from Railroad Street to lift bridge;
 - (b) East Superior Street from Lake Avenue to 9th Avenue East;
2. Historic Canal Park: Canal Park Drive from Lake Place Drive to canal;

B. Entertainment district standards.

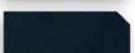
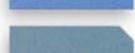
1. All projecting signs are permitted a maximum sign area of 36 square feet, unless the zoning district allows a greater maximum sign area;
2. Marquee signs are permitted;
3. Electronic message signs are permitted as components of wall, marquee or freestanding signs, subject to the electronic message sign regulations;

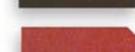
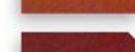
C. Historical Canal Park standards.

1. All projecting signs are limited to a maximum sign area of 12 square feet;
2. All projecting signs may only be externally illuminated from above;
3. All signs must be constructed of wood, brick or metal. Individually mounted plastic letters are permitted for wall signs if wholly covered with opaque paint;
4. All signs are limited to colors from the following color palette. Photographs of the color palette swatches are provided for illustrative purposes only. Applicants may view the original palette at the city of Duluth. For the purposes of this ordinance, the specific colors are provided in two types. The first describes the paint colors originally cited in the DWMX District, which are a series of Ace Hardware paint colors. A general Pantone equivalent is also provided, which are the "uncoated" Pantone PMS colors. Pantone is a color system used in a variety of industries, primarily printing, and occasionally in the manufacture of colored paint, fabric, and plastics. Applicants may consult with the land use supervisor to determine the final colors to be used in the sign, which must meet the general color requirements of this Section.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

COLOR PALETTE

Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent	Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent
	Far Horizon 65A-2P 649		Mirage Lake 65A-3P 650
	Cocoa Parfait 25C-1P 4755		Malibu Sand 25B-2T 466
	Tuxedo Gray 78C-1P 650		Gray Tweed 78C-3D 5425
	Gray Duck 73C-2P 651		Symphony Blue 73C-4D 5415
	Bobby Blue 66B-2T 637		Black Magic 65A-1A Process Black
	Riviera Sky 75B-3D 646		Spectrum Blue 67B-4D 3005
	Tahiti Blue 58C-2T 630		Calico Blue 75A-1A 2955
	Green Stone 60C-2T 623		Nanking Blue 66B-4D 313
	Sea Vista 56C-2T 629		Veridiam 60C-4D 371
	Aqua Pool 56C-3D 326		Gemstone 56C-4D 3292

Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent	Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent
	Cane 36B-1T 726		Harvest 36B-2D 727
	Peach Velvet 15B-2T 699		Dawn Sun 15B-3D 708
	Coral Reef 7B-2T 701		Spectrum Red 5A-1A 186
	Pagoda Red 5C-4D 703		War Dance 14A-1A 188
	Blushing Pink 4C-2T 673		Rosalind 4C-4D 207
	Tarragon 25C-3D 465		Stratum Rock 38A-1A 462
	Lobster Bisque 16C-1P 699		Tile Tan 16C-3D 486
	Ripe Peach 22C-2T 722		Bright Sienna 22C-4D 723
	Tile Tan 16C-3D 486		Really Rust 22A-1A 484
	Bracken Brown 25C-2T 406		Tobacco Gold 47A-1A 4495

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

50-27.9. Master sign plan.

- A. Following the effective date of this Section, an applicant is required to submit a master sign plan for any new commercial multi-tenant building or development that includes non-residential uses, including mixed-use development, for review and approval by the planning commission. 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;
- B. The master sign plan must provide a coordinated design for all building-mounted signs including, at a minimum, criteria and specifications for sign locations, general range of sign area, and lighting. All freestanding signs must be shown on the sign plan, including size, location and lighting;
- C. Once approved, signs erected within the multi-tenant development must follow the master sign plan;
- D. The review and approval process for a master sign plan does not allow for variations to the requirements of this Section.

50-27.10 Campus sign plan.

- A. The city recognizes that university or college or hospital campuses have unique sign needs that may need to depart from the requirements of this Section. In such cases, the planning commission may recommend and city council may approve such sign standards for temporary and permanent signs through the review and adoption of a campus sign plan;
- B. A campus sign plan may be applied for by a university or college or hospital campus a minimum of two acres in size. In calculating the area, the entire area does not have to be contiguous and may be separated by public rights-of-way or by individual parcels not owned by the institution. However, the entire area must function as a connected campus;
- C. As part of the establishment of a campus sign plan, a comprehensive sign plan must be submitted. The comprehensive sign plan must describe the sign standards for the campus, including all exceptions to the requirements of this Section. A campus sign plan may be more permissive than the standards of this section. Directional signs within the campus may be described generally by sign area and height and general locations;
- D. 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;
- E. Alternately, a campus sign plan may be incorporated into the review and approval process of the district plan option of the MU-I District.

50-27.11 Classic signs.

A. Purpose.

Because the city recognizes that certain existing signs do not conform with this Chapter but are particularly unique and/or have historic value, including signs for products or businesses that are no longer located on-site, the classic sign designation is established where the city can designate certain signs as classic signs. Once designated, the classic sign is deemed conforming, and thus is no longer nonconforming, provided the sign is maintained in good condition and its

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

physical integrity remains intact. Any sign designated on the national historic register is automatically considered a classic sign under this Section;

B. Eligibility.

1. An owner of a sign, or the city may apply for designation of an existing sign as a classic sign. Classic signs are exempt from area, setback, height, lighting, movement, placement, type, content, and construction materials requirements of this Section;
2. To qualify for designation as a classic sign, the sign must:
 - (a) Be at least 25 years old or an exact replica of an original sign where the combined age of the duplicate and original sign is at least 25 years;
 - (b) Possess unique physical design characteristics, such as configuration, message, color, texture, etc.;
 - (c) Be of significance to the city, regardless of the use identified by the sign;
3. A sign designated a classic sign may remain on the premises even if the original use to which the sign relates is no longer located on the premises. A designated classic sign may also be moved to a new structure;

C. Application.

The application for classic sign status must be made to the land use supervisor, who will schedule a public hearing. The planning commission may approve or deny the application;

D. Maintenance.

The owner of a classic sign must ensure that the sign is not structurally dangerous, a fire hazard, an electrical shock hazard, or any other kind of hazard. Classic signs may be rebuilt if damaged;

E. Designated classic signs.

A list of designated classic signs is maintained by the land use supervisor.

Section 2. That Section 50-38.6 of Chapter 50 be amended as follows:

50-38.6 Nonconforming on-premises signs.

A. A legal nonconforming on-premises sign that was previously permitted may remain in use, so long as it remains otherwise lawful, and may be restored, repaired, or altered in the following ways: replacing lamps, replacing ballast, replacing transformers, painting the pole(s) and the cabinet, replacing or repairing the sign face(s), including H-bars and retainers behind the face(s), replacing trim, and replacement of sign fasteners, nuts, and washers. The following are not considered repair or restoration and shall require the legal nonconforming on-premises sign to be brought into conformance with this Chapter, except as provided in subsection F below: change or replacement in poles, structural supports, bases or shrouds, footings, moving the sign for any reason, change or replacement of the interior and/or exterior cabinet frame (excluding trim) and any changes made to the size, height, light intensity or bulk of the sign or the temporary or permanent removal of the sign for the repair or replacement of the cabinet or any part thereof, not including the face. Temporary removal of the sign cabinet for the replacement of the sign face(s) is permitted and will not require that the sign be brought into conformance with all requirements of this Chapter;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

- B. No legal nonconforming sign may be relocated, in whole or in part, to any other location on the same or other lot, unless the entire sign conforms to all regulations of the zoning district in which the sign is relocated;
- C. A legal nonconforming on-premises sign may not be altered in any way that would create any new nonconformity or increase the degree of any previously existing nonconformity;
- D. In the event that any legal nonconforming sign is damaged or destroyed to the extent of more than 50 percent of its value prior to the damage, the sign cannot be restored or repaired unless it conforms to all applicable regulations for the district;
- E. All sign illumination, electronic message signs, and electronic billboards that do not conform with the display requirements of this Chapter, including brightness, message duration and similar performance requirements for the electronic component, are required to conform to the standards of this Chapter for the electronic component within 90 days of this date: March 11, 2013;
- F. A legal nonconforming on-premises sign that does not meet the standards for sign area or sign height is being altered in such a way as to reduce the nonconformity, the alteration may be approved by the land use supervisor.

Section 3. That Section 50-38.7 of Chapter 50 be amended as follows:

50-38.7 Nonconforming off-premises signs.

In order to bring nonconforming off-premises signs into closer conformance with the purposes of Chapter, the following system is established to enable the reconstruction, structural alteration or relocation of certain nonconforming off-premises signs. Once rebuilt, the sign shall retain its status as a nonconforming off-premises sign.

A. Reconstruction of existing signs.

1. A sign permit for reconstruction on the same site of a nonconforming off-premises sign that either exists or has been destroyed no more than six months prior to written sign permit application, may be issued after the building official certifies that the sign to be reconstructed has less of an adverse impact on the area near the site than the sign being replaced. A reconstructed sign may be enlarged, up to the maximum size of an off-premises sign permitted within the applicable zone district, by use of an exception credit pursuant to subsection 2. For purposes of this subsection the "same site" shall mean contiguous property owned by one person or entity, or a related person or entity, and not divided by an improved street;
2. No permit shall be issued until the sign to be reconstructed is removed;
3. All signs shall be constructed and placed in strict conformance with the permit and the failure to do so shall constitute a violation of this Chapter, and if not corrected shall be grounds for revocation of the permit and an order for removal of the sign;

B. Exception credit system.

1. The owner of a nonconforming off-premises sign may receive an exception credit if it is determined by the building official that a nonconforming off-premises sign is to be removed, or has been removed, due to a termination of lease for reasons beyond the reasonable control of the applicant, or other forced removal (not including destruction or other situations rendering the sign unusable). Such reasons include but are not limited to the refusal of a

lessor to renew a lease or the applicant's inability to obtain a lease renewal on reasonable terms and conditions (including lease rent at a fair market rate). An exception credit may be issued for each such sign that has been removed no more than 30 days prior to written application for the exception credit;

2. The building official shall determine if the applicant is eligible to receive an exception credit and shall certify and keep a log of all such credits documenting the owner of the credit, cumulative square footage of sign area credited and number of locations available for sign structures. After approving the use of an exception credit, the building official shall notify the owner, in writing, of the owner's remaining credited total of available square footage of sign area and remaining credited number of locations available for sign structures;

C. Use of exception credits.

1. Exception credits may be used to permit the relocation of certain nonconforming off-premises signs that do not meet site, location or other requirements of this Chapter;
2. An application for an exception credit shall include a statement identifying the exception credit(s) to be used for the permit for the new location. No holder of a credit shall be granted a permit under this subsection 50-38.7 for more locations than it lost or for more square footage of sign area than it lost. No sign permit shall be issued until the sign(s) that is the basis for the credit is first removed;
3. All signs shall be constructed and placed in strict conformance with the sign permit and the failure to do so shall constitute a violation of this section, and if not corrected, shall be grounds for revocation of the sign permit and an order for removal of the sign. No sign permit issued under this section shall be valid until the applicant has complied with all applicable requirements of the NR-O, Natural Resources Overlay District, and MSA Chapter 173.

Section 4. That Section 50-41 of Chapter 50 be amended as follows:

50-41 Definitions.

50-41.1 Definitions: A.

Accessory agriculture roadside stand.

A structure erected for the display and sale of agriculture products grown on the premises and that is subordinate to the primary residential or agricultural use of the premises.

Accessory bed and breakfast.

An owner-occupied building designed as a one-family dwelling that provides no more than 5 guest rooms for lodging accommodations by prior arrangements for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Accessory boat dock, residential.

A personal use boating structure, subordinate to a primary residential use of property, that is built over or floats upon the water of a lake, river, or stream, and that serves one property owner for mooring boats or as a landing place for marine transport.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Accessory caretaker quarters.

A subordinate dwelling unit intended for an employee or owner who looks after or takes charge of goods or property. The unit shall be either inside or attached to a main structure by a common wall. The unit is a complete, independent living facility with provisions for cooking, eating, sanitation, and sleeping.

Accessory communications tower for private use.

Any structure, subordinate to a primary use of land, that is designed and constructed primarily for the purpose of supporting one or more wireless analog or digital telecommunication facilities, that is located on the ground or anchored to the ground and exceeds 24 ft. in height. Such a tower may have a variety of configurations, including a monopole, a lattice tower, or a guyed tower.

Accessory day care facility.

A private or public establishment licensed by the state that regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, for gain or otherwise, as a secondary and subordinate activity to a permitted or approved special use of the property.

Accessory dwelling unit.

A subordinate dwelling unit added to, created within, or detached from a single-family residence, but located on the same lot or parcel as a primary residential structure, that provides basic requirements for living, sleeping, cooking, and sanitation.

Accessory heliport.

An area used or intended to be used for the landing and takeoff of helicopters that is secondary and incidental to, and is operated in support of, a permitted or approved special use on the same property, including operations facilities, such as maintenance, loading, and unloading, storage, fueling, or terminal facilities.

Accessory home occupation.

A business or occupation incidental and subordinate to the principal residential use. All home occupations must comply with the conditions in Section 50-20.5.F. Examples include but are not limited to: artist's studio; dressmaking; accessory beauty salon or barber shop, office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with musical instruction limited to not more than two pupils at the same time. A home occupation shall not be interpreted to include accessory bed and breakfast, restaurants or tea rooms.

Accessory recycling collection point.

A facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper or clothing for recycling purposes conducted totally within an enclosed structure or container, and that is accessory to a permitted or approved special use in the zone district. This definition does not include processing except for can banks that crush cans as they are deposited.

Accessory sidewalk dining area.

An outdoor eating and drinking area that is generally associated with and subordinate to a permitted or approved special use on the same property and that is, located on a public sidewalk. This use may include removable tables, chairs, planters, or similar features and equipment.

Accessory solar or geothermal power equipment.

Accessory uses and structures that are clearly subordinate in size and use to the primary use and structure on the property, and that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following, and may be located at ground level or above or below ground unless specifically limited in this Chapter, provided that they meet all other applicable requirements of this Chapter: solar photovoltaic modules, solar thermal hot water collectors, solar arrays; and geothermal heat pumps, earth tubes, or downhole heat exchangers.

Accessory use or structure.

A use or structure subordinate in use, area or purpose to the principal use or structure on the same lot and serving a purpose naturally and normally incidental to the principal use or structure and that is not included in a separate definition of an accessory use or structure in this Chapter. Where an accessory building is attached to the principal building in a substantial manner by a wall or a roof, it shall be considered part of the principal building. An accessory building or use may be permitted on a lot of record that abuts or is separated by a public easement of no more than 25 feet in width to another lot or lots on which the primary use is located, provided all lots are owned by the same owner and none of the parcels are severed, legally sold, conveyed, or used without the other parcels. Examples include but are not limited to: pet houses, storage sheds, swimming pools, garages, accessory uses and structures for energy conservation and renewable energy production, and accessory structures for stormwater management and water conservation.

Accessory vacation dwelling unit.

An accessory dwelling unit as defined by this Chapter that is used for periods of occupancy from three to 21 days.

Accessory wind power equipment.

A small scale accessory wind power generating or distribution system, that is clearly subordinate in size and use to the primary use and structure on the property, and that is used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. Accessory wind power equipment is designed to generate no more than 10Kw of energy.

Accessory wireless antenna attached to existing structure.

Any wireless service antenna located in or on the roof or upper facade of a structure that is not a telecommunications tower, such as a building, water tower, steeple, silo or utility pole.

Adjacent developed lots facing the same street.

Where a dimensional standard is related to dimensions on "adjacent developed lots facing the same street" the measurement shall only include those lots that contain a primary structure and that share a side lot line with the subject property and shall not include corner lots where the primary structure faces a different street. If there is only one adjacent developed lot that fronts the same street, the measure shall refer only to the dimension on that lot. For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot, not as separate platted lots.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Adult entertainment establishment.

See definition in Chapter 5 of the City Code.

Adult book store.

See definition in Chapter 5 of the City Code.

Agriculture, general.

The production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products primarily for distribution and consumption beyond the Duluth/Superior area. This use also includes wetlands, pasture, forest land, wildlife land, and other uses that depend on the inherent productivity of the land, but not include a use meeting the definition of "agriculture, urban."

Agriculture, urban.

The raising of crops and small livestock primarily for local sustenance, rather than commercial purposes, for sale and consumption within the immediate Duluth/Superior area.

Airport boundary.

Those lands including the property owned by the city, state, and the United States, and their respective political subdivisions, that are used for aeronautical purposes and are contiguous with the runway and building area facilities. The Duluth International Airport boundaries are illustrated on Sheet 3, airport property map, of the approved set of airport layout plans on file in the offices of the Duluth Airport Authority. The Sky Harbor Municipal Airport boundaries are illustrated on Exhibit 50-18.2-2.

Airport elevation.

The established elevation of the highest point on the usable landing area, which elevation is established to be 1,438 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.

Airport hazard.

Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

Airport and related facilities.

An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.

Alley.

A dedicated public right-of-way not more than 30 feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation.

Alley line.

The established side line of an alley easement.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Antenna.

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

Apartment.

A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a one-family, including full cooking and bathroom facilities for individual use.

Apartment hotel.

A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and newsstands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.

Automobile and light vehicle sales, rental, or storage.

The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

Automobile and light vehicle repair and service.

Any building, structure, or lot used for the business of repairing automobiles and small engines or the sale and installation of tires, batteries, and other minor accessories and services for automobiles and small engines. This shall not include car washes, retail sale of automotive supplies, tires, or parts unrelated to repairs being performed on the premises, the retreading or vulcanizing of tires, filling stations, or convenience stores that sell gasoline or lubricating oil, but not other automotive accessories or services.

Average lot depth.

The average of the lengths of the two side lot lines of a platted lot. In the case of flag lots (lots where the buildable portion of the lot is connected to a public street by an access or driveway 20 feet wide or less), the length of the access or driveway portion of the lot shall be ignored in measuring either side lot line.

50-41.2 Definitions: B.

Bank.

An establishment that provides retail banking, mortgage lending, and financial services to individuals and businesses, and including check-cashing facilities. Accessory uses may include automatic teller machines, offices, and parking.

Basement.

Any area of a structure, including crawl spaces, having its floor or base subgrade below ground level on all four sides, regardless of the depth of excavation below ground level.

Bed and breakfast.

A building designed as a one-family dwelling and operated as a primary use of land containing habitable units providing up to 12 guest rooms of lodging accommodations by prior arrangements, for compensation. It may or may not include serving of meals to guests and the general public, and the operator need not live inside the dwelling.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Block..

An area of land enclosed by four public or dedicated private streets, or by a combination of public or dedicated private streets and a railroad right-of-way or a natural feature such as a lake shore, riverfront or stream.

Block face.

All lots abutting both sides of a street (street A) between the nearest two streets that intersect street A.

Bluff.

A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

- A. Part or all of the feature is located in a shoreland area;
- B. The slope rises at least 25 ft. above the Ordinary High Water level of the water body or bottom of the bluff;
- C. The grade of the slope from the toe of the bluff to the top of the bluff averages 30 percent or greater.

Bluff, bottom of.

The ordinary high water level or the lower point of a horizontal ten foot segment with an average slope exceeding 18 percent.

Bluff, top of.

The higher point of a horizontal ten feet segment with an average slope exceeding 18 percent.

Bluff impact zone.

A bluff and land located within 20 feet of a bluff.

Bluff line.

The designation of a line to administratively divide the city as above or below the escarpment for purposes of requiring stormwater detention for future development.

Boathouse.

A structure designed and used solely for the storage of boats or boating equipment and that is not used for human habitation. Any door or opening exceeding 40 inches in width in a boathouse shall face the water.

Buffer area.

A strip of land with natural or planted vegetation located between a structure and a side or rear property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

Buffer, naturally vegetative.

Land that is used to protect adjacent lands and waters from development and more intensive land uses. The land is kept in a natural state of trees, shrubs, and low ground cover and understory of plants and functions to filter runoff, control sediment and nutrient movement, and protect fish and wildlife habitat.

Build-to zone.

The maximum horizontal distance, or a range of maximum horizontal distances, between a front lot line and a building or structure required by this Chapter.

Building.

Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

division walls without openings, each portion of such building so separated shall be deemed a separate building.

Building material sales.

An establishment engaged in the storage, distribution, and sale of building materials such as lumber, brick, tile, cement, insulation, floor covering, lighting, plumbing supplies, electrical supplies, cabinetry and roofing materials. Accessory uses may include repair or delivery services and outside sale of plants and gardening supplies.

Bulk storage not listed elsewhere.

An establishment engaged in the storage of oils, lubricants, grains, mineral products or other commodities not listed separately as specific types of warehousing, wholesaling or storage.

Bus or rail transit station.

A facility or structure where bus transit or rail transit vehicles stop to provide transportation services to the public. Accessory uses can include convenience retail or restaurants.

Business, art, or vocational school.

A school, other than a college, that provides specialized training and education beyond the high school level, principally in the business, commercial or vocational arts, that does not provide lodging or dwelling units for students or faculty, and that has programs that typically result in the awarding of a certificate.

Business park support activities.

An establishment primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, consulting services, protective services, equipment rental, leasing and financial services. Uses must be incidental to and supportive of business park uses and shall not include activities that are primarily retail in nature and devoted to the sale of consumer goods.

50-41.3 Definitions: C.

Cemetery or mausoleum.

Land used or dedicated to the burial of the dead or the storage of cremated remains in a columbaria, and including necessary sales and maintenance facilities.

Channel.

A natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water either continuously or periodically.

Club or lodge (private).

A building or portion of a building or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service that is customarily carried on as a business. This category includes fraternities and sororities.

Co-housing facility.

A residential development that combines individual owned dwelling units with smaller or partial kitchens and a larger community kitchen and dining room intended for communal use on a regular basis, and in which all residents agree to share in the provision of regular communal services such as cooking meals or providing child care.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Co-location.

The use of an existing tower or structure to support antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonably short time frame after the new tower is constructed.

Coldwater river.

Rivers including trout streams and their tributaries.

Commercial impracticability or commercially impracticable.

The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercial impracticable and shall not render an act or the terms of an agreement commercially impracticable.

Common open space.

A portion of a development permanently set aside to preserve elements of the natural landscape for public or private use, which will not be developed or subdivided and is either owned in common by the individual owners in the development or by a permanently established management entity. Common open space does not include the area within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings when the development is designed using clustered compact lots or clustered units or sites to create and preserve green space, such as in a conservation subdivision, planned unit development, or resort.

Common plan of development or sale.

A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan. For redevelopment projects, contiguous includes parcels separated by a right-of-way.

Composting.

The controlled microbial degradation of organic waste to yield a humus-like product.

Confined animal feeding operation.

A facility, area, or place where the feeding of livestock, poultry, pigs, or small animals takes place for commercial purposes in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means.

Construction debris.

Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

Contractor's shop and storage yard.

A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This definition includes architects, engineers, surveyors' construction offices and shops, real estate sign placement service, and showroom and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal and other material in connection with contracting services.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Convention or event center.

A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and training facilities, which may be associated with a hotel or motel.

Critical root radius.

An area around a tree measured with a radius of one foot for every in. diameter of the tree, which is generally the area of soil that must remain undisturbed to ensure long-term viability of the tree.

Cutoff angle.

For purposes of exterior lighting regulations, the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above from which no light is emitted.

50-41.4 Definitions: D.

Data center.

An establishment primarily involved in the compiling, storage, conversion or analysis and maintenance of documents, records, and other types of information in digital form.

Day care facility.

A facility that provides accommodations for persons of any age who receive custodial care for less than 24 hours by individual other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.

Decorative fence.

A powder coated steel fence, solid core ornamental fence, decorative wood fence, or fence of similar construction or appearance, but not including a snow fence, chain link or highway guard rail.

Demolition debris.

Solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

Dense urban screen.

Continuous screening wall, berm, fence, or row of planting at least six feet tall, with screening material designed to provide 75 percent opacity one year after planting along the full required height and length of the screening buffer.

Design storm.

A rainfall event used in the analysis and design of drainage facilities.

Detention.

The temporary storage of drainage water.

Deteriorated.

A building or component of a building shall be deemed to have deteriorated when its function has been so impaired by natural forces including but not limited to weathering or decay that it needs to be replaced to restore its functionality.

Developable area.

All land within a zone district not occupied by streets and public rights-of-way.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Development.

The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels.

Diameter at breast height (DBH).

The primary method of measuring the diameter of a tree trunk. Diameter is measured in inches 54 inches above the ground. If the tree splits into multiple trunks at a height below 54 inches, but above the ground, the diameter is measured at the highest point beneath the split.

Direct illumination.

Illumination by light sources that are effectively visible, either directly or through a translucent material, as a part of the sign and illuminating outward.

Discharge.

The discharge of any pollutant into the waters of the state from any point source.

Discharge rate.

The rate at which drainage water is released from a specific site and expressed as a volume per unit of time, such as cubic feet per second.

District.

Any section of the city within which the zoning regulations are uniform.

DNR.

Minnesota department of natural resources.

Drainage basin.

The tributary area through which drainage water is collected, regulated, transported and discharged to receiving waters.

Drainage system.

Any system that conveys stormwater or surface water including sewers culverts, ditches, and swales.

Drainage water.

Stormwater, snow melt, surface and irrigation water, water from footing drains and sump pumps or other drains approved by the city.

Drip line.

A vertical line extending from the outermost edge of a tree's canopy to the ground.

Dry cleaning or laundry plant.

An establishment where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

Dwelling.

Any building or portion of a building that is designed for or used for residential purposes and that either (a) has a minimum width of 20 feet, or (b) has a principal entrance facing the front lot line.

Dwelling unit.

A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only, occupied by the owner or by another family for periods of occupancy exceeding one week, and that is physically separated from any other habitable unit that may be located in the same building.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Dwelling unit, efficiency.

A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.

Dwelling, live-work.

A dwelling unit containing an integrated living and working space that is intended to function predominately as business workspace with incidental residential use. The unit typically has a store-front, with the workspace, public display area, or show-room on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor.

Dwelling, multi-family.

A building containing three or more dwelling units that is not a townhouse.

Dwelling, one-family.

A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, having a minimum outside width of 20 feet measured at its narrowest point and placed on a permanent foundation that complies with the State Building Code. This definition includes a manufactured or modular home that meets this definition and the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sections 5401 et. seq.).

Dwelling, townhouse.

A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

Dwelling, two-family.

A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families.

50-41.5 Definitions: E.

Electric power or heat generation plant.

A facility or area that generates electricity from mechanical power produced by the firing of fossil fuels, or that produces heat or steam for space heating and other similar uses.

Electric power transmission line or substation.

A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts, as well as substations related to those facilities.

Elevation (flood).

In the context of flood related regulation, that elevation above mean sea level referenced in the National Geodetic Datum of 1929.

Encroachment lines.

In the context of flood related regulation, the lateral limits or lines drawn along each side and generally parallel to a stream or another body of water, which delineates the floodway and within which the flood carrying capacity of the stream or other body of water is to be preserved. Their location, if along a stream, should be such that the

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

floodway between them will effectively carry and discharge a flood not less than the regional flood.

Equal degree of encroachment.

In the context of flood related regulation, a method of determining the location of encroachment lines so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

Erosion.

Any process that wears away the surface of the land by the action of water, wind, ice or gravity. Erosion can be accelerated by the activities of man and nature.

Erosion and sediment control plan.

A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Erosion and sedimentation practice specifications, or practice.

The management procedures, techniques and methods adopted by the city to adequately and effectively control soil erosion and sedimentation incident to land disturbing activity within the city. The specifications are primarily based upon the MPCA handbook entitled Protecting Water Quality in Urban Areas, published in October of 1989, but may be varied on a case by case basis to effectively control erosion and sedimentation.

Established residential neighborhood in a built up urban area (ERN BUUA).

In the context of airport regulation, an area that, if it existed on or before January 1, 1978 (for low density structures and lots) and an area that, if it existed on or before July 2, 1979 (for all other land uses) shall be considered a conforming use that shall not be prohibited except as provided in this Chapter. The following criteria shall be applied and considered in determining what constitutes an ERN BUUA:

- A. Location of the airport;
- B. Nature of the terrain within safety zones A and B;
- C. Existing land uses and character of the neighborhood around the airport;
- D. Population of the community;
- E. That the average population density in all areas within one mile of any point on a runway shall be equal to or greater than one dwelling unit per acre;
- F. Population density near the airport compared with population density in other areas of the community;
- G. The age, and the economic, political, and social stability of the neighborhood and the community as a whole;
- H. The proximity of supporting school, commercial, religious, transportation and other facilities, and their degree of integration with residential land uses;
- I. Presence or absence of public utilities including, but not limited to, public sanitary sewer system, electric service and gas mains;
- J. Whether or not the factors listed in subparagraphs H and I above tend to make the community surrounding the airport a self-sufficient unit;
- K. Whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character;
- L. Other material factors deemed relevant in distinguishing the area in question as established, residential, urban, and built up.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Excepted parcel (airport overlay).

In the context of airport regulation, any parcel of land exempted from any or all of the regulations imposed by Section 50-18.2, Airport Overlay, because the joint airport zoning board determines that the otherwise applicable requirements or proscriptions are not reasonably necessary to effectuate the purposes of Section 50-18.2 by reason of flying operations expected to be conducted, the location of the airport, the nature of the terrain within the airport hazard area, existing land uses and character of the neighborhood around the airport, the uses to which the property to be zoned are planned and adaptable and the social and economic costs of restricting land uses versus benefits derived from application of Section 50-18.2, as authorized by MSA 360.066, subd. 1.

Expression line.

A decorative, three-dimensional, linear element, horizontal or vertical, protruding or indented at least one inch from the exterior facade of a building and extending the length or height of the building with minimal interruptions from doors and windows. This element typically delineates the floors or stories of a building.

50-41.6 Definitions: F.

FAA.

The federal aviation administration or its duly designated and authorized successor agency.

Family.

One or more persons related by blood, marriage or adoption, including foster children, and in addition to and including five other unrelated persons occupying a dwelling and living as a single housekeeping unit.

FCC.

The federal communications commission or its duly designated and authorized successor agency.

Filling station.

A building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting. This use may include the retail sales of convenience goods.

Flood.

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

Flood frequency.

The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood fringe.

That portion of the flood plain outside of the floodway. Flood fringe is synonymous with "floodway fringe."

Flood hazard area.

The areas identified as flood plain, floodway, or flood fringe at or below the flood protection elevation.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Flood peak.

The highest value of stage or discharge attained during a flood event; thus peak stage or peak discharge.

Flood plain.

The beds proper and the areas adjoining a wetland, lake, or watercourse that have been or may in the future be covered by a regional flood.

Flood profile.

A graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.

Floodproofing.

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

Flood protection elevation.

An elevation corresponding with a point not less than two feet above the water surface profile associated with the regional flood plus any increases in flood stages attributable to encroachments on the flood plain.

Floodway.

The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain that are reasonably required to carry and store the regional flood discharge.

Food processing.

The sorting, treatment, or preparation of food products for sale or as inputs to further processing, but not including the slaughtering of small or large livestock or confined animal feeding operations. Examples include: creamery operations and poultry processing.

Forest management.

Tree removal from a predominantly forested area with the intent of maintaining forest cover and not resulting in conversion to non-forest, such as grassy fields or pavement. Clearcuts constitute forest management as long as tree cover returns by planting or natural regeneration.

Frontage.

All the property on one side of a street between two streets that intersect such street (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one between a street that intersects such street and the dead end of the street.

Funeral home or crematorium.

An establishment providing services such as preparing the human dead for burial, cremating human remains, and arranging and managing funerals. This use does not include cemeteries and columbaria.

50-41.7 Definitions: G.

Garage, private.

An accessory building designed or used for the storage only of not more than four motor driven vehicles. Not more than one of the vehicles may be a commercial vehicle, and that vehicle shall not exceed a two ton capacity.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Garden material sales.

An establishment engaged in the storage, distribution, and sale of garden materials, including a green house used to raise flowers, shrubs and plant for sale. Accessory uses may include delivery services.

General development waters.

Includes lakes that are generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development at the time of the original classification. These lakes often are extensively used for recreation. General development rivers include agriculture and urban rivers. This class has a wide variety of existing land and recreational land use characteristics.

General flood plain.

The area within a flood plain that is not in a floodway or flood fringe.

Golf course.

A tract of land laid out with at least 9 holes for playing the game of golf and improved with tees, greens, fairways and hazards. This use does not include a miniature golf course. A golf course may include a driving range, clubhouse, restaurant, putting and chipping greens, maintenance facilities, and shelters as accessory uses.

Government building or public safety facility.

A building or facility housing the offices or operations of a department or agency of the city, county, state, or federal government, or a quasi-governmental, including but not limited to a building or facility that provides fire protection, police protection, or emergency medical services (not including a hospital or medical or dental clinic), together with incidental storage and maintenance of necessary vehicles.

Grade.

- A. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;
- B. For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;
- C. For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building;
- D. Any wall approximately parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Where sidewalks do not exist the grade shall be as established by the office of the city engineer.

Grocery store.

A retail sales establishment selling primarily food and beverages for off-site preparation and consumption that maintains a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood or specialize in the sale of one type of food item. This use may also include sales of personal convenience and small household goods.

- A. A small grocery store is one that contains less than 50,000 square feet of gross floor area;
- B. A large grocery store is one that contains 50,000 square feet or more of gross floor area.

Groundwater management area.

A geographically defined area that may be particularly sensitive in terms of groundwater quantity or quality by nature of the use or movement of groundwater, or the relationship between groundwater and surface water, and where special

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

management measures are deemed necessary to protect groundwater and surface water resources.

Groundwater recharge volume.

The portion of the water quality volume used to maintain groundwater recharge rates at development sites.

50-41.8 Definitions: H.

Habitable room.

Any room used or intended to be used for sleeping, cooking, living or eating purposes, excluding such enclosed spaces as closets, pantries, bath or toilet facilities, service rooms, corridors, laundries, unfinished attics, foyers, storage space, utility rooms or similar spaces.

Habitable unit.

Any habitable room or group of habitable rooms that provide sleeping facilities alone or in combination with required cooking, eating or living facilities.

Hardship.

The property in question cannot be put to reasonable use under existing regulations and the plight of the landowner is due to circumstances unique to the property and not created by the landowner. Economic considerations alone shall not constitute a hardship.

Hazardous waste.

Any refuse, sludge or other waste material or combinations of refuse, sludge or other waste material in solid, semisolid, liquid or contained gaseous form that because of its quality, concentration, or chemical, physical or infectious characteristics may:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants and corrosives. Hazardous waste does not include: source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Height of building.

The vertical distance at the center of the principal front of a building, measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and hip or gambrel roof.

Height of tower or structure.

The vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

Height of wall or fence.

The vertical distance measured from finished grade on the highest side of the fence or wall to the top of the fence or wall.

Historic preservation district.

A contiguous collection or group of lands, parcels, sites, structures, buildings or objects that is determined to be historically, culturally or architecturally significant as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

a whole and has been locally designated as a historic preservation district pursuant to Section 50-18.3 of this Chapter.

Historic preservation guidelines.

The established criteria by which any proposed changes, including architectural or site modifications to a designated historic preservation district or landmark shall be judged.

Historic preservation landmark.

Any individual property, parcel, place, building, structure, work of art or other object that has been determined to be historically, culturally or architecturally significant and has been locally designated as a historic preservation landmark pursuant to Section 50-18.3 of this Chapter.

Hotel or motel.

A building or series of buildings operated as a commercial establishment providing accommodations to the transient traveling public in habitable units for compensation, and including both short-stay and extended stay facilities, and that may offer customarily incidental services.

Hospital.

An institution or place where sick or injured in-patients are given medical or surgical care, at either public or private expense, but excluding a nursing home and excluding institutions where persons suffering from permanent types of illness, injury, deformity or deficiency or age are given care and treatment on a prolonged or permanent basis.

50-41.9 Definitions: I.

Impaired waters.

Those streams, rivers and lakes that currently do not meet their designated use classification and associated water quality standards under the federal Clean Water Act.

Impervious surface.

A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities or at an increased rate than prior to development. Examples include but are not limited to: conventional roofs, concrete/ bituminous surfaces, stone pavers and gravel surfaces.

Indirect illumination.

Illumination that is derived from light sources that are not visible to intended viewers of the sign but which illuminate the sign by being directed at the sign's reflective face.

Indoor entertainment facility.

A facility providing entertainment or recreation activities where all activities take place within enclosed structures, but not including a theater or a convention or event center. Examples include but are not limited to: bowling alleys, trampoline centers, video arcades, climbing wall centers, paintball or laser tag centers.

Industrial services.

A facility or area where industrial services such as heating, ventilation, cooking and refrigeration supplies, motion picture production, plumbing supplies, printing and photocopying, publishing, engraving, exposition building or center, and other uses designed to support industrial or heavy commercial activities in the vicinity, provided

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

that such services are not listed separately as a permitted of special use in this Chapter.

Industrial stormwater permit.

A national pollutant discharge elimination system (NPDES) permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Industrial use.

The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Infill development.

Land development that occurs within designated areas based on local land use, watershed, or utility plans where the surrounding area is generally developed, and where the site or area is either vacant or has previously been used for another purpose.

Infiltration.

The process of percolating stormwater into the subsoil.

Infiltration facility.

Any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

Institution.

An established organization or foundation, especially one dedicated to education, medicine, public service, or culture, or an organization founded for a specific purpose, such as a hospital, synagogue, college, service club, or charitable entity.

Institutional support use.

An establishment primarily engaged in rendering services to institutions on a fee or contract basis, such as advertising and mailing, consulting services, protective services, equipment rental, leasing and financial services. Uses must be incidental to and supportive of institutional uses and shall not include activities that are primarily retail in nature and devoted to the sale of consumer goods.

50-41.10 Definitions: J.

Junk or salvage service.

A facility or area for storing, keeping, selling, dismantling or salvaging scrap or discarded material or equipment, including ore and elevators. The term "scrap or discarded materials" includes but is not limited to metal, paper, rags, tires, bottles or inoperable or wrecked motor vehicles, motor vehicle parts, machinery, structural steel, equipment and appliances. This definition includes indoor facilities for recycling recoverable resources, such as newspapers, magazines, books and other paper products, glass, metal cans and other products, to return such products to a condition in which they may again be used for production.

Jurisdictional wetland.

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

50-41.11 Definitions: K.

Kennel.

Any facility, public or private, where domesticated animals are temporarily boarded, groomed, and sold for compensation, including animal day care/spa facilities, but not including zoos or veterinary hospitals. This use also includes public facilities for the temporary impoundment of animals.

50-41.12 Definitions: L.

Land development.

A human-made change to, or construction on, the land surface that changes its runoff characteristics.

Land disturbing activity.

Land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands of or downstream of the city, including clearing, grading, excavating, transporting and filling of land. Land disturbing activity does not include:

- A. Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- B. Construction, installation and maintenance of electric, telephone and cable television utility lines or individual service connection to these utilities;
- C. Installation of septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system;
- D. Tilling, planting or harvesting of agricultural, horticultural or silviculture crops;
- E. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;
- F. Emergency work to protect life, limb or property and emergency repairs, except if the land disturbing activity would have required an approved erosion and sediment control plan except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of Section 50-18.1.E.

Landing area.

The area of the airport used for the landing, taking off, or taxiing of aircraft.

Land owner.

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Landscape plan.

An accurate scale drawing that indicates the major natural features of a site and all proposed buildings, structures and site improvements in sufficient detail to allow the evaluation of impacts on natural systems and other aspects of the development.

Laundromat.

An establishment providing home type (large institutional or commercial type) washing, drying or ironing machines for use on the premises.

Link.

For purposes of the connectivity index described in Section 50-23.3, links are stretches of road that connect "nodes" as defined below. Street stub-outs are considered as links, but temporary dead-end streets internal to a development, private streets in gated sections or alleys shall not be counted as links. Every road

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

segment that connects a node in the development to the external street network shall be counted as a link in the index calculation.

Loading space.

A space within the principal building or on the same lot as the principal, providing for the off street standing, loading or unloading of trucks and trailers.

Local watershed.

All the water that drains to a natural waterway located primarily within the city.

Lot.

Land occupied or intended for occupancy by a use permitted in this Chapter, including one main building together with its accessory buildings, and the yards and parking spaces required by this Chapter, and having its principal frontage upon a street or upon an officially approved place. For the purposes of this Chapter, the term "lot" may include two or more lots of record that are contiguous or separated only by a public easement not exceeding 25 feet in width, are owned by the same owner and where none of the parcels can be severed or legally sold, conveyed or used without the other parcels by virtues of a legally binding agreement that runs with the land and is recorded in the office of the county recorder. If at any time any parcel that had been recognized as part of any lot by reason of such proximity, ownership and agreement are severed, legally sold, conveyed or used separately from the other parcel or parcels making up said lot, the parcel so severed, legally sold, conveyed or used shall henceforth not be considered part of the lot, any uses relying on its status as part of the lot shall become nonconforming and the provision of Section 50-39 shall not be applicable to any such use.

Lot, corner.

A lot abutting upon two or more streets at their intersection.

Lot, double frontage.

A lot having a frontage on two streets as distinguished from a corner lot.

Lot, flag.

A lot so shaped and designed that the main building site is setback from the street and that portion of the lot providing access has a width less than 25% of the lot width at its greatest point.

Lot, front.

The area of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot unless structures exist on the lot. In that case, the frontage shall be established by the orientation of the buildings, or of the principle entrance if building orientation does not clearly indicate lot frontage. For corner lots, where no other method determines conclusively the front of a lot, the city engineer shall select one frontage on the basis of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

Lot frontage.

Frontage shall be the dimension of the lot line at the street, except where the lot line at the street is not straight, in which case the frontage shall be the dimension across the lot at the required front yard line.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Lot of record.

A parcel of land that is part of a subdivision, the map of which has been recorded by the county recorder or a parcel of land described by metes and bounds the description of which has been recorded by the county recorder.

Lots on the block face.

When a dimensional standard is calculated based on a dimension measured for "lots on the block face" the measurement shall apply only to (a) developed lots on the same side of the street between the next two intervening side streets, and (b) lots that face developed streets (not to streets shown on a plat or map that have not been constructed). For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot (not as separate platted lots).

Low density residential lot.

A single lot located in an area that is zoned for one-family or two-family residences and in which the predominant land use is such type of residences.

Low density residential structure.

A one-family or two-family home.

Lowest floor.

The lowermost floor of the lowest enclosed area, including basement and crawl space. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement or crawl space area, is not considered a building's lowest floor.

50-41.13 Definitions: M.

Maintenance agreement.

A legally recorded document that acts as a property deed restriction, and that provides for long-term maintenance of stormwater BMPs.

Major system.

In the context of stormwater management, one of the 42 major watercourses, or tributaries, as described by the Urban Study for Duluth Area Stormwater Flooding March 1976. Includes Lester/Amity Creeks, Tischer Creek, Brewery, Oregon, Miller, Coffee, Kingsbury, Knowlton, Stewart, Sargent, Mission, Buckingham, Chester and other systems as designated by the city.

Manufacturing, light.

A facility or area used for the assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outside operations or storage of goods and materials used in the assembly, fabrication, or processing does not exceed 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: food processing, electronic equipment assembly and manufacturing and assembly from finished products.

Manufacturing, heavy.

An establishment or use of land that includes the assembly, fabrication, or processing of goods and materials using processes that ordinarily have impacts on the environment or significant impacts on the use and enjoyment of surrounding properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or any use where the area occupied by outside storage of goods and materials used

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

in the assembly, fabrication, or processing exceeds 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: battery, chemicals, machinery, and plastics manufacture; mushroom plant; batching plant; beverage bottling and distribution, packaging plant; slaughterhouse; and rendering plant. This use does not include any use that meets the definition of “light manufacturing” or “hazardous or special manufacturing”, or a solid waste disposal site, or a yard waste compost facility, and does not include any use that constitutes a public nuisance.

Manufacturing, hazardous or special.

An establishment or business that uses hazardous inputs or creates hazardous by-products in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts on the environment or surrounding areas. Examples include but are not limited to: acid manufacture; acid bulk storage; cement, lime, gypsum or plaster of paris manufacture; central concrete mixing or concrete proportioning plant; distillation, manufacture or refining of bones, coal or tar asphalt; explosives, manufacture or storage; fat, grease, lard or tallow rendering or refining; fertilizer manufacture from organic matter; glue or size manufacture; paper manufacture; petroleum or asphalt refining or storage; smelting of tin, copper, zinc or iron ores; storage or processing raw hides or fur; and stockyards or slaughter of animals other than poultry.

Marina or yacht club.

A facility or area for storing, servicing, fueling, berthing, securing, and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews and guests. Accessory uses may include restaurants and bars.

Maximum extent practicable (MEP).

The statutory standard (33 U.S.C. 1342(p)(3)(B)(iii)) that establishes the level of pollutant reductions that an Owner or Operator of Regulated MS4s must achieve. The USEPA has intentionally not provided a precise definition of MEP to allow maximum flexibility in MS4 permitting. The pollutant reductions that represent MEP may be different for each Small MS4, given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Therefore, each permittee will determine appropriate BMPs to satisfy each of the six minimum control measures through an evaluative process. The USEPA envisions application of the MEP standard as an iterative process.

Medical or dental clinic.

An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of licensed health care practitioners, dentists, or licensed health care practitioners and dentists in practice together.

Migratory bird flight path.

The zone of jurisdictional land located from the Lake Superior and Saint Louis River shorelines to no less than two miles inland or where Skyline Parkway runs parallel to the shoreline, an area from the shoreline to Skyline Parkway or two miles inland, whichever is greater.

Mining, extraction and storage.

The extraction, removal or the processing of sand, clay, loam, gravel, rock, top soil or fill materials (exclusive of sod) for commercial purposes, except as a necessary incident to any construction on the premises.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Mini-storage facility.

A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized and controlled access units or lockers.

Minor system.

Those other city drainage systems that empty into the major system, which mainly consists of storm sewer, culverts and smaller open channel sections such as swales and small ditches.

Minor utilities.

A piece or system of service equipment or infrastructure that is necessary to support development within the immediate vicinity and that involves only small structures. Employees typically are not located at the site on an ongoing basis. Examples include but are not limited to: electric transformer stations, gas regulator stations, telephone exchange buildings, cable equipment boxes, district power distribution lines, electric utility boxes, and well, water and sewer pumping stations.

Modify or modification.

When used in the context of wireless telecommunications facility, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, and parking. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything, nor does it include upgrades or changeouts of equipment or antennas where the replacement is of similar size and appearance.

Motor vehicle.

Any self propelled vehicle designed primarily for transportation of person or goods. It does not include an electric personal wheelchair.

Municipal separate storm sewer system (MS4).

A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains):

- A. Owned or operated by a state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial water, stormwater or other wastes. Including special district, or similar entity or an Indian tribe or an authorized Indian tribal organization or a designated and approved management agency under Section 208 of the CWA (33 U. S. C.1288) that discharges to waters of the United States;
- B. Designed or used for collecting or conveying stormwater;
- C. That is not a combined sewer; and
- D. That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR 122.2.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

MPCA.

Minnesota pollution control agency.

Museum, library, or art gallery.

A facility or area that is open to the public and is intended for the acquisition, preservation, study, and exhibition of works of artistic, historical or scientific value.

50-41.14 Definitions: N.

Nameplate.

An accessory sign containing only the name of the occupant of a dwelling and an occupation permitted in that zone district.

National register of historic places.

The nation's official list of properties worthy of preservation designated by the United States department of the interior, national park service.

Natural environment waters.

Include rivers that are forest previously classified remote, forest, transitional river segments, and tributary river segments that flow into natural environment lakes. The types and intensities of recreational uses within this class vary widely.

Natural resource inventory.

An inventory that identifies and maps the critical natural resources on a site, including the following resources: existing land cover of vegetative types; streams; wetlands; lakes; significant, sensitive, threatened, or endangered species; critical wildlife habitat; soil types; geologic hazards (floodplains, unstable slopes, highly erodible soils); and mineral resources.

Natural state.

Where vegetation exists in a wild state, where the condition of the ground and shrub layers and floristic composition of the plant community is substantially unaltered by humans, where restoration has been consistent with Commissioner 525 Guidelines or local government approved plans, or where the vegetation has been unaltered for at least one growing season.

Navigable airspace.

Airspace at and above the minimum flight altitudes prescribed in the FARs including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

NIER.

Non-ionizing electromagnetic radiation.

Node.

For purposes of the connectivity index described in Section 50-23.3, a node exists at each street intersection and cul-de-sac head within the development subject to the connectivity index.

Nonconforming use.

Any building or land lawfully occupied by a use at the time of passage of this Chapter or an amendment to this Chapter that does not conform after the passage of this Chapter or amendment to this Chapter with the use regulations of the district in which it is situated.

Nonpoint source pollution.

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include but not be limited to pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Nonprecision instrument runway.

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

Non-structural measure.

When used in the context of stormwater control, a stormwater control and treatment technique that uses natural processes, restoration or enhancement of natural systems, or design approaches to control runoff or reduce pollutant levels. Such measures are used in lieu of or to supplement structural practices on a land development site. Non-structural measures include but are not limited to: minimization or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and on-lot practices such as rain barrels, cisterns, and vegetated areas that intercept roof and driveway runoff.

NPDES.

National pollution discharge elimination system.

Nursing home.

Licensed facilities primarily engaged in providing shelter, food and intermediate or long term nursing and health related care for individuals, including assisted living facilities, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

50-41.15 Definitions: O.

Obstruction.

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

Office.

A facility where business or philanthropic activities are conducted in an office environment. Examples include but are not limited to: administration of business, civic, religious, or charitable organizations, financial services processing, and radio or television broadcasting stations or studio.

Off-site facility.

As used in stormwater management, a stormwater best management practice located outside the subject property boundary described in the permit application for land development activity.

On-site facility.

As used in stormwater management, a stormwater best management practice located within the subject property boundary described in the permit application for land development activity.

Ordinary high water mark.

A mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Outdoor entertainment or recreation use.

An outdoor facility whose main purpose is to provide entertainment or recreation, with or without charge, including amusement parks, batting cages, drive-in theatres, golf driving ranges, miniature golf courses, go-cart tracks, target sport ranges, skating rinks, skateboard parks, swimming pools, tennis courts, sports courts, water parks, zoological parks and similar uses, but not including auto or horse race tracks.

Owner.

In the context of stormwater management, the owner or owners of the freehold or a lesser estate of a premises, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a piece of land. Owner also refers to, in the appropriate context: (a) any other person authorized to act as the agent for the owner, (b) any person who submits a stormwater management concept or design plan for approval or requests issuance of a permit, when required, authorizing land development to commence, and (c) any person responsible for complying with an approved stormwater management design plan.

50-41.16 Definitions: P.

Park, playground or forest reserve.

A facility or area for recreational, cultural, or aesthetic use owned or operated by a public or quasi-public agency and available to the general public. This definition may include but is not limited to: parks, public lawns, active and passive recreation areas, playgrounds, water courses and wooded areas. Facilities may also include fountains, swimming pools, pavilions and similar public facilities within their boundaries.

Parking area.

An open unoccupied space used or required for use for parking of motor vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.

Parking structure.

A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking, and underground or under-building parking areas.

Parking lot.

An off-street area used for the temporary storage of operable and street legal motor vehicles. Includes parking spaces, aisles, drives and landscaped areas, and provides vehicular access to public street.

Parking space.

An off-street space available for the parking of one motor vehicle.

Patterned wall.

Walls with a patterned or textured look to mimic stone or similar design or patterned to create reveals and shadow lines. No blank concrete or wood timber walls shall be permitted.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Permanent stormwater best management practice (BMP).

A stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

Personal services and repair (small).

An establishment containing less than 10,000 square feet of gross floor area and generally having no more than ten employees on site at one time, that is engaged in the provision of informational, instructional, personal improvement, personal care, and similar services. Examples include but are not limited to: catering establishments, custom dressmaking, film processing, garment printing and embroidering, licensed massage salons, optical and optician services, real estate sign placement service, service and repair establishments, sun tan centers, bicycle rental, small craft rental, tailor shops, and laundromats.

Personal services and repair (large).

An establishment, containing 10,000 square feet of gross floor area and generally having more than 10 employees on site at one time, that is engaged in the provision of informational, instructional, personal improvement, personal care, and similar services.

Personal wireless facility.

See wireless telecommunications facilities.

Personal wireless service or PWS.

This term, which is sometimes also referred to as “personal telecommunications service” or “PCS,” shall have the same meaning as defined and used in the 1996 Federal Telecommunications Act.

Place.

An open, unoccupied space or thoroughfare other than a street or alley permanently reserved as a principal means of access to abutting property.

Place of public or semi-public assembly.

A place of public or semi-public assembly is defined as a building or portions of a building used for the gathering of persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, dining or awaiting transportation.

Planned future airport improvement.

As used in Section 50-18.2, Airport Overlay, those proposed future airport developments that are indicated on a planning document having the approval of the federal aviation administration, Minnesota department of transportation, office of aeronautics, and Duluth airport authority.

Power transmission line.

A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts.

Precision instrument runway.

A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR), or a runway for which a precision instrument approach system is planned and is so indicated on an approved planning document.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Premises.

A lot together with all buildings and structures existing on the lot.

Preschool.

An establishment licensed by the state to provide a systematic organization or arrangement of activities, personnel, materials, and equipment in a facility to promote the physical, intellectual, social, and emotional development of a child, who is at least 33 months old but who has not yet attended the first day of kindergarten, in the absence of the parent for a period of less than 24 hours a day.

Principle use or structure.

All uses or structures that are not accessory uses or structures.

Public assembly bulletin board.

A bulletin board accessory to and located on the same property as a religious assembly or educational use listed in Table 50-19.8 that identifies the name of the institution and the dates and times of events related to that institution to which some or all of the public are invited.

Pylon.

A decorative extension above the roof line of a building that is designed as an integral part of the building and that is constructed of masonry or is completely enclosed by the same material as the main exterior walls of the building.

50-41.17 Definitions: Q.

No definitions.

50-41.18 Definitions: R.

R-district parking area.

The area on a lot in a residential district where vehicles may be parked, unless a front yard parking variance has been approved pursuant to Section 50-37.9. The parking area shall be limited to an area that may include one side yard, the rear yard, and the following additional areas of the lot:

- A. On a lot, other than a corner lot, containing a dwelling unit without garage, the parking area also includes the area between one side lot line and the nearest wall of the dwelling unit and its extension to the improved street abutting the front yard;
- B. On a lot, other than a corner lot, containing a dwelling unit with a detached garage, the parking area also includes the area between the closest side lot line to the side wall of the dwelling unit nearest the garage and its extension to the improved street abutting the front yard;
- C. On a lot, other than a corner lot, containing a dwelling unit with attached garage, the parking area also includes the area between the closest side lot line and the common wall separating the dwelling unit and the garage and its extension to the improved street abutting the front yard;
- D. On any corner lot, any parking area in addition to the rear yard and one side yard may be granted by variance as provided in Section 50-37.9.

Radio or television broadcasting tower.

A structure that is designed and constructed primarily for the purpose of supporting one or more antennae that transmit information (audio, video, data, but not personal wireless communications) in the form of electromagnetic signals to one or more receivers without the use of a physical connection between the transmitting and receiving source. The term includes but is not limited to: lattice towers, guyed

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

towers, and monopole towers. The term does not include a wireless communication tower, clock tower, bell tower, steeple, light pole, power pole, water tower, or similar structure that incidentally supports antennae.

Railroad yard or shipyard and related facilities.

An area of land, a portion of which is covered by a system of tracks, that provides for the making up of trains by one or more railroads or private industry concerns including roadhouses and repair and overhaul shops. Necessary functions of a railroad yard include but are not limited to the classifying, switching, storing, assembling, distributing, consolidating, repairing, weighing, or transferring of cars, trains, engines, locomotives, and rolling stock. In addition, this use includes a facility or area containing wharves, docks, or other facilities used in connection with water transportation or navigation, and for the repair, service, sales or storage of boats.

Rainfall events

The design storm definitions for Duluth from "*Bulletin – 71*" 1992, *Rainfall Frequency Atlas of the Midwest*.

	Design Year	Inches
100 yr 24 hr Rainfall	100	5.2
50 yr 24 hr Rainfall	50	4.64
10 yr 24 hr Rainfall	10	3.36
5 yr 24 hr Rainfall	5	2.88
2 yr 24 hr Rainfall	2	2.31

Reach.

As used in the context of flood prevention, the hydraulic engineering term used to describe longitudinal segments of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

Readerboard.

A sign or portion of a sign face that allows for the creation of messages by physical manipulation of simple block letters, but not including a changeable message sign (MCS) or electronic sign (ES).

Receiving stream or channel.

The body of water or conveyance into which stormwater runoff is discharged.

Receiving waters.

Lake Superior, St. Louis River and St. Louis Bay, which are the major receivers of city drainage.

Recharge.

The replenishment of underground water reserves.

Recycling collection point (primary use).

A facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper or clothing for recycling purposes conducted totally within an enclosed structure or container. This definition does not include processing except for can banks that crush cans as they are deposited.

Redevelopment.

A change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving or excavating, but excluding ordinary maintenance activities. For purposes of the erosion and stormwater controls in Section 50-18.1.E, redevelopment does not include remodeling of buildings on the existing footprint, resurfacing of paved areas, and exterior changes or improvements that do not result in the disturbance of equal to or greater than one acre of land.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Regional flood.

A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

Regional stormwater.

Stormwater BMPs designed to control stormwater runoff from multiple properties or a particular land use district, and where the owners or developers of the individual properties may participate in the provision of land, financing, design, construction or maintenance of the facility.

Religious assembly.

A facility or area for people to gather together for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

Repairs and maintenance.

When used in the context of wireless telecommunications, the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

Research laboratory.

A facility or area for conducting scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition also includes labs for the manufacture of dentures and prostheses.

Residential care facility/Assisted living facility.

A building that houses persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following; residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers, and convalescent facilities.

Responsible party.

In the context of stormwater regulations, any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents or assigns, that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

A commercial establishment, including but not limited to taverns and brewpubs, where food and beverages are prepared, served, and consumed primarily within the principal building.

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

A commercial establishment, including but not limited to taverns and brewpubs, where customers order and are served their food and beverages at a walk-up counter or in a motor vehicle to be consumed on or off the site.

Retail store.

A facility or area for the retail sale of general merchandise or food to the general public for direct consumption and not for wholesale. Typical general merchandise includes clothing and other apparel, equipment for hobbies or sports, gifts, flowers and household plants, dry goods, convenience and specialty foods, toys, furniture, books and stationery, pets, drugs, hardware and similar consumer goods. This definition does not include retail uses defined elsewhere in this Chapter.

- A. A small retail store is one that contains less than 15,000 square feet of gross floor area;
- B. A large retail store is one that contains 15,000 square feet or more of gross floor area.

Riding stable.

An establishment or area for keeping horses or other domestic animals other than for the property owner's personal use, for compensation, hire, boarding, riding or show.

Rooming house.

A building containing habitable units and that provide sleeping or living accommodations by prior arrangements, regardless of whether those accommodations are offered for compensation or not, and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis. Individual habitable units are not owned by occupants, except that a habitable unit may be occupied by the owner of the building.

Runway.

Any existing or planned paved surface or turf covered area of the airport that is specifically designated and used or planned to be used for the landing or taking off of aircraft.

50-41.19 Definitions: S.

School, elementary.

An public or private establishment providing educational services from kindergarten or Grade 1 through Grade 5, or from kindergarten or first grade through Grade 8, or some combination of those included years, together with incidental sports and outdoor activity areas.

School, middle or high.

A public or private establishment providing educational services from Grade 6 through Grade 12, or from Grade 6 through 8, or from Grade 9 through Grade 12, or some combination of those included years, together with incidental sports and outdoor activity areas.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Seasonal camp or cabin.

A facility containing one or more tent sites or cabins that is offered for use on short-term during defined seasons of the year, for compensation, and that may include accessory facilities such as showers, laundries or cooking and dining facilities.

Sediment.

Solid mineral or organic material that, in suspension, is being transported, or has been moved from its original site by air, water, gravity or ice and has been deposited at another location.

Sedimentation.

The process or action of depositing sediment that is determined to have been caused by erosion.

Setback.

The minimum horizontal distance between a lot line and a building or structure required by this Chapter.

Shore impact zone.

Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback, but not less than 50 feet.

Shoreland.

Lands within 1,000 feet of a lake or within 300 feet of a river and its floodplain, as shown on the NR-O map. The limits of shorelands may be less than the above limits whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the commissioner.

Sidewalk.

A paved surface located in the public right of way and used as a pedestrian walkway.

Sidewalk café.

An outdoor dining area located within the public right of way in front or adjoining a restaurant or other eating and drinking establishment.

Sign.

Any letter, word, symbol, model, printed, projected or affixed device, poster, picture, reading matter or representation in the nature of an advertisement, announcement, direction or informative device including its structure or component parts, which is more than one square foot in area and is located outdoors or is affixed to the interior or exterior of a window or door, or is displayed within 12 inches of a window intended for viewing from the exterior of the building. A sign shall not include (a) temporary parks and recreation signs permitted pursuant to Chapter 35 of the City Code, or (b) overhead banners and devices regulated under Article III of Chapter 45 of the City Code, or (c) any street name sign, public directional, utility or transportation sign, or motor vehicle traffic signs of any kind when officially placed, or to advertising or other information affixed to any motor vehicle, provided that such vehicle's primary use is not as a stationary advertising device, or (d) any inscription on any publicly owned building when the inscription is incorporated into the architectural design as a permanent feature.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Sign, A-frame.

A sign ordinarily in the shape of the letter "A," or some variation thereof, that is displayed on the ground, not permanently attached, and usually two-sided.

Sign, agricultural identification.

A sign describing an agricultural use that includes the name of the farm and/or the products grown on-site.

Sign, animated.

A sign that uses movement or change of lighting to depict action or to create a special effect or scene. Animated signs do not include electronic message signs.

Sign, attention getting.

Flags, pennants, streamers and similar devices or ornamentations designated for the purpose of attracting attention. Flags of nations, states, and cities, or fraternal, religious and civic organizations, permanent commercial flags, or temporary holiday decorations are not considered attention getting devices.

Sign, awning.

A sign that is printed or displayed upon an awning. An awning is a roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway or door, with no supports that extend to the ground.

Sign, balloons.

Balloons or inflated devices used as a means of directing attention to a business or service offered.

Sign, banner.

A sign that is printed or displayed upon flexible material with or without frames.

Sign, banner-exhibition.

A sign that is printed or displayed upon flexible material with or without frames in conjunction with a special exhibit for an educational facility, government building, museum, library or art gallery, or religious assembly.

Sign, billboard.

A sign that directs attention to a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located.

Sign, building directory.

A sign that serves as common or collective classification for a group of persons or businesses operating in the same building or on the same lot. A building directory sign may name the persons or businesses included, but carry no other advertising matter.

Sign, canopy.

A sign that is printed or displayed upon a canopy. A canopy is a roofed structure constructed of fabric or other material placed to extend outward from the building and supported both by the structure and by supports that extend to the ground directly under the canopy.

Sign, construction.

A temporary sign that identifies an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located and which may identify the proposed use for the property.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Sign, community event.

Temporary signs that announce community events and activities, including the activities of religious assemblies, social clubs or similar groups, or special events such as fairs, rummage sales and garage sales.

Sign, directional-parking lot.

A sign that identifies parking lot entrances and exits, driveway intersections, drive-through lanes, and features of a similar nature.

Sign, electronic display screen.

A sign, or portion of a sign, that displays electronic video via television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

Sign, electronic message.

Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text or image form where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs.

Sign, flashing

A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.

Sign, freestanding.

A sign that is placed on or supported by the ground, independent of the principal structure on the lot. Freestanding signs may be either pole or monument signs.

Sign, freestanding monument.

A freestanding sign where the base of the sign structure is on the ground or up to a maximum of 24 inches above ground. The monument base must be designed as an integral part of the sign structure. The width of the top of the sign structure can be no more than 120 percent of the width of the base.

Sign, freestanding pole.

A freestanding sign that is affixed, attached or erected on one or two poles that is not itself an integral part of the sign.

Sign, ghost.

A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community. A ghost sign is not considered an off-premises sign.

Sign, government information sign.

Traffic signs, legal notices, railroad crossing signs, signs regulating vehicular or pedestrian traffic, or designating or giving direction to streets, schools, historic sites or public buildings, and temporary emergency signs.

Sign, home occupation.

A sign identifying a home occupation or permitted accessory use on the premises.

Sign, illumination types.

A. Gooseneck reflector. Lighting designed for mounting above or to the side of signs with a long, shepherd hook-shaped arm to hold fixtures at a distance from the area of illumination;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

B. Illumination, external. Lighting of a sign where lighting components are outside the sign structure and light is directed at the sign face;

C. Illumination, internal. Lighting of a sign constructed so that all lighting components are internal and illumination occurs as lighting is diffused through the sign face surfaces.

Sign, marquee.

A permanent roof-like sign structure constructed over a building entry, with no supports extending to the ground, where a changeable message area is part of the vertical sign fascia.

Sign, memorial plaque.

A sign, tablet or plaque memorializing a historic person, event, structure or site.

Sign, menuboard.

A device that lists items for sale at an establishment with drive-through facilities.

Sign, moving.

A sign that, in whole or in part, rotates, elevates or in any way alters position or geometry. Moving signs do not include clocks.

Sign, nameplate.

A sign that is affixed flat against a wall of a building or imprinted into the wall of a building that designates the name of the building or the name and profession of one who resides or occupies space in the building.

Sign, non-commercial.

A sign advocating action on a public issue or recommending a candidate for public office.

Sign, off-premises.

A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located.

Sign, on-premises.

A sign that directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located.

Sign, parking lot information.

Signs that provide information on the operation of a parking lot, such as "No Parking" or "Unauthorized users shall be towed."

Sign, political.

Any sign that directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he is a candidate, or both.

Sign, portable.

A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs.

Sign, projecting.

A sign that is attached to a structure that extends beyond the surface of the structure to which it is attached.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Sign, property identification/management.

An accessory sign containing only messages related to the identification or management of the property where the sign is located, including but not limited to signs identifying entrances, exits, parking areas or hazardous areas, prohibiting trespassing, or information about limits on property use.

Sign, property identification.

A sign identifying the property management company or apartment complex name of a multi-family dwelling.

Sign, public information.

Signs within an educational facility, cemetery or mausoleum, museum, library or art gallery, and park, playground or forest reserve property that provide information on the use of the facility, such as directional signs, trailhead locations and information kiosks.

Sign, real estate.

A sign advertising the real estate upon which the sign is located as being for rent, lease or sale. A real estate sign can also advertise an open house.

Sign, roof.

A sign that is wholly erected, constructed or maintained above the roof structure or parapet of any building with the principal support attached to the roof structure.

Sign, scoreboard.

A sign that records and displays the score of a game and may include such information as the name of the field or home team and advertising.

Sign, snipe.

An off-premises sign painted, pasted or otherwise affixed to any tree, rock, retaining wall, fence, utility pole, hydrant, bridge, sidewalk, curb or street, bench or trash receptacle. Logos and labels located on mechanical equipment, recycling bins, trash containers or dumpsters, which are part of the equipment as manufactured and/or installed, are not snipe signs.

Sign, temporary off-premises.

A temporary sign that advertises a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located, or is sold, offered or conducted on the premises only incidentally, if at all.

Sign, under-awning.

A sign that is attached to and mounted under an awning.

Sign, under-canopy.

A sign that is attached to and mounted under a canopy.

Sign, wall.

A sign that is mounted flat against or painted on a wall, and projects no more than 12 inches from the wall of a structure with the exposed face of the sign in a plane parallel to the face of the wall. Wall sign does not include window sign. For the purposes of this definition, a fence is not considered a wall and wall signs are prohibited mounted on fences.

Sign, window.

A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within 12 inches of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

temporary. Window clings are considered a window sign and subject to all window sign regulations.

Significant tree.

All trees of more than ten inches DBH, and all special tree species of more than six inches DBH shall be considered significant, unless they are under power lines or deemed hazardous by a certified arborist or landscape architect or professional forester. In addition, any replacement tree planted as part of a tree replacement plan shall be considered significant, even if it does not meet the size definition above.

Site.

A parcel or several adjoining parcels of land under common ownership. For purposes of the natural resources overlay district, this definition is limited to apply to any parcel of land upon which work requiring a permit under this Chapter is to be performed, and includes any adjacent lands owned by the owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel that were owned by the same person owning the subject parcel as of January 1, 1980.

Site plan.

An accurate scale drawing that indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development, and meeting all requirements of the UDC application manual.

Slope.

An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude (e.g., slope = 3:1 = 3 feet horizontal to 1 feet vertical).

Solar, geothermal or biomass power facility (primary use).

Uses and structures that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following: solar panels (photovoltaic and hot water), heat exchanges, biomass firing equipment, piping, and other transfer mechanisms, controls and related structural support for transporting and storing collected energy from solar, geothermal, or biomass energy systems. These structures and uses may be located at ground level or above or below ground unless specifically limited in this Chapter, provided that they meet all other applicable requirements of this Chapter.

Solid land.

Any land that is neither a wetland nor located in a floodway.

Solid waste.

As defined in MSA 116.06, Subd. 22, and also including medical wastes and petroleum contaminated soils.

Solid waste disposal or processing facility.

Any tract or parcel of land, including any constructed facility that is designed or operated for the purpose of disposing of solid waste on or in the land, at which solid waste is disposed of in or on the land or processed for disposal or reuse, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility, and that is not listed as a separate use in this Chapter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Special tree species.

White pines, red (Norway) pines, white cedars, white spruces, eastern hemlocks, sugar maples, American basswoods, American elms, yellow birches and all oak species.

Special use.

A specific type of structure or land use listed in Table 50-19.8 that may be allowed only after review and evaluation of potential impacts on surrounding properties and the attachment of any conditions necessary to mitigate those impacts.

Stealth or stealth technology.

When used in the context of wireless telecommunications, to minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

Steep slope.

Land having average slopes over 12 percent, as measured over horizontal distances 50 feet or more, and that are not bluffs.

Storage warehouse.

A structure containing an area available for storing raw materials, produce, goods or property, but not including mini-storage facilities.

Stormwater.

Stormwater runoff, snowmelt runoff, surface runoff and drainage.

Stormwater management.

The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater pollution prevention plan.

A plan, usually required by a permit, to manage stormwater associated with industrial, commercial, public, institutional, civic or other land use activities, including construction. The plan commonly describes and ensures the implementation of practices that are to be used to reduce pollutants in stormwater and non-stormwater discharges

Stormwater pollution prevention program (MS4 program).

A compilation of best management practices (BMPs) to address the six minimum control measures and other provisions of the MS4 permit, that is designed and managed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable as appropriate to the community.

Stormwater best management practice (BMP).

A measure, either structural or nonstructural, that is determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies. Non-structural BMPs are those practices that require modified or additional operational or behavioral practices, such as sweeping or having spill response equipment on site. Structural BMPs are those that require the construction of a structure or other physical modification on the site.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Stormwater retrofit.

A stormwater BMP designed for an existing development site that previously had either no stormwater BMP in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff.

Flow on the surface of the ground resulting from precipitation.

Story.

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half.

A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than 4 feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Stream buffer.

An area of land at or near a stream bank, wetland or water body that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes that may result in significant degradation to water quality.

Street.

A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

Street line.

The established side line of a street easement or right-of-way.

Structure.

Anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground. Examples include but are not limited to: backstops for tennis courts, fences or pergolas.

Structural alteration.

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

Subdivision.

The division of a lot, tract or parcel of land into three or more lots, plats, sites or other divisions of land of one acre or less in area, for the purpose, whether immediate or future, of sale or of building development. This term also includes the division of a lot, tract or parcel of land into two or more lots, plat, sites or other divisions of land of more than one acre and less than ten acres in area, if the division provides or there is shown on a plat of the division a new street or highway. The term also includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Sustainable development.

Development that maintains or enhances economic opportunity and community well being while protecting and restoring the natural environment upon which people and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

50-41.20 Definitions: T.

Telecommunications.

The transmission or reception of audio, video, data, and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

Telecommunications site.

See wireless telecommunications facilities.

Telecommunications structure.

A structure used in the provision of services described in the definition of wireless telecommunications facilities.

Temporary.

A fixed period of time not to exceed 180 days. For the purposes of wireless telecommunications, temporary means not more than 90 days.

Temporary construction office or yard.

A facility or area used as a temporary field construction office, temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or construct buildings, structures or infrastructure.

Temporary event or sales.

A temporary outdoor use of land for the purposes of an event or sale including but not limited to: a circus, carnival, fair, part, or celebration that reasonably may be expected to attract more than 100 persons at any one time; or any sale made by a person, firm or corporation engaging in the temporary business of selling goods, wares or merchandise from a tent, truck, vending cart or other area outside of a permanent structure on property owned or leased by the person, firm or corporation. The temporary event or sale must be secondary to or incidental to the permitted use or structure existing on the property and not incompatible with the intent of the zone district.

Temporary moveable storage container.

A container designed for the storage of personal property that is typically rented to owners or occupants of property for their temporary use, and that customarily is delivered and removed by truck.

Temporary real estate sales office.

A facility or area used as a temporary office to sell land or buildings within a specified area or subdivision.

Theater.

A building, structure or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

Tourist or trailer camp.

Any park, trailer park, trailer court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches or upon which any trailer coach or trailer coaches are parked, and shall include all buildings used or intended for use as part of the equipment or establishment, whether or not a charge is made for the use of the trailer camp and its facilities. Trailer camp shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Tower.

In the context of wireless telecommunications, any structure designed primarily to support an antenna for receiving or transmitting a wireless signal.

Trailer.

Any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include trailers whose wheels or axles have been removed.

Truck.

Every motor vehicle designed, used or maintained primarily for the transportation of property.

Truck freight or transfer terminal.

A facility in which goods shipped by truck are loaded, unloaded, or transferred between trucks for shipping or distribution, together with incidental truck storage, maintenance, and administrative offices.

Truck or heavy vehicle sales, rental, repair or storage.

A facility that is engaged in the sales, rental, repair or storage of heavy equipment typically used in agricultural, commercial or industrial operations, including tractors, trucks with a gross vehicle weight of over 10,000 pounds, semi trucks or trailers, harvesters, loaders and tracked vehicles as well as sales of parts, whether new or used, for heavy equipment.

50-41.21 Definitions: U.

University or college,

An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

Useable open space,

Open space, other than required building setback areas, that is utilized exclusively for active recreational purposes such as softball, tennis or playgrounds or for passive recreational purposes such as pedestrian walkways or trails that have been preserved in their natural setting or landscaped. Areas with slopes of 15 percent or greater, and areas of wet, spongy land saturated and partially or intermittently covered with water shall not be considered useable open space. Useable open space shall not include streets or other vehicular access not used exclusively for the maintenance of such open space. Land on which buildings or other facilities are located may be considered useable open space if those buildings or other facilities are used for noncommercial, recreational or cultural purposes that are compatible with useable open space objectives and have been specifically approved as part of the development plan.

Utility, major,

A facility providing an important regional utility service, such as water, sewer, or drainage, that normally entails construction of new buildings or structures, and that typically has employees on the site on an ongoing basis. Examples include but are not limited to: water works, sewage treatment plants, reservoirs, regional stormwater detention ponds and other similar facilities.

Utility, minor,

Equipment necessary to support utility services to development within the immediate vicinity and that involves only minor accessory structures. Employees typically are not located at the site on an ongoing basis. Examples include but are not limited to:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

electric transformer stations and service boxes, gas regulator stations, telephone service boxes, and well, water and sewer pumping stations, and related underground and aboveground pipes and wires, but excluding those that meet the definition of an electric power transmission line.

Utility runway,

A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

50-41.22 Definitions: V.

Vacation dwelling unit.

A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities that are physically separated from other habitable units that may or may not be located in the same building for periods of occupancy from three to 21 days. This use does not include hotels, motels, or bed and breakfasts.

Veterinarian or animal hospital.

A facility for the diagnosis, treatment or hospitalization of animals, and including the incidental boarding or breeding of animals.

Visual runway.

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

50-41.23 Definitions: W.

Watercourse.

A channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

Water-dependent bulk storage or wholesaling not listed elsewhere.

A bulk storage or wholesaling use as defined by this Chapter, but not separately defined, that must be located near water because of the nature of the goods being stored or wholesaled or the means by which they are being transferred to or from the site, or because the establishment's suppliers or customers must be located near water

Water dependent manufacturing, light or heavy.

A light or heavy manufacturing use, as defined by this Chapter, that must be located near water because of the nature of the goods being manufactured, assembled, fabricated, or treated or the means by which they or their inputs are being transferred to or from the site, or because the establishment's suppliers or customers must be located near water

Water management district.

Land that by definition is in a flood plain district, a shoreland district, or a wetland.

Water or sewer pumping station/reservoir.

Facilities to collect or distribute water or wastewater from a defined service area, and that typically does not have employees at the site, including but not limited to water-pumping stations, water reservoirs and sewage pumping stations.

Water or sewer treatment facility.

An establishment to treat water or wastewater from a defined service area, and that typically has employees at the site, including but not limited to water treatment plants, sewage treatment plants and sewage disposal plants.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Waters of the state.

All streams lakes ponds, marshes, water course, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through or border upon the state or any portion of the state. Constructed wetlands designed for wastewater treatment are not waters of the state

Wetland.

Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands must have the following attributes:

- A. A predominance of hydric soils;
- B. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition;
- C. Under normal circumstances support a prevalence of such vegetation.

Wholesaling.

A use engaged in enclosed wholesale of manufactured products, supplies, and equipment, including accessory offices and showrooms. Products may be picked up on-site or delivered to the customer. This use does not include sales to the public at large or to consumers who are members or a club or association, regardless of whether the name of the business includes some version of the word "wholesale

Wind power facility (primary use).

A primary use of land including an aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, in a configuration necessary to convert the power of wind into mechanical or electrical energy. Examples include but are not limited to: wind charger, windmill and wind turbine.

Wireless telecommunications facilities.

A structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures, including but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of antennas. It also includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC. This term also includes a telecommunications site and personal wireless facility.

50-41.24 Definitions: X.

No definitions.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

50-41.25 Definitions: Y.

Yard.

An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard depth or width.

In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front.

A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the primary building, but ignoring projections permitted by this chapter.

Yard, rear.

A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the primary building, but ignoring projections permitted by this Chapter. On all lots the rear yard shall be at the opposite end of the lot from the front yard.

Yard, side.

A yard between the main building and the side line of the lot, and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the primary building, but ignoring projections permitted by this Chapter.

Yard waste.

The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

Yard waste compost facility.

A site used to compost or co-compost yard waste that originates off of the site including all structures or processing equipment used to control drainage, collect and treat leachate, and storage area for the incoming yard waste, the final product and residual resulting from the composting process.

50-41.26 Definitions: Z.

No definitions.

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 14, 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 March 11, 2013
Approved March 11, 2013
LINDA KRUG, Acting Mayor

- - -

ORDINANCE NO. 10205

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N) AND RESIDENTIAL-URBAN (R-2), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6) FOURTH STREET FROM NORTH SIXTH AVENUE EAST TO NORTH 14TH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject properties, Fourth Street from North Sixth Avenue East to North 14th Avenue East, from the alley above and alley below Fourth Street, and as more particularly described as follows:

Those parts of Duluth Proper First Division, Auditors Rearrangement of Part of Portland Division of Duluth, Portland Division of Duluth and Endion Division of Duluth, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the intersection of North Sixth Avenue East centerline and the southwesterly extension of East Fourth Street Alley centerline (alley between East Third Street and East Fourth Street);

Thence northwesterly along North Sixth Avenue East centerline to the southwesterly extension of East Fifth Street Alley centerline (alley between East Fourth Street and East Fifth Street);

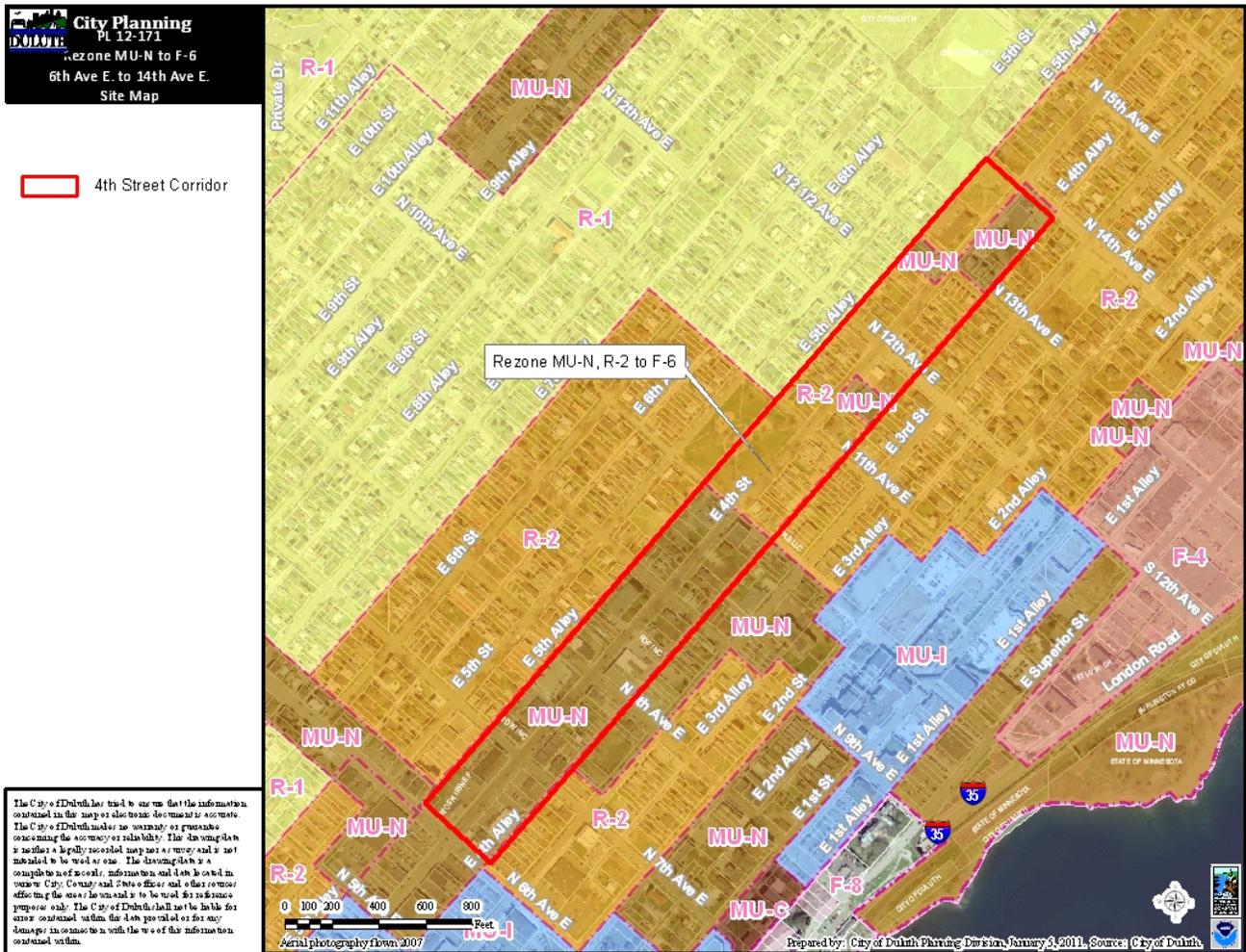
Thence northeasterly along said East Fifth Street Alley centerline and its extensions to the North Fourteenth Avenue East centerline;

Thence southeasterly along said North Fourteenth Avenue East centerline to the northeasterly extension of the East Fourth Street Alley centerline;

Thence southwesterly along said East Fourth Street Alley centerline line and its extensions to the Point of Beginning at North Sixth Avenue East;

be reclassified from Mixed Use-Neighborhood (MU-N), to Form District Six, Mid-Rise Neighborhood Shopping (F-6), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



(Ref. File No. 12-171)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 14, 2013)

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

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

Nays: None -- 0

ATTEST:
 JEFFREY J. COX, City Clerk

Passed March 11, 2013
 Approved March 11, 2013
 LINDA KRUG, Acting Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 25, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Absent: President Boyle -- 1

- - -

Vice President Krug presided over the meeting in the absence of President Boyle.

- - -

The minutes of the council meeting held on January 14, 2013, were approved upon a unanimous vote.

- - -

REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reported at length on the status of Wade Stadium and the plan for financing the repairs and updating its status with the Minnesota Legislature.

- - -

REPORTS FROM OTHER OFFICERS

13-0325-01 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Duluth AA Institute on May 9, 2013; (b) National Kidney Foundation on May 18, 2013. -- Received

- - -

REPORTS OF BOARDS AND COMMISSIONS

13-0325-02 Library board minutes of January 22, 2013, meeting. -- Received

- - -

OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell reviewed: his prior comments about a citizen who wrote the school board and how the letter was never put in the public file and the intimidating verbal confrontation to this individual, that made her so scared that she denied ever sending the letter; that an oversight committee be established to review the removal of communications from the public file and that there is a claim that there is no written policy on communications, when in fact there is a by-law which states that communications are to be in a public file.

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MOTIONS AND RESOLUTIONS

CONSENT AGENDA

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

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

RESOLVED, that the proper city officials are hereby authorized to amend and execute a renewal of the joint powers Agreement No. 20604 with the Duluth entertainment and convention center authority for the operation of the Minnesota Slip pedestrian draw bridge for

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

year 2013 for a total amount not to exceed \$36,441.02, terms net 30, payable from the Tourism Tax Fund 258, Department/Agency 030 (finance), Object 5310 (contract services).

Resolution 13-0117 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor licenses by the liquor control commissioner, and issues three one day dance licenses, subject to departmental approvals and any specific restrictions:

Grandma's Marathon - Duluth, Inc., Canal Park Drive and Buchanan Street, for June 21-23, 2013, with Scott Kennan, manager, with the music and serving ending at 2:00 a.m.

Resolution 13-0127 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Thane Hawkins Polar Chevrolet for the purchase and delivery of three vehicles, including two 2013 Chevrolet Silverado 2500 4x4 extended cab, regular box diesel pickup trucks for public works and utilities and one 2013 Chevrolet Silverado 2500 4x4 regular cab and chassis pickup truck for street maintenance, in accordance with Minnesota State Contract 37909, Release T-642(5), specifications and pricing for a total of \$100,108.12, plus \$6,507.03 vehicle sales tax (6-1/2 percent), plus \$250.05 registration fees and tax-exempt license plates for a combined total amount of \$106,865.20, terms net 30, FOB destination, payable as follows:

(a) Requisition 13-0233 - public works and utilities:

\$72,167.11 Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1905 (capital, incl. depreciation/debt service), Object 5580 (capital equipment);

(b) Requisition 13-0227 - street maintenance:

\$34,698.09 Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (Fiscal Year-2013), Object 5580 (capital equipment), Project CE250-V1304.

Resolution 13-0133 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals and any specific restrictions:

Order of Owls, Nest 1200, (Art in Bayfront Park), Bayfront Park, for August 16, 2013, from 5 p.m. to 9 p.m. and August 17, 2013, from 10:00 a.m. to 8:00 p.m. with Benjamin Marsen, manager.

Resolution 13-0151 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of network administrator, which were approved by the civil service board on March 5, 2013, and which are filed with the city clerk as Public Document No. 13-0325-03, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 137, \$4,595 to \$5,455 per month.

Resolution 13-0129 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the civil service of corrosion technician, including a title change to corrosion technician II, which were approved by the civil service board on March 5, 2013, and which are filed with the city clerk as Public Document No. 13-0325-04, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that the pay range for said classification shall be Range 32, \$4,044 to \$4,785 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0130 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of corrosion technician I, which were approved by the civil service board on March 5, 2013, and which are filed with the city clerk as Public Document No. 13-0325-05, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range for said classification shall be Range 29, \$3,573 to \$4,215 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0131 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of regulator mechanic, which were approved by the civil service board on March 5, 2013, and which are filed with the city clerk as Public Document No. 13-0325-06, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change to Pay Range 30, pay rate of \$3,718 to \$4,417 per month. This is a change from Pay Range 29, \$3,573 to \$4,215 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0134 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

RESOLVED, that the proposed specifications for the new civil service classification of water conveyance specialist, which were approved by the civil service board on August 8, 2011, and which are filed with the city clerk as Public Document No. 13-0325-07, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 32, \$4,044 to \$4,785 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0135 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of water conveyance technician, which were approved by the civil service board on August 8, 2011, and which are filed with the city clerk as Public Document No. 13-0325-08, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 29, \$3,573 to \$4,215 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0136 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a joint powers agreement pertaining to the housing tax credit program, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 13-0325-09, with the Minnesota housing finance agency (Minnesota housing) for the year 2014.

Resolution 13-0132 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council adopted the comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

(b) The city planning division has conducted an analysis of land use in the area between London Road and Interstate Highway 35 from South 21st Avenue East to South 26th Avenue East, with the findings revealing a predominance of commercial and with a few remaining residential properties; and

(c) The existing zoning is split between Mixed Use-Neighborhood and Mixed Use-Business, which allows a mixture of commercial and residential uses, while the comprehensive land use plan - future land use map shows the entire area as Mixed Use-Neighborhood, which would not support these uses; and

(d) The Municipal Planning Act requires that zoning implement a city's comprehensive plan; and

(e) Based on the review conducted by the planning division and public input, the city proposes amending the comprehensive land use plan - future land use map from

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Neighborhood Mixed Use to Central Business Secondary, as described and depicted below; and



(Ref. File. No. 13-026)

(f) The city planning commission has reviewed the proposal, conducted a public hearing on March 12, 2013, at their planning commission meeting, and recommends adoption of the proposed future land use map amendments; and

(g) The city council of the city of Duluth hereby amends the comprehensive land use plan - future land use map as described above.

Resolution 13-0137 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described 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 utility easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0325-10:

EASEMENT DESCRIPTIONS TO BE VACATED:

Water: Beginning at a point on the southerly line of said Parcel 4, said point located 153.35 feet easterly of the east line of Minnesota Avenue; thence northwesterly in a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

straight line to a point on the northerly line of said parcel, said northerly line being parallel with and distant 200 feet north of the southerly line of said Parcel 4; said point located 135.74 feet easterly of the east line of Minnesota Avenue and there terminating.

Sanitary sewer: Beginning at a point on the southerly line of said Parcel 4, said point located 116.27 feet easterly of the east line of Minnesota Avenue; thence northerly in a straight line to a point; said point being a manhole and located 119 feet northerly of the southerly line of said Parcel 4 and 135 feet easterly of the east line of Minnesota Avenue; thence turning and continuing northwesterly in a straight line to a point on the northerly line of said parcel, said northerly line being parallel with and distant 200 feet north of the southerly line of said Parcel 4; said point located 126.95 feet easterly of the east line of Minnesota Avenue and there terminating.

(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. 13-0325-10 showing the platted easement to be vacated.

Resolution 13-0143 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described 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 unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0325-11:

Legal Description; Vacation of Second Avenue West

That part of Second Avenue West adjacent to Lot 33, Block 113, and Lot 31, Block 114, Duluth Proper Third Division, lying between a line ten feet southerly of the north line of Lot 33, Block 113, and north line of Lot 31, Block 114, and a line lying 33 feet northerly of the centerline of West Eighth Street.

Subject to a 20 foot wide utility easement for the city of Duluth, the centerline of said utility easement being the centerline of Second Avenue West as platted;

(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. 13-0325-11 showing the platted easement to be vacated.

Resolution 13-0144 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described 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 unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0325-12:

LEGAL DESCRIPTION:

That part of 49th Avenue East (the same being platted as "Spencer Avenue"), according to the plat, CROSLEY PARK ADDITION TO DULUTH, on file or of record in the office of the county recorder, St. Louis County, Minnesota. The area to be vacated is bounded as follows:

On the north: By the south right-of-way line of Woodlawn Street.

On the west: By the east line of Block 143.

On the east: By the west line of Block 144.

On the south: By the south line of Block 143 and its easterly prolongation to the centerline of said 49th Avenue East and by the south line of Block 144 and its westerly prolongation to the centerline of said 49th Avenue East.

AND

That part of 49th Avenue East (the same being platted as "Spencer Avenue"), according to the plat, CROSLEY PARK ADDITION TO DULUTH, on file or of record in the office of the county recorder, St. Louis County, Minnesota. The area to be vacated is bounded as follows:

On the north: By the north line of Block 142 and its easterly prolongation to the centerline of said 49th Avenue East and by the north line of Block 141 and its westerly prolongation to the centerline of said 49th Avenue East.

On the west: By the east line of Block 142.

On the east: By the west line of Block 141.

On the south: By the north right of way line of Kingston Street (the same being platted as "Clifton Street");

(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. 13-0325-12 showing the platted easement to be vacated.

Resolution 13-0145 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

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

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

(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 one foot petitioned right of way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0325-13:

Proposed vacation legal description:

Commencing at the most easterly corner of Block 21, Endion Division of Duluth; thence north 3742'25" west on the northeasterly line of Block 21 for a distance of 290 feet to a point at the intersection of the northeasterly line of Block 21 and the right-of-way of London Road, said point being the point of beginning; thence continuing north 3742'25" west for a distance of one foot; thence south 5217'35" west on a line parallel with the northwesterly line of Block 21 for a distance of 51.15 feet; thence south 3742'25" east for a distance of one foot to the right-of-way of London Road; thence north 5217'35" east on a line parallel with the northwesterly line of Block 21 for a distance of 51.15 feet to the point of beginning;

(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. 13-0325-13 showing the platted easement to be vacated.

Resolution 13-0146 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Joel and Joy Johnson and Island Twin Homes, LLC, an interim use permit to operate two vacation dwelling units located at 1003-1005 South Lake Avenue and as described by the following:

Lots 178 and 180, Upper Duluth, Lake Avenue (PID 010-4380-02120); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-006); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for two vacation dwelling units subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach and that all other accesses are on private property; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0147 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Jeff Latz and Latz Properties an interim use permit to operate two vacation dwelling units located at 1621 East Superior Street and as described by the following:

Lot 11 and east half of Lot 12, Block 59, Endion Division (PID 010-1480-01440); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-016); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for two vacation dwelling units subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant provides documentation that all of the required modifications to the building have been made to comply with the Building Code; and

(b) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0148 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Douglas Sabo and Lorri Hanna an interim use permit to operate a vacation dwelling unit located at 3315 Minnesota Avenue and as described by the following:

Lots 285, 287, 289 and 291, Lower Duluth, Minnesota Avenue (PID 010-3110-01490); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-017); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The applicant must disclose to all guests, in writing, the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0149 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Jeremy Paggen an interim use permit to operate a vacation dwelling unit located at 1615 East Superior Street and as described by the following:

West half of Lot 12 and all of Lot 13, Block 59, Endion Division (PID 010-1480-01460); and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-018); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following condition:

The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0150 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that the following streets (City Project No. 1032, S.A.P. 118-113-014) be improved:

Skyline Parkway from Observation Road to Seventh Street

Seventh Street from Skyline Parkway to Mesaba Avenue

Carver Avenue from St. Marie Street to Arrowhead Road

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$704,400, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings). The funding source for this project will Municipal State Aid Street Fund 90, and of these project costs, \$133,018 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in five annual installments at municipal bond index fund rate plus 1.50 percent interest.

Resolution 13-0128 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three-year agreement with Energy Insight, Inc., substantially the same as that on file in the office of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

the city clerk as Public Document No. 13-0325-14, for professional services related to a commercial and industrial conservation improvement program for Duluth public works and utilities, and achieving a state-mandated 1.5 percent energy savings goal, in accordance with a proposal from its predecessor company, Energy Management Solutions, Inc., dated January 8, 2013, for an annual amount not to exceed \$35,000 in each of years 2013, 2014 and 2015, and a total contract amount not to exceed \$105,000; said annual amount of \$35,000 for year 2013 payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1940-2430 (customer services-information and conservation), Object 5487 (conservation improvement).

RESOLVED FURTHER, that Resolution No. 13-0069 is hereby rescinded.

Resolution 13-0139 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a five year master services agreement with Braun Intertec Corporation, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0325-15, for professional geotechnical and material testing services required to support the construction, operation and maintenance of city systems, in accordance with the consultant's fee schedule, for a blanket annual amount not to exceed \$50,000 in each of fiscal years 2013, 2014, 2015, 2016, 2017, and a total contract amount not to exceed \$250,000; with the blanket annual cost of said services in any fiscal year not to exceed \$50,000 and to be paid from various appropriate funds, departments, agencies, objects, Requisition 13-0219 and Project 1215.

Resolution 13-0140 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a five year master services agreement with American Engineering Testing, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. 13-0325-16, for professional geotechnical and material testing services required to support the construction, operation, and maintenance of city systems, in accordance with the consultant's fee schedule, for a blanket annual amount not to exceed \$50,000 in each of fiscal years 2013, 2014, 2015, 2016, 2017, and a total contract amount not to exceed \$250,000; with the blanket annual cost of said services in any fiscal year not to exceed \$50,000 and to be paid from various appropriate funds, departments, agencies, objects, Requisition 13-0220 and Project 1215.

Resolution 13-0141 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a five year master services agreement with EPC Engineering & Testing substantially the same as that on file in the office of the city clerk as Public Document No. 13-0325-17, for professional geotechnical and material testing services required to support the construction, operation and maintenance of city systems, in accordance with the consultant's fee schedule, for a blanket annual amount not to exceed \$50,000 in each of fiscal years 2013, 2014, 2015, 2016, 2017, and a total contract amount not to exceed \$250,000; with the blanket annual cost of said

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

services in any fiscal year not to exceed \$50,000 and to be paid from various appropriate funds, departments, agencies, objects, Requisition 13-0221 and Project 1215.

Resolution 13-0142 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages from 8:00 a.m. to 3:00 p.m. in public places in the areas bounded by Canal Park Drive and Lake Avenue between the Aerial Lift Bridge and Railroad Street during the marathon on June 22, 2013, to coincide with Grandma's Marathon special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 13-0126 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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The following resolution was also considered:

Resolution 13-0138, authorizing application to the Minnesota department of natural resources local trail connections grant program and to enter into a grant agreement for the bayfront trails, was introduced by Councilor Larson for discussion.

Councilor Krause expressed his opposition for reasons of: a trail creation should wait for the development that is planned for that area and at this time a \$50,000 match expenditure could be better used for existing structures like Wade and the community clubs.

Resolution 13-0138 was adopted as follows:

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct the Bayfront Trails in 2014; and

(b) The estimated cost for design and construction of the Bayfront Trails is \$200,000. The Minnesota department of natural resources has grant monies available through its local trail connectors program that are intended to accelerate the acquisition and development of relatively short trails connecting people to desirable locations; and

(c) To receive this money the city must submit the local trail connectors application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding of the Bayfront trails as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and is available on a 75 percent/25 percent local matching basis, and has local matching funds available through the Duluth economic development authority.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names as fiscal agent for the city of Duluth for this project:

Wayne Parson, City Auditor
City of Duluth
411 West First Street
Duluth, MN 55802

Resolution 13-0138 was adopted upon the following vote:

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

Nays: Councilor Krause -- 1

Absent: President Boyle – 1

Approved March 25, 2013

DON NESS, Mayor

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

13-019 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-1 TO R-C, MU-N TO R-N, AND R-1 TO RR-2, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD AREA.

INTRODUCED BY COUNCILOR STAUBER

13-020 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-2 TO R-1, R-2 TO MU-N, AND MU-N TO R-2, PROPERTIES LOCATED IN THE EAST HILLSIDE AND ENDION NEIGHBORHOODS.

INTRODUCED BY COUNCILOR STAUBER

13-021 - AN ORDINANCE GRANTING TO GREGORY KAMP/COLDWELL BANKER A CONCURRENT USE PERMIT FOR CONSTRUCTION OF A CANOPY TO PROJECT INTO THE LONDON ROAD RIGHT-OF-WAY AT 1732 LONDON ROAD.

INTRODUCED BY COUNCILOR STAUBER

13-022 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL ONE (RR-1), TO INDUSTRIAL-GENERAL (I-G), THE PROPERTIES LOCATED AT 1100 WEST GARY STREET (VONCO V, LLC).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

INTRODUCED BY COUNCILOR STAUBER

13-023 - AN ORDINANCE AMENDING ORDINANCE NO. 10198 EXTENDING THE CLOSING DATE AND CORRECTING THE LEGAL DESCRIPTION RELATING TO THE SALE OF THE ENDION STATION.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-024 - AN ORDINANCE AMENDING ORDINANCE NO. 10201 AUTHORIZING THE DEDICATION OF A STREET AND UTILITY EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL PARK AREA, TO CORRECT THE LEGAL DESCRIPTION.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HARTMAN

13-018 (10206) - AN ORDINANCE REQUIRING RESOLUTION PRE-APPROVING LAND CONVEYANCES, AMENDING SECTION 2-176 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

BY COUNCILOR GARDNER, HARTMAN AND STAUBER

13-008 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Gardner moved to table the ordinance, which motion was seconded and carried unanimously.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-011 (10207) - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

13-012 (10208) - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

13-014 (10209) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO P-1, MINNESOTA POINT FROM THE SKY HARBOR AIRPORT BOUNDARY TO PARCEL ONE OF THE CLARK'S TRACT REFEREE'S PLAT OF MINNESOTA POINT (CITY OF DULUTH).

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

- - -

INTRODUCED BY COUNCILOR STAUBER

13-016 (10210) - AN ORDINANCE ALLOWING BICYCLES TO BE WALKED THROUGH THE NORTHWEST PASSAGE, AMENDING SECTION 44A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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

- - -

INTRODUCED BY COUNCILOR STAUBER

13-017 (10211) - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT 3RD AVENUE WEST AND THE I-35 FRONTAGE ROAD TO DTA AT NO COST FOR THE MULTI-MODAL TRANSPORTATION CENTER, SUBJECT TO CONDITIONS.

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

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BY COUNCILOR LARSON

13-015 (10212) - AN ORDINANCE PERTAINING TO CONDUCT ON DULUTH TRANSIT AUTHORITY BUSES, AT DTA FACILITIES, AND IN DTA SHELTERS AND AUTHORIZING DRIVERS AND OTHER DTA EMPLOYEES TO REFUSE SERVICE FOR DISORDERLY PERSONS.

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

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The meeting was adjourned at 7:22 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10206

BY COUNCILOR HARTMAN:

AN ORDINANCE REQUIRING RESOLUTION PRE-APPROVING LAND CONVEYANCES, AMENDING SECTION 2-176 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 2-176 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 2-176. Preconditions to conveyance.

Prior to any conveyance governed by this Article:

(a) Before any property is offered for sale or conveyance under this Article, the city council shall have, by resolution, stated its intention to so sell or convey such property. Such resolution shall not be required to specify the manner of such sale or conveyance as the same are described in Section 2-177 below;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

(b) The city's planning agency shall have reviewed the proposed conveyance for conformity to the city's comprehensive plan and shall have reported its findings in writing to the council with regard thereto; provided that the council may dispense with the requirement of this subsection upon a finding that the proposed conveyance has no relationship to said plan, approved by a two-thirds vote of the council. For the purposes of this Section and of Minnesota Statutes Section 462.356, the city's planning agency shall be deemed to be that department or division of the city responsible for physical planning in the city and the administrator of that department or division shall be responsible for the required review and report;

(c) The city assessor shall have provided a written estimate of the market value of the property interest sought to be conveyed.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2013)

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

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

Nays: None -- 0

Absent: President Boyle -- 1

Passed March 25, 2013

Approved March 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10207

AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the Duluth Transit Authority, and its successor(s) in interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk in that part of West Michigan Street, described as follows:

This new bridge will start between 1.5 feet of the SE corner of Lot 40 Block 6 Central Division of Duluth and 28.5 feet from the SW corner of Lot 40 Block 6. It will end between 1.5 feet of the NE corner of Lot 10 Block 10 of the Central Division of Duluth and 3.5 feet from the NW corner of that same lot. The height over the driving lanes and parking lanes will be at least 15.5 feet.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. Upon the giving of the notice of termination as aforesaid, the permittees shall remove said skywalk and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, watermains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said West Michigan Street.

Section 6. The construction of the skywalk be limited to and in substantial compliance with the plans to be approved by the city engineer.

Section 7. The skywalk be operated and maintained in such a way as to allow citizens to walk bicycles in the skywalk. The Duluth Transit Authority, and its successor(s) in interests, will maintain a pedestrian crosswalk at the corner of West Michigan Street and Third Avenue West intersection adjacent to the new multi-modal transportation facility.

Section 8. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 26, 2013)

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

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

Nays: None -- 0

Absent: President Boyle -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 25, 2013
Approved March 25, 2013
DON NESS, Mayor

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ORDINANCE NO. 10208

AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the Duluth Transit Authority, and its successor(s) in interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk and canopy in that part of West Michigan Street, described as follows:

Starting at a point 12 feet east of the NW corner of Lot 1, Block 10, Central Division of Duluth and extending 239 feet to the NW corner of Lot 11, Block 10, Central Division of Duluth, and extending eight feet into the right-of-way of Michigan Street. The height over the sidewalk will be at least 13 feet.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance.

Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. Upon the giving of the notice of termination as aforesaid, the permittees shall remove said skywalk and canopy and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk and canopy shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk and canopy, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, watermains, pipes, conduits or other public utilities made necessary by the presence of such skywalk and canopy in said West Michigan Street.

Section 6. The construction of the skywalk and canopy be limited to and in substantial compliance with the plans to be approved by the city engineer.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Section 7. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2013)

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

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

Nays: None -- 0

Absent: President Boyle -- 1

Passed March 25, 2013

Approved March 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10209

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO P-1, MINNESOTA POINT FROM THE SKY HARBOR AIRPORT BOUNDARY TO PARCEL ONE OF THE CLARK'S TRACT REFEREE'S PLAT OF MINNESOTA POINT (CITY OF DULUTH).

The city of Duluth does ordain:

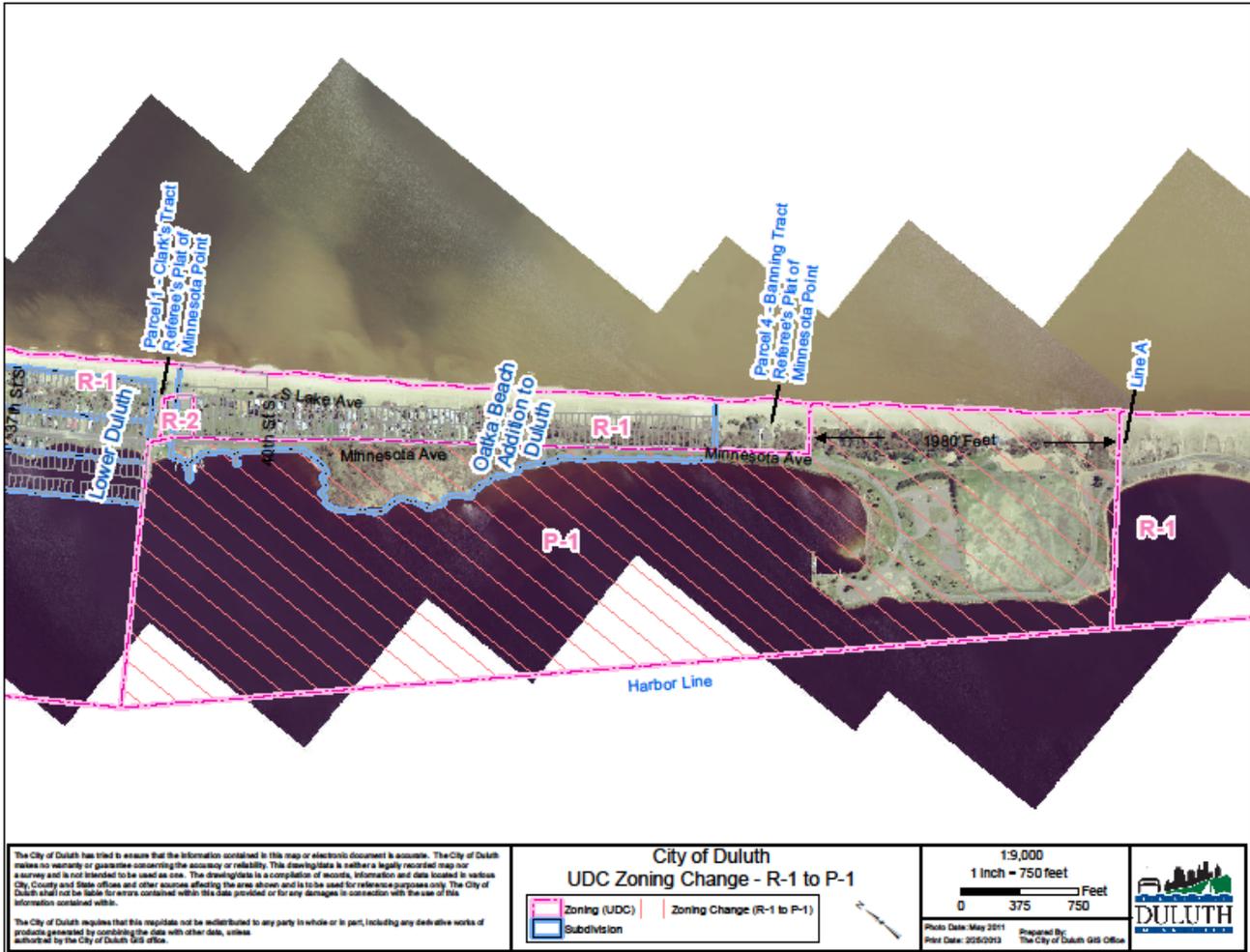
Section 1. That the subject properties located on Minnesota Point from the Superior Harbor entry to the easement for 39th Street South and as more particularly described as follows:

Those parts of Oatka Beach Addition to Duluth and Referee's Plat of Minnesota Point, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, and Government Lot One, Section 13, Township 49 North, Range 14 West, described as follows:

Line "A" is parallel and offset southeasterly 1,980 feet from the southeast line of Parcel Four Referee's Plat of Minnesota Point.

Beginning at the intersection of said Line A and the U.S. Harbor Line; thence northwesterly along said Harbor Line to the southwesterly extension of the southeast line of Lower Duluth Addition; thence northeasterly along said southeast line of Lower Duluth Addition and its extension to the centerline of Minnesota Avenue as platted in Lower Duluth Addition; thence southeasterly across Parcel one (Clark's Tract) as platted in Referee's Plat of Minnesota Point, to the intersection of the centerline of Minnesota Ave as platted in Oatka Beach Addition and the northwest line of Oatka Beach Addition; thence southeasterly along said Minnesota Avenue centerline and its extension to the southeast line of Parcel Four (Banning Tract) as platted in Referee's Plat of Minnesota Point; thence northeasterly along said southeast line and its extension to the shoreline of Lake Superior; thence southeasterly along said shoreline to the northeasterly extension of Line A; thence southwesterly along said extension of Line A to the Point of Beginning;

be reclassified from Residential-Traditional (R-1), to Park and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-118)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 26, 2013)

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

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

Nays: None -- 0

Absent: President Boyle -- 1

ATTEST:
JEFFREY J. COX, City Clerk

Passed March 25, 2013
Approved March 25, 2013
DON NESS, Mayor

ORDINANCE NO. 10210

AN ORDINANCE ALLOWING BICYCLES TO BE WALKED THROUGH THE NORTHWEST PASSAGE, AMENDING SECTION 44A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Section 1. That Section 44A.5 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 44A-5. Use of bicycles, skateboards, etc., prohibited.

No person shall ride or use a bicycle, skateboard, roller skates, pogo stick, motor vehicle, tricycle, unicycle or other non-pedestrian means of transportation within the skywalk system except as provided below or otherwise provided for in Article II of this Chapter. This Section shall not be construed to apply to:

- (a) Wheelchairs or other devices used to aid handicapped persons;
- (b) Vehicles or devices used for maintenance of the skywalk system;
- (c) Any police officer of the city while on duty; or
- (d) Walking pedestrians pushing bicycles through that portion of the skywalk system within Block 10, CENTRAL DIVISION OF DULUTH, and the portion of the street easement for Third Avenue West adjacent thereto and from said portion to the northwesterly wall of Pioneer Hall which is part of the Duluth Entertainment Convention Center.

Section 2. This ordinance shall take effect only after the effective date of a subsequently-passed ordinance establishing the effective date thereof. (Effective date: To be determined)

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

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

Nays: None -- 0

Absent: President Boyle -- 1

Passed March 25, 2013

Approved March 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10211

AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT THIRD AVENUE WEST AND THE I-35 FRONTAGE ROAD TO DTA AT NO COST FOR THE MULTI-MODAL TRANSPORTATION CENTER, SUBJECT TO CONDITIONS.

The city of Duluth does ordain:

Section 1. That pursuant to the requirements of Section 2-176 of the Duluth City Code, 1959, as amended, the city council finds that:

(a) The planning division has determined that the proposed sale of the property described in Public Document No. 13-0325-18(a) on file in the office of the city clerk to the Duluth Transit Authority for incorporation into the multi-modal transportation center conforms to the city's comprehensive plan; and

(b) Given the limitations on title on the property and the requirement that the Duluth Transit Authority re-convey the surface parking back to the city after completion of the construction of said center, the city assessor has estimated the net market value of the conveyance of the property to the Duluth Transit Authority as being negligible; and

(c) The city council finds that the sale of the property described in Public Document No. 13-0325-18(a) at no cost to Duluth Transit Authority to allow for the development of a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

multi-modal transportation center project over and adjacent to said property while preserving the city's use of the surface level of the property for parking is a superior use to the city's current use of the property for surface level parking only, subject to the provisions of Section 3 below.

Section 2. That, pursuant to the provisions of Section 2-177.3 of the Duluth City Code, 1959, as amended, the proper city officials are hereby authorized to convey by quit claim deed the property described in Public Document No. 13-0325-18(a), on file in the office of the city clerk to the Duluth Transit Authority, subject to the terms and conditions contained in Section 3 below.

Section 3. The authority granted pursuant to Section 2 above shall be subject to the property being used for the construction and operation of a Downtown multi-modal transportation center and shall be further subject to the execution and delivery of an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0325-18(b) committing the Duluth Transit Authority to reconvey the surface level parking as described in the agreement back to the city upon the completion of construction of the multi-modal transportation center.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2013)

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

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

Nays: None -- 0

Absent: President Boyle -- 1

Passed March 25, 2013

Approved March 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10212

AN ORDINANCE PERTAINING TO CONDUCT ON DULUTH TRANSIT AUTHORITY (DTA) BUSES, AT DTA FACILITIES, AND IN DTA SHELTERS AND AUTHORIZING DRIVERS AND OTHER DTA EMPLOYEES TO REFUSE SERVICE FOR DISORDERLY PERSONS.

The city of Duluth does ordain:

Section 1. That Section 34-7 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 34-7. Prohibited conduct on Duluth transit authority ("DTA") buses, in DTA facilities and at DTA bus shelters.

(a) No person shall, while a DTA bus passenger, in a DTA facility or at a DTA bus shelter, do any of the following acts:

(1) Smoke or possess any lighted or smoldering pipe, cigar or cigarette;

(2) Intentionally deface, damage, write upon or soil any part of such bus, facility or shelter;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

(3) Spit, urinate or defecate in or upon any part of such bus, facility or shelter;

(4) Throw, deposit or place any paper, bottles, cans or any other garbage or solid waste in or upon any such bus, facility or shelter;

(5) Throw any object of any kind out any door or window of such bus, facility or shelter;

(6) Play any sound amplification device unless it is played through an earphone so that it is totally inaudible to all other persons with the exception of sound amplification by the DTA in DTA facilities;

(7) Bring any pet or animal on or into such bus, facility or shelter other than a service animal accompanying a person with disabilities or an animal in a cage or held exclusively on the lap of the person with a leash;

(8) Possess any high explosives or carry any corrosive acid or flammable liquid not in a sealed container;

(9) Intentionally interfere with a bus driver's operation of a bus or conduct him or herself in any way that negatively disrupts the delivery of transit services or affects the use of public transit services by others pursuant to State Statute 609.855 or its successor;

(b) No person shall, while a DTA bus passenger, do either of the following acts:

_____ (1) Consume any beverages, food or alcohol;

_____ (2) Stand or remain in front of any white line marked on the forward end of the floor of any such bus after being asked to step back by the bus driver or other DTA employee;

(3) Enter a bus through the rear door unless authorized to do so by the bus driver or other DTA employee;

(c) The bus driver or other DTA employee may refuse to transport any person or may order any person off a bus, out of a facility or away from a bus shelter if the person is violating or has in the previous 12 months violated the provisions of this Section or the provisions of Section 34-6 relating to disorderly conduct if the disorderly conduct occurs or occurred while the person is a DTA bus passenger, in a DTA facility or at a DTA bus shelter;

(d) No person shall refuse to depart from a DTA bus, facility, or shelter when ordered to do so by the bus driver or other DTA employee;

(e) No person shall enter a DTA bus, facility or shelter when ordered not to do so by the bus driver or other DTA employee;

(f) Any person aggrieved by being refused DTA bus transportation, access to a DTA facility, or use of a DTA bus shelter pursuant to this Section may request a hearing before the executive director. The request for hearing must be made in writing and must state the reasons the person requesting the hearing believes the service refusal was improper. At the hearing both the appellant and DTA employees may present evidence and argument, examine and cross-examine witnesses, and be represented by counsel at their option. After hearing all evidence and arguments, the executive director shall affirm or reverse the refusal of service and may grant any relief or impose any conditions on ridership deemed to be reasonable and appropriate.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2013)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

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

Nays: None -- 0

Absent: President Boyle -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 25, 2013
Approved March 25, 2013
DON NESS, Mayor

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