

PLANNING & ECONOMIC DEVELOPMENT COMMITTEE

10-036-O

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 10-030-O RELATING TO THE UNIFIED DEVELOPMENT CHAPTER, AMENDING SECTION 50-15.2, SECTION 50-18.1, TABLE 50-19.8, TABLE 18.3-3, SECTION 50-20.3, SECTION 50-26.4, TABLE 50-27.2; TABLE 50-35.1, SECTION 50-36.2, SECTION 50-36.3, SECTION 50-37.8, SECTION 50-37.14, SECTION 50-41.69.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-15.2 of Ordinance No. 10-030-O, Section 6, be amended to read as follows

50-15.2 Mixed Use-Neighborhood (MU-N) (Formerly R-4 and C-1)

TABLE 50-15.2-1 MU-N DISTRICT DIMENSIONAL STANDARDS		
LOT STANDARDS		
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
	Townhouse or live-work dwelling	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use		
Minimum lot frontage	One-family, two-family, or townhouse dwelling	30 ft.
	Multi-family or non-residential	50 ft.
SETBACKS, MINIMUM		
Minimum depth of front yard	One-family, non-residential, and mixed use	The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
BUILDING STANDARDS		
Maximum height of building	Non-residential use	35 ft.
	Residential or mixed use (general)	75 ft.
	Residential or mixed use (within 200 ft. of R-1)	35 ft.

A. Purpose

Residential or mixed use (within 200 ft. of R-2)	50 ft.
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The MU-N district is established to accommodate a mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) types of mixed use. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood, as shown in Table 50-19.8.

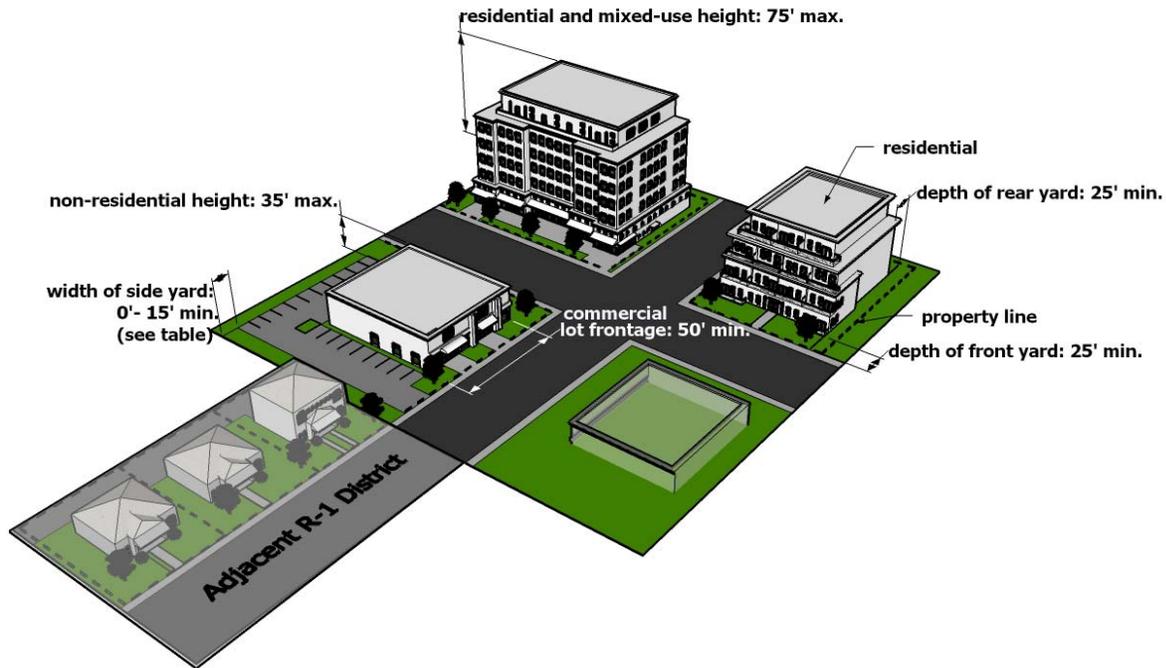
Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

B. Example

MU-N Example Building Form



C. Illustration



D. Planning Commission Approval Required

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required for all residential development or redevelopment on land zoned MU-N and located within one and one-half (1.5) mile of land occupied, owned or related to a college or university and zoned MU-I, as shown on the following map, except for (1) one-family and two-family dwellings, and (2) any residential development where all of the dwelling units are restricted by development agreement or covenant for occupancy by those aged 50 and over or for ~~occupancy by those individuals and households protected by the federal Fair Housing Act amendments of 1988~~ affordable housing development projects funded by federal or state housing funds. The planning review is intended to mitigate the impacts of potential student use on the adjacent residential neighborhood. Development may not proceed until the planning commission has approved the project through planning review.

E. Development Standards

The plan for the development shall be approved only if the planning commission finds that it meets the following criteria:

1. Resident parking spaces shall be provided at the ratio of one space per bedroom;
2. Visitor parking spaces shall be provided at the rate of 15% of required resident parking spaces;
3. No residential balcony, patio or deck shall be located on any side of the property facing and within 200 ft. of an R-1 or R-2 district;
4. Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 and R-2 districts and that reduces the potential for pedestrian-vehicular conflicts;
5. Commercial development shall be concentrated on major roads, not on streets intended primarily for neighborhood traffic;
6. The adjustment to required off-street parking provided in Section 50-24.3 may be utilized.

Section 2. That Section 50-18.1 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

50-18.1 Natural Resources Overlay (NR-O) (Formerly Ch. 51 Water Resource Management)

A. General

1. Purpose Statement

The purpose of this overlay is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development. It is intended to implement the Minnesota Wetland Conservation Act (WCA), Federal Emergency Management Agency (FEMA) rules, and the

Minnesota Department of Natural Resources (DNR) shoreland regulations. In accordance with this regulatory framework, wetlands, flood plains, and shorelands are protected by regulating developments that would have an adverse or potentially irreversible impact on unique and fragile land, by minimizing conflicts and encouraging compatibility between environmentally sensitive lands, and by requiring detailed review standards and procedures for developments proposed for such areas, thereby achieving a balance between urban growth and development and protection of natural areas.

2. NR-O Map

The NR-O Map included in this section contains data from the following sources:

- (a) For wetlands, there is no official wetlands map. All lands in the city that meet the definition of wetlands in Article 6 are considered wetlands for the purposes of this Section. ~~Wetlands shown on the NR-O map are the result of a partial inventory and are shown for public information only.~~
- (b) For flood plains, the Flood Boundary and Floodway Map for Duluth, Minnesota, published with an effective date of February 1, 1980, by the U.S. Department of Housing and Urban Development, and all subsequent amendments thereto. Determinations of flood plain status on individual properties shall be made based on the official version of this map on file with the city.
- (c) For shorelands, boundaries shall be based on (i) waters shown as protected on the map and inventory of protected waters in Duluth prepared by the DNR commissioner pursuant to Chapter 199, Laws of Minnesota, 1979, and (ii) selected waters that the city has added to the commissioner's survey as being worthy of shoreland protection. All of these waters are shown on the NR-O Map as currently revised as of *[insert effective date of ordinance]*.
- (d) Where interpretation is needed as to the exact location of any boundary as shown on an official map, the city engineer shall make the necessary interpretation based on available technical data, and, in the case of flood plains, based particularly on elevations on the regional flood profile or hydraulic modeling data.
- (e) The NR-O Map may be amended in the future, and any revisions shall become effective upon adoption of the revised NR-O map as an amendment to this Chapter.

B. WETLANDS

This Section 50-18 shall apply to all wetlands within the city. All development in the city shall comply with state statutes and regulations. In addition, any development impacting wetlands requires formal approval by the designated city wetland representative.

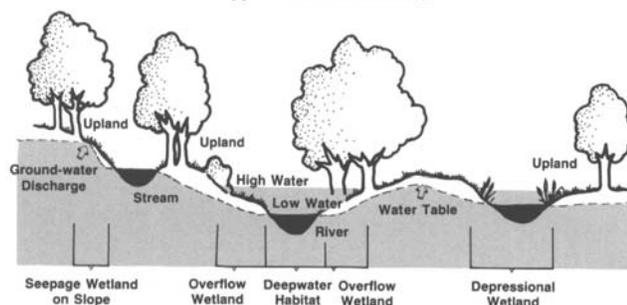


Figure 50-18.1-1: Typical Inland Wetland

~~1. Partial inventory and mapping of city wetlands has been completed and the results of those surveys and inventories are shown on the NR-O Map. The wetlands information on the map is provided for public information only, and the actual existence or absence of wetlands will be determined on a case-by-case basis.~~

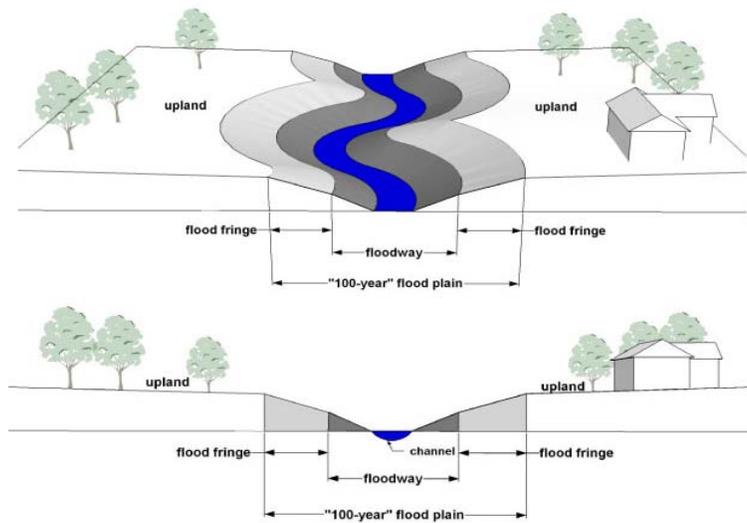
2. ~~1. In unmapped areas, t~~ The building official shall require each permit applicant to specify on the permit application whether or not the proposed site contains wetlands. Regardless of the answer given, if the building official has reasonable grounds to believe the site contains wetlands, the official shall make a determination as to the existence of wetlands. In making that determination, the building official may require any of the following:

- (a) Require the applicant to submit to submit a complete wetland delineation as outlined in WCA and performed by a professional wetland delineator, including information such as soil analysis, surveys of vegetation and engineering or hydrological data, to aid in the determination;
- (b) Conduct a site inspection and evaluation;
- (c) Consult with the city engineer, St. Louis County Soil and Water Conservation District, Board of Water and Soil Resources, and other available wetland experts;
- (d) Use any other reasonable method to determine if the site contains wetlands.

(e)

C. Flood Plains

This section shall apply to all lands within the city that are shown as flood plains on the NR-O Map. All lands within flood plains shall be divided into floodway districts, flood fringe districts, or general flood plain districts. For purposes of relating those districts to plats and lots within the city, the NR-O Map shall be used as a working map in the administration of the flood plain controls unless it is clearly shown that there is an inconsistency between the Flood Boundary and Floodway Map and said NR-O Map, in which case the Flood Boundary and Floodway Map shall control.



Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

3. Compliance

On or after January 28, 1980, no new structure or land shall be used and no structure shall be constructed, located, extended, converted or structurally altered without full compliance with the terms of this Section 50-18.1.C. Within the floodway, flood fringe and general flood plain districts, all uses not listed as permitted uses or special uses are prohibited.

4. Uses and Special Use Permits – Floodway

(a) Permitted Uses

Only the following uses shall be permitted within the floodway, and only if the land use supervisor determines that (a) the use is shown as a permitted use in the underlying zone district in Table 50-19.8, (b) the use has a low flood damage potential, (c) the use will not obstruct flood flows or increase flood elevations, and (d) the use does not involve structures, fill, obstructions, excavations or storage of materials or equipment:

- (i) Agriculture;
- (ii) Industrial, commercial and mixed use loading areas, parking areas and airport landing strips;
- (iii) Outdoor recreation and entertainment facilities that do not include temporary or permanent residences or occupied structures;
- (iv) Residential lawns, gardens, parking areas and play areas.

(b) Special Uses

The following uses involving accessory structures or fill or storage of materials or equipment may be permitted only after the issuance of a special use permit pursuant to Article 5:

- (i) Structures accessory to a permitted use;
- (ii) Mining, extraction and storage of sand, gravel and other materials;

- (iii) Marina or yacht club or accessory residential boat dock;
- (iv) Railroad yard or shipyard and related facilities, electric power transmission lines, major utilities or wireless communication towers and minor utilities and accessory wireless antennas attached to existing structures;
- (v) Bulk storage not listed elsewhere;
- (vi) Placement of fill or construction of fences;
- (vii) Tourist trailer or camp;
- (viii) Water-dependent manufacturing, light or heavy, and water-dependent bulk storage or wholesaling not listed elsewhere;
- (ix) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures;
- (x) Other uses consistent with the stated purposes and provisions of this Section 50.18.1.C.

(c) Standards for special use permits

A special use permit for uses and structures listed in subsection (b) above shall only be issued if the following standards are met:

- (i) The proposed use or structure will not cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;
- (ii) Any fill deposited in the floodway shall be no more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters and shall be protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the city;
- (iii) Accessory structures are not designed for human habitation, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters, shall be constructed whenever possible with the longitudinal axis parallel to the direction of flood flow, shall be placed approximately on the same flood flow lines as those of adjoining structures and shall be floodproofed to the flood protection elevation in accordance with the State Building Code;
- (iv) The building official may require that floodproofed accessory structures meet the following additional standards, if the building official determines that compliance is necessary to carry out the stated purposes of this Section 50-18.1.c:
 - (1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
 - (2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

- (3) The structure must be constructed to allow water to flow through it in case of flooding;
- (v) The use will not include the storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life. All materials or equipment stored shall be readily removable from the area within the time available after a flood warning;
- (vi) Any structural works for flood control that will change the course, current, or cross-section of wetlands or public waters shall comply with state standards and regulations;
- (vii) Any levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood, based on technical analysis that assumes equal conveyance or storage loss on both sides of a waterway.

5. Uses and Special Use Permits – Flood Fringe

(a) Permitted Uses

Those uses listed in Table 50-19.8 as permitted uses in the zone district where the property is located, provided that the building official determines that:

- (i) All structures, including accessory structures, shall be elevated so that a structure's lowest floor is above the regulatory flood protection elevation. The structure's design and as-built condition in relation to the regulatory flood protection elevation must be certified by a professional engineer or architect licensed in Minnesota;
- (ii) Any non-residential basements below the regulatory flood protection elevation will be structurally dry floodproofed in accordance with the State Building Code;
- (iii) As an alternative to elevation, accessory structures that constitute a minimal investment and that do not exceed 500 sq. ft. may be internally floodproofed in accordance with Section C.2(c)(iv) and (v) above;
- (iv) Any placement of fill with a cumulative volume in excess of 1,000 cubic yards at any one time may only be used to elevate a structure in accordance with this subsection (a);
- (v) Any stored materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(b) Special Uses

The placement of more than 1,000 cubic yards of fill or other similar material, other than for the purpose of elevating a structure to the regulatory flood protection elevation, or the storage of materials and equipment below the regulatory flood protection elevation, may be permitted only after the issuance of a special use permit as provided in Article 5. In addition, this use is subject to the limitations on flood plain variances in Article 5 and the following requirements:

- (i) Any fill deposited in the floodway shall be no more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters and shall be protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the city;
 - (ii) The use will not include the storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life. All materials or equipment stored shall be readily removable from the area within the time available after a flood warning.
- (c) **Standards for all Flood Fringe Uses**
- (i) All new principal structures must have vehicular access at or above an elevation not more than two ft. below the regulatory flood protection elevation. If a variance to this requirement is granted, limitations on the period of use or occupancy of the structure for times of flooding may be specified.
 - (ii) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain.

6. General Flood Plain District

- (a) Permitted uses.
- (i) The uses listed in subsection C.2(a) above shall be permitted uses;
 - (ii) All other uses shall be subject to the floodway/flood fringe evaluation criteria below and the resulting designation shall be used in determining uses;
 - (iii) Land determined to be in the floodway pursuant to subsection (a)(ii) shall have those permitted and special uses listed in Section 50-18.C.2 above;
 - (iv) Land determined to be in the flood fringe pursuant to subsection (a)(ii) shall have those permitted and special uses listed in Section 50-18.C.3 above;
- (b) Procedures for floodway and flood fringe determinations within the general flood plain district:
- (i) The applicant shall submit appropriate information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective DNR Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
 - (1)** Estimate the peak discharge of the regional flood.

- (2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - (3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- (ii) The city engineer shall present the technical evaluation and findings to the city council. The city council must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary and that the proposed use is allowed in the area where it is proposed, or deny the permit application. Prior to official action the city council may submit the application and all supporting data and analyses to FEMA, the DNR or the planning commission for review and comment. Once the floodway and flood fringe district boundaries have been determined, and assuming the proposed use is allowed in the area where it is proposed, the city council shall refer the matter to staff who shall process the permit application consistent with the applicable provisions of this section 50-18.1.C.

7. Public Utilities, Railroads, Roads and Bridges

- (a) All public utilities and facilities such as gas, electrical, sewer and water supply systems, with the exception of sumps and wet wells, to be located in the floodway or flood fringe shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- (b) Railroad tracks, roads and bridges to be located within the floodway or flood fringe shall comply with subsections 2 and 3 above, as applicable. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

D. Shorelands

In furtherance of the policies declared by the state legislature, waters in the city have been classified as general development waters (GD), natural environment waters (NE) or coldwater rivers (CW). The shoreland overlay applies to lands within 1,000 ft. of Lake Superior or within 300 ft. of rivers, creeks, streams and tributaries and floodplains, as designated on the NR-O Map. If a parcel or development lies only partially within a shoreland area, only the portion of the property within the shoreland is subject to these provisions.

8. Shoreland Permit Required

The following activities and structures require a shoreland permit if located within a shoreland:

- (a) All structures;
- (b) All grading, filling and excavating;
- (c) All construction of impervious surfaces, including roads, driveways, parking areas and trails;
- (d) All removal of natural vegetation;
- (e) Any construction activity that removes or disturbs natural beach grasses on Park Point.

9. Standards for Shoreland Permit

- (a) Erosion and sediment control technologies shall be required for any land disturbing activity that disrupts a surface area of 3,000 sq. ft. or more.
- (b) Grading and filling of more than 250 sq. ft. or placement of more than 10 cubic yards of material within the shore impact zone shall only be permitted if a plan for erosion control, storm water management and shoreline buffer restoration is approved by the city and effectively implemented.
- (c) Impervious surfaces shall be designed and constructed to minimize and control runoff and erosion into the regulated waters.
- (d) Any removal of natural vegetation shall be designed to prevent erosion into regulated waters and to preserve shoreland aesthetics.
- (e) Removal of trees or shrubs in a contiguous patch, strip, row or block is prohibited in shore impact zones.
- (f) The project does not result in the proposed building being located in a shore or bluff impact zone.
- (g) Natural vegetation shall be restored to the extent feasible after any project is complete.

10. Dimensional Standards

No shoreland permit shall be approved unless the standards in Table 50-18.1.D-1 are met or a variance obtained pursuant to Article 5.

11. Uses and Special Use Permits

- (a) Those permitted and special uses shown in Table 50.19.8, subject to the issuance of any shoreland permit required by subsection D.1 and compliance with the standards of subsection D.2, except as listed below. Agricultural uses are not permitted in the shore impact zone. Within shoreland areas that are outside of the shore impact zone, agricultural uses are permitted if steep slopes are maintained in permanent vegetation or the land is operated under an approved conservation plan from the St. Louis County Soil and Water Conservation District.
- (b) All industrial uses, including mining, extraction and storage, on coldwater rivers or natural environmental waters require a special use permit pursuant to Article 5. The application for a special use permit

must include a thorough evaluation of the topographic, vegetation and soils conditions on the site.

Table 50-18.1.D-1: Minimum Shoreland Area Standards

Standards	General Development Waters ^[1]	Natural Environmental Waters	Coldwater River
Minimum setbacks from Ordinary High Water Level or highest known water level, whichever is higher			
<i>Residential structures</i>	75 ft.	150 ft.	200 ft.
<i>Public, institutional, and civic; commercial; and industrial structures</i>	200 ft.	200 ft.	200 ft.
<i>Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1.-3^[2]</i>	25 ft.	N/A	N/A
<i>Impervious surfaces^[3]</i>	50 ft.	75 ft.	100 ft.
Lowest floor elevation above Ordinary High Water Level or highest known water level, whichever is higher	3 ft.		
Width of naturally vegetative buffer	50 ft.		

[1] All Lake Superior shoreland is classified as general development waters.

[2] 0 ft. setback for grain elevators, cranes, loading bins, and other equipment necessary for loading and unloading, including impervious surface necessary to support these activities.

[3] Public trails no more than 10 ft. wide may be constructed within these setbacks, provided that a minimum amount of natural vegetation is removed and provided that permits are obtained from the DNR and MPCA, if required.

(a) Standards for Special Use Permit

- (i) Compliance with all development requirements for shorelands in this Section 50-18.1.D;
- (ii) Prevention of soil erosion, storm water runoff or other possible pollution of public waters, both during and after construction or use;
- (iii) Restoration of the shoreline buffer to a natural state;
- (iv) Screening of structures and other facilities as viewed from regulated waters, as shown on the NR-O map.

12. Subdivisions

New subdivisions in the shoreland area shall meet the following requirements:

- (a) The land shall not be subdivided until the land has been rezoned into the R-P zone district, and the concept and detailed development plans

required in the R-P districts shall be designed to comply with the provisions of this Section 50-18.1.D;

- (b) A buffer at least 50 ft. in width, consisting of trees, shrubs and ground cover of plants and understory in a natural state, is required within a line parallel to the Ordinary High Water level or highest known water level, whichever is higher, and as close to the Ordinary High Water level as topography and the health of the plants will permit.

13. Nonconforming Lots of Record

Lots of record in the office of the county recorder on *[insert effective date of ordinance]* may be allowed an exception from the structure setback requirement in subsection D.3. If the lot of record cannot be developed under the setback requirements of subsection D.3, then:

- (a) The lot may be developed without a variance if (1) principal structures exist on the adjoining lots on both sides of a proposed building site, and (2) the proposed structure will be located no closer to the protected shore than the principal structure on either adjoining site, and (3) the resulting adjusted setback does not result in the proposed building being located in a shore impact zone; or
- (b) The lot may be developed if a variance is obtained pursuant to Article 5.

E. Storm Water Management and Erosion Control

14. Goals and Purpose

- (a) The federal Clean Water Act (CWA) requires that municipal storm water discharges be authorized under the National Pollution Discharge Elimination System (NPDES). The city is allowed to discharge its storm water under coverage provided by a CWA Municipal Separate Storm Sewer System General Permit (MS4 Permit). As part of the requirements of the permit, the city is required to develop a Storm Water Pollution Prevention Program (MS4 Program) with specific goals requiring:
 - (i) Non-degradation of all city waters;
 - (ii) Restrictions to special designated waters in the city, including:
 - (a) Lake Superior (which is an MPCA designated Outstanding Value Resource Water with both restricted discharge and impaired water designations);
 - (b) St. Louis River (which is an MPCA designated impaired water and area of concern; and
 - (c) 16 trout streams designated by the DNR.
- (b) The goals described in the city's MS4 Program pertaining to illicit discharge detection and elimination, construction-site runoff controls, and post-construction runoff treatment are incorporated into this Chapter by reference.
- (c) The purpose of this Section 50-18.1.E is to establish regulations to comply with the federal CWA and the city's MS4 Permit and to achieve the goals stated in the city's MS4 Program.

15. Temporary Erosion and Sediment Controls

- (a) **Applicability**

This Section 50-18.1.E.3 applies to all land disturbing activities within the city, except those specifically exempt in this section and those subject to a superseding or preemptive state or federal law. This section shall be deemed to supplement, but not to conflict with, the applicable provisions of the State Building Code.

(b) Requirements

All proposed development and redevelopment and all subdivision plats and re-plats shall include drainage system and temporary erosion and sediment Best Management Practices (BMPs) in compliance with the city’s MS4 Program and the requirements shown in Table 50-18.1.E-1 below. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the city engineer or designee with each development proposal or application for permit.

Table 50-18.1.E-1: Temporary Erosion and Sediment Controls				
Land Area Disturbed ►	≤ 3,000 sq. ft.^[1]	> 3,000 and ≤ 10,000 sq. ft.^[2]	> 10,000 sq. ft. and < 1 acre	≥ 1 acre
Development Plan				
Measures Required ▼				
Temporary erosion and sediment controls to prevent any off-site migration of sediment	✓			
Site specific Erosion and Sediment Control Plan (ESCP) and ESCP Permit from city engineer		✓	✓	
Site specific Storm Water Pollution Prevention Plan (SWPPP) meeting MPCA NPDES Permit requirements for Construction Activity				✓
MPCA NPDES/State Disposal System Construction Storm Water Permit				✓
MS4 Statement of Compliance from city engineer			✓	✓

[1] If the city engineer determines that the proposed development is in a vulnerable area and may cause the degradation of the waters connected to the city’s storm water system, then the provisions applicable to land disturbance areas between 3,000 and 10,000 sq. ft. shall apply.

[2] If land disturbed is within a mapped shorelands zone, an MS4 Statement of Compliance from the city engineer is also required.

(c) Authority to Waive

The city engineer has authority to waive the requirements in Table 50-18.1.E.1 in accordance with the city’s MS4 Permit. If storm water and erosion controls required by this subsection 2 are demonstrated to be technically feasible, provisions of subsection 2 must be met to the maximum extent practicable.

16. Permanent Water Quality and Discharge Rate Controls

(a) Applicability

- (i) This Section 50-18.1.E.3 applies to all land disturbing activities within the city, except those specifically exempt in this section and those subject to a superseding or preemptive state or federal law. This section shall be deemed to supplement, but not to conflict with provisions of the State Building Code.
- (ii) This section does not apply to pavement resurfacing and pavement rehabilitation projects where: no new impervious surface is created, there is no change to the configuration of the site, and there is no change to the land use.

(b) General Requirements

All proposed development and redevelopment and all subdivision plats and re-plats shall include drainage system and storm water runoff rate controls and water quality treatment in compliance with the city’s MS4 Program and the requirements shown in Table 50-18.1.E-2 below. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the city engineer with each project (referred to as the “development plan” below).

Table 50-18.1.E-2: Permanent Water Quality and Discharge Rate Controls			
[See additional requirements for land in shorelands below]			
Development Plan Measures required ▼	Total New Impervious Area Created or the Impervious Area Redeveloped ^{[1][2]}		
	≤ 3,000 sq. ft.	> 3,000 sq. ft. and < 1 acre ^[3]	≥ 1 acre ^[4]
Water quality treatment	NONE	✓	✓
Runoff rate controls		✓	✓
Drainage report		✓	✓
Site specific SWPPP			✓
MS4 Statement of Compliance from city engineer		✓	✓

[1] The total area is the sum of both the new and redeveloped impervious areas that are part of the common plan

of development or sale.

[2] A pavement resurfacing or pavement rehabilitation project is exempt where: (a) no new impervious surface is created; and (b) no change to configuration of the site occurs; and (c) no change to land-use occurs.

[3] An individual one-family or two-family residence (that is not part of a common plan of development) with less than 10,000 sq. ft. of disturbed area and less than 7,500 sq. ft. of new impervious area is exempt.

[4] If the site contains an existing impervious surface area greater than 1 acre, the drainage report must include an evaluation of the feasibility of 50% total suspended solids removal on an annual basis across the entire site.

(c) Authority to Waive

The city engineer has authority to waive the requirements in Table 50-18.1.E-2 in accordance with the city's MS4 Permit. If storm water and erosion controls required by this subsection 3 are demonstrated to be technically feasible, provisions of subsection 3 must be met to the maximum extent practicable.

(d) Shoreland Requirements

- (i) In addition to the requirements in subsection (b) above, no residential development or redevelopment within a shoreland shall result in impervious surface area exceeding 25% of the lot area unless the owner (a) submits a development plan including water quality treatment and (b) obtains an MS4 Statement of Compliance by the city engineer.
- (ii) In addition to the requirements in subsection (b) above, no commercial, mixed use, institutional or industrial development or redevelopment within a shoreland shown on the NR-O Map shall create new impervious surface area unless the owner (a) submits a development plan including water quality treatment and (b) obtains an MS4 Statement of Compliance issued by the city engineer.

(e) Water Quality Treatment Requirements

Where subsection (b) requires that a development plan include water quality treatment, the development or redevelopment must be designed to provide the following treatment, volume reduction and pollutant removal:

(i) Treatment Requirements

The development or redevelopment must provide at least the minimum treatment shown in Table 50-18.1.E.3.

Table 50-18.1.E-3: Treatment Requirements		
Development Type	New and Existing Impervious surface	Required Treatment
New	< 1 acre	The first 1-in. Water Quality Volume (WQV) of rainfall or 80% Total Suspended Solids (TSS) removal ^[1]
New	> 1 acre	The first 1-in. WQV of rainfall ^[1]
Redevelopment	< 1 acre	10% reduction in impervious

		surface or 50% TSS removal
Redevelopment	> 1 acre	50% TSS removal
[1] Refer to additional requirements under Section 3(e)(iii) Pollutant Removal		

(ii) Storm Water Flow Volume Reduction

Storm water flow volume reduction shall be provided to the maximum extent practicable. Refer to the Minnesota Storm Water Manual. Volume reduction techniques may include:

- (1) Infiltration into the ground;
- (2) Evaporation or transpiration;
- (3) Storage for re-use;
- (4) Enhanced infiltration swales, filter strips, or disconnected impervious area;
- (5) Other demonstrable methods that reduce volume.

(iii) Pollutant Removal

Projects able to provide volume reduction for the first one-half in. of rainfall from newly created impervious surface shall have met city pollution abatement requirements and are exempt from this paragraph. Projects that do not meet the requirements of subsection (ii) above are required to complete computer modeling to show that water quality treatment shall provide 85% total suspended solids (TSS) removal, and the applicant shall also be required to describe and provide additional BMPs for temperature control.

(f) Runoff Rate Control

Where subsection (b) requires that a development plan include runoff rate control, the development or redevelopment must be designed to provide the controls as follows. Runoff rate control is beneficial in the upper, flatter part of the watershed above the bluff line. Below the bluff line, the topography is relatively steep and storm water flows quickly to Lake Superior and the St. Louis River. This bluff line designation is shown on the NR-O Map. The storm water rate control requirements for development and redevelopment are shown in Table 50-18.1.E-4:

Table 50.18.1.E-4: Discharge Rate Limits		
Location ►	Post-Development Peak Flow Rates at Each Discharge Point Shall Not Exceed	
Type of Activity ▼	Zone A -- Above Bluff Line	Zone B -- Below Bluff Line
New Development	75% of predevelopment peak flow rates for 10 and 100 year events; and 90% of predevelopment peak flow rate for 2 year event	Predevelopment peak flow rates for all storm events
Redevelopment	Predevelopment peak flow rates for all storm events	Predevelopment peak flow rates for all storm events

		events
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(g) General Design Criteria

- (i) New minor system drainage systems shall be designed to efficiently convey the peak discharge rates for a 10-year flow.
- (ii) New major system drainage systems shall be designed to efficiently convey the peak discharge rates for a 100-year flow
- (iii) The 100-year rainfall event or 100-year peak flow shall be evaluated to ensure that no damage occurs to adjacent properties for all systems.
- (iv) The storm water management systems for any new or redevelopment project shall maintain at least three ft. of freeboard between the anticipated 100-year high water elevation and the minimum building opening.
- (v) Consideration may be given for treating existing untreated impervious areas diverted to the site and included in the control area for analysis if it is in the best interest of the city.
- (vi) All impervious areas shall be considered connected and curve numbers shall not be weighted for impervious areas except under special circumstances.
- (vii) 95% of all newly added impervious surface shall be directed to the water quality treatment area. If it is impractical to direct 95% of the added impervious surface to water quality area, alternate methods may be used in combination so long as 95% is treated and all peak flow requirements are fulfilled.
- (viii) Flow shall not be diverted from one major or minor system to another major or minor system.
- (ix) When storm water management plans involve directing runoff from a site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water to a point where the storm water enters a major system.
- (x) Adequate measures shall be taken to prevent uncontrolled drainage across lot lines.

17. General Storm Water Restrictions

- (a) Applying fertilizer, pesticides or any chemicals on impervious surfaces, within any part of storm water drainage system or any drainage way, within 25 ft. of any wetland edge or Ordinary High Water level or bank edge of any drainage course, or within any water resource buffer area is prohibited.
- (b) Sweeping, raking, blowing or otherwise placing yard waste, unless the yard waste is securely contained, in the street, ditch, gutter, storm inlet, catch basin or any part of any drainage way or other area that would allow yard waste to enter the storm drainage system is prohibited.
- (c) Yard waste segregated for pickup must be securely contained until removed.

- (d) Topsoil and erodible soil stockpiles shall be distributed within three days or covered to prevent erosion of the stockpile.

18. Ownership and Maintenance

(a) Maintenance of Temporary Erosion and Sediment Control Practices

During the period of a land disturbing activity, the person engaging in the construction shall be responsible for installing and maintaining erosion and sediment control practices. After construction is completed, the owner of the property shall be responsible for installing and maintaining erosion and sediment control practices.

(b) Ownership

- (i) All components of the storm water management system shall be constructed, owned, operated and maintained by the developer or owner(s) to their confluence with the major system or city owned minor system.
- (ii) In the case of developments in which right-of-way is transferred to public ownership, the storm drain system within the city right-of-way shall be owned and maintained by the city. Storm water treatment facilities and ponds shall be in common space and shall be owned and maintained by the developer or the owners of the development. Storm water treatment facilities shall not be located in the public right-of-way.

(c) Owner Inspection and Maintenance

- (i) Storm water management facilities shall be designed to minimize maintenance and provide maintenance access. All facilities shall have a plan of operation and maintenance that assures continued effective removal of runoff pollutants and accumulated sediment. The developer or the owner(s) shall be responsible for inspection, maintenance and reporting for all non-publicly owned storm water management facilities associated with the development. Copies of the inspection records shall be maintained by the developer or owner for a period of six years. Copies of all inspection records shall be provided to the city upon request.
- (ii) For the purposes of inspection during construction monitoring, the permittee shall:
 - (1) Submit an inspection log to the city on the first day of each month during the entire duration of construction;
- (iii) For the purposes of ongoing monitoring and maintenance after construction is complete, the owner shall conduct inspections on all non-publicly owned structural components and all non-structural components (including swales and pond areas) of the storm water management system;
 - (1) Submit a written report approved by an engineer summarizing findings and maintenance needs;

- (2) Submit a written report of work completed to maintain storm water facilities. Work must be completed within three months of annual inspection.

Section 3. That Ordinance 10-030-O, Section 6, be amended by amending Table 50-19.8 (Use Table) to identify a recycling collection point (primary use) located in the Mixed-Use Business zone district (MU-B) as a special use rather than a permitted use.

Section 4. That Ordinance 10-030-O, Section 6, be amended by replacing Table 50-18.3-3 in its entirety with the following table:

Exhibit 50-18.3-3 Designated Historic Landmarks

Name	Location	Type	Designation Date	
			National	Duluth
Aerial Lift Bridge	Lake Ave over Duluth Ship Canal	Bridge	5/22/1973	4/11/1993
Bergetta Moe Bakery	716 E. Superior St.	Building	6/3/1976	
Bridge No. 5757	MN Hwy. 23 over Mission Creek	Bridge	6/26/1998	
Building for Women	32 E. 1 st St.	Building		7/21/1999
Stewart Creek Stone Arch Bridge (Bridge No. L-6007)	Skyline Pkwy. over Stewart Creek	Bridge	11/06/1989	
Chester Terrace	1210 - 1232 E. 1st St.	Building	11/19/1980	
Chester & Clara Congdon Estate (Glensheen)	3300 London Rd.	Building	8/15/1991	
Dandrea Building	102-108 E. Superior St.	Building		2/11/1998
DeWitt-Seitz Building	394 Lake Ave S.	Building	9/05/1985	
Duluth Central High School	Lake Ave. and 2nd St	Building	11/09/1972	4/11/1993
Duluth City Hall (Former)	132 E Superior St	Building		6/27/1997
Duluth City Police Headquarters & Jail (Former)	126 E Superior St	Building		6/27/1997
Duluth Missabe & Iron Range Depot (Endion)	100 Lake Place	Building	4/16/1975	
Duluth Public Library	101 W 2nd St	Building	5/05/1978	11/02/1991
Duluth South Breakwater Inner Lighthouse	South Breakwater	Building	8/04/1983	
Duluth Union Depot	5th Ave W & Michigan St	Building	12/09/1971	11/02/1991
E. College St. & E. 7 th St. & Irving Pl.	E. College St. & E. 7 th St. & Irving Pl.	Streets		7/3/2000
Endion School	1801 E 1st St	Building	2/10/1983	
Fire House No. 1	1st Ave E & 3rd St	Building	5/12/1975	
Fitger Brewing Company	1600 E. Superior St	Building	2/09/1984	
Former Lester Park/Lakeside Branch Library (Lakeside Lester Park Community Club)	106 N. 54 th Ave. E.	Building		9/18/1998
Former Lincoln Library	2229 W 2nd St	Building		1/28/1996
Former KBJR Building	230 E. Superior St.	Building		6/9/1999
Former Woodland Branch Library	3732 Woodland Ave.	Building		7/22/1998
Hacienda del Sol	319 E. Superior St.	Building		7/21/1999
Harry C & Marjory Congdon Dudley Residence	3600 London Rd	Building		6/09/1996
Hartley Building	740 E Superior St	Building	12/22/1989	
Independent School District	215 N. 1 st Ave. E.	Building		6/4/1999

#709				
Irving School	101 N 56th Ave W	Building	11/20/1992	4/11/1993
Killorin Residence	2708 Branch St	Building		11/27/2000
Kitchi Gammi Club	831 E Superior St	Building	4/16/1975	
Lakewood Pumping Station	8130 Congdon Blvd.	Building		9/18/1998
Lester River Bridge (Bridge No. 5772)	London Rd (MN HWY 61) over Lester River	Bridge	9/06/2002	
Masonic Temple Building	203 E Superior St	Building		11/02/1991
Minnesota Point Lighthouse	Minnesota Point	Building	12/27/1974	8/27/1995
Munger Terrace	405 Mesabi Ave	Building	12/12/1976	
Music Centers Inc.	132 E. Superior St.	Building		10/13/1999
Oliver G. Traphagen House (Redstone)	1509-1511 E Superior St	Building	4/04/1975	
Sacred Heart Cathedral School	206 W 4th St	Building	6/26/1986	
Sacred Heart Cathedral	211 W 4th St	Building	6/26/1986	8/27/1995
Saint Mark's African Methodist Episcopal Church	530 N 5th Ave E	Building	4/16/1991	
Shel/Don Reproduction Center	124 E. Superior St.	Building		8/11/1999
St. Louis Co. Heritage and Arts Center	506 W. Michigan St.	Building		4/28/1999
Thomas Wilson Shipwreck	Duluth Harbor	Shipwreck	7/23/1992	
U.S. Fisheries Station-Duluth	6008 London Rd	Building	11/28/1978	
USS Essex Shipwreck	Lake Superior (Estimate)	Shipwreck	4/14/1994	
William A. Irvin	Minnesota Slip, Duluth Harbor	Freighter	7/13/1989	
Wirth Building	13 W Superior St	Building	7/25/1991	

Section 5. That Section 50-20.3 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

50-20.3 Commercial Uses

A. Adult Entertainment Establishment

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

B. Agriculture, General

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

C. Automobile and Light Vehicle Repair and Service

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

D. Automobile or Light Vehicle Sales, Rental or Storage

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

F. Bank

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

G. Bed and Breakfast

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

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

H. Building Materials Sales

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

H. Day Care Facility

4. In the R-1 district, ~~this must be either (a) a facility licensed by the state serving 12 or fewer persons, or (b) a group family day care facility licensed by the state to serve 14 or fewer children~~ day care facilities are limited to those serving 14 or fewer persons.
5. ~~In the remaining districts where this use is permitted, the use must be either (a) a facility licensed by the state serving not more than 16 persons, or (b) a group family day care facility licensed by the state to serve 14 or fewer children.~~

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

I. Filling Station

6. No displays or storage of merchandise, parts or refuse may be located closer than ~~20~~10 ft. from any public right-of-way.
7. A dense urban screen must be installed and maintained along all side and rear property lines abutting a Residential or Mixed Use District.

J. Mini-Storage Facility

This use shall comply with the following standards:

8. The use shall be contained within an enclosed building or buildings;
9. If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;
10. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;
11. At least 50% of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;
12. Hours of public access to mini-storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;
13. Signage shall be limited to one 40 sq. ft. illuminated pole and 20 sq. ft. of non-illuminated wall signage. Signs shall not be located closer than ten ft. to the front property line and no closer than 50 ft. to any side property line;
14. In the RR-1 district, there shall be a minimum of 50 ft. of landscaped or naturally vegetated buffer from all property lines;
15. In the R districts a dense urban screen shall be installed along all side and rear property lines.

K. Office

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

L. Other Outdoor Entertainment or Recreation Use Not Listed

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

M. Parking Lot or Parking Garage (Primary Use)

20. In the MU-C district, any parking garage shall be located at least 50 ft. from any RC, RR or R district.
21. In F-1, F-2, F-3, F-4, F-5, F-6, F-8 and F-9 districts, only parking lots (not parking garages) are permitted as primary uses.
22. No portion of any parking lot or parking garage may be used for outdoor storage or junk, salvage items, inoperable motor vehicles or unlicensed retail or wholesale activities.

N. Restaurant (No Drive-In/ Drive-Through)

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

O. Restaurant (With Drive-In/Drive-Through)

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

P. Seasonal Camp or Cabin

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

Q. Tourist or Trailer Camp

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

R. Veterinarian or Animal Hospital

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

(including kennel runs and exercise areas) within a soundproof building with adequate ventilation.

Section 6. That Section 50-26.4 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

50-26.4 Fences and Walls

A. Fence/Wall Height

1. General Front Yard Standards

(a) No fence or wall located between the principal structure on a lot and the front property line shall exceed 4 ft. in height.

(b) Chain link fences, fences that are electrically charged, fences constructed of barbed or razor wire and fences constructed of temporary plastic fencing (snow fences) are prohibited.

(c) Prohibitions on electrically charged fences shall not apply to fences used to protect gardens and landscaping on residential lots.

Prohibitions on electrically charged fences and fences constructed of barbed or razor wire shall not apply to fences used to enclose livestock on bona fide farms and those serving a public or quasi-public institution for public safety or security purposes.

2. General Side and Rear Yard Standards

Fences that are electrically charged, and those constructed of barbed or razor wire shall be prohibited.

(a) This prohibition shall not apply to electrically charged fences used to protect gardens and landscaping on residential lots.

(b) This prohibition shall not apply to fences used to enclose livestock on bona fide farms and those serving a public or quasi-public institution for public safety or security purposes.

3. Residential Zone Districts

The maximum height of a fence or wall within required side and rear yard area is 8 ft. The maximum height for fences and walls for entry gates at the residential subdivision entrance shall be 8 ft.

4. Mixed Use and Special Purpose Zone Districts

The maximum height of a fence or wall within required side and rear yard area is 8 ft., but the land use supervisor may approve a fence or wall up to 12 ft. in height where additional height is needed to provide adequate security



Figure 50-26.4-A: Form District front setback wall height

because of topography or the nature of the material or equipment stored in the area.

5. Form Districts

The maximum height of a fence or wall within required side and rear yard area is 8 ft., but the land use supervisor may approve a fence or wall up to 12 ft. in height where additional height is to provide adequate security because of topography or the nature of the material or equipment stored in the area. Fences and walls are not permitted in required front yard areas, except for wrought iron fences used to enclose outdoor patio or dining areas, in which case the maximum height of the fence shall be 3 ft.

6. Vacant Property

As an exception to other fence height limits, vacant property may be fenced with chain-link fencing not to exceed 6 ft. in height when the purpose of such fencing is to prevent unauthorized dumping or soil disturbance that results in fugitive dust or nuisance conditions. Such fencing of vacant property shall not be construed to allow use of the property for outdoor storage.

B. Retaining Walls

7. Applicability

The requirements of this section apply to construction of new retaining walls in all districts, except for (a) retaining walls on proper-ties containing only one-family and two-family dwellings, and (b) retaining walls that will not be visible from neighboring sites or from a public street frontage.

8. Design Standards

All retaining walls shall comply with the following standards:

- (a) Retaining walls more than 6 ft. tall shall be terraced to minimize visual impacts on residents, neighboring properties and the public realm;
- (b) Terracing shall be limited to three tiers;
- (c) A terrace at least 4 ft. wide, with a maximum slope of 3:1, shall be provided between each tier to create pockets for landscaping. Reduced terrace depths may be administratively approved by the building official where site constraints limit the amount of space available to accommodate the minimum required width;
- (d) Terraces between retaining wall tiers shall be vegetated with permanent landscaping to screen retaining walls and provide visual interest unless soil conditions are determined by a licensed engineer to be unsuitable due to geologic hazards;



Figure 50-26.4-B: Retaining wall terracing and articulation

- (e) Retaining walls shall be stacked natural stone or faced with stone or earth-colored materials, textured and colored Mechanically Stabilized Earth (MSE) blocks or other material compatible with the primary building materials;
- (f) Retaining walls constructed of railroad ties, timber and gabion-type materials are not allowed.

C. Materials and Signs

No fence, wall or retaining wall shall be constructed of scrap or waste materials unless those materials have been recycled or reprocessed into building materials for sale to the public. No sign may be posted on any fence, wall or retaining wall except for a property identification/management sign not exceeding 1 sq. ft. in size.

D. Alternate Screening

In lieu of compliance with the specific requirements of this section an owner may propose to the building official an alternative approach consistent with the intent of this section. An alternative compliance approach is designed to provide flexibility in order to respond to unique site conditions or abutting or surrounding uses, and must not result in reductions in the amount or quality of required screening. The building official may approve a proposal under this section only if it is determined that the proposed alternative compliance achieves required screening to the same degree or better than the provisions of this section.

Section 7. That Table 50-27.2 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

Table 50-27-2: Sign Regulations for Specific Zone Districts		
Zone District	Type of Sign	Conditions on Sign
Residential Districts		
All residential districts	Construction contractor sign	Residential: 1 sign with maximum size 20 sq. ft. Non-residential: 1 sign with maximum size of 32 sq. ft. plus 16 sq. ft. to identify architects, engineers, or subcontractors. Not permitted in required front, side, or rear yard areas. Indirect illumination only. Must be removed 7 days after construction is complete.
	Home occupation sign	Maximum size: 20 sq. ft. in RC, RR-1 and RR-2. 1 sq. ft. in R-1 and R-2.

Table 50-27-2: Sign Regulations for Specific Zone Districts

Zone District	Type of Sign	Conditions on Sign
		<p>Must be set back 20 ft. from front property line in RC, RR-1 and RR-2.</p> <p>Must be attached to building in R-1 and R-2.</p> <p>May not be illuminated.</p>
	Nameplate	<p>1 per dwelling.</p> <p>Maximum size: 2 sq. ft. in RC, RR-1, RR-2 and R-1.</p> <p>Indirect illumination only.</p>
	Political sign or property owner opinion sign	<p>Minimum setback from property lines and street or sidewalk improvements: 3 ft.</p> <p>If illuminated must comply with Section 50-31.</p> <p>Building permit required if more than 6 ft. tall.</p>
	Property identification/management sign	<p>Maximum size: 3 sq. ft. in RC, RR-1, RR-2 and R-1.</p> <p>6 sq. ft. in R-2.</p> <p>No illumination or animation.</p>
	Public assembly bulletin board	<p>Maximum size: 25 sq. ft.</p> <p>Minimum setback from property lines: 10 ft.</p> <p>Indirect illumination.</p>
	Real estate sign	<p>Maximum size: 32 sq. ft. in RC, RR-1, and RR-2.</p> <p>6 sq. ft. in R-1.</p> <p>In R-2, may contain name of building and/or management firm.</p> <p>Minimum setback from property lines: 10 ft, unless attached to a building.</p> <p>Must be removed within 7 days after sale, lease, or rental.</p> <p>No illumination.</p>
	Recreational field sign	<p>Directional sign: Maximum size: 20 ft.</p> <p>Maximum Height 10 ft.</p> <p>Building mounted sign: Maximum size 10 ft.</p> <p>Each scoreboard sign may contain up to 10 sq. ft. of advertising.</p> <p>Indirect illumination only.</p>

Table 50-27-2: Sign Regulations for Specific Zone Districts

Zone District	Type of Sign	Conditions on Sign
	Residential complex sign	<p>In R-2 district only.</p> <p>1 ground mounted sign constructed of individual letters and numbers attached to a structure that is similar in color, texture and material to the primary exterior of the complex buildings.</p> <p>Maximum height of 4 ft., maximum width of 8 ft., maximum depth of 1 ft.</p> <p>Minimum setback from property lines: 10 ft.</p> <p>Indirect illumination only.</p>
	School (grades K-12) sign	<p>1 wall identification sign not exceeding 32 sq. ft.</p> <p>Maximum height of wall identification sign shall be 16 ft. or top of wall, whichever is less.</p> <p>Corner lots limited to 2 wall identification signs per building.</p> <p>1 freestanding ground sign not exceeding 32 sq. ft. in area and 8 ft. in height also allowed.</p> <p>Either the wall sign or the ground sign, but not both, may be illuminated.</p> <p>Flashing, animated and revolving signs are not permitted.</p>
	Temporary sign	<p>May not advertise on-going business activity.</p> <p>Maximum size: 6 sq. ft.</p> <p>Minimum setback from property lines and street and sidewalk improvements: 3 ft.</p> <p>Maximum length of use: 2 days.</p> <p>No illumination.</p>
	Off-premises sign	Not permitted.
Mixed Use and Form Districts		
All residential uses	All signs permitted for residential uses in the R-2 district	
MU-N (formerly R-4 and C-1), MU-W, F-1, F-2, F-3, F-4, F-5, F-6 and F-9 Zones		
Non-residential uses	Awning sign	<p>Permitted on first floor awnings only.</p> <p>Indirect illumination only, but no lighting apparatus shall be attached to the awning itself.</p>
	Marquee	Maximum number: 1 for first street frontage plus.

Table 50-27-2: Sign Regulations for Specific Zone Districts

Zone District	Type of Sign	Conditions on Sign
	signs	<p>1 for any additional street frontage longer than 100 ft.</p> <p>Permanent signage shall be included. Changeable copy shall be limited to no more than 2/3 of the sign face.</p>
	Pole sign	<p>Maximum number: 1 for first street frontage plus 1 for any additional street frontage longer than 100 ft.</p> <p>Maximum height: 15 ft.</p> <p>Minimum height of sign face base above ground: 8 ft. (decorative planters without advertising and not more than 3 ft. above ground are permitted) for signs 8 ft. total in height and no more than 8 sq. ft. per sign face, no minimum clearance required.</p> <p>Maximum thickness: 30 in. (except spherical signs).</p> <p>Maximum sign area: 1 sign per pole, maximum 40 sq. ft. per sign face.</p> <p>The area of a double or triple faced pole sign shall be the area of the largest face.</p> <p>Location: If pole signs are located in the required front, side, or rear yards they shall not be closer than 100 ft. from any residential structure located in a residential zone. Not permitted on or projecting into or over any public street or utility easement.</p> <p>In the Form Districts, this type is limited for use with the Corridor, Cottage Commercial, and Iconic building types.</p> <p>Materials: Solid or composite finished wood, metal, masonry, neon, glass. Internally lit plastic box signs are not permitted. Plastic and synthetics permitted only as separate alphanumeric characters or logos.</p> <p>Direct and indirect illumination permitted.</p>
	Wall sign	<p>Maximum aggregate sign size: 40 sq. ft. or 2 times the number of lineal ft. of the length the building wall where it is mounted, whichever is greater.</p> <p>Materials: Solid or composite finished wood, metal, masonry, neon, glass. Internally lit plastic box signs are not permitted. Plastic and synthetics permitted only as separate alphanumeric characters or logos.</p> <p>Direct and indirect illumination permitted.</p>
	Portable A-frame sign	<p>1 per street frontage.</p>

Table 50-27-2: Sign Regulations for Specific Zone Districts

Zone District	Type of Sign	Conditions on Sign
	Monument	<p>Maximum number: 1 for first street frontage plus 1 for any additional street frontage longer than 100 ft.</p> <p>Limited for use with the Corridor, Cottage Commercial, and Iconic building types.</p> <p>Maximum height of 6 ft., maximum area 48 sq. ft. per sign face.</p> <p>Setback from corners and driveways for vehicular site triangles.</p> <p>Materials: Solid or composite finished wood, metal, masonry, neon, glass. Internally lit plastic box signs are not permitted. Plastic and synthetics permitted only as separate alphanumeric characters or logos.</p> <p>Direct and indirect illumination permitted.</p> <p>Landscape at base of sign shall not be taller than 18 in. at mature height.</p>
	Projecting sign	<p>1 per each building façade facing a street, alley, or sidewalk.</p> <p>Maximum sign area: 150 sq. ft. or 1.5 times the number of lineal ft. of the wall where the sign is located, whichever is less. The area of a double faced projecting sign shall be the area of the largest face.</p> <p>Minimum height above sidewalk: 10 ft.; for signs projecting 2 ft. or less, 7 ft.</p> <p>Minimum height above street or alley: 16 ft. Shall not extend closer than 1 ft. to back of any curb or over any alley.</p> <p>Materials: Solid or composite finished wood, metal, masonry, neon, glass. Internally lit plastic box signs are not permitted. Plastic and synthetics permitted only as separate alphanumeric characters or logos.</p> <p>Direct and indirect illumination permitted.</p>
	Window sign	<p>Shall not block more than 30% of any window panel as measured by drawing a box around the outer edges of any typeface or image.</p> <p>Materials: Painted directly on the window, mounted neon on inside of window, or mounted sign on a wall inside the window area.</p>
	Off-premises sign	Not permitted
MU-C (formerly C-5), F-7 and F-8 Zones		
	Awning sign Marquee sign Wall sign Portable	Same as for MU-N, MU-W, F-1, F-2, F-3, F-4, F-5, F-6 and F-9 zones.

Table 50-27-2: Sign Regulations for Specific Zone Districts

Zone District	Type of Sign	Conditions on Sign
	A-frame sign	
	Projecting sign	<p>1 per each building façade facing a street, alley, or sidewalk.</p> <p>Maximum sign area: 150 sq. ft. or 1.5 times the number of lineal ft. of the wall where the sign is located, whichever is less. The area of a double faced projecting sign shall be the area of the largest face.</p> <p>Minimum height above sidewalk: 10 ft.; for signs projecting less than 2 ft., 7 ft.</p> <p>Shall not extend closer than 1 ft. to back of any curb or over any alley.</p> <p>Materials: Solid or composite finished wood, metal, masonry, neon, glass. Internally lit plastic box signs are not permitted. Plastic and synthetics permitted only as separate alphanumeric characters or logos.</p> <p>Direct and indirect illumination permitted.</p>
	Window sign	<p>Shall not block more than 30% of any window panel as measured by drawing a box around the outer edges of any typeface or image.</p> <p>Materials: Painted directly on the window, mounted neon on inside of window, or mounted on a wall inside the window area.</p>
	<u>Window Pole sign</u>	<p>Shall not block more than 30% of any window panel as measured by drawing a box around the outer edges of any typeface or image.</p> <p>Materials: Painted directly on the window, mounted neon on inside of window, or mounted sign on a wall inside the window area.</p> <p><u>Maximum number: 1 for first street frontage plus</u></p> <p style="padding-left: 40px;"><u>1 for any additional street frontage longer than 100 ft.</u></p> <p><u>Maximum height: 15 ft.</u></p> <p><u>Minimum height of sign face base above ground: 8 ft. (decorative planters without advertising and not more than 3 ft. above ground are permitted) for signs 8 ft. total in height and no more than 8 sq. ft. per sign face, no minimum clearance required.</u></p> <p><u>Maximum thickness: 30 in. (except spherical signs).</u></p> <p><u>Maximum sign area: 1 sign per pole, maximum area not exceeding 30 percent of the lineal street frontage on the street nearest the sign.</u></p> <p><u>The area of a double or triple faced pole sign shall be the area of the largest face.</u></p> <p><u>Location: If pole signs are located in the required front, side, or rear yards they shall not be closer than 100 ft. from any residential structure located in a residential zone. Not permitted on or projecting into or over any public street or utility easement.</u></p> <p><u>In the Form Districts, this type is limited for use with the Corridor, Cottage Commercial, and</u></p>

Table 50-27-2: Sign Regulations for Specific Zone Districts

Zone District	Type of Sign	Conditions on Sign
		<p><u>Iconic building types.</u></p> <p><u>Materials: Solid or composite finished wood, metal, masonry, neon, glass. Internally lit plastic box signs are not permitted. Plastic and synthetics permitted only as separate alphanumeric characters or logos.</u></p>
	Off-premises sign	<p>Off-premises wall signs prohibited.</p> <p>All other off-premises signs subject to approval under Section 50-15.3.D</p>
	<u>Monument sign</u>	<p><u>Maximum number: 1 for first street frontage plus 1 for any additional street frontage longer than 100 ft.</u></p> <p><u>In the Form Districts, limited for use with the Corridor, Cottage Commercial, and Iconic building types.</u></p> <p><u>Maximum height of 6 ft., maximum area 48 sq. ft. per sign face.</u></p> <p><u>Setback from corners and driveways for vehicular site triangles.</u></p> <p><u>Materials: Solid or composite finished wood, metal, masonry, neon, glass. Internally lit plastic box signs are not permitted. Plastic and synthetics permitted only as separate alphanumeric characters or logos.</u></p> <p><u>Direct and indirect illumination permitted.</u></p> <p><u>Landscape at base of sign shall not be taller than 18 in. at mature height.</u></p>
MU-I District		
	All signs permitted in the MU-N district	<p>Maximum sign area on any wall: Number of sq. ft. equal to the number of lineal ft. of the wall.</p> <p>All signs, including public signs, shall be approved by staff based on the consistency of the size, texture, and scale of signs with the character and scale of signs and development in the surrounding area. However, review and permits shall not be required for (a) property information/management signs less than 4 sq. ft., (b) political signs, and (c) property owner opinion signs.</p>
MU-B District		
	Wall signs, projecting signs, and monument signs	<p>Maximum sign size of wall and projecting signs: 5% of the total sq. ft. area of building façade on which they are placed. All wall signs attached to the building shall be flush mounted and shall not extend above the roof line. All monument signs must be architecturally designed and located directly at grade, shall be limited to 1 sign on each street frontage, shall be limited to 60 sq. ft. in area and eight ft. in height and shall be located no closer than 15 ft. from the property lines.</p> <p>Neon signs are not permitted.</p> <p>Direct and indirect illumination is permitted. Spotlighting of signs is permissible if the lighting is shielded so as to direct light to the sign only and the light source is not visible from the property lines.</p> <p>Flashing and animated signs are not permitted.</p>

Table 50-27-2: Sign Regulations for Specific Zone Districts

Zone District	Type of Sign	Conditions on Sign
	Property identification/management sign	Maximum size: 4 sq. ft. Maximum height: 5 ft. No illumination, animation, or flashing.
	Off-premises signs	Not permitted.
Special Purpose Districts		
I-G and I-W Districts	All signs permitted in the MU-C district	On-premises signs only.
P-1 District	Construction contractor sign	Non-residential: 1 sign with maximum size of 32 sq. ft. plus 16 sq. ft. to identify architects, engineers, or subcontractors. No illumination or animation Must be removed 7 days after construction is complete
	Property identification/management sign	Maximum size: 6 sq. ft. in R-2 No illumination or animation
	Public assembly bulletin board	Maximum size: 25 sq. ft. Minimum setback from property lines: 10 ft Indirect illumination
	Recreational field sign	Directional sign: Maximum size: 20 ft. Maximum Height 10 ft. Building mounted sign: Maximum size 10 ft. Each scoreboard sign may contain up to 10 sq. ft. of advertising. Indirect illumination only
	Temporary sign	May not advertise on-going business activity. Maximum size: 6 sq. ft. Minimum setback from property lines and street and sidewalk improvements: 3 ft.

Table 50-27-2: Sign Regulations for Specific Zone Districts

Zone District	Type of Sign	Conditions on Sign
		Maximum length of use: 30 days. No illumination or animation.
	Off-premises sign	Not permitted

Section 8. That Table 50-35.1 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

TABLE 50-35-1: PROCEDURES SUMMARY TABLE

Type of Application			Review, Decision, & Appeal Authority				
	Public Notice Required ¹	Pre-Application Required ²	Staff	Land Use Supervisor	Historic preservation commission	Planning Commission ³	Council
R = Review D = Decision A = Appeal ◇ = Hearing N = Newspaper Notice S = Sign Notice M = Mail Notice							
Comprehensive Land Use Plan Amendment	N			R		<R>	D
UDC Text or Zoning Map Amendment							
Text Amendment	N			R		<R>	D
Map Amendment	N, S, M*	✓		R		<R>	D
District Plan Adoption/Amendment	S	✓		R		<D>	<A>
Subdivision Plat Approval							
Concept Plan		✓		R			
Preliminary Plat	S			R		<D>	
Final Plat				R		<D>	
Quick Plat/Registered Land Survey				R		D	
Vacation of Street	S, M	✓		R		<R>	D
Concurrent Use of Streets Permit	S	✓		R		<R>	D
Historic Resource Designation	M	✓			R-<R>	<R>-R	D
Variance	S, M		R			<D>	<A>
Special Use Permit	S, M	✓		R		<D>	<A>
Interim Use Permit	S, M	✓		R		<R>	D
Planning Review							
General				D		<A>	
When required in Mixed Use Districts	S, M	✓		R		<D>	<A>
Sidewalk Use Permit				D		<A>	
Zoning Permit**			D			<A>	
Airport Environs Permit			D			<A>***	
Historic Construction/Demolition Permit	S				R-<D>	<D>	<A>
Building Permit****			D				
Certificate of Occupancy****			D			<A>	

* Mailed notice is required to affected property owners within 350 ft. when the amendment involves changes in district boundaries affecting an area of 5 acres or less.

**This category includes temporary use permit, shoreland permit, erosion and sediment control permit, sign permit, and fence permit.⁴

*** Appeals of Airport Environs Permits related to Duluth International Airport are heard by the airport board of adjustment.

**** Appeals heard by the building appeals board or the State Building Official.

¹ These are new provisions reflective of general practice. The current ordinances have very little on notice requirements.

² This is a new provision. The current ordinances do not have pre-application requirements.

³ The planning commission will also serve as the board of adjustment, so a separate board is not shown in the table.

⁴ Canal Park demolition permits have been deleted from this list.

Section 9. That Section 50-36.2 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

50-36.2 Planning Commission

A. Creation

The planning commission is that body authorized by MSA 462.354 and created by Ordinance 1809. In addition, the council hereby designates the planning commission as the board of adjustment authorized by MSA 462.354 and Section 27 of the City Charter. The planning commission shall have all powers authorized for a planning commission or a board of adjustment under the state law and this city code. Procedures before the planning commission shall be governed by rules and regulations adopted by the commission. This section is intended to comply with the provisions of MSA 462.354 as amended, and Section 27 of the City Charter, and shall be interpreted to comply with those provisions wherever possible.

B. Membership and Terms

Except as provided by Ordinance 9985, the planning commission shall consist of nine members, all of whom shall be citizens of the city and none of whom shall be a paid city employee, and all of whom shall be appointed by the mayor and with the consent of the council, and all of whom shall make and file with the city clerk an oath and affirmation as provided in Section 28 of the city Charter. Members shall be appointed for a term of four years, and the terms shall be staggered in accordance with Ordinance 9985. Vacancies shall be filled by appointment for the unexpired term only. Members of the board shall serve without compensation. (Ord. No. 7158, 6-9-1958, 23.1.1; Ord. No. 9351, 10-27-1997, 1, modified)

C. Meetings and Proceedings

9. All hearings of the planning commission shall be public and shall occur after 5:00 pm.
10. The concurring vote of a majority of the members of the commission shall be sufficient to exercise any power granted to the planning commission by this Chapter.
11. The commission may delegate to a committee of the commission or to its secretary specific review and approval activities provided that it provides written criteria to guide the performance of the delegated duties, and the decisions made by the committee or secretary will be considered decisions of the commission.

D. Powers

Except as otherwise provided in this Chapter or other law, the planning commission shall have the following powers within all zone districts:

12. Appeals

To hear and decide appeals where an applicant alleges an error in any order, requirement, permit or decision made by the land use supervisor or the building official in the enforcement of any provisions of this Chapter, pursuant to Section 50-37.1.O. In the case of each appeal, the commission shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts.

13. District Plans

To approve, approve with modifications, or deny applications for approval of a district plan in those districts where approval of such a plan is required prior to development, pursuant to Section 50-37.4.

14. Subdivision Plats

To approve, approve with modifications, or deny preliminary and final plats for the subdivision of land pursuant to Section 50-37.5 and in accordance with the state law. (Ord. No. 5474, 1, modified)

15. Variances

To approve, approve with modifications or deny applications for variances to the provisions of this Chapter as provided in Section 50-37.9.

16. Special Use Permits

To approve, approve with conditions or deny applications for a special use permit pursuant to Section 50-37.10.

17. Planning Review for Certain Districts

Planning review in the MU-N, MU-C, MU-I and MU-W districts pursuant to Section 50-37.11.

~~**18. Historic Construction/Demolition Permits**~~

~~To approve, approve with conditions or deny applications for issue historic construction and demolition permits pursuant to Section 50-37.14.~~

87 Review and Recommendation

To review and comment on any application for which a review role for the commission is shown in Table 50-35-1.

Section 10. That Section 50-36.3 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

50-36.3 Historic Preservation Commission

A. Membership

The commission shall consist of 7 voting members, all of whom are to be citizens of the city, 5 of whom will be appointed by the mayor with the approval of the council; 1 will be appointed by the county historical society, and 1 will be appointed by the planning commission. Members shall be persons who have demonstrated an interest

in the historical, cultural or architectural development of the city or who own property within a historic preservation district. At least 2 of the 5 members appointed by the mayor shall be preservation-related professionals.

B. Powers

The historic preservation commission shall have the following powers:

1. Recommendation of historic preservation sites and districts to the ~~planning commission~~ city council;
2. ~~Review construction and demolition activity for historic preservation sites and districts and make recommendations to the planning commission~~ city council. Approve, approve with conditions or deny applications for historic construction and demolition permits pursuant to Section 50-37.14.;
3. Recommend historic preservation guidelines specific to a landmark or district;
4. Make an annual report to the state historic preservation officer by October 31 of each year;
5. Conduct continuing survey of all areas, places, buildings, structures or similar objects in the city that the commission, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as historic preservation landmarks or districts;
6. Work for the continuing education of the citizens of the city with respect to the historic and architectural heritage of the city and keep current and public an official list of designated historic preservation landmarks and districts;
7. The commission may retain the services, on a permanent or part-time basis, of technical experts and other persons as may be required to perform the commission's duties;
8. The commission shall have authority to solicit gifts and contributions to be made to the city and to assist in the preparation of applications for grant funds to be made to the city for the purpose of historic preservation;
9. The commission may recommend to the ~~planning commission and~~ council that certain properties eligible for designation as historic preservation landmarks or districts be acquired by gift, by negotiation or other legal means;
10. Upon final designation of a historic preservation landmark or district, adopt historic preservation guidelines specific to the landmark or district. Such guidelines shall detail allowable architectural and/or site modifications, essential features to be retained and any other criteria by which future proposals for modifications shall be judged. The United States Secretary of the Interior Standards for Treatment of Historic Properties shall be among the standards used to create such a program. These guidelines are intended to provide assurance to owners of properties within historic preservation landmarks or districts that any permit review process will be based on clear and objective standards rather than the taste of individual commission members;

11. The commission may nominate a historic preservation landmark or district to the national register of historic places, but only with the consent of the council.

Section 11. That Section 50-37.8 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

50-37.8 Historic Resource Designation

A. Application

An application for historic resource designation shall be filed pursuant to Section 50-37.1.B.

B. Procedure

1. Review and Recommendation by Historic Preservation Commission

The commission shall review the application, submit the application to the planning commission, conduct an investigation and public hearing pursuant to Section 50-37.1I, with public notice as required by Section 50-37.1.H, make a recommendation to council, and report on the historical, cultural and architectural significance of the buildings, structures, sites or objects proposed for designation. The report shall also attempt to determine the economic status of the property or properties by providing information such as assessed value, recent real estate transactions and other appropriate data. ~~The report shall be given to the planning commission, and a A copy~~ of the report shall be sent to the state historic preservation officer for review and comment in accordance with MSA 471.193. Any comments made by the planning commission and state historic preservation officer regarding a proposed designation must be included in the commission's recommendation to received and forwarded to the council prior to final designation.

2. Review and Recommendation by 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 recommendation to the historic preservation commission and council. In its review and recommendation, the commission shall consider potential effects on the surrounding neighborhood, economics, environment and other planning considerations.

3. Designation by Council

Upon receipt of the report and recommendation of the historic preservation commission, ~~planning commission recommendation~~, the council shall make a decision to approve, approve with modifications or deny the designation, in whole or part, based on the criteria in subsection C below. The council action shall be by ordinance.

4. Registration of Historic Sites

The city clerk shall record or file with the county recorder the legal description of all properties affected by the council action. The city clerk shall also distribute an official

list of all locally designated historic preservation landmarks and districts to the land use supervisor and the state historic preservation officer.

[Note: Flow chart of process to be inserted here]

C. Criteria

Historic preservation landmarks and districts shall only be designated when the property or properties are found to meet one of the following criteria:

12. It has character, interest or value as part of the development, heritage or cultural characteristics of the city, state, or the United States;
13. Its location was a site of a significant historical event;
14. It is identified with a person or persons who significantly contributed to the culture or development of the city, state, or the United States;
15. It embodies a distinguishing characteristic of an architectural type;
16. It is identified as the work of an architect or master builder whose individual work has influenced the development of the city or state;
17. It embodies elements of architectural design, detail, materials or craftsmanship that represents significant architectural innovation;
18. Its unique location or singular physical characteristics represents an established and familiar visual feature of a neighborhood, community or city.

Section 12. That Section 50-37.14 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

50-37.14 Historic Construction/Demolition Permit

This section applies to applications for construction or demolition within a historic district or on a historic property listed in Section 50-18.3 where the city must confirm whether the application complies with the standards in Section 50-18.3 and with all other applicable provisions of this Chapter and state law.

A. Application

An application for a historic construction/ demolition permit shall be filed pursuant to Section 50-37.1.B.

B. Procedure

The application shall be reviewed by the historic preservation commission, ~~who shall forward its recommendation to 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 based on the criteria in subsection C below.

C. Criteria

The ~~planning~~ commission shall approve the application, or approve it with modifications, if the commission determines that the application complies with all applicable provisions of this Chapter and state law and that the work to be performed shall not adversely affect the historic preservation landmark or district based on adopted historic preservation guidelines.

Section 13. That Section 50-41.69 of Ordinance No. 10-030-O, Section 6, be amended to read as follows:

69. DAY CARE FACILITY

A private or public establishment licensed by the state that regularly provides one or more ~~dependents~~ individuals with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, for gain or otherwise, in a place other than the dependent's domicile. Primary services to be provided on a contract rather than drop-in basis, and shall be day-long in nature. Examples include day care for children, elderly, and individuals receiving mental health services. (Ord. No. 9284, 12-11-1995, 2)

Section 14. That this ordinance shall be operative only if Ordinance 10-030-O is passed, shall be consolidated into Ordinance 10-030-O for publication, and take effect and be in force on the same date as Ordinance 10-030-O.

Approved as to form:

Approved for presentation to council:

City Attorney

Chief Administrative Officer

PLNG/ATTY

MAL:cjk

07/13/2010

STATEMENT OF PURPOSE: This ordinance incorporates some of the motions to amend Ordinance 10-030-O offered by council members.