

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

11-027-O

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 50-1, 50-2, 50-3, 50-7, 50-9.4, 50-11.1, 50-14.5, 50-14.6, 50-14.7, 50-15.2, 50-15.4, 50-16.5, 50-18.1, 50-18.3, 50-19, 50-20.1, 50-20.3, 50-20.4, 50-20.5, 50-20.6, 50-21.2, 50-21.3, 50-22.2, 50-22.7, 50-23.2, 50-24.1, 50-24.2, 50-24.4, 50-24.5, 50-24.6, 50-25.1, 50-25.2, 50-25.3, 50-25.4, 50-25.9, 50-26.1, 50-26.4, 50-27.5, 50-30, 50-30.1, 50-30.2, 50-30.5, 50-31.1, 50-33.2, 50-33.4, 50-35, 50-36.3, 50-36.4, 50-37.1, 50-37.4, 50-37.7, 50-37.8, 50-37.11, 50-37.12, 50-37.13, 50-38.5, 50-39.2, AND 50-41 OF CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO REVISIONS OF THE UNIFIED DEVELOPMENT CHAPTER.

CITY PROPOSAL:

The city of Duluth does ordain:

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

50-1 How to use this unified development chapter.

1. Consult the zoning map. Consult the zoning map to identify the base zone district for your property. There are four types of base zone districts: Residential (R), Mixed Use (MU), Form (F) and Special Purpose (SP);
2. Review your base zone district. Find the description of that base zone district in Article 2. In some cases there are special controls or procedures that apply to the base zone district;
3. Review the overlay zone districts. Also review Section 50-18 in Article 2 to determine if your property is included in any of the city's four overlay zone districts – the Natural Resources Overlay (NR-O), Airport Overlay (AO), Historic Resources Overlay (HR-O), or Skyline Parkway Overlay (SP-O). Each overlay includes additional development regulations that modify the base district regulations. It is particularly important that you review the Natural Resources Overlay in Section 50-18.1, because federal, state, or local environmental controls may determine what parts of the property may be developed;
4. Find permitted uses of property. Review the permitted use table in Article 3 to determine whether your proposed use of the property is permitted by right, or available as a special use, or is prohibited in your base zone district. Article 3 also contains use-specific standards that control how some uses may be developed or operated;
5. Review what development standards apply. Review Article 4 to determine what type and size of building structure may be constructed on your property and what quality standards will apply to the development. If your property is located in a Form District (one that begins with an "F"), only specific types of building structure will be allowed, and those building structure types are explained in Section 50-22. If your property is located in an R, MU, or SP district, the basic lot and building requirements are found in Section 50-21. The remaining provisions of Article 4 apply to all zone districts.
6. Find what procedures may be required. If your proposed use requires a special use permit, you will need to follow the process for obtaining that permit as described in Article 5. If your proposed development requires any other types of approvals (for example, a variance from setback requirements), those procedures are also described in Article 5.

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

50.2. Purpose.

The purpose of this unified development chapter is to protect public health, safety, and welfare and to implement the goals and objectives of the comprehensive land use plan using those authorities over the development, redevelopment, use, and occupancy of land, ~~buildings~~, and structures, and over the

protection of the environment, granted to the city by the state. This general purpose includes, but is not limited to, the following:

- (a) To provide for more sustainable development within the city by reducing carbon emissions, vehicle miles travelled, energy consumption, and water consumption, and by encouraging production of renewable energy and food production;
- (b) To control or eliminate soil erosion and sedimentation within the city;
- (c) To protect and enhance the city's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
- (d) To enhance the visual and aesthetic character, diversity and interest of the city;
- (e) To promote the use and preservation of historic landmarks and districts for the educational and general welfare of the people of the city;
- (f) To regulate erection and maintenance of signs in the city in order that signs might fulfill their necessary and useful function in such a way to preserve the public welfare and safety;
- (g) To preserve the integrity of residential areas and the character and dignity of public buildings structures, parks and other open spaces;
- (h) To enhance property values and the general appearance and natural beauty of the city;
- (i) To protect the public investment in streets and highways;
- (j) To assure creation of an attractive business environment and to promote the orderly and effective display of outdoor advertising;
- (k) To promote, preserve, and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development in wetlands, shorelands and floodplains.

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

50-3 Findings of fact.

The council hereby finds that:

- (a) In order to implement the comprehensive land use plan and to promote the orderly development and redevelopment of property in the city, several ordinances related to land use, permitted construction, and environmental protection need to be consolidated into a single unified development chapter;
- (b) Regulation of permitted uses in each zone district, and the designation of uses that require the issuance of a special use permit, are necessary to protect the comprehensive land use plan and to conserve and protect property and property values in neighborhoods;
- (c) The regulation of the creation of subdivision plats and the creation of individual building lots in the city is necessary to ensure accuracy and consistency in legal descriptions of land, to ensure that all created lots have adequate access to roads, to ensure that adequate public services are available to serve new development, and to protect the environment;
- (d) The provision of a residential-planned zone district is necessary to encourage a variety of housing types within established neighborhoods while maintaining the character and vitality of such neighborhoods, and to allow variation in the relationship of uses and required yards in developments compatible with the massing, use and scale of buildings structures within established neighborhoods;
- (e) The provision of a mixed use-commercial zone district is necessary to ensure orderly and attractive commercial growth in areas of the city that exhibit sensitive environmental problems, traffic congestion or other characteristics of urban sprawl, and that individualized review of the design of development within the zone district is necessary in order to minimize blighting

influences on surrounding uses and neighborhoods, reduce adverse effects of development on the natural environment, enhance the visual and aesthetic quality of development and ensure the provision of adequate and cost efficient public facilities;

- (f) The provision of a mixed use-business zone district is necessary in order to provide for modern light industrial developments of attractive integrated design and function while also accommodating older light industrial developments in the city;
- (g) Regulation of land disturbance activities is necessary to control or eliminate soil erosion and sedimentation within the city. It establishes standards and specifications for conservation practices and planning activities that minimize soil erosion and sedimentation and provides a permit system to secure the enforcement of these standards and specifications;
- (h) The preservation, protection, perpetuation and use of areas, places, ~~buildings~~, structures, lands, districts and other objects having a special historical, cultural or aesthetic interest or value is a public necessity and is required in the interest of public health, prosperity, safety and welfare of the people of the city;
- (i) Protection of the water resources found within the city is necessary for the public good. These water resources relate strongly to other valuable natural resources that include, but are not limited to, air, soil, plants, animals and scenic and aesthetic values. Uncontrolled and inadequately planned use of natural resources adversely affects the public health, safety and general welfare by contributing to pollution, erosion, flooding and other environmental problems, and by creating nuisances, impairing other beneficial uses of environmental and natural resources or destroying the resources themselves, impairing the quality of life of the community, impairing the local tax base and hindering the ability of the city to provide adequate water, flood and fire protection and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in areas that may be affected by unplanned land usage;
- (j) Regulation of the erection and maintenance of signs is necessary to ensure that signs fulfill their function in such a way to preserve the public welfare and safety; to preserve the integrity of residential areas and the character and dignity of public ~~buildings~~ structures, parks and other open spaces; to enhance property values and the general appearance and natural beauty of the city; to protect the public investment in streets and highways; to assure creation of an attractive business environment and to promote the orderly and effective display of outdoor advertising;
- (k) Regulation of the use of private rights-of-way, or portions of public rights-of-way, by nearby private development is necessary to protect the public health, safety, and welfare of auto and bicycle users as well as pedestrians, and to avoid congestion of streets, sidewalks and walkways;
- (l) Wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the city and its inhabitants. The city also recognizes that facilitating the development of wireless service technology can be an economic development asset to the city and of significant benefit to the city and its residents. This Chapter intends to minimize impacts of wireless telecommunications facilities; establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the city.

Section 4: That Section 50-7 of Chapter 50 be amended as follows:

50-7 Effect of chapter.

50-7.1 Compliance required.

Following the adoption of this Chapter, (1) no land shall be used, and (2) no ~~building~~ or structure shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used, and (3) no platted lot or tract of land shall be created or modified, and (4) the minimum yards, parking spaces, and open spaces, including lot area per family existing on July 14, 1958, or for any ~~building~~ structure constructed after that date shall not be encroached upon or considered as part of the yard or parking

space or open space required of any other lot or building structure, except in accordance with all provisions of this ordinance that apply in the zone district where the property is located and to the type of use, structure, or development in question and in accordance with all provisions and conditions attached to any approval or permit granted for the use, building structure, activity, or development.

50-7.2 One Building Principle Structure Per Lot

Except as specifically provided in this Chapter, every building structure erected or structurally altered after ~~July 14, 1958~~ November 19, 2010, shall be located on a lot as defined in this Chapter. There shall be only one main building principle structure on one lot unless a specific exception is stated in this UDC.

50-7.3 Permits and approvals required.

Following the adoption of this Chapter, no person shall use land, or erect or modify a building or structure, or create or modify a platted lot within the city without first receiving any approvals or permits required by this Chapter for such use, building, structure, or lot.

Section 5: That Section 50-9.4 of Chapter 50 be amended as follows:

50-9.4 Third-party private agreements.

This Chapter is not intended to interfere with, abrogate, or annul any easements, covenants or other private agreements between parties. However, where this Chapter imposes a greater restriction or higher standards or requirements upon the use of land, buildings structures or premises than those imposed or required by other easements, covenants or agreements, the provisions of this Chapter shall govern. Nothing in this Chapter shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this Chapter. In no case shall the city be obligated to enforce the provisions of any easements, covenants or agreements between private parties.

Section 6: That Section 50-11.1 of Chapter 50 be amended as follows:

50-11.1 Approved projects.

A. Validity.

Permits and approvals that are valid on November 19, 2010, shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed;

B. Changes.

Nothing in this Chapter shall require any change in the plans, construction, size or designated use of a building structure or part of a building structure for which a building permit has been granted or for which plans were on file with the building official before November 19, 2010, provided that construction pursuant to the building permit begins before the building permit expires. If any of these requirements have not been fulfilled or if the building operations are voluntarily discontinued for a period of 90 days, any further construction shall be in conformity with the provisions of this Chapter.

C. Extensions and re-application.

The decision-making body that granted the original approval may renew or extend the time of a previous approval if the required standards or criteria for approval remain valid. Any

extension granted shall not exceed the time specified for the extension of the specific permit approval in this Chapter. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.

Section 7: That Section 50-14.5 of Chapter 50 be amended as follows:

50-14.5 Residential-Traditional (R-1).

A. Purpose.

The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. Uses are allowed as shown in Table 50-19.8.

| TABLE 50-14.5-1 R-1 DISTRICT DIMENSIONAL STANDARDS | | |
|---|---|--|
| LOT STANDARDS | | |
| Minimum lot area per family (One-family) | The larger of 4,000-sq. ft. or average of developed 1-family lots on the block face | |
| Minimum lot area per family (Two-family) | The larger of 3,000 sq. ft. or average of developed 2-family lots on the block face | |
| Minimum lot area per family (Townhouse) | 2,500 sq. ft. | |
| Minimum lot frontage (one-family, two-family, and townhouses) | The larger of 30 ft. or average of developed lots with similar uses on the block face | |
| STRUCTURE SETBACK | | |
| Minimum depth of front yard | The smaller of 25 ft. or average of adjacent developed lots facing the same street | |
| Minimum width of side yard (one- and two-family) | General | The larger of 6 ft. or average of adjacent developed lots facing the same street |
| | Lots with less than 50 ft. frontage and garage | Combined width of side yards must be at least 12 ft. |
| Minimum width of side yard (Townhouse) | 10 ft. if adjacent to another lot | |
| | 25 ft. if adjacent to platted street | |
| Corner Lot: width of front side yard | Dwelling | 15 ft. |
| | Detached accessory building | 20 ft. |
| | Permitted non-residential building | 25 ft. |
| Minimum depth of rear yard | 25 ft. | |
| STRUCTURE HEIGHT | | |
| Maximum height of building | 30 ft. | |
| <p>[1] Minimum lot area is determined using "Lots on the Block Face" definition [2] Minimum lot frontage is determined using "Block Face" definition Section 50.21 Dimensional standards contains additional regulations applicable to this district.</p> | | |

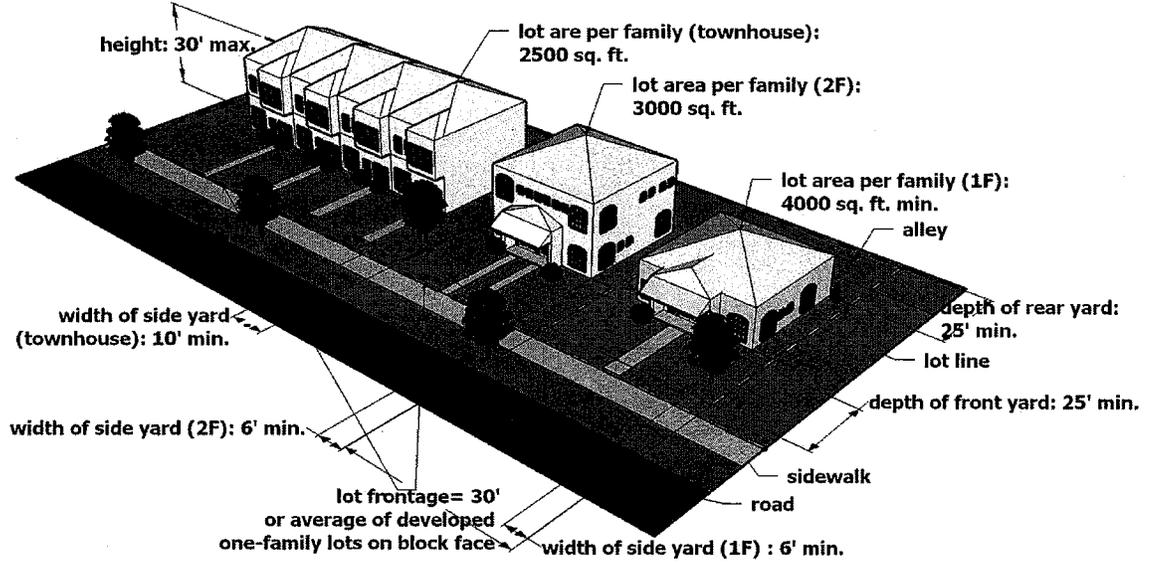
B. Example.

R-1 Example Building Forms



C. Illustration.

R-1 Example Lot Layout



Section 8: That Section 50-14.6 of Chapter 50 be amended as follows:

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

A. Purpose.

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

**TABLE 50-14.6-1
R-2 DISTRICT DIMENSIONAL STANDARDS**

| | | LOT STANDARDS |
|---|---------------------------------------|--|
| Minimum lot area per family | One-family | 4,000 sq. ft. |
| Minimum lot area per family | Two-family | 2,500 sq. ft. |
| Minimum lot area per family | Multi-family | 1,500 sq. ft. |
| Minimum lot area per family | Townhouse | 2,200 sq. ft. |
| No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use. | | |
| Minimum lot frontage | One-family, two-family, and townhouse | 30 ft. |
| | Multi-family and non-residential | 50 ft. |
| | | STRUCTURE SETBACK |
| Minimum depth front yard | | The smaller of 25 ft. or average of adjacent developed lots facing the same street |
| Minimum width of side yard for buildings less than 3 stories | | 6 7 ft. |
| Minimum width of side yard for building 3 stories or more | | 10 ft. |
| Corner Lot: width of front side yard | Dwelling | 15 ft. |
| | Detached accessory building | 20 ft. |
| | Permitted non-residential building | 25 ft. |
| Minimum depth of rear yard | | 25 ft. |
| | | STRUCTURE HEIGHT |
| Maximum height of building | | 45 ft. |

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

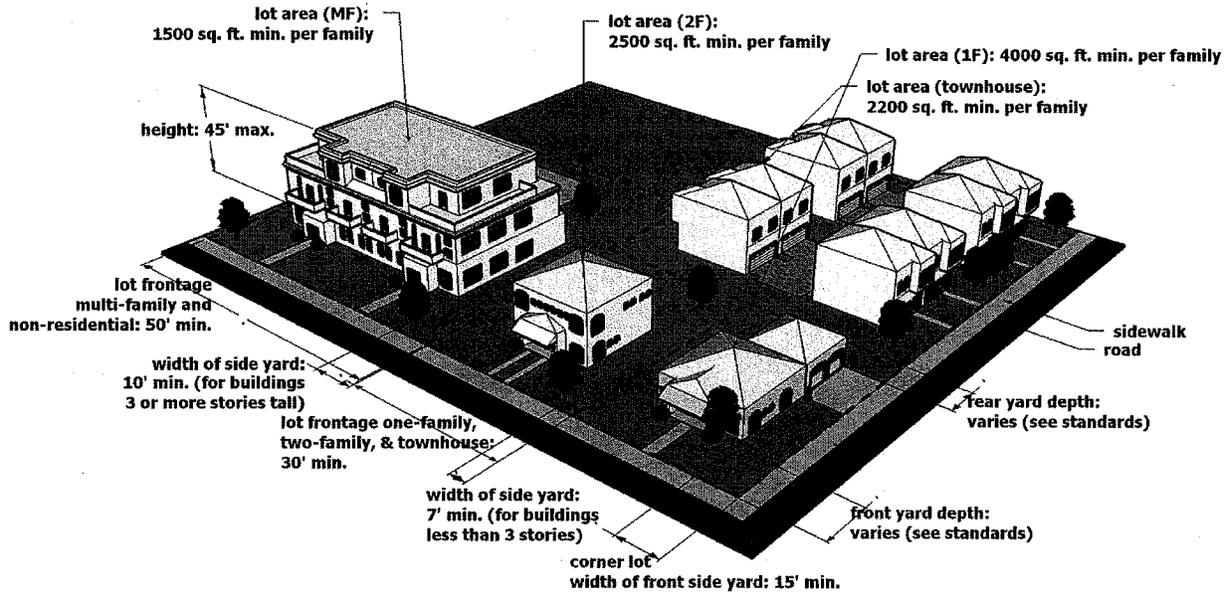
B. Example.

R-2 Example Building Form



C. Illustration.

R-2 Example Lot Layout



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 residential redevelopment on land zoned R2 and located within one and one-half (1.5) mile of land occupied, owned or related to a college or university and zoned MU-1, 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. 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 percent of required resident parking spaces;
3. If the residential development or redevelopment is determined to have mitigated the impacts of potential student use in the adjacent residential neighborhood as provided in Section 50-14.6.D above, the development or redevelopment may adjust the above parking requirements as provided in 50-24.3.A, if so eligible;
4. No residential balcony, patio or deck shall be located on any side of the property facing and within 200 feet of an R-1 district;

5. Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 district and that reduces the potential for pedestrian-vehicular conflicts.

Section 9: That Section 50-14.7 of Chapter 50 be amended as follows

50-14.7 Residential-Planned (R-P).

A. Purpose.

The R-P district is established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P district regulating plan that includes the location, type, intensity of proposed development and a description of public amenities or benefits included. Different R-P standards are required for projects in identified high-density and low-density residential areas. Single-family residences, two-family residences, townhouses, group living and apartments, as well as accessory uses, are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved district plan;

B. Dimensional standards.

The dimensional standards in the R-P District, including but not limited to maximum building heights, minimum or maximum building setbacks, and yard requirements, shall be established on a project-specific basis through the district plan approval UDC Text or Zoning Map Amendment process in Section 50-37.4-3. However, all shoreland setbacks and other setbacks and dimensional requirements from Section 50-18.1 (NR-O overlay) shall continue to apply and cannot be varied through the R-P district plan approval process.

C. Examples.

R-P Low Density Example Building Forms



R-P High Density Example Building Forms



D. Rezoning and district plan approval required.

The establishment of an R-P district requires rezoning the property from a current zone district to R-P and the approval of a district regulating plan that governs the uses, location, density, dimensional standards and character of the proposed project. The district regulating plan shall cover all of the land in the proposed R-P district. ~~Procedures for approval of both district and planning review are set forth in Article 5 of this Chapter. A district plan and a site plan for all or part of the property in a proposed R-P district may be submitted for approval simultaneously at the applicant's option.~~

E. Applicability.

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

| TABLE 50-14.7-1: Characteristics of High-Density and Low-Density in R-P Areas | | |
|---|-----------------|----------------|
| Characteristic | Low Density | High Density |
| Current zoning | R-C, RR-1, RR-2 | R-1, R-2, MU-N |
| Minimum lot size | 4 acres | 2 acres |

F. Development standards.

1. General development standards.

- (a) The development standards of the zone district(s) where the property is located shall apply to any R-P zoned land unless waived or varied by the terms of an approved R-P district regulating plan. The ordinance approving an R-P district and the approved district regulating plan shall identify the previous base zone districts for each portion of the property;
- (b) Maximum building height within 200 feet of an R-1 district is 35 feet;
- (c) Maximum building height within 200 feet of an R-2 district is 50 feet;

2. Low density.

Development in low density R-P zones shall comply with the following standards:

- (a) A natural resources inventory is required;
- (b) Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of useable active or passive open space. Common open space shall not be less than 30 percent of the area of the project and shall comply with the following requirements:
 - (i) Common open space shall include the shore and bluff impact zones;
 - (ii) Common open space shall include, where possible, lands within the Skyline Overlay;
 - (iii) Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
 - (iv) No more than one-quarter of the required common open space shall consist of wetlands;
 - (v) Common open space shall not include area within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings;
 - (vi) At least 50 percent of the common open space shall be retained in a contiguous area;
 - (vii) Where possible, the design should utilize features such as vegetation, fences, topography, roads or trails to delineate the boundary of the common open space to minimize potential physical encroachments into the common open space by adjacent homeowners;
- (c) Ownership of common open space. Common open space shall be owned and managed by a homeowners association and shall be encumbered through an easement, restrictive covenant or other instrument suitable to the city;

3. High density.

Development in high density R-P zones shall comply with the following standards:

- (a) The development shall encourage walkable, bikeable communities through the use of complete streets, alleys, sidewalks and trails, interconnected

street networks, small blocks, front porches, and buildings that are sited adjacent to streets;

(b) A traffic impact analysis is required;

G. Required district regulating plan contents.

The district regulating plan for an R-P zone district shall include the following information::

1. General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
2. Lot sizes and widths and building setbacks for all proposed development parcels;
3. A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;
4. Natural site features to be protected;
5. Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the R-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
6. Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8;
7. A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;
8. A plan for stormwater collection and treatment that includes a summary of land use and technical methods used to minimize stormwater run-off from the site;
9. Off-street parking to be provided in driveways, surface lots and garages;
10. Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use.
11. Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time.

H. Previously approved developments.

All residential developments approved prior to November 19, 2010, as low-density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved low density R-P developments, and will be rezoned to the R-P zone district. In addition, the Harbor Highlands TND plan and the Ramsey Village TND plan, approved pursuant to the TND zone district codified as Article XXIV of the previous zoning code, shall be treated as approved high density R-P developments, and will be rezoned to the R-P zone district.

Section 10: That Section 50-15.2 of Chapter 50 be amended as follows:

50-15.2 Mixed Use-Neighborhood (MU-N).

A. Purpose.

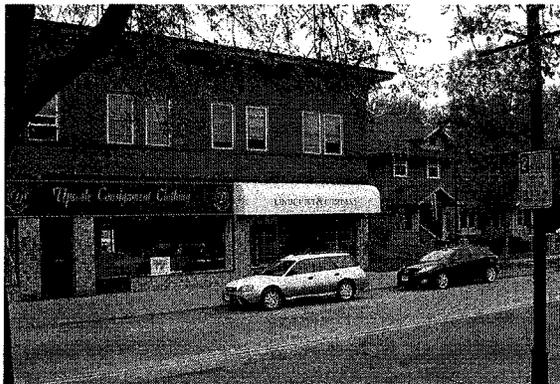
The MU-N district is established to accommodate a mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) 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.

**TABLE 50-15.2-1
MU-N DISTRICT DIMENSIONAL STANDARDS**

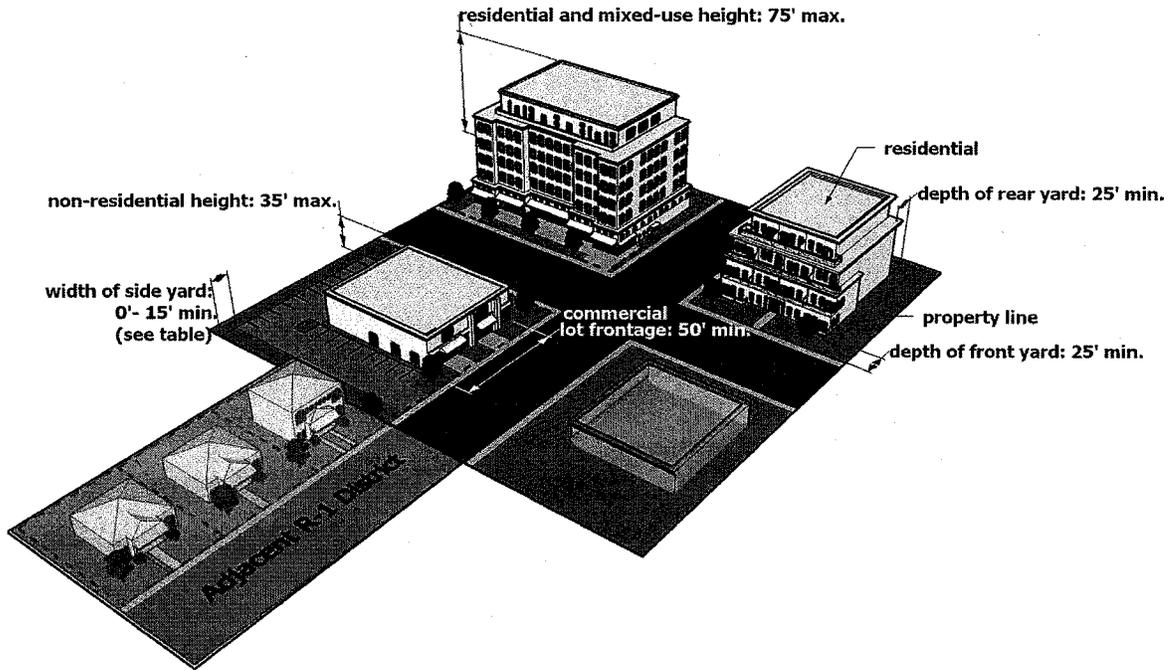
| LOT STANDARDS | | |
|--|---|--|
| Minimum lot area per family | One-family | 4,000 sq. ft. |
| | Two-family | 2,500 sq. ft. |
| | Multi-family | 500 sq. ft. |
| | Efficiency unit | 380 sq. ft. |
| | Townhouse or live-work dwelling | 2,200 sq. ft. |
| No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use | | |
| Minimum lot frontage | One-family, two-family, or townhouse dwelling | 30 ft. |
| | Multi-family or non-residential | 50 ft. |
| STRUCTURE SETBACKS | | |
| Minimum depth of front yard | One-family, non-residential, and mixed use | The smaller of 25 ft. or average of adjacent developed lots facing the same street |
| | Non-residential use adjacent to residential district or use | 15 ft. |
| Minimum width of side yard | Non-residential use adjacent to non-residential district or use | 0 ft. |
| | Multi-family adjacent to single-family district or use | 10 ft. |
| | Multi-family adjacent to multi-family district or use | 0 ft. |
| Minimum depth of rear yard | | 25 ft. |
| STRUCTURE HEIGHT | | |
| Maximum height of 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. |
| | Residential or mixed use (within 200 ft. of R-2) | 50 ft. |
| Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district. | | |

B. Example.

MU-N Example Building Form

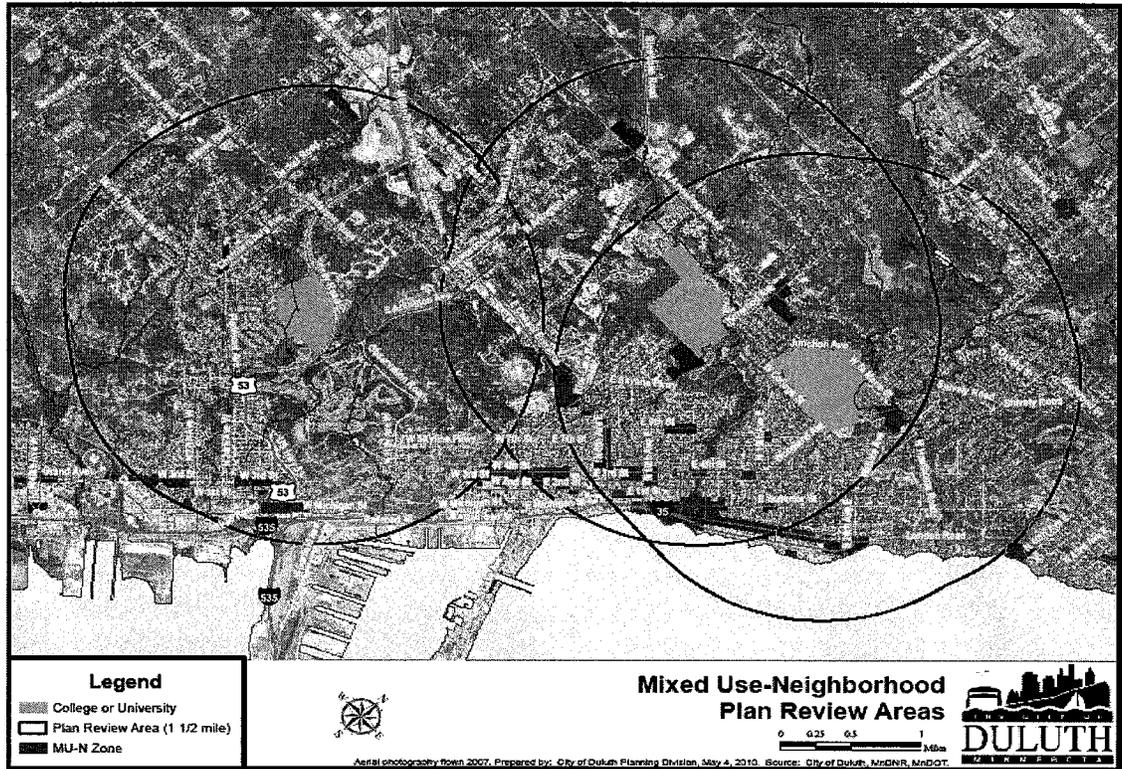


C. Illustration.



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 residential 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 affordable housing development projects funds 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 percent 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 feet 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. If the residential development or residential redevelopment is determined to have mitigated the impacts of potential student use in the adjacent residential neighborhood as provided in 50-15.2.D, the development or redevelopment may adjust the parking requirements as provided in either 50-24.3.A or 50-24.3.B if eligible, but may not utilize both adjustments.

Section 11: That Section 50-15.4 of Chapter 50 be amended as follows:

50-15.4 Mixed Use-Institutional (MU-I).

A. Purpose.

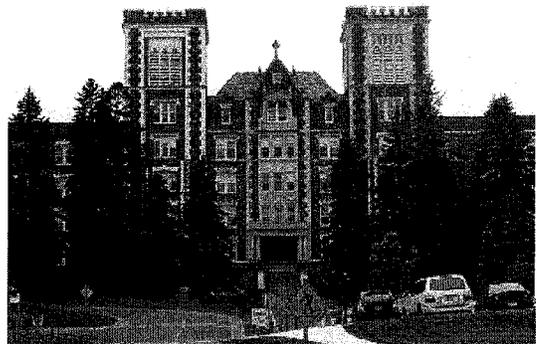
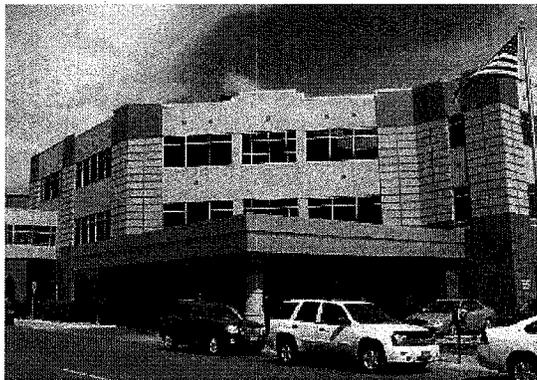
The MU-I district is established to provide for the unique development needs and impacts of major medical, educational and research institutional development. The intent is to give institutional landowners the flexibility to plan and develop their facilities while ensuring that surrounding neighborhoods are protected from adverse impacts, such as traffic, overshadowing buildings, noise, and unexpected expansion of institutional uses into residential areas. Landowners may choose to submit a district plan for approval that will guide future development, in which case individual building approvals consistent with the district plan will be approved administratively. As an alternative, the applicant may submit future development projects through individual planning review by the planning commission, which will include review of vehicle circulation and building scale, without reference to a district plan. Residential development is limited to that which directly serves the institution, and allowed uses are as shown in Table 50-19.8;

| TABLE 50-15.4-1 MU-I DISTRICT DIMENSIONAL STANDARDS | | |
|--|--|--------------------------|
| Minimum lot area per family | Multi-family | 500 sq. ft. |
| | Efficiency unit | 380 sq. ft. |
| | | STRUCTURE SETBACK |
| Structures and parking facility setbacks | | 0 ft. |
| | | STRUCTURE HEIGHT |
| Maximum height of building | Generally | 120 ft. |
| | On development sites totaling not more than 15% of developable area of the zone district, but not within those areas where a lower maximum is noted below. | 300 ft. |
| | Within 200 ft. of R-1 | 46 ft. |
| | Within 200 ft. of R-2 | 66 ft. |
| | Within 200 ft. of MU-N | 91 ft. |

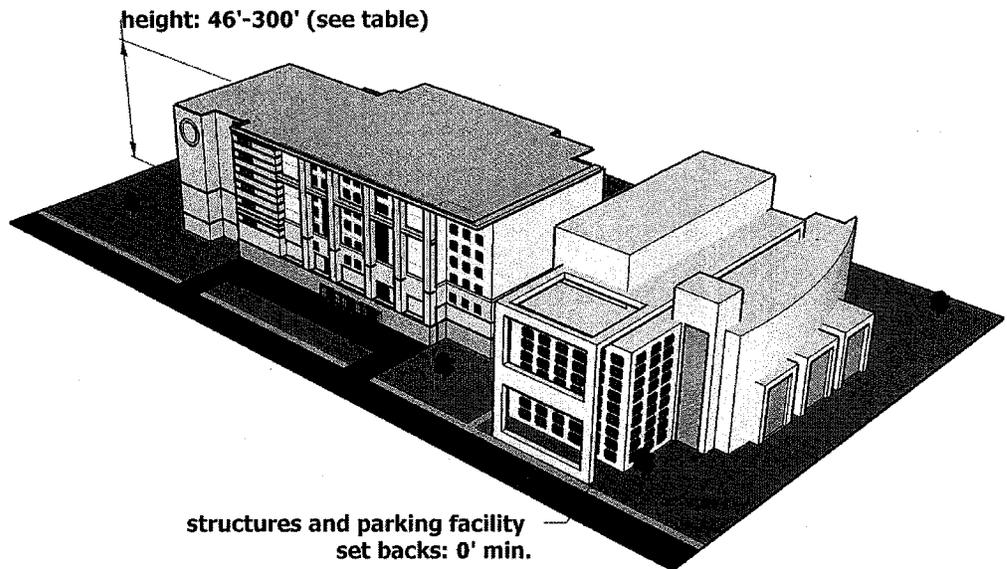
Section 50.21 *Dimensional standards* contains additional regulations applicable to this district.

B. Example.

MU-I Example Building Forms



C. Illustration.



D. Planning commission approval required.

1. A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required for all development and redevelopment, unless the applicant chooses to use the district plan option described below. Development may not proceed until the planning commission has approved the project through planning review or the district plan option;
2. Any proposed rezoning of land from an R district into the MU-I district shall require the preparation of a plan addressing how traffic, parking, and view impacts from the proposed redevelopment will be minimized for those lands on nearby R district properties or mitigated within existing MU-I lands, and planning review shall be based on that plan. The plan shall include any land and facilities within the current MU-I district that will be used to support the use or development of the property to be rezoned, and shall demonstrate how the rezoned and existing institutional properties will functionally relate in terms of parking, circulation, noise, visual impacts, and other applicable development standards;
3. Applicants that do not opt for approval of a district plan shall obtain separate approval for each future expansion or development project through the full development planning review procedures pursuant to 50-37.11 in Article 5, which may include requirements for special use permits or variances. Such approval will require review of vehicle circulation and building scale.

E. District plan option.

1. In an MU-I zone district that contains ten acres or more of land and multiple buildings owned or operated by a single institution, the institution may choose to obtain approval of a district plan from the city as set forth in Article 5;
2. After a district plan that complies with this Section 50-15.4 is approved, all subsequent development proposed by the institution that substantially complies with the density, location and uses of the approved district plan shall be administratively approved by the land use supervisor through the planning review

process in Section 50-37.11 without the need for additional planning commission review or public hearings;

F. Optional district plan requirements.

1. Planning area.

The planning area for the optional district plan shall include all the contiguous areas and properties under the ownership and control of the institution. All maps submitted under this Section also shall depict properties within 500 feet of the planning area boundaries;

2. Plan requirements.

An optional district plan shall, at a minimum, include the following information unless the land use supervisor determines that some elements are not necessary to evaluate the institution's future impacts on surrounding neighborhoods:

- (a) A statement as to whether the institution intends to acquire any additional properties in the surrounding area for conversion to institution uses over the ten year period, and, if so, the general direction of that proposed expansion;
- (b) A plan and description of the maximum amount of development of land and buildings expected to occur within the planning area boundaries within over the next ten years, including:
 - (i) Location of each potential new building or significant expansion of or addition to existing buildings;
 - (ii) Maximum floor area and height of potential new buildings and additions to and expansions of existing buildings;
 - (iii) Any setbacks and buffering from the external planning area boundaries;
 - (iv) Total number and location of parking spaces that will be developed to serve any new development;
 - (v) A statement of any sensitive natural areas or site features that will be protected from development, and the measures to be taken to protect them;
 - (vi) A statement as to any public improvements anticipated to be required from the city or any public or quasi-public entity to serve the proposed development;
- (c) A transportation and parking management element that identifies traffic circulation patterns, entry and exit points for traffic at the planning area boundaries, any anticipated increases or decreases in traffic entering or exiting the planning area, how parking needs and transit service will be accommodated within the planning area and any measures to be used to mitigate traffic and parking impacts on surrounding areas. If the district plan reflects an increase of ten percent or more in building gross square footage or an increase of ten percent or more of employment or enrolled students within the planning areas, the city may require that the institution base this element on a traffic and parking study prepared by a qualified consultant;
- (d) An open space, trail and pedestrian/bicycle circulation element that describes how those features will be integrated into the proposed development and connected to similar features in the surrounding area;
- (e) A massing plan showing the locations of all existing and planned buildings more than 20 feet taller than the maximum height allowed in any adjacent residential zone district, together with any design standards to be applied on those buildings to reduce the degree to which those buildings obstruct views of Lake Superior from adjacent residential neighborhoods;

- (f) A description of any requested variation from the development standards in Article 4 that would otherwise apply to the planning area. Unless varied by the district plan, the provisions otherwise applicable to the MU-I zone district will apply;

G. Community meeting.

The applicant shall hold at least one community meeting to discuss the district plan before submitting the plan for review and approval by the city. Notice of the public meeting shall be mailed to all property owners within 350 feet outside the planning area boundaries, and the city shall provide the applicant with the names and address of those property owners upon request. The applicant shall submit with the application documentation that the community meeting has taken place, the date and time of the meeting, the number of attendees, any issues raised regarding the district plan and any responses to those concerns incorporated in the district plan;

H. Approval criteria.

The city shall approve an optional district plan if it finds that the application meets all of those district plan approval criteria in Section 50-37.4C and in addition meets the following criteria:

1. The district plan complies with all applicable standards of this Chapter, or offers sound reasons for variations from those standards;
2. The district plan mitigates any potential significant adverse impacts to surrounding areas – including but not limited to traffic, parking, and visual obstruction of views of Lake Superior and the St. Louis River to the extent reasonable;

Sufficient public safety, transportation and utility facilities and services are available to serve the planning area at the proposed level of development, while maintaining sufficient levels of service to existing and anticipated development in surrounding areas.

Section 12: That Section 50-16.5 of Chapter 50 be amended as follows:

50-16.5 Form District 4 (F-4) mid-rise community mix.

A. Purpose.

Portions of the London Road and West Duluth study area (Grand Avenue and Central Avenue) study areas either contain auto-oriented development or a mixture of different building types. The F-4 District was created for those areas ~~within West Duluth~~ that are not strictly comprised of mixed use buildings. These areas are often transitional in nature, as the study area switches from commercial to residential. The integration of Corridor Building II and Cottage Commercial II will assist in stepping down the intensity as the district approaches residential neighborhoods. Permitted and special uses are shown in Table 50-19;

| | | Form Districts | | | | | | | | |
|----------------|--------------------------|----------------|-----|-----|-----|-----|-----|-----|-----|-----|
| | | F-1 | F-2 | F-3 | F-4 | F-5 | F-6 | F-7 | F-8 | F-9 |
| Building Types | Main Street Building I | • | • | | • | • | | | | |
| | Main Street Building II | | | • | • | • | | | | |
| | Main Street Building III | | | | | | • | • | | |
| | Corridor Building I | | • | | | | | | | |
| | Corridor Building II | | | | • | • | | | | |
| | Lakefront Corridor | | | | | | | | | • |
| | Corridor Building III | | | | | | | • | | |
| | Cottage Commercial I | | • | | | | • | | | |
| | Cottage Commercial II | | | | • | | | | | |
| | Iconic Building | | • | | • | • | | | • | |

B. Example.

F-4 Example Building Forms



C. Illustration.

See Section 50-22 for illustrations of building types permitted in the F-4 district.

Section 13: That Section 50-18.1 of Chapter 50 be amended as follows:

50-18.1 Natural Resources Overlay (NR-O).

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;

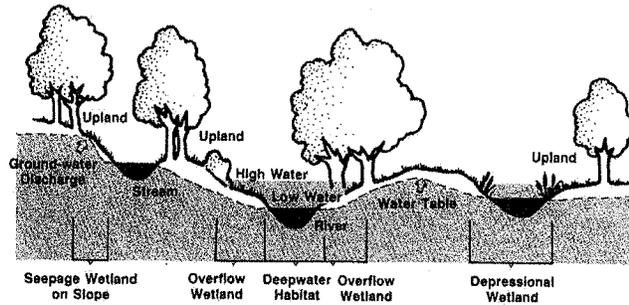
2. NR-O map.

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;
- (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 November 19, 2010;
- (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.

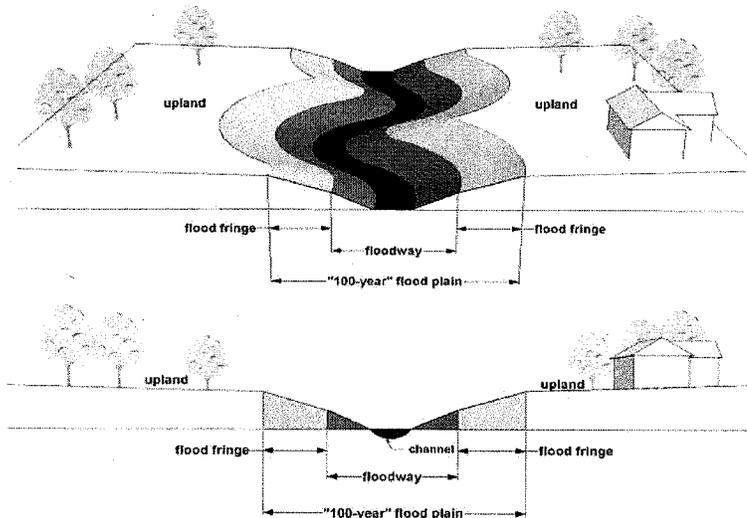


Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

1. 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;

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.

Figure 50-18.1-2: Flood plain, floodway, and flood fringe

1. 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;

2. 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.

3. 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 square feet may be internally floodproofed in accordance with Section C.2(c) 18.1.C.2(c)(~~iv~~) and (~~v~~) (iii and iv) 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 feet 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;
4. 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 feet. A lesser stage increase than 0.5 feet 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;

5. 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 feet of Lake Superior or within 300 feet 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;

1. 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;
2. Standards for shoreland permit.
 - (a) Erosion and sediment control ~~technologies~~ measures 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~~ Naturally vegetative buffers shall be restored to the extent feasible after any project is complete.

3. Dimensional standards.

(a) 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;

(b) Exceptions to dimensional standards.

i. Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1-3: 0 feet setback for grain elevators, cranes, loading bins, and other equipment necessary for loading and unloading, including impervious surface necessary to support these activities;

ii. Public trails no more than ten feet 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;

iii. Properties in Stormwater Zone B, as defined in Section 50-18.1E.3(f), that have been previously developed with 75 percent or greater impervious surface may use one of the following methods to determine building setback:

- Use the impervious surface setback for the shoreland classification as the building setback.
- When principal structures exist on the adjoining lots on both sides of the proposed building site, the structure setbacks can be altered to conform to the adjoining setbacks, provided the proposed building site is not located within the setback required for the naturally vegetative buffer;

iv. Park equipment such as playground structures and ball fields (but not including structures such as garages, storage buildings, toilets or warming houses) may be placed closer than the required structure setback provided they lie outside the area required for the native vegetative buffer;

4. 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 <u>50</u> ft. | 150 <u>75</u> ft. | 200 <u>150</u> 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</i> | 25 ft. | N/A | N/A |
| <i>Impervious Surfaces in the Shore Impact Zone</i> | 50 ft. | 75 <u>50</u> ft. | 100 <u>75</u> 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. | | | |

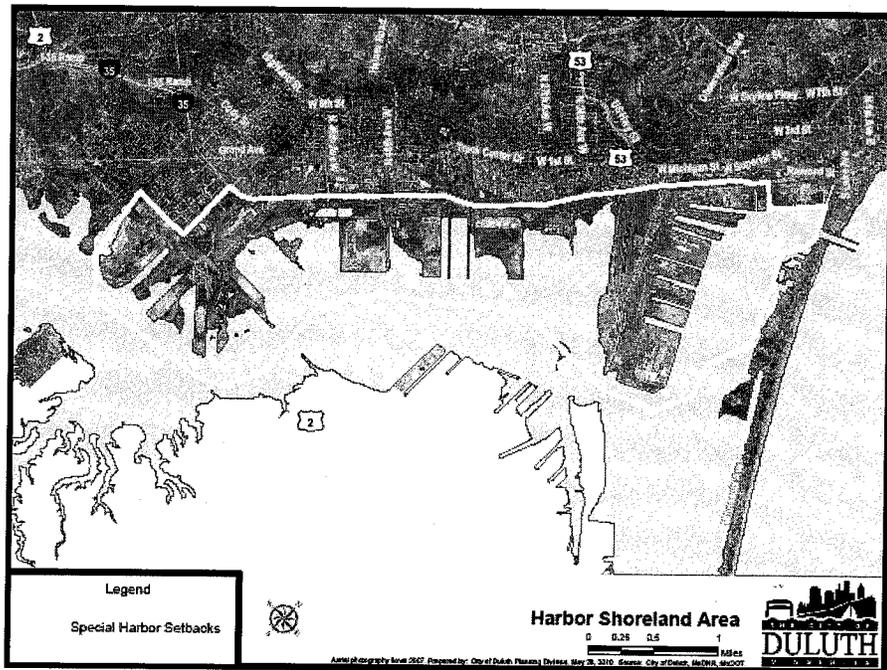


Figure 50-18.1-3

- (c) 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, stormwater 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;

5. 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 feet 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;
- (c) After construction is completed, the owner of the property shall be responsible for any continued need for erosion and sediment control and restoration on the property.

6. Nonconforming lots of record.

Lots of record in the office of the county recorder on November 19, 2010, 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. Stormwater management and erosion control.

1. Goals and purpose.

- (a) The federal Clean Water Act (CWA) requires that municipal stormwater discharges be authorized under the national pollution discharge elimination system (NPDES). The city is allowed to discharge its stormwater 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 stormwater 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;

2. 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 | | | | |
|---|---------------------------------------|---|--|-----------------|
| Development Plan Measures Required ▼ | 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 |
| 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 Stormwater Pollution Prevention Plan (SWPPP) meeting MPCA NPDES Permit requirements for Construction Activity | | | | ✓ |
| MPCA NPDES/State Disposal System Construction Stormwater 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 stormwater 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 stormwater 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;

3. 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 stormwater 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.~~ If the site contains an existing impervious surface area greater than one acre, the drainage report must include a determination of the current total suspended solids removal across the entire site. If the current TSS removal is below 50%, the drainage report must include an evaluation of the feasibility of increasing the TSS removal to 50% 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 stormwater 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 percent 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) Stormwater flow volume reduction.

Stormwater flow volume reduction shall be provided to the maximum extent practicable. Refer to the Minnesota Stormwater 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 1/2 inch 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 percent 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 stormwater flows quickly to Lake Superior and the St. Louis River. This bluff line designation is shown on the NR-O map. The stormwater 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 |

(g) General design criteria.

- (i) New minor system drainage systems shall be designed to efficiently convey the peak discharge rates for a ten-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 stormwater management systems for any new or redevelopment project shall maintain at least ~~three~~ two feet 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 percent of all newly added impervious surface shall ~~be~~ have its runoff directed to the water quality treatment area. If it is impractical to direct 95 percent of the added impervious surface to water quality area, alternate methods may be used in combination so long as 95 percent 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 stormwater 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 stormwater enters a major system;

- (x) Adequate measures shall be taken to prevent uncontrolled drainage across lot lines;
4. General stormwater restrictions.
- (a) Applying fertilizer, pesticides or any chemicals on impervious surfaces, within any part of stormwater drainage system or any drainage way, within 25 feet 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;
5. 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 stormwater 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. Stormwater treatment facilities and ponds shall be in common space and shall be owned and maintained by the developer or the owners of the development. Stormwater treatment facilities shall not be located in the public right-of-way;
 - (c) Owner inspection and maintenance.
 - (i) Stormwater 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 stormwater 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 stormwater 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 stormwater facilities. Work must be completed within three months of annual inspection.

Section 14: That Section 50-18.3 of Chapter 50 be amended as follows:

50.18.3 Historic Resources Overlay (HR-O).

A. Purpose.

The purpose of this Section 50-18.3 is to preserve, protect and promote any areas, places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value. The Historic Resources Overlay:

1. Safeguards the heritage of the city by preserving properties that reflect elements of the city's cultural, social, economic, political, engineering, visual or architectural history;
2. Protects and enhances the city's appeal and attraction to residents, visitors and tourists, while enhancing its economic viability through the protection and promotion of its unique character as related to its history and heritage;
3. Enhances the visual and aesthetic character, diversity and interest of the city;
4. Fosters civic pride in the beauty and notable accomplishments of the past;
5. Promotes the preservation and continued use of historic properties for the education and general welfare of the people of the city;

B. Designation of historic resources.

1. Through the process for designating historic resources in Section 50-37.8, or its predecessor ordinance previously codified as Chapter 28A of the City Code, the historic preservation commission has designated:
 - (a) Two historic preservation districts: the Duluth Civic Center Historic District, and the Duluth State Normal School Historic District, whose boundaries are shown on Exhibits 50-18.3-1 and 50-18.3-2; and
 - (b) Those designated historic preservation landmarks listed on Exhibit 50-18.3-3;
2. The historic preservation commission and planning commission may from time to time recommend, and the council may approve, additional historic preservation districts or landmarks pursuant to Section 50-37.8;

C. Review of construction/demolition activities.

Within those designated historic preservation districts shown on Exhibit 50-18.3-1 and those historic preservation landmarks listed on Exhibit 50-18.3-2:

1. Construction and demolition activities, including all street and utility activities, shall be approved pursuant to Section 50-37.14;
2. The issuance of city permits to do any of the following shall be approved pursuant to Section 50-37.14:

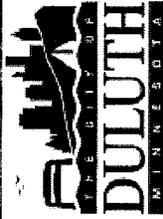
- (a) Remodel, repair or alter in any manner that will change the exterior appearance;
- (b) New construction, including parking facilities;
- (c) Move a building;
- (d) Change the nature or appearance of a designated historic preservation landmark or district, including landscape features;
- (e) Demolition in whole or in part;

D. Emergency repair.

In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the building official may approve the repair of only those items needed to ensure safety. Such repairs shall be limited to those necessary to correct the safety emergency. In the case of a permit issued pursuant to this subsection D, the building official shall require that the repairs be made in conformance with the U.S. secretary of interior's recommended standards for historic preservation projects and adopted historic preservation guidelines for the landmark or district to the extent possible. In addition, the building official shall immediately notify the historic preservation commission of the action and specify the facts or conditions constituting the emergency situation;

E. Building code enforcement.

This Section 50-18.3 is also intended to encourage the sensitive rehabilitation, restoration, stabilization and preservation of historic buildings throughout the city. These rehabilitation and preservation efforts should provide for the upgrading and maintenance of the safety features of the building or structure to provide a practical level of safety to the public and surrounding properties. While ensuring this increased level of public safety, the enforcement authorities are encouraged to be open to acceptable alternative solutions and alternative compliance concepts, where practical, that will permit the continued use of existing buildings and structures without creating overly restrictive financial burdens on owners or occupants. Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure.



**Exhibit 50-18.3-2
Duluth Historic Preservation Districts Map 2 of 2**



Aerial photography from 2007. Prepared by: City of Duluth Planning Division, August 21, 2009. Source: City of Duluth, MNDOT.

Legend

-  Duluth State Normal School Historic District

| 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 | 12/09/1974 | 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. 4 | 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 #709 | 215 N. 1 st Ave. E. | Building | | 6/4/1999 |
| Irving School | 101 N 56th Ave W | Building | 11/20/1992 | 4/11/1993 |

| Name | Location | Type | Designation Date | |
|---|---|-----------|------------------|------------|
| | | | National | Duluth |
| 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 (Orpheum) | 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 15: That Section 50-19 of Chapter 50 be amended as follows:

50-19 Permitted use table.

50-19.1 General.

Table 50-19.8, use table, lists land uses and indicates whether they are allowed by right or with a special use permit, or prohibited in each base zone district. The use table also includes references to any additional regulations applicable to that use.

50-19.2 Permitted uses.

A "P" in a cell of the use table indicates that the land use is allowed by right in that base zone district, subject to compliance with the use-specific standards referenced in the final column of the use table. A "U" in a cell of the use table indicates that the land use is allowed by right in that base district on any floor of the structure other than the ground floor, subject to compliance with the use-specific standards referenced in the final column of the table. A "P" or a "U" in the R-P zone district column indicates that the use is permitted, ~~or permitted above the ground floor,~~ only if it ~~was~~ is included in a plan or plan amendment for the R-P district. Permitted uses are subject to all other applicable requirements of this UDC, including those set forth in Article 4, *Development Standards*.

50-19.3 Special uses.

An "S" in a cell of the use table indicates that the land use is allowed in that base zone district only upon approval of a special use permit as described in Section 50-37.10 and compliance with any use-specific standards referenced in the final column of the use table. Uses subject to a special use permit are subject to all other applicable requirements of this UDC, including those set forth in Article 4, *Development Standards*. In addition, council may approve interim uses through the procedure described in Section 50-37.10.

50-19.4 Prohibited uses.

A blank cell in the use table indicates that the land use is prohibited in that base zone district.

50-19.5 Overlay districts provisions govern.

When a property is located within the boundaries of an overlay district, the provisions for that overlay district prevail over those in the base zone district. For example, if a use is prohibited in the base zone district where the property is located, but is a permitted use in an overlay district applicable to the same property, then the use is allowed on that property. On the other hand, if a use is listed as a permitted use in the base zone district but is listed as a special use in an overlay zone district applicable to the same property, then the use is a special use for that property. Where a property is located in more than one overlay district, then the most restrictive use provision in those overlay zone districts shall apply to the property.

50-19.6 Use-specific standards.

When a land use is a permitted or a special use in a zone district, there may be additional standards that apply to that specific use. Those additional standards are cross-referenced in the last column of the use table (use-specific standards). The cross-referenced standards appear in subsection 50-20 immediately following the use table.

50-19.7 Unlisted uses.

When a proposed land use is not explicitly listed in the use table, the land use supervisor shall determine whether or not it is included in the definition of a listed use or is so consistent with the size, scale, operating characteristics and external impacts of a listed use that it should be treated as the

same use. Any such interpretation shall be made available to the public and shall be binding on future decisions of the city until the land use supervisor makes a different interpretation.

50-19.8 Permitted use table.

TABLE 50-19.8: USE TABLE

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1
 NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

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

P = Permitted Use
 U = Upper Story Only
 S = Special Use
 A = Accessory Use

| Zone District Name | Residential | | | | Mixed Use | | | | Form | | | | | | | Special | Use-Specific Standards | | | | | | | | | |
|---|-------------|------|------|------|-----------|-----|-----|------|------|------|------|------|-----|-----|-----|---------|------------------------|-----|-----|-----|-----|-----|-----|-----|----------|-----|
| | BC | RR-1 | RR-2 | RR-1 | R-1 | R-2 | R-P | MU-N | MU-C | MU-1 | MU-B | MU-W | F-1 | F-2 | F-3 | | | F-4 | F-5 | F-6 | F-7 | F-8 | F-9 | L-G | L-W | P-1 |
| LAND USE CATEGORY | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RESIDENTIAL USES | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Household Living | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Dwelling, one-family | P | P | P | P | P | P | P | P | | | | | U | U | U | U | U | U | U | U | U | | | | | |
| Dwelling, two-family | | | | | P | P | P | P | | | | | U | U | U | U | U | U | U | U | U | | | | 50-20.1A | |
| Dwelling, townhouse | | | | | S | P | P | P | | | | P | | | | | | | | | | | | | 50-20.1B | |
| Dwelling, multi-family | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | | | | 50-20.1C | |
| Dwelling, live-work | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | | | | | |
| Group Living | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Assisted living facility (elderly) | | | | | S | P | P | P | P | P | P | P | U | P | U | P | P | U | U | P | P | | | | 50-20.D | |
| Co-housing facility | | | | | S | S | P | P | | | | | | | | | | | | | | | | | | |
| Residential care facility/assisted living (6 or fewer) | | P | P | P | P | P | P | P | | | | | U | P | U | P | P | U | U | P | P | | | | 50-20.D | |
| Residential care facility/assisted living (7 or more) | | | | | S | P | P | P | P | P | P | P | U | P | U | P | P | U | U | P | P | | | | 50-20.D | |
| Rooming house | | | | | | S | P | P | P | P | P | P | U | P | U | P | P | U | U | P | P | | | | 50-20.E | |
| PUBLIC, INSTITUTIONAL AND CIVIC USES | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Community and Cultural Facilities | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bus or rail transit station | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | | | | | |
| Cemetery or mausoleum | S | S | S | S | S | S | P | S | S | S | S | S | | | | | | | | | | | | | S | |

TABLE 50-19.8: USE TABLE

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

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

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

P = Permitted Use
 U = Upper Story Only
 S = Special Use
 A = Accessory Use

| Zone District Name | Residential | | | | | | Mixed Use | | | | | | Form | | | | | | Special | | | Use-Specific Standards | | | |
|---|-------------|------|------|-----|-----|-----|-----------|------|------|------|------|-----|------|-----|-----|-----|-----|-----|---------|-----|-----|------------------------|-----|-----|--|
| | R-C | R-B1 | R-B2 | R-1 | R-2 | R-P | MU-N | MU-C | MU-I | MU-B | MU-W | F-1 | F-2 | F-3 | F-4 | F-5 | F-6 | F-7 | F-8 | F-9 | F-G | | F-W | F-L | |
| LAND USE CATEGORY | | | | | | | | | | | | | | | | | | | | | | | | | |
| Club or lodge (private) | | | | | | S | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| Government building or public safety facility | | P | P | S | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| Museum, library, or art gallery | | | | S | S | P | P | P | S | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| Park, playground, or forest reserve | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| Religious assembly | | P | P | S | P | P | P | P | S | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| Educational Facilities | | | | | | | | | | | | | | | | | | | | | | | | | |
| Business, art, or vocational school | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| School, elementary | | P | P | P | P | P | P | P | | | U | P | U | P | P | U | U | U | U | U | | | | | |
| School, middle or high | | S | S | S | S | P | S | S | | | U | P | U | P | P | U | U | U | U | U | | | | | |
| University or college | | | | | | | | | | P | | | | | | | | | | | | | | | |
| Health Care Facilities | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hospital | | | | | | | | | | | | | | | | | | | | | | | | | |
| Medical or dental clinic | | | | | S | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| Nursing home | | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | |
| Other institutional support uses not listed in this table | | | | | | | | | | SP | | | | | | | | | | | | | | | |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agriculture and Animal-Related | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agriculture, general | P | P | | | | | | | | | | | | | | | | | | | | | | | |

TABLE 50-19.8: USE TABLE

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

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

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

P = Permitted Use
 U = Upper Story Only
 S = Special Use
 A = Accessory Use

| LAND USE CATEGORY | Residential | | | | Mixed Use | | | | Form | | | | | | | Special | | | Use-Specific Standards | | | | | | | |
|---|-------------|------|------|-----|-----------|-----|------|------|------|------|------|-----|-----|-----|-----|---------|-----|-----|------------------------|-----|-----|-----|-----|-----|-------------|-------------|
| | R-C | RH-1 | RH-2 | R-1 | R-2 | R-P | MU-N | MU-C | MU-I | MU-B | MU-W | F-1 | F-2 | F-3 | F-4 | F-5 | F-6 | F-7 | | F-8 | F-9 | I-G | I-W | P-1 | | |
| Agriculture, urban | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Kennel | S | S | | | | | S | S | P | | | | | | | | | | | | | | | | | |
| Riding stable | S | S | S | | | | | | | S | | | | | | | | | | | | | | S | | |
| Veterinarian or animal hospital | S | S | | | | | P | P | P | P | P | P | P | P | P | P | | | | | | | | | 50-20.3.R-U | |
| Food, Beverage, and Indoor Entertainment | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult entertainment establishment | | | | | | | | | | | | | | | | | | | | | | | | | | 50-20.3.A |
| Convention or event center | | | | | | | P | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | 50-20.3.H |
| Indoor entertainment facility | | | | | | | P | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | |
| Restaurant (no drive-in/drive-through) | | | | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | 50-20.3.N.P |
| Restaurant (with drive-in/drive-through) | | | | | | | P | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | 50-20.3.O.Q |
| Theater | | | | | | | P | P | | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | |
| Lodging | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Hotel or motel | | | | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | |
| Bed and breakfast | | | | | | | S | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | 50-20.3.F |
| Seasonal camp or cabin | P | P | | | | | | | | P | P | | | | | | | | | | | | S | | | 50-20.3.P.S |
| Offices | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bank | | | | | | | S | P | P | P | S | P | P | P | P | P | P | P | P | P | P | P | | | | 50-20.3.E |
| Office | | | | | | | S | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | 50-20.3.K.M |
| Data Center | | | | | | | S | P | P | P | S | P | P | P | P | P | P | P | P | P | P | P | | | | |

TABLE 50-19.8: USE TABLE

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

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

NOTE: P and S uses only allowed. Uses listed in the R-P district are only allowed if included in an approved District Plan regulating plan for the area

P = Permitted Use
 U = Upper Story Only
 S = Special Use
 A = Accessory Use

| Zone District Name | Residential | | | | | | Mixed Use | | | | | | Form | | | | | | Special | | Use-Specific Standards | | | |
|--|-------------|------|------|-----|-----|-----|-----------|------|------|------|------|-----|------|-----|-----|-----|-----|-----|---------|-----|------------------------|-----|-----|-----------|
| | R-C | RR-1 | RR-2 | R-1 | R-2 | R-P | MU-N | MU-G | MU-I | MU-B | MU-W | F-1 | F-2 | F-3 | F-4 | F-5 | F-6 | F-7 | F-8 | F-9 | | I-G | I-W | P-I |
| LAND USE CATEGORY | | | | | | | | | | | | | | | | | | | | | | | | |
| Manufacturing, light | | | | | | | | | P | P | | | | | | P | | | | | P | | | 50-20.4.F |
| Manufacturing, heavy | | | | | | | | | | | | | | | | | | | | | P | | | |
| Manufacturing, hazardous or special | | | | | | | | | | | | | | | | | | | | | S | | | 50-20.4.G |
| Mining, extraction and storage | | | | | | | | | | | | | | | | | | | | | S | S | | 50-20.4.H |
| Water-dependent manufacturing, light or heavy | | | | | | | | | | | | | | | | | | | | | | P | | |
| Transportation-Related | | | | | | | | | | | | | | | | | | | | | | | | |
| Airport and related facilities | S | | | | | | | | | | | | | | | | | | | | P | | | 50-20.4.A |
| Railroad yard or shipyard and related facilities | | | | | | | | | | | | | | | | | | | | | P | P | | |
| Truck freight or transfer terminal | | | | | | | | | | P | | | | | | | | | | | P | P | | |
| Utilities | | | | | | | | | | | | | | | | | | | | | | | | |
| Electric power or heat generation plant | | | | | | | | | | | | | | | | | | | | | P | P | | |
| Electric power transmission line or substation | S | S | S | S | S | P | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | 50-20.4.C |
| Major utility or wireless telecommunication facility | S | S | S | S | S | P | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | 50-20.4.E |
| Radio or television broadcasting tower | S | | | | | | | | | S | | | | | | | | | | | S | S | | 50.20.4.I |
| Solar, geothermal, or biomass power facility (primary use) | S | | | | | P | S | S | P | | | | | | | | | | | | P | S | | |
| Water or sewer pumping stations/reservoirs | S | S | S | S | S | P | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | |
| Water or sewer treatment facilities | | | | | | | | | | | | | | | | | | | | | P | P | | |

TABLE 50-19.8: USE TABLE

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

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

NOTE: P and S uses only allowed in the R-P district are only allowed if included in an approved District Plan regulating plan for the area

P = Permitted Use
 U = Upper Story Only
 S = Special Use
 A = Accessory Use

| Zone District Name | Residential | | | | Mixed Use | | | | Form | | | | | | Special | Use-Specific Standards | | | | | | | | | |
|--|-------------|------|-----|-----|-----------|------|------|------|------|------|-----|-----|-----|-----|---------|------------------------|-----|-----|-----|-----|-----|------|------|------|-----------|
| | RB-1 | RB-2 | R-1 | R-2 | RP | MU-N | MU-C | MU-1 | MU-B | MU-W | F-1 | F-2 | F-3 | F-4 | | | F-5 | F-6 | F-7 | F-8 | F-9 | F-10 | F-11 | F-12 | |
| LAND USE CATEGORY | | | | | | | | | | | | | | | | | | | | | | | | | |
| Wind power facility (primary use) | S | | | | | | | S | S | | | | | | | | | | | | | P | S | | 50-20.4.M |
| Waste and Salvage | | | | | | | | | | | | | | | | | | | | | | | | | |
| Junk and salvage services | | | | | | | | | | | | | | | | | | | | | | | | | 50-20.4.D |
| Recycling collection point (primary use) | | | | | | | | S | S | S | | | | | | | | | | | | P | P | | |
| Solid waste disposal or processing facility | S | | | | | | | | S | | | | | | | | | | | | | S | S | | 50-20.4.J |
| Wholesale Distribution and Storage | | | | | | | | | | | | | | | | | | | | | | | | | |
| Storage warehouse | | | | | | | | | | P | | | | | | | | | | | | P | | | 50-20.4.K |
| Wholesaling | | | | | | | | | | P | | | | | | | | | | | | P | | | 50-20.4.L |
| Bulk storage not listed elsewhere | | | | | | | | | | | | | | | | | | | | | | | | | |
| Water-dependent bulk storage or wholesaling not listed elsewhere | | | | | | | | | | | | | | | | | | | | | | | P | | |
| ACCESSORY USES | | | | | | | | | | | | | | | | | | | | | | | | | |
| Accessory agriculture roadside stand | A | A | | | | | | | | | | | | | | | | | | | | | | A | 50-20.5.A |
| Accessory bed and breakfast | A | A | A | A | A | A | A | A | A | | | | | | | | | | | | | | | | 50-20.5.B |
| Accessory boat dock, residential | A | A | A | A | A | A | A | A | A | | | | | | | | | | | | | | | | 50-20.5.C |
| Accessory caretaker quarters | | | | | | | | | | A | | | | | | | | | | | | | A | A | A |
| Accessory communications tower for private use | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | |
| Accessory day care facility | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | |
| Accessory dwelling unit | A | A | A | A | A | A | A | A | A | | | | | | | | | | | | | | | | 50-20.5.D |

Section 16: That Section 50-20.1 of Chapter 50 be amended as follows:

50-20.1 Residential uses.

A. ~~Two-family dwelling. Dwelling, two-family~~

In the R-1, R-2 and R-P districts, two-family dwellings shall be designed to protect and reflect the character of one-family residences as set forth below:

1. Minimum size. ~~Each~~ A two-family dwelling shall contain at least 1,800 sq. ft. of floor area (not including garages or utility rooms or basement or attic space not used for living quarters);
2. ~~Single front entrance. No more than one entrance shall be permitted on the front façade of the building;~~
3. Exterior stairways. No exterior stairways with a total vertical rise greater than five ft. shall be permitted.

B. ~~Townhouse dwelling. Dwelling, townhouse~~

In the R-1 district each dwelling shall exhibit the characteristics of a series of one-family dwellings that are arranged in an attached side by side fashion and shall be designed to protect the character of one-family residences as set forth below:

1. Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 feet of street frontage;
2. Variation of exterior walls. No more than two adjacent townhouse units may have front facades in the same vertical plane. Where a variation in front façade plane is required, the variation shall be a minimum of three feet;
3. Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous or evergreen trees meeting the minimum size requirements of Section 50-25.2 shall be planted in required front and back yard areas on an average spacing of 20 feet;
4. Screening of refuse areas. Where refuse storage areas are directly viewable from any exterior lot line at a height of six feet above grade, they shall be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of six feet, designed so that at least 75 percent of the refuse area is obscured by opaque materials when viewed at an angle perpendicular to the screening materials;

C. ~~Dwelling, multi-family.~~

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

D. ~~Residential care facility/assisted living Facility (Elderly)~~

1. ~~In the R-1 district, the facility shall contain 12 or fewer habitable units.~~
2. In the F-2, F-4, F-5, and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

E. ~~Rooming house.~~

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor.

Section 17: That Section 50-20.3 of Chapter 50 be amended as follows:

50-20.3 Commercial uses.

A. Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

B. Agriculture, general.

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

C. Automobile and light vehicle repair and service.

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

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

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

E. Bank.

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

F. Bed and breakfast.

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

1. Have no more than 12 habitable units;
2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;

5. Contain a minimum of 1,500 square feet 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 six days per year and shall be restricted to the period of October 15 through June 15;
7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;

G. Building materials sales.

1. Outdoor storage is limited to ten percent 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 six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;
3. A landscaped earth berm may be used instead or in combination with a required fence or wall;

H. Convention center

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

I. Day care facility, small and large

1. ~~In the R-1 district, day care facilities are limited to those serving 14 or fewer persons;~~
2. 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 percent of the lot or parcel area;

J. Filling station.

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

K. Grocery store, small and large

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

L. Mini-storage facility.

This use shall comply with the following standards:

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

M. Office.

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

N. Other outdoor entertainment or recreation use not listed.

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

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

1. In the MU-C district, any parking garage structure shall be located at least 50 ft. from any RC, RR or R district.
2. In F-1, F-2, F-3, F-4, F-5, F-6, F-8 and F-9 districts, only parking lots (not parking garages) are permitted allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses.
3. ~~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.~~

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

In the R-2 district, no use shall exceed 5,000 square feet in gross floor area;

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

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

R. Retail Sales, small and large

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

S. Seasonal camp or cabin.

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

T. Tourist or trailer camp.

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

U. Veterinarian or animal hospital.

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

Section 18: That Section 50-20.4 of Chapter 50 be amended as follows:

50-20.4 Industrial uses.

A. Airport and related facilities.

1. In the R-C district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport and only on land on which an airport was established on November 19, 2010;

2. In the I-G district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport;

B. Contractor's shop and storage yard.

In the F-5 zone, this use is permitted only in the West Superior study area;

C. Electric power transmission line or substation.

The following standards shall apply, in addition to regular requirements of the special use permit process:

1. General corridor criteria:
 - (a) The public need for the route and facility as specifically proposed shall be demonstrated;
 - (b) Where possible, lines shall avoid existing and potential urban density residential neighborhoods;
 - (c) The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;
 - (d) When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion that would create sedimentation and pollution problems; areas of unstable soils that would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;
 - (e) Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;
2. Design criteria:
 - (a) If a proposal would unduly harm adjacent property or property values, alternatives must be evaluated to determine whether a feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;
 - (b) All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;
 - (c) Lines shall meet or exceed the National Electric Safety Code;
 - (d) Electromagnetic noise and interference with radio and television reception, as well as audible hum outside the line right of way, shall be minimized;
 - (e) The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses,

shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

D. Junk and salvage services.

1. Junk and salvage service operations and facilities shall comply with all state and Western Lake Superior Sanitary District requirements;
2. No junk or salvage service facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined or shown in Section 50-18.1, *Natural Resources Overlay*;
3. There shall be no burning of materials;

E. Major utility or wireless telecommunications facility.

1. Policy.

Overall policy and desired goals for special use permits for wireless telecommunications facilities. In order to ensure that the placement, construction and modification of wireless telecommunications facilities protects the city's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section 50-20.4.E, the city has adopted an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- (a) Requiring a special use permit for any new, co-location or modification of a wireless telecommunications facility;
- (b) Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;
- (c) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;
- (d) Promoting and encouraging, wherever possible, the sharing and co-location of wireless telecommunications facilities among service providers;
- (e) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances;
- (f) That in granting a special use permit, the city has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the city;

2. Applicability and exemptions.

- (a) Except as otherwise provided by subsection (b) below, no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities after July 25, 2010, without having first obtained a special use permit for wireless telecommunications facilities. All legally permitted wireless telecommunications facilities, constructed as permitted, existing on or before July 25, 2010, shall be allowed to continue as they presently exist, provided

however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section 50-20.4.E. Any repair and maintenance of a wireless facility does not require an application for a special use permit;

- (b) The following shall be exempt from the requirements of this Section 50-20.4.E:
 - (i) The city's fire, police, department of transportation or other public service facilities owned and operated by the city or those owned and operated by county, the state or federal government;
 - (ii) Any facilities expressly exempt from the city's siting, building and permitting authority;
 - (iii) Over-the-air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception;
 - (iv) Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications;
 - (v) Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower;

3. Location standards.

- (a) Wireless telecommunications facilities shall be located, sited and erected in accordance with the following priorities, (i) being the highest priority and (vi) being the lowest priority:
 - (i) On existing towers or other structures on city owned properties;
 - (ii) On existing towers or other structures on other property in the city;
 - (iii) A new tower on city owned properties;
 - (iv) A new tower on properties in special purpose districts;
 - (v) A new tower on properties in mixed use or form districts;
 - (vi) A new tower on properties in residential districts;
- (b) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site;
- (c) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the city why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship;
- (d) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting

a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application;

- (e) The city may approve any site located within an area in the above list of priorities, provided that the city finds that the proposed site is in the best interest of the health, safety and welfare of the city and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood;

4. Other standards and requirements.

The following requirements are applicable to all wireless telecommunications facilities.

- (a) To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate state or federal agency rules or regulations, then the holder of such special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards;
- (b) To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security are changed or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity;
- (c) The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may be required by the city. Facilities located within the migratory bird flight path shall utilize stealth or concealment technology;
- (d) All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the city and state building and electrical codes, where appropriate;
- (e) At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion;
- (f) All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the city, state, or federal government, including but not limited to the most recent editions of the ANSI Code, as well as accepted and responsible workmanlike industry practices and recommended practices of

the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply;

- (g) A holder of a special use permit granted under this Section 50-20.4.E shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the city or other governmental entity or agency having jurisdiction over the applicant;
- (h) The holder of a special use permit shall notify the city of any intended modification of a wireless telecommunication facility and shall apply to the city to modify, relocate or rebuild a wireless telecommunications facility;
- (i) All new towers shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
 - (i) The foreseeable number of FCC licenses available for the area;
 - (ii) The kind of wireless telecommunications facilities site and structure proposed;
 - (iii) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
 - (iv) Available space on existing and approved towers;
- (j) New guyed towers are prohibited;
- (k) Tower condition inspections shall be conducted every three years for a guyed tower and five years for monopoles and self-supporting towers. All inspections shall be documented in a report such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report shall be provided to the building official within two days of a request by the city for such records;
- (l) The owner of a proposed new tower, and the owner's successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
 - (i) Respond within 60 days to a request for information from a potential shared-use applicant;
 - (ii) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
 - (iii) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference;
- (m) No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed that a height that shall permit operation without required artificial lighting of any kind in accordance with city, state or federal statute, law, code, rule or regulation;

- (n) No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed 75 feet in height within the migratory bird flight path;
- (o) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law;
- (p) Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Section 50-20.4.E;
- (q) Wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with. Transmitters and telecommu-nications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them;
- (r) Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted;
- (s) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus ten percent of the height of the tower or structure, or the existing setback requirement of the underlying zone district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated;
- (t) The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the city a bond, or other form of security acceptable to the city as to type of security and the form and manner of execution, in an amount that shall be set in accordance with Section 31-6(a) of the City Code, and with such sureties as are deemed sufficient by the city to assure the faithful performance of the terms and conditions of this Section 50-20.4.E and conditions of any special use permit issued. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit;
- (u) A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain for the duration of the special use permit commercial general liability insurance for personal injuries, death and property damage, and umbrella insurance coverage in the following amounts: \$1,000,000 per occurrence/\$2,000,000 aggregate;

- (i) For a wireless telecommunications facility on city property, the policy shall specifically include the city and its officers, employees, agents and consultants as additional insureds. The amounts of such coverage shall be established as a condition of the special use permit and shall be consistent with the liability limits provided in MSA 466.04;
 - (ii) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A;
 - (iii) The insurance policies shall contain an endorsement obligating the insurance company to furnish the building official with at least 30 days prior written notice in advance of the cancellation of the insurance;
 - (iv) Renewal or replacement policies or certificates shall be delivered to the building official at least 15 days before the expiration of the insurance that such policies are to renew or replace;
 - (v) No permit necessary to the site preparation or construction of a permitted wireless telecommunications facilities may be issued until the holder of the special use permit shall file with the city building official a copy of the required policies or certificates representing the insurance in the required amounts;
 - (vi) Notwithstanding the requirements noted in this subsection no insurance shall be required in those instances where the city, county, state or a federal agency applies for and secures a special use permit for wireless telecommunications facilities.
- (v) All special use permits approved for wireless telecommunication facilities located on city property after July 25, 2010, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the city, and its officers, employees, agents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city. An indemnification provision will not be required in those instances where the city itself applies for and secures a special use permit for wireless telecommunications facilities;

5. Additional provisions for special use permit review.

In addition to those standards and criteria in Section 50-37.1 *Common procedures* and Section 50-37.10 *Special and interim use permits*, each application for a special use permit for a wireless telecommunications facility shall comply with the following additional standards:

- (a) The city may hire any consultant or expert necessary to assist the city in reviewing and evaluating an application for a special use permit for a wireless telecommunications facility, including the construction and modification of the site, once permitted, and any site inspections. An

applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation and consultation to the city in connection with the review of any application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be set in accordance with Section 31-6(a) of the City Code;

- (b) The placement of the deposit with the city shall precede the pre-application meeting. The city will maintain a separate escrow account for all such funds. The city's consultants shall invoice the city for its services related to the application. The total amount of the funds needed for the review of the application may vary depending on the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the city, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the city before any further action or consideration is taken on the application. In the event that the amount held in escrow by the city is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the applicant, be refunded to the applicant;
- (c) The land use supervisor may administratively approve an application to co-locate on an existing tower or other structure or a modification at an existing site, as long as there is no proposed increase in the height of the tower or structure or attachments to the tower or structure;
- (d) At any stage prior to issuing a special use permit the city may require such additional information as it deems necessary to confirm compliance with this UDC;
- (e) The city may refer any application or part of an application to any advisory, other committee or commission for a non-binding recommendation;
- (f) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:
 - (i) Conflict with safety and safety-related codes and requirements;
 - (ii) Conflict with the historic nature or character of a neighborhood or historical district;
 - (iii) The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation;
 - (iv) The placement and location of wireless telecommunications facilities that would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the city or employees of the service provider or other service providers;
 - (v) Conflicts with the provisions of this Section 50-20.4.E;
 - (vi) The failure of the applicant to provide additional requested information in sufficient time for the city to comply with the requirements of MSA 15.99;
- (g) Except for necessary building permits, once a special use permit has been granted, no additional zoning approvals shall be required by the city for the wireless telecommunications facilities covered by the special use permit;

(h) In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters and licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the city may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site;

6. Relief and appeal.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Section 50-20.4.E may request relief, waiver or exemption in the submitted application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. The requested relief, and any relief granted by the city, may be temporary or permanent, partial or complete. The burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the city in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the city, its residents and other service providers;

F. Manufacturing, light.

In the MU-I district, this use is permitted provided it is related to and incidental to a permitted institutional primary use on the property;

G. Manufacturing, hazardous or special.

1. In permitting any such uses, the city may impose appropriate conditions and safeguards, including performance bonds, to protect the health, safety and welfare of the residents of the community and the environment;
2. All future use of the land and structures erected on the land shall be governed by and limited to the approved plans and conditions imposed by the city. Any subsequent change or addition to the plan or use shall be submitted for approval as if it were a new use;
3. Without limitation on other valid reasons for denying approval for such a use, the city may deny approval if it finds that the use would have negative environmental, health or safety impacts on the community or have little or no contiguity with existing or programmed development in the affected area;

H. Mining, extraction, and storage.

1. No special use permit for this use shall be issued until the city determines that:
 - (a) The city engineer has certified that the proposed extraction, removal or processing, and the proposed finished grades on the property, will not endanger the function of any public highway or utility easement of the city. If the city engineer proposes conditions and safeguards that are necessary to protect adjoining property, both city and privately owned, those conditions and safeguards have been included in the application or agreed to in writing by the applicant;
 - (b) The proposed excavation, removal or processing shall not result in the creation of any hazardous sharp pits, steep banks, soil erosion, drainage or

- sewerage problems or other conditions that would ultimately impair the use of the property in accordance with the general purpose and intent of the zoning regulations for that district;
- (c) Finished slopes in the excavated area shall not exceed one foot vertical rise to two feet of run except in the case of dams or swimming pools, or where specifically approved in writing by the planning commission;
 - (d) No stagnant water shall be permitted to result from such removal, excavation or processing;
2. No earthmoving, processing or excavating equipment or trucks that are inoperative for more than 30 days shall be stored in the open on the property;
 3. Upon completion of the excavation, processing or removal of earth materials in accordance with the approved proposed contour lines, the premises shall be cleared of all debris and, unless the excavated area is beneath water, a top layer of soil that will sustain the growth of turf shall be spread over the premises and shall be seeded with perennial rye or grasses;
 4. All excavation, removal and processing, and the extent, limits, and time limits of each activity, shall comply with all terms and conditions in the approved special use permit;
 5. The applicant shall post financial security pursuant to Section 50-37.1.P to ensure compliance with the terms and conditions of the permit, including but not limited to remediation of the site following excavation, removal and processing operations;

I. Radio or television broadcasting tower.

All radio or television broadcasting towers shall be located in the area of the city known as the tower farm within Section 28, Township 50, Range 14, so as to place the visual and safety impacts of the structure near similar structures, unless the applicant provides a report from a qualified specialist in the type of facility being constructed or the type of service being provided stating that it is technically not possible to construct the required structure or to provide the applicant's service from that area of the city;

J. Solid waste disposal or processing facility.

This use shall comply with the following standards:

1. All aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;
2. All solid waste disposal operations and facilities, including without limitation yard waste composting facilities, medical waste disposal facilities and petroleum soil disposal sites, shall comply with all state and Western Lake Superior Sanitary District requirements;
3. Solid waste disposal facilities for industrial waste shall only be allowed in I-G and I-W zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;
4. The special use permit shall specify the types of wastes authorized;
5. Solid waste disposal facilities for construction debris shall only be allowed in I-G and I-W zones;
6. Facilities for composting of yard waste shall not accept materials other than yard waste;

7. No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as defined in Section 50-18.1 or Article 6;
8. All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;
9. There shall be no burning of materials;
10. Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in RR-1 and MU-B zones shall be constructed with an approved dust-free material;
11. All vehicles transporting materials to or from the facility shall be covered;
12. Except for yard waste composting facilities there shall be no processing, separating or sorting of materials outside of covered structures;
13. Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed state noise requirements at any property line that abuts property zoned other than I-G and I-W;
14. In the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

K. Storage warehouse.

In the F-5 district, this use is only permitted in the West Superior portion of the F-5 district;

L. Wholesaling.

In the F-5 district, this use is only permitted in the West Superior portion of the F-5 district;

M. Wind power facility.

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

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail rights-of-way;
2. In the MU-B district, towers that are 50 feet or less in height are permitted by right; taller towers require a special use permit, and no tower shall be approved over 200 feet in height. In other districts where this use is listed as a permitted use, towers that are 200 feet or less in height are permitted by right; taller towers require a special use permit;
3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 feet within any migratory bird flight path;
4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any

- period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
 6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades;
 7. All signs on a wind generator, tower, building or other structure associated with a small wind energy system visible from any public road, other than the manufacturer's or installer's identification, appropriate warning signs or owner identification, shall be prohibited;
 8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
 9. Any climbing feet pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
 10. Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings and foundation as provided by the manufacturer. Wet stamps shall not be required;
 11. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
 12. This use shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator;
 13. If a wind turbine is inoperable for six consecutive months the owner shall be notified that it must, within six months of receiving the notice, restore their system to operating condition. If the owner(s) fails to restore their system to operating condition within the six month time frame, then the owner shall be required, to remove the wind turbine from the tower for safety reasons, at its expense. If the owner(s) fails to remove the wind turbine from the tower, the city may pursue legal action to have the wind generator removed at the owner's expense.

Section 19: That Section 50-20.5 of Chapter 50 be amended as follows:

50-20.5 Accessory uses.

A. Accessory agriculture roadside stand.

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

B. Accessory bed and breakfast.

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

1. Have no more than five habitable units;
2. Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

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

C. Accessory boat dock, residential.

This use shall comply with the following standards:

1. Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;
2. If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;
3. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;
4. At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;
5. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted;

D. Accessory dwelling unit.

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

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

E. Accessory heliport.

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

F. Accessory home occupation.

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

1. The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot;
2. No business involving retail sales of goods from the premises is permitted;
3. No person not a member of the family residing on the premises shall work on the premises;
4. Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation;
5. The home occupation shall not require external alterations that would change the residential character of the property;
6. No display pertaining to such occupation shall be visible from the street;
7. Only one sign not exceeding one square feet in area is permitted, and that sign may only contain the name and title of the business or proprietor and may not be illuminated;
8. No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;
9. All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times;
10. No motor vehicle repair is permitted as an accessory home occupation;

G. Accessory sidewalk dining area.

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

H. Accessory solar or geothermal power equipment.

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

1. Ground-mounted solar system.
 - (a) Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;
 - (b) Solar collectors shall be located a minimum of six feet from all property lines and other structures;
 - (c) Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all districts except residential districts shall not exceed one-half of the footprint of the principal structure;
 - (d) Solar collectors shall not exceed five feet in height;
2. Roof-mounted or wall-mounted solar system.
 - (a) A solar collection system shall be located a minimum of six ft. from all property lines and other structures except the structure on which it is mounted;
 - ~~(b) A solar collection system shall not extend more than 18 in. above the roofline of a one-family or two-family residential structure, or more than ten ft. above the roofline of a multi-family or non-residential structure; Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three (3) feet above the ridge level of a roof on a structure with a gable, hip, or gambrel roof and shall not extend higher than ten (10) feet above the surface of the roof when installed on a flat or shed roof;~~
 - ~~(c) A solar collection system shall not exceed the maximum height permitted in the zone district in which it is located by more than 18 in.; The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one (1) foot from the exterior perimeter of a roof for every one (1) foot that the system extends above the parapet wall or roof surface, if not parapet wall exists, on with the system is mounted. Solar energy systems that extend less than three (3) feet above the roof surface shall be exempt from this provision;~~
 - (d) A solar collection system may be located on an accessory structure;
 - (e) A development proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.
3. Solar easements.

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

I. Accessory uses or structures not listed elsewhere.

1. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:

- (a) The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;
 - (b) Prior to issuance of a building permit for such accessory use, a building demolition bond shall be approved by the city and in an amount sufficient to demolish such accessory structure be filed with the building official;
 - (c) The owner shall execute a license, in a form approved by the city, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section.
2. In the RR-2 district, business shall not be conducted from a garage;
3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house;
4. In the MU-N district, accessory buildings shall be subject to the following restrictions:
 - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - (b) Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business;
5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
 - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - (b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business;
6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use;
7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article 2 and Section 50-20;

J. Accessory wind power equipment.

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

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways;
2. Towers that are 50 feet or less in height are permitted by right. Towers exceeding 50 feet in height require approval of a special use permit, provided that in no case shall tower height exceed 130 feet;

3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 feet within any migratory bird flight path;
4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades;
7. No sign that is visible from any public street shall be permitted on the generator, tower, building or other structure associated with a small wind energy system other than the manufacturer's or installer's identification and appropriate warning signs;
8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
9. Any climbing feet pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
10. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
11. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement;

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

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

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

Section 20: That Section 50-20.6 of Chapter 50 be amended as follows:

50-20.6 Temporary uses.

A. Temporary construction office or yard.

This use is limited to one month before construction begins to one month after construction is completed, unless extended for good cause by the building official. ~~Requests for longer periods may be reviewed through the special use permit procedure in Section 50-37.10;~~

B. Temporary event or sales.

This use is limited to no more than 4 events per calendar year, with the combined length of the 4 events limited to 20 days. Requests for more events or longer periods may be reviewed through the special temporary use permit procedure in Section 50-37.10;

C. Temporary moveable storage container.

1. Temporary moveable storage containers for residential uses shall not be located on any public street, and shall not remain on any property in a residential zone district for more than 14 consecutive days;
2. Temporary moveable storage containers for non-residential uses shall not be located on any public street and shall not be located on private property for more than 90 days during any calendar year unless located and buffered from adjoining property to the same extent required for primary or accessory structures;

D. Temporary real estate sales office.

This use is limited to one month before lot or unit sales begin to one month after 90 percent of the lots or units have been sold, unless extended for good cause by the land use supervisor. Requests for longer periods may be reviewed through the special temporary use permit procedure in Section 50-37.10.

Section 21: That Section 50-21.2 of Chapter 50 be amended as follows:

50-21.2 Special dimensional standards.

A. Lot without municipal sewer.

Lot areas for properties not provided with municipal sewer shall be at least two acres in size or the minimum lot area for the zone district, whichever is larger, and shall be subject to county ordinances and standards regulating individual sewage treatment systems. Lots with large wetlands or shallow bedrock may be required to be larger than two acres, and shall be determined on a case-by-case basis based on the area needed to fit a sewage treatment system on the site. Lots smaller than two acres may be allowed in areas zoned R-P based on soil and site conditions;

B. Front yards on double frontage lots.

On lots having double frontage and where the first and second frontages are on opposite lot lines, the required front yard shall be provided on the frontage that is the generally established frontage on the block, as determined by the building official;

C. Side yards.

1. Dwelling units above commercial uses.

In all residential and mixed use districts, where dwelling units are erected above commercial establishments, no residential side yard is required, except for any side yard required for the commercial building on the side of a lot adjoining a residential district. In form districts, no side yard is required even if the lot adjoins a residential district;

2. Attached and multi-family dwellings.

For the purpose of side yard regulations, a two-family dwelling, townhouse, or multi-family dwelling shall be considered as one building occupying one lot;

3. Driveways.

Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an R-1 or R-2 district, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet;

D. Rear yards.

~~An accessory building not exceeding 20 ft. in height may occupy no more than 30% of required rear yard area. Unenclosed parking spaces may occupy no more than 50% of required rear yard area. Where a lot abuts upon an alley, one-half of the platted alley easement may be considered as part of the required rear yard.~~

An accessory structure can not exceed 20 feet in height, and may not occupy more than 30% of the rear yard area. All accessory structures on a lot may not occupy more than 60% of the rear yard area.

E. Improvements to lot frontage.

Except as provided in Section 50-37.1.L, in addition to the lot frontage requirements contained in Article 2 for development of a previously undeveloped lot, the street frontage shall be improved to the following standards:

1. The street frontage shall be improved to the most current standards on file in the office of the city engineer and shall be designed for the road classification within the zone in which the property is located.

2. The street shall be improved across the entire frontage of the lot proposed to be developed and all other contiguous property owned by the owner of the subject lot.

3. Any street improvement that results in a dead-end street that is greater than 150 feet in length shall require construction of a turn-around for emergency and maintenance vehicles approved by the City Fire Marshall.

Section 22: That Section 50-21.3 of Chapter 50 be amended as follows:

50.21.3 Exceptions and encroachments.

The following exceptions and encroachments to required yard areas and height limits are allowed. These provisions apply to form districts except as noted.

Table 50-21-3.1: Exceptions and Encroachments

| Structure or Feature | Conditions or Limits |
|--|--|
| Encroachments into Required Yard Areas | |
| Architectural features (sills, belt courses, eaves, cornices) awnings and canopies, bay windows, gutters and downspouts | No more than 18 in. into any required yard area |
| Open, uncovered porch Open sided porch, deck, or paved terrace | No more than 5 ft. into any required rear yard, except as required to comply with applicable fire code or Americans with Disabilities Act |
| Chimneys and flues | No more than 2 ft. into any required front or side setback. |
| Open, uncovered porch or paved terrace | Not more than 10 ft. into front yard |
| Enclosed vestibule or fixed canopy with a floor area of not more than 40 sq. ft. | Not more than 4 ft. into front yard |
| Fuel pumps or pump islands | Not closer than 15 ft. from any street line or closer than 50 ft. from any residential district boundary |
| Fences meeting the standards of Section 50-26.4 | Fences may not be located closer than 3 ft. to any publicly maintained right-of-way |
| Porte cochere, carport, or canopy if every part is unenclosed except for necessary structural supports | Permitted in any side setback, but not less than 5 ft. from any side lot line |
| Accessory Structures | No accessory structure may be located (a) between a street and any façade of a primary building facing that street, or (b) closer than 10 ft. to any principal structure on an adjoining property, or (c) closer than 5 ft. to any rear lot line, or (d) closer than 3 ft. to any side lot line, except as listed for specific accessory structures below. |
| Accessory boat dock, residential | No setback required from property lines along the water |
| Accessory clotheslines, play equipment, trash containers, odor-controlled composting bins and rainwater harvesting tanks | Permitted in side and rear yards |
| Accessory raingarden | Permitted in all (front, side and rear) yards |
| Accessory wind power equipment | Permitted in side and rear yards except where prohibited by adopted building code |
| Exceptions to Building Height Limits | |
| Television and radio towers, accessory communications towers for private use, religious assembly or ornamental spires and towers, belfries, monuments, tanks, water and fire towers, stage tower or scenery lofts, cooling towers, ornamental towers, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, flagpoles, accessory wind power equipment, or accessory rooftop solar collectors. | Exempt from height limit. The provisions for covering religious assembly towers and spires only apply if the applicant proposes an Iconic Building in a Form District. |

Section 23: That Section 50-22.2 of Chapter 50 be amended as follows:

50.22.2 General building type descriptions.

Four major categories of building types are described in this Section: Main Street Building, Corridor Building, Cottage Commercial Building, and Iconic Building. The building types proposed for the Form Districts include three variations of the Main Street Building, three variations of the Corridor Building, two variations of the Cottage Commercial Building, and one version of the Iconic Building. The building type variations go from least intense (Type I) to most intense (Type III). Main Street Buildings, in general, are pedestrian-oriented, mixed

use buildings. This building type typically has a storefront on the ground floor with offices or residential uses on the upper floors. The ground floor of the Main Street Building has a high amount of transparency, so that pedestrians walking by can look into the interior space. Corridor Buildings are primarily meant to house office or multi-family residential uses, with less transparency required on the ground floor. The Cottage Commercial Building is primarily commercial in nature but, unlike the Main Street Building, it is similar in form to single-family residential areas, providing transitions between commercial and residential areas. While the previously mentioned building types are intended to serve as the fabric buildings of the city, the Iconic Building is a unique civic or institutional building that has distinctive character and function within the community;

A. Main street buildings.

1. Main street building I.

This building type allows for service, retail, and office uses on the ground floor and office or residential above. It is appropriate for commercial uses adjacent to residential neighborhoods, as the intensity of this building type is not as high as the other main street building types. It has a larger build-to zone and a maximum height of two-and-a-half or three stories depending on location;

2. Main street building II.

Main street building II is slightly more intense than main street building I, as it is required to be built up to the right-of-way and may generally be up to four stories tall. This building type also permits service, retail and office uses on the ground floor and office or residential on upper floors;

3. Main street building III.

Main street building III is the most intense of the main street building types, as it is meant to be used in the downtown area. It is located directly adjacent to the sidewalk and should include retail or service uses on the ground floor whenever possible. Main street building III has a maximum height of 15 stories in limited locations;

B. Corridor buildings.

1. Corridor building I.

This building type can house a single category of uses, such as office or residential, or a mix of uses. Corridor building I is the least intensive corridor building, located in the more neighborhood oriented study area locations. It has a larger build-to zone that is set back farther than the other corridor buildings and is permitted to be a maximum of three stories;

2. Corridor building II.

Corridor building II is an intermediary building type between the more neighborhood scale locations and the intensity of Downtown. It is similar to corridor building I in many ways, but is permitted to be built up to the sidewalk and may also be taller, with generally a maximum height of four stories;

3. Lakefront corridor building.

The lakefront corridor building is a variation on corridor building II that was created for use along Lake Superior in Canal Park. These buildings front the lake, but also require some level of frontage on Canal Park Drive. The maximum height is four stories;

4. Corridor building III.

Corridor building III was created for use in Downtown. It is required to be built adjacent to the sidewalk and has a maximum height of 15 stories in specified locations. While the corridor building types are meant to house primarily office and residential uses, commercial uses are also permitted to create a vibrant commercial core for Downtown;

C. Cottage commercial.

1. Cottage commercial I.

The cottage commercial building type is residential in character but commercial in use. At a maximum height of two and a half stories, it is meant to blend in with a surrounding residential neighborhood while at the same time providing neighborhood-scale commercial uses. Cottage commercial I is for use as a transition to residential locations, with a larger build-to zone and permitted side aisle of parking. Cottage commercial I may also include multiple principal structures on one lot, provided that each building meets the requirements of the building type;

2. Cottage commercial II.

Cottage commercial II is similar to cottage commercial I but is used in the West Duluth study area, which is a more intense context. This building type may be built to the front property line and must locate parking in the rear;

D. Iconic building.

The iconic building type is a unique building type meant to house community, cultural, civic, educational or governmental uses. The iconic building has more flexible requirements for building location and transparency than the other non-residential building types due to its unique nature.

Section 24: That Section 50-22.7 of Chapter 50 be amended as follows:

50.22.7 Building Type Summary Table

Table 50-22.7-1: Building Type Summary Table.

| | Street Frontage | | | Side & Rear Setbacks | | | Buildable Area | |
|------------------------------------|---------------------------------------|--|--|---|--|----------------------------------|------------------------|--------------------------|
| | Multiple Buildings Permitted on a Lot | Front Yard BTZ or setback (feet) | Corner Side Yard BTZ or setback (feet) | Minimum Coverage of Front Build-to Zone | Minimum Side Yard Setback (feet) | Minimum Rear Yard Setback (feet) | Minimum Landscape Area | Minimum Lot Width (feet) |
| Main Street Building I | No | 0-15 | 0-15 | 85%; BTZ may exclude permitted driveway | 0 | 5 | 10% | 30 |
| Main Street Building II | No | 0-5 | 0-5 | 95% | 0 | 5 | 0% | 20 |
| Main Street Building III | No | 0-5 | 0-5 | 95% | 0 | 5 | 0% | 20 |
| Corridor Building I | Yes | 5-15 | 5-15 | 75% | 0 | 5 | 15% | 30 |
| Corridor Building II | Yes | 0-15 | 0-15 | 75% | 0 | 5 | 15% | 50 |
| Lakefront Corridor Building | Yes | 0-25 BTZ on Lakefront; 0-15 BTZ along Canal Park Drive | 0-15 | 33% on street face; 65% on Lakefront | 10% of lot width on each side or aggregate on one side | Not applicable | 20% | 50 |
| Corridor Building III | No | 0-5 | 0-5 | 85% | 0 | 5 | 0% | 50 |
| Cottage Commercial I | Yes | 5-20 | 5-20 | 60% | 5 | 5 | 20% | 50 |
| Cottage Commercial II | No | 0-15 | 0-15 | 60% | 0 | 5 | 20% | 50 |
| Iconic Building | Yes | 5' Setback | 5' Setback | Not applicable | 5 | 5 | 20% | 50 |

¹Tower permitted for all Building Types

² 2 driveways may be permitted through [special exception] if frontage exceeds 200'

³15 stories or 188' as measured from W Superior Street; Permitted from Mesaba Ave to N 4th Ave E

⁴Ground floor transparency may be greater depending on base type.

| Parking & Access | | Building Height | | Transparency | | Entrance | Cap & Base Type | |
|---|--|---|--|--|--|-----------------------------|----------------------------------|--|
| Location of Parking Facilities (yard) | Number of Permitted Driveways | Minimum Principle Building Height (stories) | Maximum Principle Building Height | Minimum Front & Corner Side Façade Transparency per Story ² | Blank Wall Limitations | Primary Entrance Locations | Allowed Cap Types ¹ | Allowed Base Types |
| Rear | 1 driveway permitted per frontage ² | 1 | 2.5 stories / 37' along East Superior Street; 3 stories / 45' along London Road | 20% | Required | Front or Corner Side Façade | Parapet, Flat Roof, Pitched Roof | Storefront |
| Rear | If no alley exists, 1 driveway permitted per frontage ² | 1 | 4 stories / 55'; <u>6 stories / 80' on Lake Avenue</u> | 20% | Required | Front or Corner Side Façade | Parapet, Flat Roof, Pitched Roof | Arcade, Storefront |
| Rear | If no alley exists, 1 driveway permitted per frontage | 1; 2 along Superior Street | 6 stories / 80'; 9 stories / 116' on corner parcels only; 15 stories / 188' along Superior Street ³ | 20% | Required | Front or Corner Side Façade | Parapet, Flat Roof | Arcade, Storefront |
| Rear, Single side aisle permitted | 1 driveway permitted per frontage ² | 1 | 3 stories / 45' | 20% | Required | Front or Corner Side Façade | Parapet, Flat Roof, Pitched Roof | Stoop, Porch |
| Rear | If no alley exists, 1 driveway permitted per frontage ² | 1 | 4 stories / 55'; <u>6 stories / 80' on Lake Avenue</u> | 20% | Required | Front or Corner Side Façade | Parapet, Flat Roof, Pitched Roof | Stoop, Porch |
| Must be screened from the Lakefront by building | 1 driveway permitted per every 140' of frontage | 1 | 4 stories / 55' | 20% | Required only on street or Lakefront facades | Visible from street | Parapet, Flat Roof, Pitched Roof | Stoop or Porch on Lake or parking lot face; Storefront or Stoop on street face |
| Rear | If no alley exists, 1 driveway permitted per frontage | 1 | 6 stories / 80'; 9 stories / 116' on corner parcels only; 15 stories / 188' along Superior Street ³ | 20% | Required | Front or Corner Side Façade | Parapet, Flat Roof | Stoop |
| Rear, Single side aisle permitted | 1 driveway permitted per frontage ² | 1 | 2.5 stories / 33' | 20% | Not required | Front or Corner Side Façade | Pitched Roof | Shopfront, Porch, Stoop |
| Rear | If no alley exists, 1 driveway permitted per frontage ² | 1 | 2.5 stories / 33' | 20% | Not required | Front or Corner Side Façade | Pitched Roof | Shopfront, Porch, Stoop |
| Rear, Single side aisle permitted | 1 driveway permitted per frontage ² | 1 | 4 stories / 55' | 10% | Not required | Front or Corner Side Façade | Parapet, Flat Roof, Pitched Roof | Stoop |

Section 25: That Section 50-23.2 of Chapter 50 be amended as follows:

50.23.2 General circulation requirements.

Applications for subdivision, replatting, RLS, development, or redevelopment shall meet the following standards:

- A. Where adopted city plans show a bicycle or pedestrian path or trail or sidewalk, the site design shall provide connections to those paths or trails or sidewalks;
- B. Any requests by the city for designation or dedication of land for bicycle or pedestrian trails within a proposed development shall comply with the provisions of subsection 50-33.8, *Land for public purposes*;
- C. Unless the city engineer waives the requirement based on concerns of public safety or site/ topography constraints:
 - 1. Each proposed public or private street within the R-1, R-2, R-P, MU-N, MU-C, MU-I or MU-W districts shall include a sidewalk at least five feet wide on both sides of the street;
 - 2. Each proposed public or private street within the MU-B, I-G or I-W districts shall include a sidewalk at least five feet wide on one side of the street;
- D. Whenever cul-de-sac streets are created, one ten foot wide pedestrian access/public utility easement shall be provided, between the cul-de-sac head or street turnaround and the sidewalk system of the closest adjacent street or pedestrian sidewalk or pathway, unless the city engineer determines that public access in that location is not practicable due to site or topography constraints (refer to Figure 50-23-A);
- E. A pedestrian way at least ten feet in width shall be provided near the middle of any block face longer than 800 feet in order to provide connections with streets on either side of the block.
- F. Any use requiring vehicle access from a public street or alley shall be referred to the city engineer for review before any permits are issued. The city engineer shall consider, but not be limited to, the following factors when determining whether to approve the proposal:
 - 1. The consolidation of curb cuts shall be encouraged, and new curb cuts shall be discouraged whenever appropriate, considering safe traffic flow, the objectives of this chapter, and access points needed for the proper function of the use.
 - 2. Functional classification of the road where the curb cut is proposed.
 - 3. The location of driveways shall be at least 100 feet from an intersection. The city engineer may permit driveways closer to an intersection due to limited lot frontage or site/topography constraints.
 - 4. The location of driveways relative to other existing uses is such that street traffic shall not be seriously disrupted and no unnecessary hazards shall be established for pedestrians.

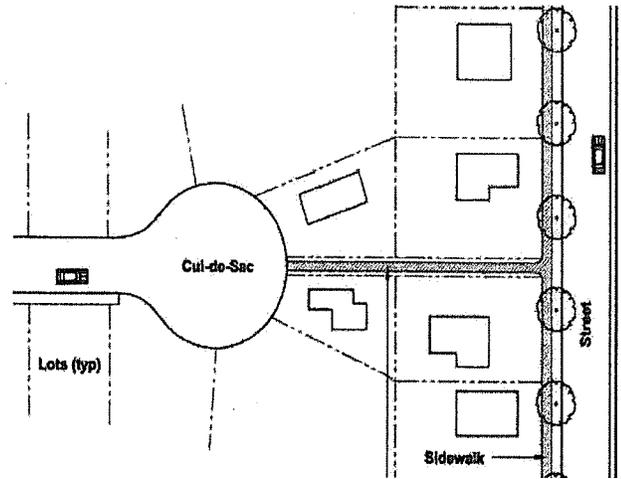


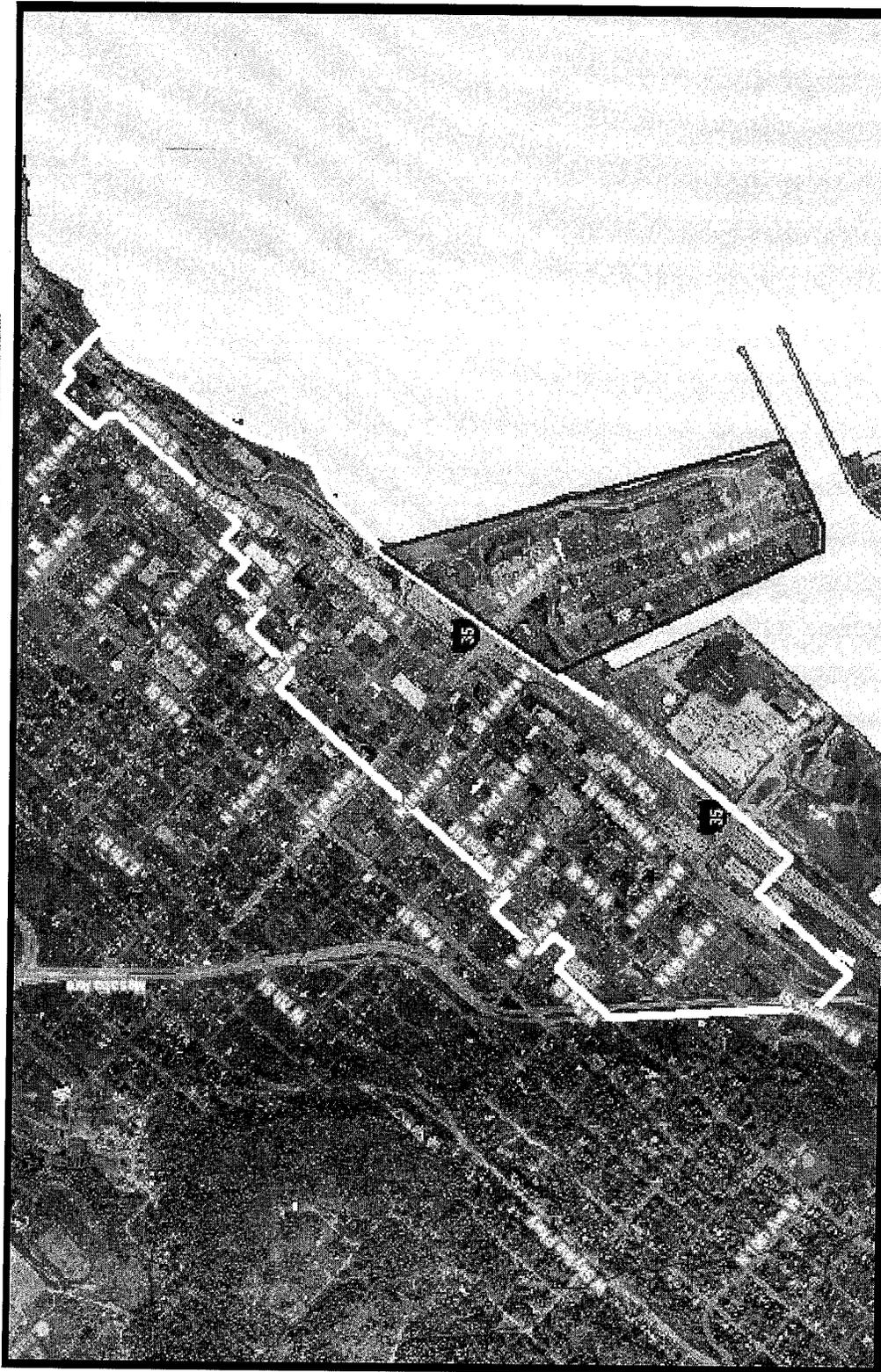
Figure 50-23-A: 10 ft. access easement from head of cul-de-sac to nearest street or path

Section 26: That Section 50-24.1 of Chapter 50 be amended as follows:

50-24.1 Applicability.

The standards of this Section 50-24 shall apply to all development and redevelopment, except that:

- A. Development and redevelopment in any of the form districts shall only be required to provide that amount of parking that can be accommodated on the development parcel while allowing the principal building to meet all of the building form standards in Section 50-22;
- B. No off-street parking shall be required for any non-residential use on a lot smaller than 10,000 square feet in any mixed use district or special purpose district;
- C. No off-street parking shall be required for any building with less than 10,000 square feet of gross floor area and with a non-residential primary use in any mixed use district or special purpose district;
- D. No off-street parking shall be required within the boundaries of the Downtown area shown in Exhibit 50-24.1-1;
- E. No off street parking shall be required for any use except (1) hotels or motel, and (2) residential developments with more than ten units, within the boundaries of the Canal Park area shown in Exhibit 50-24.1-1.
- F. Development and redevelopment that is exempt from being required to provide off-street parking but does provide parking, must follow all the provisions of this section.



Downtown & Canal Park Special Parking Areas
 Exhibit 50-24.1-1



Aerial photography from 2007. Prepared by: City of Duluth Planning Division, May 21, 2010. Source: City of Duluth, Duluth, MN, 55802.



- Legend**
- Canal Park - Special Requirements
 - Downtown - No Requirements

Section 27: That Section 50-24.2 of Chapter 50 be amended as follows:

50-24.2 Required parking spaces.

In all districts there shall be provided, at the time any building or structure is erected, except as provided in Section 50-24.5, *Calculation of parking spaces*, the number of off-street parking spaces shown in Table 50-24-1, unless an exemption from or variation of this requirement is provided in another section of this Chapter.

Table 50-24-1: Off-Street Parking Spaces Required

| Use | Requirement |
|---|---|
| RESIDENTIAL USES | |
| Dwelling, one-family | 1 space per dwelling unit |
| Dwelling, two-family | |
| Dwelling, townhouse | |
| Dwelling, live-work Co-housing facility | |
| Dwelling, Multi-family | 1 space per dwelling unit |
| Assisted living facility (elderly) | 1 space per 3 habitable units |
| Residential care facility | 1 space per 9 residential care beds, but not less than 2 spaces |
| Rooming house | 1 space per habitable room unit |
| PUBLIC, INSTITUTIONAL, AND CIVIC USES | |
| Business, art, or vocational school | No change 1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater |
| Cemetery or mausoleum | No requirement |
| Club or lodge (private) | No change 1 space per 400 square feet of floor area. |
| Government building or public safety facility | As determined by land use supervisor based on anticipated use and neighborhood impacts |
| Hospital | 2 spaces per 1,000 sq. ft. |
| Medical or dental clinic | 4 spaces per 1,000 sq. ft. of gross floor area |
| Museum, library, or art gallery | 1 space per 1,000 sq. ft. of gross floor area |
| Nursing home | 1 space per 6 beds |
| Park, playground, or forest reserve | No requirement |
| Religious assembly | 1 space per 6 4 seats or per 100 sq. ft. in main auditorium, whichever is greater |
| School, elementary | 1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater |
| School, middle or high | 1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater |
| University or college | 1 space per 500 sq. ft. of office, research, and library area plus 1 space per 1 space per 125 sq. ft. of auditorium space. |
| Other community facility or institutional support uses not listed | As determined by land use supervisor based on anticipated use and neighborhood impacts |
| COMMERCIAL USES | |
| Adult book store | 2.5 spaces per 1,000 sq. ft. of gross floor area |
| Adult entertainment establishment | 1 per 200 sq. ft. of gross floor area |

Table 50-24-1: Off-Street Parking Spaces Required

| Use | Requirement |
|--|--|
| Agriculture | No requirement |
| Automobile filling station | 1 per 250 sq. ft. gross floor area plus 1 per service stall |
| Automobile and light vehicle repair and service | 1 per 500 sq ft. of gross floor area |
| Automobile and light vehicle sales, rental, or storage | 1 per 500 sq ft. of gross floor area |
| Bank | 2.5 spaces per 1,000 sq. ft of gross floor area |
| Bed and breakfast | 1 space for manager plus 1 space per habitable unit |
| Building material sales | 1 per 1,000 sq ft. of gross floor area |
| Business park support activities | 1 per 500 sq. ft. of gross floor area |
| Day care facility | 1 per 5 persons care capacity |
| Funeral home or crematorium | <u>No change 1 space per 50 square feet of floor space in slumber rooms, parlors, or individual funeral service rooms</u> |
| Garden material sales | 1 per 1,000 sq ft. of gross floor area |
| Golf course | <u>No change 1 space for every 400 square feet of clubhouse area</u> |
| Hotel or motel | 2 per 3 guest rooms plus 1 per 200 sq. ft. of gross floor area in all accessory uses including restaurants and meeting rooms |
| Indoor entertainment facility | 1 space per 400 sq. ft. of gross floor area. |
| Kennel | 1 per 1,000 sq. ft. of gross floor area |
| Marina or yacht club | 1 per 400 sq. ft. of clubhouse area, plus 1 per 10 boat slips |
| Mini-storage facility | 1 per 20 storage units |
| Office | 2.5 per 1,000 sq. ft of gross floor area |
| Parking lot or parking structure (primary use) | No requirement |
| Restaurant (no drive-in/drive-through) | 1 per 200 sq. ft. of gross floor area |
| Restaurant (drive-in/drive-through) | 1 per 200 sq. ft. of gross floor area |
| Retail store not listed elsewhere | 3 per 1,000 sq. ft. of gross floor area |
| Riding Stable | No requirement |
| Seasonal camp or cabin | <u>No change 1 space for every two beds, or for each cabin or sleeping unit, whichever is greater</u> |
| Theater | 1 space per 6 seats or per 100 sq. ft. in main auditorium, whichever is greater |
| Tourist or trailer camp | 2 per 3 sleeping rooms, suites, or trailer spaces |
| Truck or heavy vehicle sales, rental, repair, or storage | 1 per 1,000 sq ft. of gross floor area |
| Veterinarian or animal hospital | 1 per 400 sq. ft. of gross floor area |
| Personal service or repair not listed | 1 per 400 sq. ft. of gross floor area |
| Other commercial use not listed | As determined by land use supervisor based on anticipated use and neighborhood impacts |
| INDUSTRIAL USES | |
| Airport and related facilities | As determined by airport management |
| • Electric power or heat generation plant | No requirement |

Table 50-24-1: Off-Street Parking Spaces Required

| Use | Requirement |
|---|--|
| <ul style="list-style-type: none"> • Electric power transmission line • Junk and salvage services • Major utility or wireless communication tower • Radio or television broadcasting tower • Railroad or shipyard and related facilities • Solar or geothermal power facility (primary use) • Truck freight or transfer terminal • Water or sewer works • Wind power facility (primary use) • Bulk storage not listed | |
| <ul style="list-style-type: none"> • Contractor's shop and storage yard • Dry cleaning or laundry plant • Recycling collection point (primary use) • Solid waste disposal or processing facility | 1 per 1,000 sq. ft. of gross floor area |
| <ul style="list-style-type: none"> • Manufacturing, light • Manufacturing, heavy • Manufacturing, hazardous or special • Storage warehouse • Water-dependent manufacturing, light or heavy • Wholesaling | 1 per 1,000 sq. ft. of gross floor area |
| Research laboratory | As determined by land use supervisor based on anticipated use and neighborhood impacts |
| Other industrial uses not listed | As determined by land use supervisor based on anticipated use and neighborhood impacts |
| ACCESSORY USES | |
| Accessory bed and breakfast | 1 space for primary use dwelling; plus 1 space per habitable unit |
| Accessory caretaker quarters | 1 space |
| All other accessory uses | No requirement |
| TEMPORARY USES | |
| Temporary real estate sales office | 2 spaces |
| All other temporary uses | No requirement |

Section 28: That Section 50-24.3 of Chapter 50 be amended as follows:

50-24.3 Adjustment to required off-street parking.

The minimum parking requirements listed in Section 50-24.2 above shall be adjusted as follows:

A. Proximity to transit.

- ~~1. The minimum number of off-street parking spaces required for any development or redevelopment lands located within 1/4 mile of the existing Duluth Transit Authority routes in operation for one year or more may be reduced by 30%.~~
- ~~2. The minimum number of off-street parking spaces required for any development or redevelopment lands located within 1/2 mile of (a) any Duluth Transit Authority transit center, as indicated by a "T" on Exhibit 50-24.3-1, or (b) the intersection of Grand and Central Avenues in west Duluth, may be reduced by 20%.~~
1. The minimum number of off-street parking spaces required for any development or redevelopment lands may be reduced by 30% if they are located within 1/4 mile of existing Duluth Transit Authority routes in operation for one year, or they may be reduced by 20% if located within 1/2 mile of any Duluth Transit Authority transit center, as indicated by a "T" on Exhibit 50-24.3-1.
2. If an existing transit route or center is eliminated or changed in location, any development approved in conformance with this Section 50-24.3 shall not be deemed nonconforming in terms of required parking.

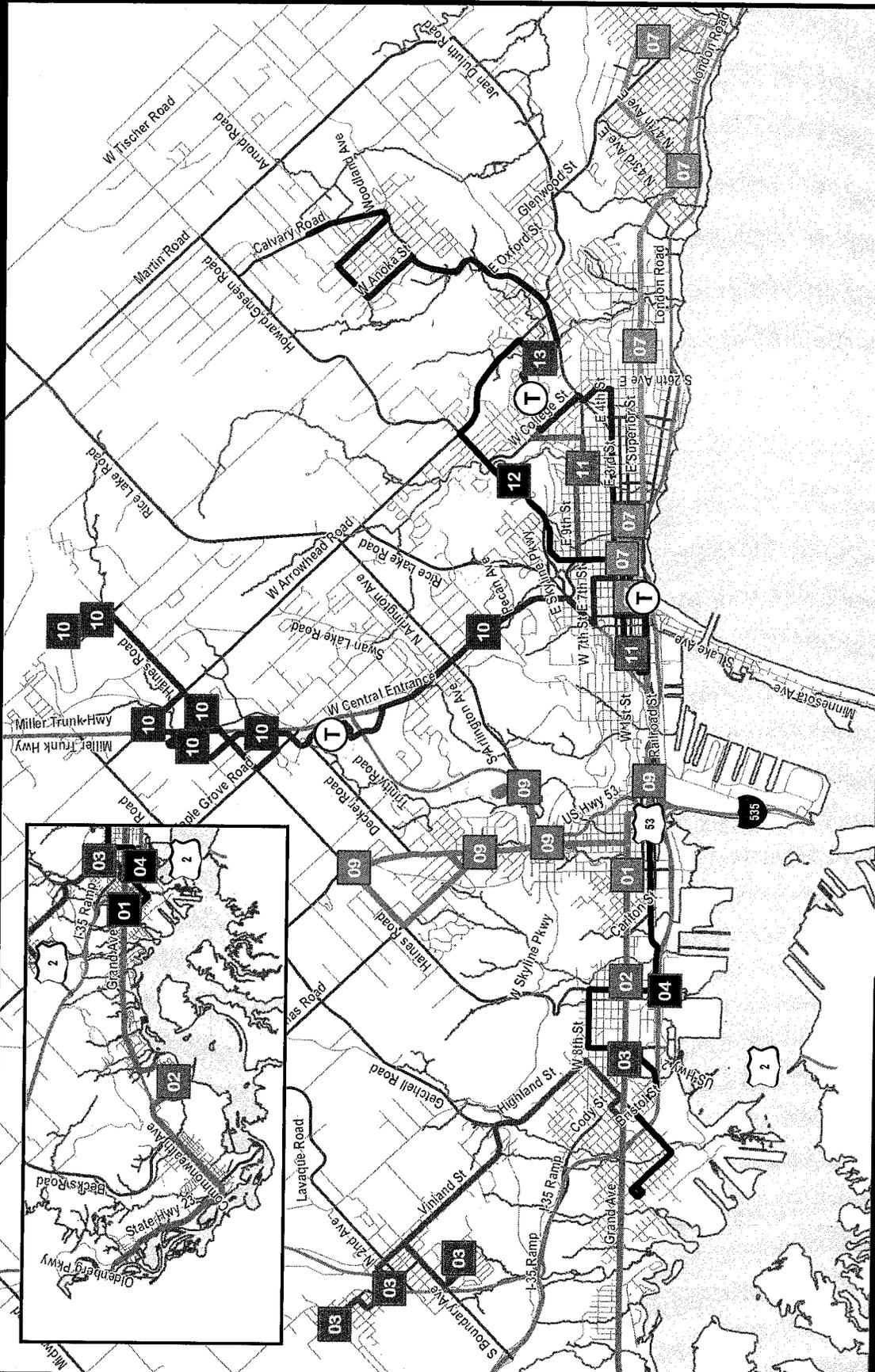
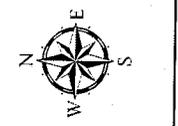


Exhibit 50-24.3-1: DTA Route Map
Adjustment to Parking - Proximity to Transit



- Legend**
- Route 01
 - Route 02
 - Route 03
 - Route 04
 - Route 07
 - Route 09
 - Route 10
 - Route 11
 - Route 12
 - Route 13
 - Transit
 - Center

Aerial photography from 2007. Prepared by: City of Duluth Planning Division, May 21, 2010. Source: City of Duluth, MnDNR, MnDOT.

B. Sharing of parking spaces.

1. General.

Where two land uses listed in separate use categories in Table 50-19.8 share a parking lot or structure, the total off-site parking required for those uses may be reduced by the factors shown in Table 50-24-2. Total off-street parking required shall be the sum of the two parking requirements for the two uses divided by the factors in Table 50-24-2. If uses in three or more categories of Table 50-19.8 share a parking lot or structure, the land use supervisor shall determine the parking reduction based on the relative sizes of the various uses and the reduction factors listed in Table 50-24-2;

Table 50-24-2: Shared Parking Reduction Factors
Add the two parking requirements and divide by these factors

| Property Use | Multi-family Residential | Public, Institutional, or Civic | Food, Beverage, Indoor, Entertainment, or Lodging | Retail | Other Commercial |
|---|--------------------------|---------------------------------|---|--------|------------------|
| Public, Institutional, or Civic | 1.1 | 1.0 | | | |
| Food, Beverage, Indoor, Entertainment, or Lodging | 1.1 | 1.2 | 1.0 | | |
| Retail | 1.2 | 1.3 | 1.3 | 1.0 | |
| Other Commercial | 1.3 | 1.5 | 1.7 | 1.2 | 1.0 |

2. Additional sharing permitted for certain uses.

As an alternative to those reduction factors listed in Table 50-24-2, (a) up to 50 percent of the parking spaces required for food, beverage and indoor entertainment uses, and up to 100 percent of parking spaces required for religious assembly uses and elementary, middle, high school, university or college auditoriums may be used jointly by (b) any non-residential use not normally open, used or operated during the same hours as those listed in (a), or any non-residential use that has excess parking capacity based on the minimum off-street parking for that use. A written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit.

Section 29: That Section 50-24.4 of Chapter 50 be amended as follows:

50-24.4 Maximum parking limit.

No more than 150 percent of the minimum required number off-street parking spaces, excluding the adjustments allowed in 50-24.3, shall be provided. This limit does not apply to the following uses: one-family, two-family, townhouse, and live-work dwellings.

Section 30: That Section 50-24.6 of Chapter 50 be amended as follows:

50-24.6 Location of parking spaces.

A. On site location and exceptions.

1. All required parking spaces shall be located on the same lot with the principal building or the primary use served; except as provided in subsection 2 below;
2. Where an increase in the number of spaces is required by a change or enlargement of any use other than a single-family dwelling, two-family dwelling, or townhouse, the required spaces may be located and maintained up to 500 feet from the lot containing that use. Where required parking spaces are not provided on site, a written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit;

B. Parking location within the site.

Unless a front yard parking permit was issued for the property on or before June 1, 2009, required parking spaces shall only be provided on those portions of the lot indicated in Table 50-24-3.

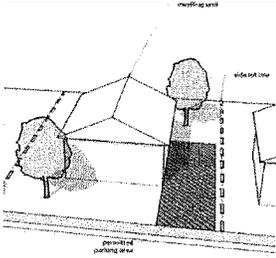
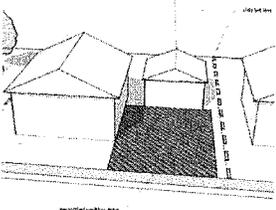
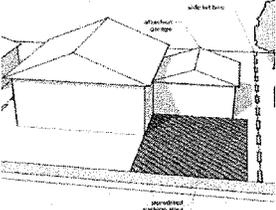
| Table 50-24-3: Permitted Parking Areas | | |
|---|--|---|
| Type of Lot | Permitted Parking Area | |
| Residential Districts | | |
| All lots | The rear yard and one side yard | |
| Non-corner lot with dwelling unit and no garage | The area between one side lot line and the nearest side wall of the dwelling unit and its extension to the improved street abutting the front yard. (See diagram to the right) |  |
| Non-corner lot with dwelling unit and detached garage | The area between the closest side lot line to the side wall of the dwelling unit nearest to the garage, and its extension to the improved street abutting the front yard. (See diagram to the right) |  |
| Non-corner lot with dwelling unit and attached garage | The area between the closest side lot line to the common wall separating the dwelling unit and garage, and its extension to the improved street abutting the front yard. (See diagram to the right) |  |
| Corner lot | By variance per Section 50-37.9 | |
| Mixed Use and Special Purpose Districts | | |

Table 50-24-3: Permitted Parking Areas

| | |
|---|---|
| All mixed use and special purpose districts | Buildings or projects constructed after November 19, 2010, shall locate no more than 50% of off-street accessory parking within required the front yard areas. |
| Form districts | Parking only permitted on those portions of the lot permitted for the building type being constructed pursuant to Sections 50-16 and 50-22. |

Section 31: That Section 50-25.1 of Chapter 50 be amended as follows:

50-25.1 Applicability.

- A. The landscaping provisions of Sections 50-25.2 through 25.9 shall apply to lots and parcels in any zone district that contain (i) more than 10,000 sq. ft. of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, when any of the following conditions occur after November 19, 2010:
 - 1. A new primary structure is constructed;
 - 2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25%;
 - 3. An existing primary structure is relocated on the lot or parcel;
 - 4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is more than 25% of the market value of the land and buildings, as indicated by tax assessor's records;
 - 5. A new primary use parking lot containing 25 or more spaces is constructed;
 - 6. An existing primary use parking lot containing 25 or more spaces is redesigned or reconstructed with significant changes to the layout of parking spaces, driving aisles and access drives.
- B. ~~No landscaping shall be required to be installed on any portion of a lot in any Form District required to be occupied by a principal structure. In any Form District, landscaping shall not be required on the portion of a lot occupied by a principle structure.~~
- C. The tree preservation provisions of Section 50-25.9 apply to all development or redevelopment on lots and parcels ~~that contain more than 10,000 sq. ft. of lot area, in any zone district that contain (i) more than 10,000 sq. ft. of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, as well as~~ and to any new lot of record created after November 19, 2010, regardless of the primary use of the property, in any zone district.

Section 32: That Section 50-25.2 of Chapter 50 be amended as follows:

50-25.2 General landscaping standards.

A. Landscape plan required.

A landscaping plan shall be submitted as a part of all development applications for those activities listed in Section 50-25.1.A, unless the land use supervisor determines that compliance with the provisions of Section 50-25 can be demonstrated without the use of a landscaping plan. A landscaping plan may be combined with other required application materials if compliance with Section 50-25 can be demonstrated in the combined materials.

B. Plant materials.

Plant materials shall be from the city's approved landscaping plant list as shown in the UDC application manual. All plant material shall be hardy to Northeast Minnesota, suitable for the site, free of disease and insects and conform to the American Standard for Nursery Stock of the American Nursery and Landscape Association;

C. Minimum living materials.

In all areas where landscaping is required, a minimum of 50 percent of the surface area shall be covered by living materials, rather than bark, gravel or other non-living materials;

D. Existing vegetation.

Existing vegetation shall be protected during construction through use of a fence around an area sufficient to protect the health of the vegetation, and shall be incorporated into the landscape plan wherever possible;

E. Vegetation grouping.

Landscaping shall generally incorporate large irregular groupings of the same species of shrub, avoiding rigid or repeated specimen planting except for boulevard trees, and shall introduce multiple varieties within one general area. Except for plantings used for screening, no one species of tree or shrub may make up more than 50 percent of the total amount of landscape plantings;

F. Soil condition.

All required landscaping shall be planted in uncompacted soil with a minimum depth of two feet;

G. Grading and drainage.

All open areas shall be graded, properly drained and maintained according to stormwater standards in Section 50-18.1.E;

H. Raingardens and stormwater management features.

Areas included in raingardens or vegetated site features created to meet stormwater management requirements in Section 50-18.1.E shall be counted towards any required interior site or parking lot landscaping, and if vegetated to meet the requirements for any landscaped buffers shall count towards those buffer requirements;

I. Minimum plant sizes.

Where included as part of the required landscaping, deciduous trees shall have a minimum caliper of 2.5 inches, coniferous trees shall be a minimum of six feet in height, large shrubs shall be of a minimum five gallon container size and have a height of at least six feet at maturity, small shrubs shall be of a minimum five gallon container size and have a height of less than six feet at maturity, and ground cover shall be of a minimum one gallon container size. The above dimensions apply to sizes at time of planting;

J. Plant material spacing.

Except for buffer zone provisions of Section 50-25.5, *Landscaping between differing land uses*, plant materials shall not be placed closer than four feet from any fence line or property line. Where tree planting requirements are based on linear street frontage, areas occupied by driveways shall be included when calculating the number of trees required to be planted, and any trees that would otherwise be required in driveways shall be planted in other

landscaped front yard areas unless prohibited by minimum spacing requirements for that species as recommended by the American Standard for Nursery Stock of the American Nursery and Landscape Association. The land use supervisor may authorize adjustments to these spacing requirements when required due to topography, drainage, utilities or obstructions, provided that the total amount of required landscaping is not reduced;

K. Snow storage areas.

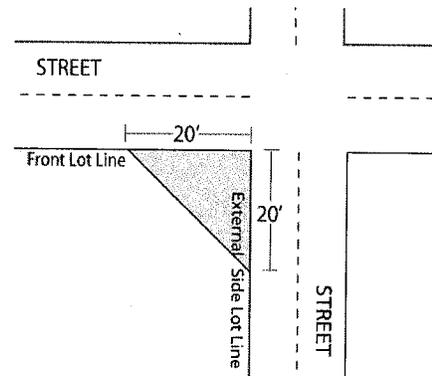
Areas required for snow storage and areas required for landscaping shall not overlap, except that snow may be stored on ground cover landscape areas (e.g., turf) that do not contain required landscape trees or other plantings;

L. City right-of-way.

Tree removal or planting in city rights-of-way shall be done only with the approval of the city forester;

M. Protection of site distances;

On any corner lot on which a front and side yard are required, no wall, fence, structure, sign, or any plant growth that obstructs sight lines at elevations between 2.5 feet and six feet above the driving surface of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of 20 feet along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection;



N. Delay of installation due to season.

Whenever the installation of required landscaping is not possible by the time construction on the primary structure or primary use parking lot has been completed, the city may authorize a delay in installation until no later than the following June 30. As a condition of authorizing a delay in installation, the city may require that a surety or other guarantee, in a form acceptable to the city, in the estimated amount of such installation be provided, or the city may issue a temporary certificate of occupancy, with the permanent certificate of occupancy to be issued following installation of all required landscaping;

O. Flexibility for redevelopment.

Where the requirements of this Section 50-25 apply to a redevelopment or reconstruction project, rather than a new development, the land use supervisor may authorize a reduction of minimum off-street parking requirements established in Section 50-24 by up to ten percent if required to accommodate street frontage landscaping required by Section 50-25.3 or parking area landscaping required by Section 50-25.4.

Section 33: That Section 50-25.3 of Chapter 50 be amended as follows:

50-25.3 Street frontage landscaping.

The street frontage of the property shall meet the following landscaping requirements.

- A. Minimum average depth: See Table 50-25-1. An average depth allows the width of the landscape area to vary in size along different portions of the property to respond to varying site conditions and allow design flexibility;

| Table 50-25-1: Average Depths of Street Frontage Landscaping Required | |
|--|---|
| Context | Average Depth Required |
| General requirement unless otherwise listed below | 15 ft. in front street yards 10 ft. in side street yards 5 ft. on rear lot lines of double frontage lots |
| Lots with no required front setback, and where the primary building abuts the front lot line | Exempt |
| Lots with less than 10,000 sq. ft. of lot area. | Exempt |
| Lots with 10,000 to 20,000 sq. ft. of lot area. | 5 ft. along all street frontages |
| <u>Lots over 20,000 sq. ft. of lot area.</u> | <u>15 ft. in front street yards</u> <u>10 ft. in side street yards</u> <u>5 ft. on rear lot lines of double frontage lots</u> |

- B. Required trees: One tree per 35 feet of linear frontage, planted (a) in alignment with any similar street frontage landscaping on adjacent lots, or if that is not possible or adjacent lots do not contain front yard landscaping then (b) as close to the public right-of-way as the city engineer will permit;
- C. Required shrubs: one large shrub per 25 feet of linear frontage;
- D. On lots adjacent to city-maintained boulevards, landscaping in the boulevards may be credited towards the landscaping requirements of this Section 50-25.3.

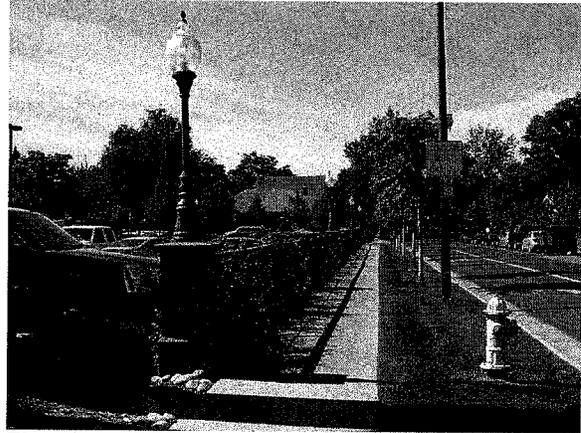


Figure 50-25.4-A: Parking lot screening from public right-of-way

Section 34: That Section 50-25.4 of Chapter 50 be amended as follows:

50-25.4 Parking lot landscaping.

Accessory and primary use parking lots shall provide the following amounts and types of landscaping unless alternative standards for specific situations are required pursuant to Section 50-26, *Screening, walls and fences*, or Section 50-30, *Design standards*. In any case where landscaping required by this Section 50-25.4 overlaps areas required to be landscaped by any other provision of this Section 50-25, the provisions of the section requiring more planting shall apply.

- A. Perimeter screening from public streets.
 - 1. Minimum width: five feet;
 - 2. Required trees: one tree per 35 feet of linear frontage;
 - 3. Required shrubs: 3 large shrubs per 25 ft. of linear frontage. ~~If ,~~ or if a berm or an opaque fence or wall at least 3 ft. tall is erected, 3 small shrubs per 25 ft. of linear frontage.

B. Perimeter Screening From Abutting Residential Zone or Use

When a parking lot abuts a residential zone or a lot with a current residential use (regardless of whether there is an intervening street or alley or railway right-of-way), a continuous screening wall, berm, fence, or row of planting at least 6 ft. tall shall be provided between the parking lot and the residential zone or use. The screening material shall be designed to provide 75% opacity one year after planting along the full required height and length of the screening buffer.

B. Interior landscaping requirements.

Except as provided in this section, parking lots shall provide the following landscaping internal to the parking lot:

1. Minimum area: 15% of the interior parking lot area (excluding any perimeter areas required to be landscaped by Sections 50-25.3, 50-25.4.A or B, or 50-25.5) for parking lots with more than 50 spaces, or 10% of the interior parking lot area for parking lots between 25 and 50 spaces;

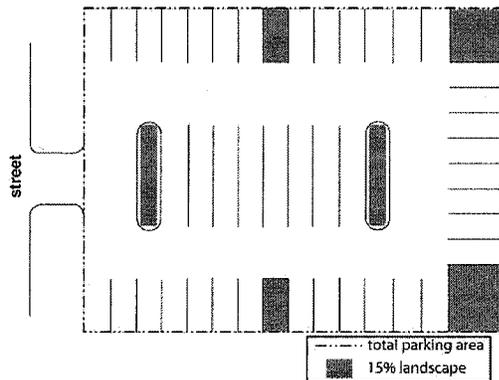


Figure 50-25.4-B: Required interior parking lot landscape areas

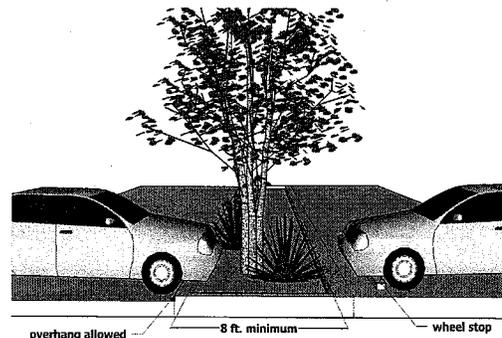


Figure 50-25.4-C: Minimum width of interior parking lot landscape areas

2. Location: Internal landscape areas shall be dispersed on the site to break up the perception of large uninterrupted expanse of pavement (see Figure 50-25.4-B);
3. Required trees: One tree per 300 square feet of internal landscape area. Tree species shall be chosen so that, combined with trees planted under subsections A. and B. above, parking lots will have a minimum tree canopy coverage of 30 percent at maturity;
4. Landscape areas shall be a minimum of eight feet in width (See Figure 50-25.4-C);
5. Curbing: Internal landscape areas shall be curbed for protection of the landscape materials, but planted areas shall be installed at a lower grade than the parking lot pavement, and curbing shall allow drainage from the pavement to enter and percolate through the landscaped areas.
6. Parking areas with less than 25 spaces are exempt from the provisions of 1 through 5 of this section, but must provide a minimum tree canopy of 30% at maturity.

Section 35: That Section 50-25.9 of Chapter 50 be amended as follows:

50-25.9 Tree preservation requirements.

A. Purpose.

The city recognizes that trees provide numerous benefits and services to city residents, including increased property values, reduced storm water runoff and soil erosion, with associated cost savings, noise buffering, aesthetic value, reduced energy costs from shade in summer and windbreaks in winter, and removal of greenhouse gases and other pollutants from the air. The city seeks to maintain the tree cover that protects the city's water quality and gives the city its character, while recognizing the need to remove some trees for development, safety, view preservation and other purposes.

B. Tree replacement.

1. Exemptions.

The following activities are not subject to the tree replacement requirement in this Section 50-25.9:

- (a) Forest management activities that maintain pre-existing tree canopy cover, such as minor thinning that eliminates no more than 25 percent of the canopy;
- (b) Forestry activities that disturb the canopy are exempt if covered by a current forest management plan approved by the city forester;
- (c) Removal of trees that are an obstruction to traffic or power lines or other utilities;
- (d) Removal of trees necessary for rescue in an emergency or for clean-up after a natural disaster;
- (e) Removal of public trees deemed hazardous by the city forester;
- (f) Removal of trees that are airport hazards;
- (g) Removal and trimming of trees along Skyline Parkway to preserve views from established or historic overlooks and viewpoints, with approval by the city forester;
- (h) Installation or replacement of city streets or utilities;

2. Replacement required.

- (a) Tree replacement shall be required pursuant to Table 50-25-3;

| TABLE 50-25-3: Tree Replacement Required | | | | |
|---|--------------------------|------------------------------|--|---|
| Tree Type | Removal Threshold | Replacement Standards | | |
| | | % DBH to be Replaced | Replacement Ratio | |
| | | | If Replacing With Special Trees | If Replacing with Other Tree Species |
| | | | | |

| | | | | |
|--|---|--|--|--|
| Special Tree > 20 in. DBH | Prohibited unless approved pursuant to subsection (b) below | If approval received, 50% of DBH removed | 1 in. DBH per 1.5 in. of DBH required to be replaced | 1 in. DBH per in. of DBH required to be replaced |
| Special Trees Between 8 and 20 in. DBH | 10 or more | 25% of DBH removed | | |
| Other Significant Trees | 20 or more | 10% of DBH removed | | |

- (b) Removal of special tree species over 20 inches diameter at breast height (DBH) is prohibited unless any of the following applies:
 - (i) The city forester determines that the tree is dead, dying, diseased or a threat to public health or safety;
 - (ii) The city engineer determines that the tree interferes with the provision of public services or is a hazard to traffic;
 - (iii) The land use supervisor determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree;
- (c) When ten or more replacement trees are required, not more than 30 percent shall be the same species without approval from the city forester;
- (d) Replacement trees provided pursuant to this Section 50-25.9 shall count towards landscaping required under other portions of this Section 50-25.9 if they meet the size, type and location standards for the type of landscaping required;
- (e) Replacement trees shall be considered significant trees in any future tree replacement plan;
- (f) If any part of the property is permanently protected from development by a conservation easement or by transfer to a city park or other natural area or a private conservation organization, the combined diameter of the protected trees that meet the size requirement for a significant tree will count toward the replacement requirement;
- (g) With the approval of the appropriate city staff (land use supervisor or city forester), developers should have the option of meeting the tree replacement requirements by putting equivalent funds into a dedicated city tree account. The amount of funds should be calculated based on the cost to the city of hiring contractors to plant the number of required replacement trees;

3. Calculation.

- (a) If you meet the removal threshold:

$$\frac{\text{Inches removed(DBH)}}{\text{Inches removed(DBH)}} \times \frac{\text{\% DBH}}{\text{\% DBH}} = \text{replacement requirement in inches}$$

- (b) If replacing with special trees:

$$\text{Replacement requirement} \div 1.5 = \text{Total inches required}$$

- (c) If replacing with other trees:

$$\text{Replacement requirement} = \text{Total inches required};$$

4. Example.

Step 1: Removal of 12 10- in. special trees = Total of 120 in. DBH

Step 2: 120 in. DBH x 25% = 30 in. replacement requirement

Step 3: If replacing with special tree species:

30 in. ÷ 1.5 = 20 in. total inches required to be planted;

5. Tree replacement plans.

Where this replacement requirement applies, the applicant shall submit a tree replacement plan prepared and certified by a certified forester, arborist or landscape architect. The tree replacement plan shall be part of an integrated with the landscaping plan for the site. No replacement shall occur until the city forester has approved the tree replacement plan, and all replacement shall be consistent with that approved plan. The plan shall meet all applicable requirements in the UDC application manual;

6. Calculation for developments exceeding five acres.

For development of forested acres over five acres, with the approval of the appropriate city staff, the total diameter of trees removed should be able to be estimated based on measuring the diameter of trees in representative sample plots. The plots should be scattered throughout the area to be cleared and should cover no less than ten percent of the entire area. All special tree species in the forest must be measured.

Section 36: That Section 50-26.1 of Chapter 50 be amended as follows:

50-26.1 Screening of mechanical equipment.

A. Applicability.

~~The standards of this section shall apply to all of the following exterior mechanical features where they occur on buildings containing multi-family dwellings, commercial, institutional, industrial or mixed uses, except those located in the I-G and I-W districts; the following uses that contain a primary structure in all zones, except I-G and I-W: a multi-family, mixed use, commercial, institutional, industrial, or parking principle use, when any of the following conditions occur:~~

1. A new primary structure is constructed;
2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25%;
3. An existing primary structure is relocated on the lot or parcel;
4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is more than 25% of the market value of the land and buildings, as indicated by tax assessor's records;

The following exterior mechanical features shall be screened: (i) electrical and gas-powered mechanical equipment and power systems equipment; (ii) heating, ventilating and air conditioning equipment ductwork, and lines; and (iii) power systems equipment.

Roof or wall-mounted antennas and vent openings shall not be considered mechanical equipment for purposes of these screening standards.

The standards of this section shall not apply if the only feasible location for mechanical screening would impede the functioning of solar, wind or geothermal energy equipment or systems if such systems are otherwise in compliance with applicable building codes and zoning requirements.

B. Screening standards.

1. Roof-mounted mechanical equipment.

Roof-mounted mechanical equipment shall be screened by a parapet wall or similar feature that is an integral part of the building's architectural design. The parapet wall or similar feature shall be of a height equal to or greater than the height of the mechanical equipment being screened. The parapet wall or similar feature shall be sufficient to screen the mechanical equipment from ground view of a person on the other side of the public right-of-way on which the structure fronts, as illustrated in Figure 50-26.1-A.

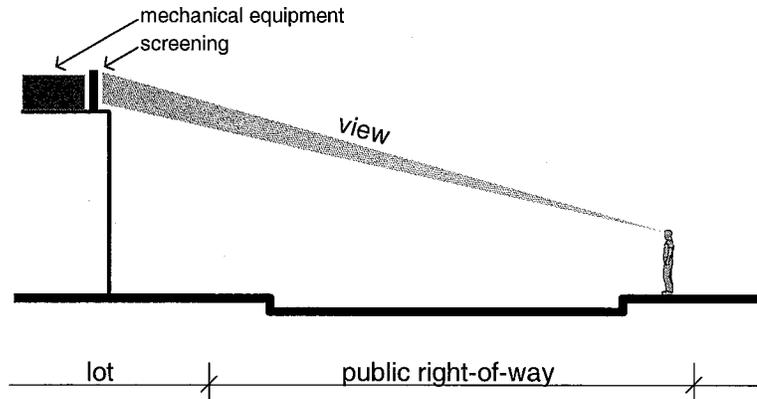


Figure 50-26.1-A: Screening for roof-mounted mechanical equipment

2. Ground-mounted mechanical equipment.

Ground-mounted mechanical equipment shall be screened from view from ground view of adjoining properties and public right-of-way by landscaping or by a decorative wall that incorporates at least one of the primary materials and colors of the nearest wall of the primary structure. The wall shall be of a height equal to or greater than the height of the mechanical equipment being screened. If landscaping is used for screening, the screening material shall be designed to provide 75% opacity one year after planting along the full required height and length of the screening buffer.

Section 37: That Section 50-26.4 of Chapter 50 be amended as follows:

50-26.4 Fences and walls.

Unless otherwise expressly provided for in this Chapter, or unless expressly provided for in conjunction with the approval of a special use permit, fences and walls shall comply with the following general standards:

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 four feet 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 eight feet. The maximum height for fences and walls for entry gates at the residential subdivision entrance shall be eight feet;

4. Mixed use and special purpose zone districts.

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



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

6. Vacant property.

As an exception to other fence height limits, vacant property may be fenced with chain-link fencing not to exceed six feet 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.

1. Applicability.

The requirements of this Section apply to construction of new retaining walls in all districts, except for (a) retaining walls on properties 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;



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

2. Design standards.

All retaining walls shall comply with the following standards:

- (a) Retaining walls more than six feet 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 four feet 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;
- (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 one square foot in size;

D. Alternate screening.

In lieu of compliance with the specific requirements of this section an owner may propose to the ~~building official~~ Land Use Supervisor 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 38: That Section 50-27.5 of Chapter 50 be amended as follows:

50.27.5 Sign schedule for specific zone districts.

Specific types of signs permitted in each zone district, and the conditions that apply to that type of sign, are shown in Table 50-27-2 below.

| 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. Must be set back 20 ft. from front property line in RC, RR-1 and RR-2. Must be attached to building in R-1 and R-2. May not be illuminated. |
| | Nameplate | 1 per dwelling. Maximum size: 2 sq. ft. in RC, RR-1, RR-2 and R-1. Indirect illumination only. |
| | Political sign or property owner opinion sign | Minimum setback from property lines and street or sidewalk improvements: 3 ft. If illuminated must comply with Section 50-31. Building permit required if more than 6 ft. tall. |
| | Property identification/management sign | Maximum size: 3 sq. ft. in RC, RR-1, RR-2 and R-1. 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. |
| | Real estate sign | Maximum size: 32 sq. ft. in RC, RR-1, and RR-2. 6 sq. ft. in R-1. In R-2, may contain name of building and/or management firm. Minimum setback from property lines; 10 ft, unless attached to a building. Must be removed within 7 days after sale, lease, or rental. No 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. |
| | Residential complex sign | In R-2 district only. 1 monument 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. Maximum height of 4 ft., maximum width of 8 ft., maximum depth of 1 ft. Minimum setback from property lines: 10 ft. Indirect illumination only. |
| | School (grades K-12) sign | 1 wall identification sign not exceeding 32 sq. ft. Maximum height of wall identification sign shall be 16 ft. or top of wall, whichever is less. Corner lots limited to 2 wall identification signs per building. 1 freestanding monument sign not exceeding 32 sq. ft. in area and 8 ft. in height also allowed. |

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

| Zone District | Type of Sign | Conditions on Sign |
|--|--|---|
| | | Either the wall sign or the monument sign, but not both, may be illuminated. Flashing, animated and revolving signs are not permitted. |
| | 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. Maximum length of use: 2 days. No illumination. |
| | 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 | Permitted on first floor awnings only. Indirect illumination only, but no lighting apparatus shall be attached to the awning itself. |
| | Marquee signs | Maximum number: 1 for first street frontage plus 1 for any additional street frontage longer than 100 ft. Permanent signage shall be included. Changeable copy shall be limited to no more than 2/3 of the sign face. |
| | Pole sign | Maximum number: 1 for first street frontage plus 1 for any additional street frontage longer than 100 ft. Maximum height: 15 ft. Minimum height of sign face base above ground: 8 ft. (decorative planters without advertising and no 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. Maximum thickness: 30 in. (except spherical signs). Maximum sign area: 1 sign per pole, maximum 40 sq. ft. per sign face. The area of a double or triple faced pole sign shall be the area of the largest face. 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. In the Form Districts, this type is limited for use with the Corridor, Cottage Commercial, and Iconic building types. Materials: Solid or composite finished wood, metal, masonry, neon, glass. Direct and indirect illumination permitted. |
| | Wall sign | 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. Materials: Solid or composite finished wood, metal, masonry, neon, glass. Direct and indirect illumination permitted. |
| | Portable A-frame sign | 1 per street frontage. |
| | Monument | Maximum number: 1 for first street frontage plus 1 for any additional street frontage longer than 100 ft. Maximum height of 6 ft., maximum area 48 sq. ft. per sign face. Setback from corners and driveways for vehicular site triangles. In the form districts, this type is limited for use with the corridor, cottage commercial and iconic building types. Materials: Solid or composite finished wood, metal, masonry, neon, glass. Direct and indirect illumination permitted. Landscape at base of sign shall not be taller than 18 in. at mature height. |

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

| Zone District | Type of Sign | Conditions on Sign |
|---|--|---|
| | Projecting sign | <p>1 per each building façade facing a street, alley, or sidewalk. 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. Minimum height above sidewalk: 10 ft.; for signs projecting 2 ft. or less, 7 ft. Minimum height above street or alley: 16 ft. Shall not extend closer than 1 ft. to back of any curb or over any alley. Materials: Solid or composite finished wood, metal, masonry, neon, glass. 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. 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 A-frame sign | Same as for MU-N, MU-W, F-1, F-2, F-3, F-4, F-5, F-6 and F-9 zones. |
| | Projecting sign | <p>1 per each building façade facing a street, alley, or sidewalk. 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. Minimum height above sidewalk: 10 ft.; for signs projecting less than 2 ft., 7 ft. Shall not extend closer than 1 ft. to back of any curb or over any alley. Materials: Solid or composite finished wood, metal, masonry, neon, glass. 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. Materials: Painted directly on the window, mounted neon on inside of window, or mounted on a wall inside the window area.</p> |
| | Pole sign | <p>Maximum number: 1 for first street frontage plus 1 for any additional street frontage longer than 100 ft. Maximum height: 25 ft. 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. Maximum thickness: 30 in. (except spherical signs). Maximum sign area: 1 sign per pole, maximum area not exceeding 30 percent of the lineal street frontage on the street nearest the sign. The area of a double or triple faced pole sign shall be the area of the largest face. 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. In the Form Districts, this type is limited for use with the Corridor, Cottage Commercial, and Iconic building types. Materials: Solid or composite finished wood, metal, masonry, neon, glass. Direct and indirect illumination permitted.</p> |
| | Off-premises sign | <p>Off-premises wall signs prohibited. All other off-premises signs subject to approval under Section 50-15.3.D</p> |
| | Monument sign | <p>Maximum number: 1 for first street frontage plus 1 for any additional street frontage longer than 100 ft. Maximum height: 18 ft. Maximum sign area: 144 sq. ft. Location: Sign may not be located in defined sight triangles for streets and driveways.</p> |

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

| Zone District | Type of Sign | Conditions on Sign |
|----------------------------------|--|--|
| | | <p>In the Form Districts, limited for use with the Corridor, Cottage Commercial, and Iconic building types. 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. Direct and indirect illumination permitted. Landscape at base of sign shall not be taller than 18 in. at mature height.</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. 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. Neon signs are not permitted. 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. Flashing and animated signs are not permitted.</p> |
| | Property identification/management sign | <p>Maximum size: 4 sq. ft. Maximum height: 5 ft. No illumination, animation, or flashing.</p> |
| | 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 | <p>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</p> |
| | Property identification/management sign | <p>Maximum size: 6 sq. ft. in R-2 No illumination or animation</p> |
| | Public assembly bulletin board | <p>Maximum size: 25 sq. ft. Minimum setback from property lines: 10 ft Indirect illumination</p> |
| | Recreational field sign | <p>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</p> |
| | Temporary sign | <p>May not advertise on-going business activity. Maximum size: 6 sq. ft. Minimum setback from property lines and street and sidewalk improvements: 3 ft. Maximum length of use: 30 days. No illumination or animation.</p> |
| | Off-premises sign | Not permitted |

Section 39: That Section 50-30 of Chapter 50 be amended as follows:

50-30 Design standards.

The design standards of this Section 50-30 apply to ~~apply to all new construction~~ development, and to all redevelopment or renovation of existing structures where the redevelopment or renovation expands the building gross square footage by more than 50%.

Section 40: That Section 50-30.1 of Chapter 50 be amended as follows:

50.30.1 Multi-family residential design standards.

Each ~~principal building~~ principle structure or development in which a majority of the gross floor area is occupied by multi-family dwellings must comply with the standards set out in this section, unless the provisions of Section 50-30.3, Mixed Use Development, apply:

A. Accessibility.

Multi-family dwelling developments containing more than one ~~principal building~~ principle structure on a single lot or parcel must include an unobstructed walkway or pathway providing access between the ~~principal building~~ principle structures for persons with disabilities. The walkway or pathway must be at least 5 ft. wide, and, if curb ramps are necessary to provide such access, the curb ramps must comply with the slope and design requirements of the city.

B. Façade length and articulation.

Total length of any multi-family structure façade shall not exceed 200 feet and no façade wall shall extend more than 80 horizontal feet without projections or recesses. Each facade greater than 100 horizontal feet in length shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the facade and extending at least 20 percent of the length of the façade;

C. Roof design.

Rooflines longer than 100 horizontal feet shall include at least one vertical elevation change of at least two feet. All sloped roofs shall have overhanging eaves of at least one foot, and roofs with a pitch of less than 2:12 shall be screened by a parapet wall;

D. Four-sided design.

All sides of a ~~building~~ structure open to view by the public, whether viewed from public or private property, shall display a similar level of quality and architectural interest.

E. Parking Garages structures and carports.

To the maximum extent feasible, parking ~~garages~~ structures and carports shall not be located between the front or primary façade of a multi-family building and the street frontage adjacent to the front lot line, but shall instead be internalized within building groups so as not to be directly visible from the street frontage.

F. Design features.

At least three of the following design features ~~should~~ shall be provided for visual relief along all facades of each primary multi-family building:

1. Roof dormers;
2. Gables;
3. Recessed entries;
4. Covered porches;
5. Cupolas;
6. Pillars, pilasters or posts;
7. Bay windows;
8. Eaves of at least 12 inches beyond the building wall or a parapet wall with an articulated design (decorative cornice, etc.);
9. Multiple windows with minimum four inches trim;
10. Recesses/shadow lines;
11. Building foundation areas that face streets or public areas shall be landscaped to a minimum width of five feet with a minimum of three shrubs per 20 lineal feet of foundation;

G. Visibility of common areas.

To promote public safety, primary multi-family dwelling ~~buildings~~ structures and landscaping must be located and designed so that clear sight lines are provided to and between common open spaces, circulation paths and access points into the development, where applicable.

Section 41: That Section 50-30.2 of Chapter 50 be amended as follows:

50-30.2 Commercial and institutional design standards.

A. Applicability.

1. The standards of this Section 50-30.2 shall apply to each principal building or development in which a majority of the gross floor area is occupied by uses categorized in Table 50-19.8 as commercial and institutional, except for:
 - (a) Any building or development located in one of the form districts;
 - (b) Any building or development located on a lot smaller than 10,000 square feet;
 - (c) Any building or development containing less than 10,000 square feet of gross floor area;
2. If a building or development containing less than 10,000 square feet of gross floor area is later expanded so that it contains 10,000 square feet of gross floor area or more, it shall be subject to these requirements;

B. Facades and articulation.

Each commercial or institutional principle structures ~~principal building~~, other than large ~~commercial retail buildings~~ structures addressed in Section 50-30.2.D below, shall meet the transparency requirement described in subsection 1 below, and shall also comply with two of

the remaining options listed in subsections 2 through 5 below, with the choice of those standards to be at the option of the owner:

1. Transparency requirement.

A minimum of ten percent of each facade area that faces a street shall be composed of transparent materials. At least 1/2 of this amount shall be provided so that the lowest edge of the transparent materials is no higher than four feet above the street level;

2. Wall plane articulation option.

Each facade greater than 100 feet in length abutting a street shall incorporate architectural features such as wall plane projections, recesses, or other building material treatments and textures that visually interrupt the wall plane. No uninterrupted length of any facade shall exceed 100 horizontal feet;

3. Vertical articulation option.

Each principal building taller than 30 feet in height must be designed so that the massing or facade articulation of the building presents a clear base, middle and top when viewed from the abutting street;

4. Roof articulation option.

Where sloping roofs are used, at least one projecting gable, hip feature, or other break in the horizontal line of the roof ridgeline shall be incorporated for each 60 lineal feet of roof. Where flat roofs are used, the design or height of the parapet shall include at least one change in setback or height of at least three feet along each 60 lineal feet of facade;

5. Foundation landscaping option.

Building foundation areas that face streets or public areas shall be landscaped to a minimum width of five feet with a minimum of three shrubs per 20 lineal feet of foundation;

C. Entryway design and location.

Each principal building shall have clearly defined, highly visible main entrances for occupants and customers with features designed to emphasize the importance of the entrance, which must include at least two of the following features, with the choice of the features to be at the option of the owner:

1. A canopy or portico;
2. A roof overhang;
3. A horizontal recess or projection;
4. An arcade or arch;
5. A peaked roof form;
6. An outside patio;
7. A display window;
8. Architectural tilework or moldings integrated into the building design;
9. Integrated planters or wing walls that incorporate landscaped areas or seating areas;
10. Another architectural feature not found on the remainder of that building façade;

D. Additional standards for large commercial retail buildings.

In addition to meeting the standards in subsection A above, single-story retail buildings containing 65,000 square feet or more of gross floor area, in which one user or tenant occupies more than 75 percent of the gross floor area, shall meet the following additional standards:

1. Facade articulation.
Each building facade longer than 100 feet shall incorporate wall plane projections or recesses at least two feet deep, and extending at least 20 percent of the length of the façade. At least one of those wall plane projections or recesses shall repeat horizontally at an interval of no more than 30 feet;
2. Facade design.
Each building façade must have a repeating pattern that includes at least two instances of at least one of the following:
 - (a) Color change;
 - (b) Texture change;
 - (c) Material module change;
 - (d) Expression of an architectural or structural bay through a change in plane no less than 12 inches wide, such as an offset, reveal or projecting rib;
3. Pedestrian oriented design features.
Ground-floor façades that face public streets or accessory parking areas shall have arcades, display windows, entry areas, awnings or other such features along no less than 60 percent of their horizontal length;
4. Pedestrian connections.
All principal entrances of principal buildings shall have direct access (i.e., access without having to cross a public street) to a sidewalk, walkway, path or pathway that leads to a public street. Each such sidewalk, walkway, path or pathway must be a minimum of five feet wide. If a sidewalk does not currently exist, and there is a sidewalk system in place, sidewalks on the property shall connect to the existing sidewalk system;
5. Bicycle access.
Bicycle access shall be provided between public bicycle lanes, paths, or routes on adjacent streets and on-site bicycle parking areas. Sites should be designed

to avoid or minimize all conflicting bicycle/motor vehicle and bicycle/pedestrian movements;

E. Special provisions for MU-B district.

Not less than 30 percent of the exterior walls of all buildings shall be covered with finish grade brick, stone, concrete or masonry. No metal roofing materials shall be visible;

F. Alternate commercial and institutional design.

In lieu of compliance with the specific requirements of this Section 50-30.2, an owner may propose to the land use supervisor an alternative approach consistent with the intent of this Section. The land use supervisor may approve a proposal under this Section only if the proposed alternative achieves required façade design and articulation, entryway design and location, pedestrian oriented design features, pedestrian connections and bicycle access to the same degree or better than the provisions of this Section.

Section 42: That Section 50-30.5 of Chapter 50 be amended as follows:

50-30.5 Parking garage structure design standards.

Each primary use or accessory parking garage shall comply with the following requirements:

- A. Each facade of the parking garage structure that faces a public street shall contain horizontal rather than sloped floor planes and shall not reveal interior ramps.
- B. All sides of the garage structure not occupied by retail, office or residential uses must be articulated through the applicant's choice of at least three of the following:
 - 1. Windows or window shaped openings;
 - 2. Decorative wall insets or projections;
 - 3. Awnings;
 - 4. Changes in color or texture of materials;
 - 5. Public art approved by the Duluth Public Arts Commission pursuant to its established review and approval criteria;
 - 6. Integrated landscape planters;
 - 7. Pedestrian-scaled lighting;
 - 8. Benches, plazas, or other pedestrian areas;
 - 9. Other features as approved by the land use supervisor as providing an equivalent degree of architectural articulation, visual interest or pedestrian amenity.
- C. Openings in the podium or tuck under parking areas shall be screened with architectural screens.

Section 43: That Section 50-31.1 of Chapter 50 be amended as follows:

50-31.1 Applicability.

A. General.

~~All exterior lighting for any multi-family, commercial, mixed use and industrial development after November 19, 2010, shall comply with the standards of this Section 50-31, unless excepted in subsection B below.~~

Unless excepted in subsection B below, all exterior lighting on lots and parcels in any zone district that contain a primary structure with a multi-family, mixed use,

commercial, institutional, industrial, or parking principal use, when any of the following conditions occur shall comply with the standards of this Section 50-31:

1. A new primary structure is constructed;
2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25%;
3. An existing primary structure is relocated on the lot or parcel;
4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is more than 25% of the market value of the land and buildings, as indicated by tax assessor's records;

B. Exceptions.

The following types of lighting are not subject to the requirements of this Section 50-31:

1. Public street and right-of-way lighting;
2. Temporary decorative seasonal lighting;
3. Temporary lighting for emergency or nighttime work and construction;
4. Temporary lighting for theatrical, television and performance areas, or for special public events;
5. Lighting for a special district, street or building that, according to an adopted city plan or ordinance, is determined to require special lighting aesthetics as part of its physical character;
6. Lighting required and regulated by the FAA;
7. Lighting for outdoor recreational uses such as ball diamonds, playing fields, tennis courts and similar uses, provided that (a) light poles are not more than 80 ft. tall, (b) maximum illumination at the property line is not brighter than two footcandles, and exterior lighting is extinguished no later than 11:00 pm.

Section 44: That Section 50-33.2 of Chapter 50 be amended as follows:

50-33.2 Site design.

- A. The site design process shall begin with an analysis of site constraints and natural resources, and shall avoid both to the degree practicable.
- B. In addition, the site design process shall include a pre-submittal evaluation of storm drainage to ensure that the proposed design will comply with the storm drainage and erosion control standards in Section 50-18.1.E. This study shall be submitted prior to submission of a preliminary plat of the property.
- C. The site design process shall include an evaluation of minimal impact development and low impact development methods.
- D. At a minimum, the lands included in the plat or survey shall be designed so that all developable parcels can be developed in compliance with the requirements of:
 1. Section 50-18.1 Natural Resources Overlay district, which identifies areas subject to flood plain, shorelands and wetland constraints, and storm water and erosion control;
 2. ~~Section 50-28 Storm Water and Erosion Control;~~

- 2 Section 50-18.4 Skyline Parkway Overlay district, which identifies constraints on the location of structures and fences on lands located within 200 ft. downhill of Skyline Parkway.
- E. Shore and bluff impact zones shall be included in common open space. Wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas in their natural state that are unsuitable for development shall be included in common open space if possible.
 - F. Whenever a portion of a tract is proposed for platting and it is intended to enlarge such platted portion in the future, a tentative plan for the entire tract shall be submitted.
 - G. To ensure a harmonious development in areas not subject to any zoning ordinance the subdivider may be required to place upon such plats restrictions comparable to those of this Chapter for similar areas.

Section 45: That Section 50-33.4 of Chapter 50 be amended as follows:

50-33.4 General Lot Design and Layout.

- A. All lots shall have frontage on a public street unless that is impracticable due to topography and the city engineer approves an alternative layout based on considerations of public safety and land use efficiency.
- B. Where practicable, side lot lines shall be at approximately right angles to the street on which the lot fronts.
- C. Where practicable, adjacent lots shall not be platted so that their long axes are at right angles to each other.
- D. No strips of land shall be platted for private ownership that control access to public streets or that are untaxable for special improvements.
- E. Where practicable, lots shall be oriented so that the long axis of the lot is within 15 degrees of east-west in order to increase solar orientation.
- F. Flag lots are prohibited in R-1, R-2, and MU-N zone districts.

Section 46: That Section 50-35 of Chapter 50 be amended as follows:

50-35 Summary table.

TABLE 50-35-1: PROCEDURES SUMMARY TABLE

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

* 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.

** Appeals of Airport Environs Permits related to Duluth International Airport are heard by the airport board of adjustment. Planning staff will provide applicant with a pre-application verification.

*** Appeals heard by the building appeals board or the State Building Official. Applicant must provide documentation that the final plat has been recorded with the County Recorder.

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

Section 47: That Section 50-36.3 of Chapter 50 be amended as follows:

50.36.3 Historic preservation commission.

A. Creation.

Pursuant to Minnesota Statute 471.193, there is hereby created and established a city of Duluth historical preservation commission, hereinafter called the "commission." The commission shall have the responsibility of recommending to the city council the adoption of ordinances designating areas, places, building structures, works of art or other objects having special historical, cultural or architectural interest for the community as historical preservation landmarks or districts.

B. Membership and terms.

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.

Appointments shall be for a term of three years. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. Members shall serve without compensation and shall continue to hold office until their successors have been appointed and confirmed;

C. Powers.

The historic preservation commission shall have the following powers:

1. Recommendation of historic preservation sites and districts to the city council;
2. 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 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 48: That Section 50-36.4 of Chapter 50 be amended as follows:

50-36.4 Land use supervisor.

The land use supervisor is that individual responsible for administration of all aspects of this Chapter where specific authority has not been delegated to another city official or employee, and is responsible for exercising those powers to implement adopted plans through the review of applications described in MSA 462.356 subdivision 2 and MSA 462.359. The land use supervisor may delegate specific responsibilities to any individual city employee under the supervisor's management, but shall remain responsible for all decisions made by those employees. Except as otherwise provided in this Chapter or other law, the land use supervisor's authority shall extend to all zone districts. The land use supervisor's authority shall include, but shall not be limited to, the following:

A. Planning review.

To approve, approve with modifications or deny applications for planning review pursuant to Section 50-37.11;

B. Temporary and sidewalk use permit.

To approve, approve with modifications or deny applications for approval of a temporary or sidewalk use permit pursuant to Section 50-37.12;

C. Review and recommendation.

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

D. Application manual and administrative procedure

To prepare an applications manual and adopt administrative procedures to implement this Chapter.

Section 49: That Section 50-37.1 of Chapter 50 be amended as follows:

50-37.1 Common procedures and requirements.

A. Pre-application meetings.

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

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

B. Authority to file applications.

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

C. Application materials and fees.

1. Each application for a permit or approval, or for a modification of a permit or approval, pursuant to this Chapter, shall include all those application materials listed for that type of application or modification listed in the UDC application manual for this Chapter and a fee in the amount listed for that type of application or modification shown in the latest schedule of fees approved by council;
2. The city may reject applications not meeting the requirements of this Chapter, the UDC application manual, or as required or authorized by MSA 15.99;
3. Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city;
4. The schedule of fees shall be adopted from time to time by the council by resolution, pursuant to Section 31-6 of the Code, to defray estimated staff costs and expenses of processing applications;
5. The schedule of fees may provide for additional fees if an applicant submits more than two applications that are incomplete, pursuant to Section D below, for the same proposed development;
6. All fees are non-refundable regardless of whether the applicant withdraws the application prior to a decision or whether the application is approved, approved with conditions or denied;

D. Determination of completeness.

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

E. Inactive complete applications.

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

F. Withdrawal of applications.

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

G. Successive applications.

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

H. Public notice.

1. Types of notice.

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

- (a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least ten days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing;
- (b) Mailed notice means a letter mailed by first class mail to property owners within a ~~specific distance~~ 350 feet of the applicant's parcel at least ten days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 feet from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of five acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 feet of the area to be rezoned. Failure to give mailed notice as required by this Section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this Section has been made;
- (c) Sign notice means a sign with minimum dimensions of 24 inches by 30 inches posted as close as reasonably possible to each street frontage on the applicant's property with the text between three and five feet above grade level, with a title line reading "Zoning Notice" in letters at least three inches tall, and with the remainder of the text in letters at least 1/2 inch tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way;

2. Content of notice.

Each required notice shall include the following information:

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

3. Special notice provision for appeals.

In the case of an appeal to the planning commission or council pursuant to Section 50-37.1.O, mailed notice shall be provided to any interested parties that

were notified of the original application and the right to receive notice of any appeal, and who have notified the city in writing that they would like to receive notice of the appeal;

I. Public hearings.

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

J. Review criteria.

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

K. Conditions on approval.

1. As an alternative to denying an application, the building official and the land use supervisor are authorized to approve applications with conditions necessary to bring them into compliance with the requirements of this Chapter or with any previously approved district plan for the property;
2. As an alternative to denying an application, the planning commission is authorized to recommend or impose conditions on approvals that it determines are necessary to (a) bring the application into compliance with the requirements of this Chapter, the purposes of the zone district where the property is located or any previously approved district plan for the property, or (b) prevent or minimize adverse effects upon surrounding areas or upon public facilities and services;
3. All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Chapter;
4. In the case of decisions made by the planning commission or council, where mitigation of the impacts of a proposed plan or development requires an

applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts;

5. Any conditions on approved applications shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Chapter;

L. Administrative adjustments.

Where an application concerns development or redevelopment of an existing platted lot and the applicant demonstrates practical difficulty in designing the redevelopment to comply with all requirements of this Chapter, the land use supervisor is authorized to approve applications that diverge from the requirements of this Chapter in up to two of the following ways:

1. The front, side or rear setbacks of a new structure or modified building are no more than one foot smaller than the minimum setbacks required by this Chapter;
2. The height of a new or modified structure is no more than two feet taller than the maximum required by this Chapter;
3. For properties where Section 50-24 requires more than three off street parking spaces, and the property does not contain a single-family residential structure (regardless of the use of that structure) the site contains one less parking space than is required;
4. Accessibility structures can encroach into the yard setbacks.
5. For properties where 50.21.2 requires improved street frontage, exceptions limiting the street improvement to no more than 50' in length may be granted if the Land Use Supervisor determines that further extension of the street is not anticipated due to topography, Comprehensive Land Use Plan, or utility availability.

M. Modifications of approvals.

1. Application.

An applicant who has received a permit or approval from the city pursuant to this Chapter may apply to modify that approval pursuant to this Section 50-37.1. An application for a modification shall be made to the building official, who shall determine whether it requests a minor or major modification pursuant to the criteria in subsections 2 or 3, as applicable;

2. Minor modifications.

Minor modifications are those that (a) relate to redevelopment of a single building on one or more existing platted lot(s), (b) qualify as administrative adjustments pursuant to subsection 50-37.1.L and or (c) that the city determines are otherwise consistent with any district plan approved for the zone district where the property is located. Applications for minor modifications may be approved by the city if it determines that the applicant would have practical difficulties designing or constructing the project without the minor modification. However, the city may require that an application meeting the criteria for a minor modification be treated as an application for a major modification if it determines that the application raises a significant public controversy on which numerous parties other than the owner of the property may want to offer testimony;

3. Major modifications.

Major modifications are those that do not qualify as administrative adjustments pursuant to subsection 50-37.1.L or minor modifications pursuant to subsection 2 above. Applications for major modifications shall be treated as a new application for an approval of the same type being modified. However, if the city determines that an application for modification is not consistent with a district plan applicable to the property, and that the inconsistency may materially and adversely affect other property owners subject to the same district plan, the city may require that the applicant obtain approval of a revised district plan instead of a major modification. In the case of a major modification involving a natural resources permit, the city may require additional reports and data necessary to evaluate the impacts of the modification;

N. Lapsing of approvals.

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

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

O. Appeals.

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

1. General provisions for appeal to planning commission.

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

2. Exceptions.

- (a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I, *No safety obstructions*, 50-27.1.L, *Attachment to buildings*, 50-27.1.M, *Wind pressure design*, 50-27.1.N, *Electrical wiring*, or 50-27.1, *Certification of structural engineer*, must be taken to the state building official as provided in the State Building Code;
- (b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Section 10 of the City Code or to the state building official;

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

shall only approve development plans if it finds that the requirements for the district plan in that district will be satisfied;

5. Appeal of planning commission decisions to the courts.
 - (a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission;
 - (b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission;
 - (c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01;
6. Appeals of Historic Preservation Commission Decisions to Council
Where applicable, Section of 50-37.1.O.4 shall apply of historic commissions decisions, when appealable to City Council

P. Security for improvements.

1. If the provisions of this Chapter or conditions attached to a permit or approval under this Chapter require the applicant to construct or make improvements to the property, to protect the city or adjacent property owners from injury or damage, or to return the property to a stated condition following the completion of operations or construction, and those actions have not been completed, then the city shall require the applicant to post security to ensure that those improvements are made in a timely manner, and that if the applicant fails to make those improvements the city will have adequate funds on hand to complete the improvements at the applicant's expense;
2. Security shall be posted in a form acceptable to the city, which may include but are not limited to cash, a promissory note, a letter of credit issued by a financial institution acceptable to the city, or a performance bond issued by a financial institution acceptable to the city. The security shall be in an amount equal to 110 percent of the estimated cost for the city to complete the improvements;
3. The city shall release posted financial security upon confirmation by the building official that the required improvements have been constructed in accordance with all applicable design and construction standards. In the case of any improvements to be dedicated to the city, the city shall release posted financial security upon acceptance of the improvements by the city. At the discretion of the building official, partial releases of financial security may be made after construction or dedication of some but not all of the required improvements, but financial security equal to 110 percent of the estimated cost of for the city to complete the improvements shall be retained;
4. As an alternative to requiring the posting of financial security, the city may authorize the issuance of a temporary certificate of occupancy for the property, provided that the applicant signs a development agreement with the city agreeing to pay the city a specific financial penalty per month if the required improvements are not constructed by a certain date. The amount of the penalty shall be calculated so that if the applicant does not construct the improvements within one year after the required date the penalties will equal at least 110 percent of the estimated cost for the city to complete the improvements.

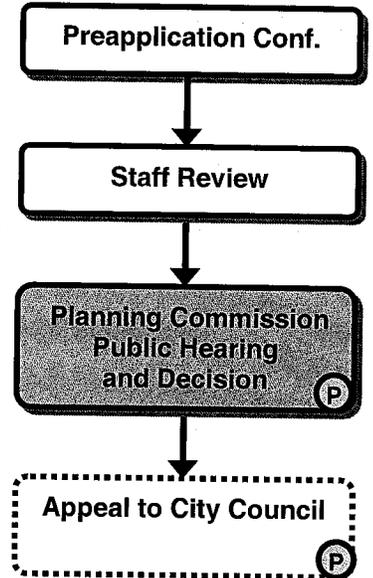
Section 50: That Section 50-37.4 of Chapter 50 be amended as follows:

50-37.4 District plan adoption or amendment.

~~Some of the MU-I zone districts described in Article 2 of this Chapter includes a district plan option. require that district plans be approved before UDC approvals and permits or building permits for new development may be issued, and that all development in the district must be consistent with the approved district plan. In addition, one district allows but does not require the approval of district plan before new development, but allows projects described in an approved district plan to may be approved without the need for additional hearings once the plan is approved. Following the approval or amendment of a district plan, no UDC approval, permit or building permit shall be issued for a project, structure or land use that is inconsistent with the adopted or amended plan. Districts requiring or allowing district plan approval are listed in Table 50-37.4-1.~~

| Category | District |
|------------------------|---|
| District Plan Required | R-P Planned Residential |
| District Plan Optional | MU-I Mixed Use Institutional |

District Plan Adoption or Amendment



(P) Indicates Public Hearing Required

A. Application.

1. Any property owner within the boundaries of a zone district requiring or allowing the approval of a district plan may file an application for approval of a district plan. Any property owner within the boundaries of an approved district plan may file an application for amendment of that district plan;
2. The application provisions of Section 37.1.B shall apply to the extent they are consistent with subsection 1 above;

B. Procedure.

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 it determines that the application:

1. Is consistent with the comprehensive land use plan;
2. Is consistent with the purpose of the zone district and the plan approval requirements and criteria for the zone where the plan is proposed, as stated in Article 2 of this Chapter;
3. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

Section 51: That Section 50-37.7 of Chapter 50 be amended as follows:

50-37.7 Concurrent use of streets permit.

This section applies to all applications for construction of a skywalk and to any other application requesting that the city approve the concurrent use of the street surface, right-of-way, or the air rights above the street or the land beneath the street, but shall not apply to applications for concurrent use of a portion of a public sidewalk for a café, eating area, transit shelter or bench, or bicycle parking area.

A. Application.

An application for concurrent use of streets shall be filed pursuant to Section 50-37.1.B.

B. Procedure.

1. Review and Recommendation

The planning commission shall review the petition, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a recommendation to council based on whether the application meets the criteria in subsection C below.

2. Council Decision

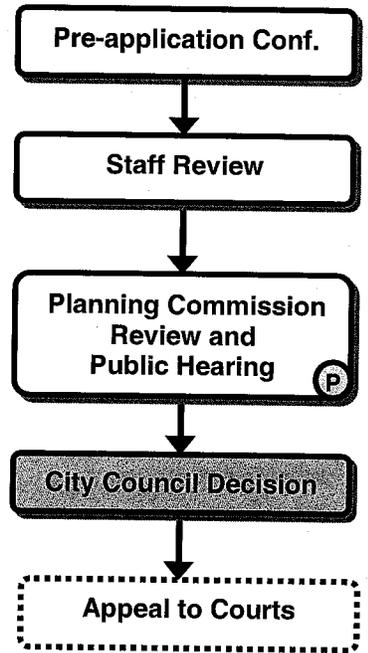
Upon receipt of the planning commission recommendation, the council shall make a decision to approve, approve with modifications or deny the application, in whole or part, based on the criteria in subsection C below. The council action shall be by ordinance.

C. Criteria.

The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use is ~~necessary to protect the~~ will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

Concurrent Use of Street Permit



(P) Indicates Public Hearing Required

Section 52: That Section 50-37.8 of Chapter 50 be amended as follows:

50-37.8 Special use or interim use permit.

This section applies to all applications for those special uses listed for specific zone districts in Table 50-19.8. It also applies to applications for special interim uses that will be authorized for only a specified period of time, ~~or that the council approves for only a specified period of time, which will be issued as an interim use permit rather than a special use permit.~~ This section is intended to comply with the provisions of MSA 462.3595 and 462.3597 as amended, and shall be interpreted to comply with those provisions wherever possible.

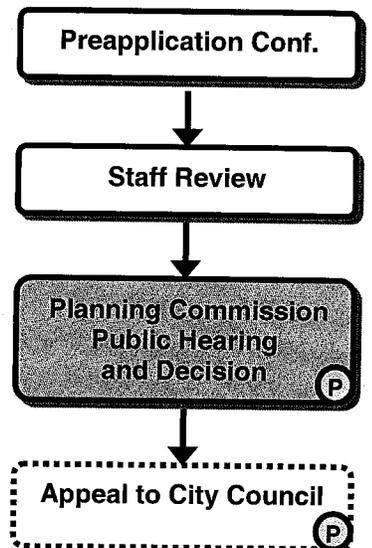
A. Applications.

An application for a special use or interim use shall be filed pursuant to Section 50.37.1.B.

B. Procedure.

1. The planning commission shall review the application, shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H. In the case of a special use permit, planning commission shall make, and in the case of an interim use permit, council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The commission or council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to met.
2. If the permit is approved or approved with modifications, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions. The city may require that some or all of the documents presented by the applicant in support of the application, including without limitation any site plan, landscape plan, building elevation drawings, or development agreement, be recorded as a city public document prior to the issuance of any building permit. A decision not to require recording of some or all of those documents shall not relieve the applicant or any successors or assigns in title to the property from the duty to comply with all terms and conditions of the permit. Constructing any improvement or beginning any activity authorized by the permit shall constitute the applicant's agreement to conform to all terms and conditions of the permit.
3. The city may approve an application or approve it with modifications, with a condition that if a structure authorized by the permit is not constructed by a specified date, or if an activity authorized by the permit is not begun by a specified date, the permit shall terminate. If that condition is attached, the city shall notify the applicant and the property owner when a

Special Use Permit



(P) Indicates Public Hearing Required

permit has lapsed, and that decision may be appealed pursuant to Section 50-37.1.O.

4. The city may approve an application or approve it with modifications, with a condition that abandonment of an activity authorized by a permit longer than a stated period terminates the permit, and any future reactivation of the use will require the filing and approval of a new permit application.
5. The commission may not approve or approve with modifications, a special use permit valid only for a specific period of time, but must instead recommend to council an interim use permit pursuant to subsection D below for that purpose.
6. Any approved permit shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city.

C. Criteria for Special Use Permits.

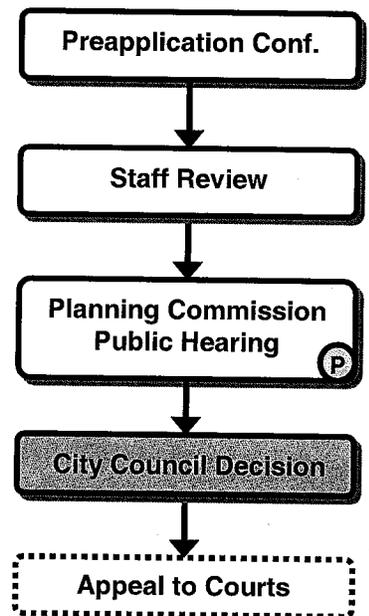
The planning commission shall approve the application or approve it with modifications if the commission determines that the application meets the following criteria:

1. The application is consistent with the Comprehensive Land Use Plan;
2. The application complies with all applicable provisions of this Chapter, including without limitation any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area;
3. Without limiting the previous criteria, the commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community.

D. Interim Use Permit.

1. As an alternative to a special use permit, MSA 462.3597 authorizes the city to issue an interim use permit that authorizes a special use to exist until a specified date or until an amendment to this Chapter authorizes or prohibits that use. An applicant may apply for an interim use permit, and the commission may decide to recommend an interim use permit even if the application is for a special use permit.
2. An application for an interim use, or a decision to approve an interim use, shall be subject to the same procedures used for special uses, and the commission shall have all the powers described in Section 50-37.10.B.1 except that the commission shall forward a recommendation to council for action, and final approval of an interim use shall be by council resolution rather than commission action. The council may require financial security pursuant to Section 50-37.1.P to ensure that any improvements related to the interim use will be removed at the end of the interim use period.
3. An application to extend the period of an interim use permit shall be treated as major modifications of the initial permit and shall be processed pursuant to Section 50-37.1.M.

Interim Use Permit



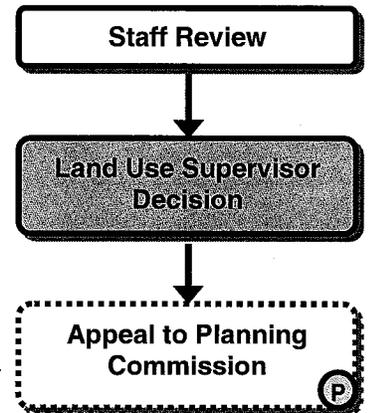
P Indicates Public Hearing Required

E. Criteria for Interim Use Permits.

In addition to the criteria in subsection 50-37.10.C, the council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures of improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

**Planning Review
General**



(P) Indicates Public Hearing Required

Section 53: That Section 50-37.11 of Chapter 50 be amended as follows:

50-37.11 Planning review.

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

A. Applications.

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

B. Procedure.

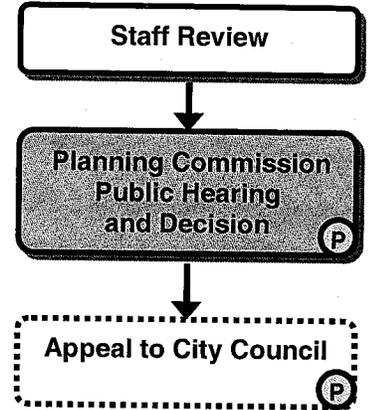
1. Building permit applications for certain types of development and redevelopment activities will trigger planning review for compliance with the standards of this Chapter. Except as stated in subsection 2 below, this planning review shall be conducted by the land use supervisor pursuant to the criteria in subsection C below;

2. For applications involving covered types of development and redevelopment activities in the R-2, MU-N, MU-C, MU-I, and MU-W zone districts, the planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below;
3. The land use supervisor or the planning commission may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;

C. Criteria.

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

Planning Review in R-2, MU-N, MU-C, MU-I, or MU-W



(P) Indicates Public Hearing Required

Section 54: That Section 50-37.12 of Chapter 50 be amended as follows:

50-37.12 Temporary or Sidewalk Use Permit.

This section applies to temporary uses or proposals to use a portion of a public sidewalk for a café, eating area, transit shelter or bench, bicycle rack, temporary display or other purpose that does not involve the permanent vacation of any part of the street.

A. Application.

An application for a temporary or sidewalk use permit shall be filed pursuant to Section 50-37.1.B.

B. Procedure.

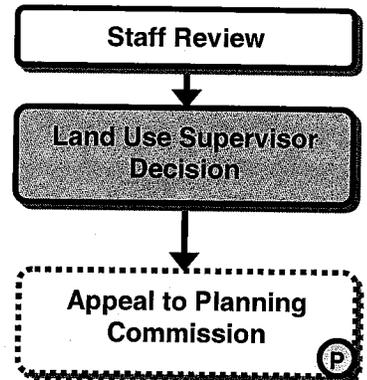
The land use supervisor shall refer the application to the city engineer for a recommendation as to whether the proposed design and location of the temporary or sidewalk use will provide for and not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure. The land use supervisor shall then review and make a decision on an application for a ~~sidewalk use permit~~ based on the criteria in subsection 50-37.12.C. The land use supervisor may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met.

C. Criteria.

The land use supervisor shall approve the application, or approve it with modifications, if the supervisor determines that the following criteria have been met:

1. The city engineer has confirmed that the proposed use or structure will not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure;

Temporary or Sidewalk Use Permit



(P) Indicates Public Hearing Required

2. The proposed use or structure will not encroach into drive aisles, loading zones, fire lanes or parking lots;
3. The proposed use or structure will not encroach into any area located directly between any operating building entrance and the street curb (other than a building entrance intended only to serve patrons of an outside eating area);
4. The proposed use or structure will be set back at least 5 ft. from the curb and at least 5 ft. from all street trees and street furniture in order to allow for the free passage of pedestrians;
5. The applicant has signed an agreement with the city (a) to keep the sidewalk and street within 20 ft. of the proposed use or structure free from any litter generated by the use or activity, (b) accepting all liability resulting from the proposed use or structure and holding the city harmless for any and all such liability, (c) providing liability insurance meeting city standards, and (d) determining the period of use.

Section 55: That Section 50-37.13 of Chapter 50 be amended as follows:

50-37.13 Zoning permit.

This Section applies to a variety of permits covering development, redevelopment, and natural resources protection where the land use is a permitted use and the city must confirm whether the application complies with all other applicable provisions of this Chapter. The specific permits included in this Section are summarized in Table 50-37.2-2 below.

| Table 50-37.13-1: Types of Zoning Permits | |
|--|---|
| Type of Permit | Primary Compliance Requirement ^[1] |
| Temporary Use Permit | Permitted Use Table 50-19.8 Use-specific Standards (Section 50-20.6) |
| Shoreland Permit | Shorelands (Section 50-18.1.D) |
| Erosion and Sediment Control Permit | Temporary Soil and Erosion Control (Section 50-18.1.E) |
| Sign Permit | Signs (Section 50-27) |
| Fence Permit | Fences and Walls (Section 50-26.4) |
| Airport Environs Permit | A-O Airport Environs Overlay district (Section 50-18.2) |

[1] All applications must comply with all applicable requirements of the UDC

pplication.

A.

A

An application for a zoning permit shall be filed pursuant to Section 50-37.1.B;

B. Procedure.

1. The building official shall review and make a decision on an application for a zoning permit based on the criteria in subsection C below. The building official may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;
2. All buildings, structures and improvements must be constructed and maintained, and all land uses must be operated, in accordance with the terms and conditions of this Chapter and any zoning permit issued pursuant to this Section 50-37.13;

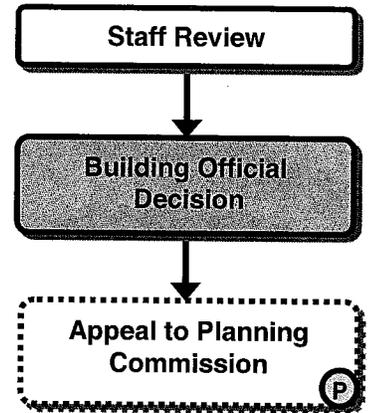
C. General criteria.

The building official shall approve the application, or approve it with modifications, if the building official determines that the application complies with all applicable provisions of this Chapter;

D. Additional provisions for specific areas and types of permits.

1. Shoreland permit.
No zoning permit for land containing any shoreland shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.D;
2. Erosion and sediment control permit (ESCP).
No land disturbance activity that requires an erosion and sediment control permit (ESCP) as indicated in Table 50-18.1.E-1 may be begin until a permit has been obtained. The building official shall refer the application to the city engineer, who shall review the plan to ensure that it complies with the requirements of section 50-18.1.E. The city engineer may require additional information and may require that any information submitted be verified by a licensed engineer, licensed surveyor or other technical professional. If the application is denied, the applicant shall be given a summary of the plan's deficiencies. The ESCP permit shall be considered expired only after all construction activities are completed and the entire site is fully stabilized with 70 percent successful establishment of vegetation;
3. Airport environs permit.
No airport environs permit shall be issued unless all of the requirements of Section 50-18.2 have been met. A permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour or topographic features, would violate the provisions of Section 50-18.2.

Zoning Permit



P Indicates Public Hearing Required

Section 56: That Section 50-38.5 of Chapter 50 be amended as follows:

50-38.5 Nonconforming Lots.

- A. A lot that existed on ~~July 14, 1958~~ November 18, 2010, and was held in separate ownership from adjoining lots on that date and does not meet the minimum size lot area or frontage ~~dimensional~~ requirements for the zone district in which it is located may nevertheless be used for the construction of a primary structure permitted in that zone district, ~~provided that the structure complies with~~ a~~All other~~ applicable dimensional standards in Article 2 and Section 50-21 ~~or apply unless~~ the applicant obtains a variance from those dimensional standards pursuant to Section 50-37.9.
- B. Nonconforming lots that are not provided with public sewer shall comply with county individual sewage treatment systems ordinance and standards. However a lot or parcel of record that was lawful as to lot area requirements and under separate ownership from any adjoining lot or parcel on May 23, 1993, shall not be deemed nonconforming as to lot area requirements unless subdivided after that date.

Section 57: That Section 50-39.2 of Chapter 50 be amended as follows:

50-39.2 Enforcement.

A. Responsibility.

The building official is responsible for enforcing this Chapter. No permit or approval for the construction, alteration or demolition of any building, or for the use of land, shall be issued if the building as proposed to be constructed, altered or demolished would be a violation of this Chapter.

B. Authorization for Inspections.

For the purposes of enforcing this Chapter, the building official is authorized to enter, examine and survey, between the hours of 8:00 a.m. and 5:00 p.m., any property subject to the regulations of this Chapter. Prior to making an inspection based on a possible violation, the building official shall inform the owner of the property to be inspected, or their agent, of the date and time of the inspection in writing at least 4 days prior to the inspection. Advance notice need not be given in the case of routine inspections. After written notice has been given, the owner or occupant of the property to be inspected, or the person in charge of that property, shall give the building official free access to the property between 8:00 am and 5:00 pm, for the purpose of inspection. The inspection shall not have for its purpose the harassment of the owner or occupant and shall be made so as to cause the least amount of inconvenience to the owner or occupant of the property consistent with the efficient performance of the duties of the building official. Nothing in this Section 50-39.2.B shall be construed to prohibit the entry of the building official:

1. At any time when in the opinion of the building official an actual emergency tending to create an immediate danger to public health and safety exists;
2. At any time when an inspection is requested by the owner or occupant.

C. Enforcement Tools.

The city may use any of the following tools and powers to enforce this Chapter, in any order, and the use of one tool or power shall not restrict the city from using an additional tool or power to remedy the same violation.

1. Order Requiring Compliance

- (a) The city may issue a written order identifying the violation(s) of this Chapter and requiring that the property owner or occupant bring the property into compliance with this Chapter, at the owner or occupant's expense, within a specified time. The notice shall state what actions are necessary to bring the property into compliance.
- (b) The time allowed for correction shall be not less than 30 days, except that (i) if the order identifies a threat to public health or safety then a compliance shorter than 30 days may be required, and (ii) if the order involves a violation of the provisions of the Airport Overlay district or the sign regulations in Section 50-27, the time for compliance shall be 10 days. In determining a reasonable time for performance the building official shall consider the nature and extent of the work involved, the season of the year, the existence of any immediate danger to public health and safety, and any other pertinent factors. The building official may extend the time for compliance in writing for good cause shown.
- (c) The property may continue to be used for occupancy or habitation pending compliance with the order unless the notice identifies an imminent threat to public health or safety and requires that occupancy or habitation be limited or end by a certain date.
- (d) When an order to correct a violation of this Chapter has been issued, the building official is authorized to enter and re-inspect the property subject to the order for the purpose of determining compliance with the order. The owner or occupant of the property, or the person in charge of the property, shall give free access to the property for the purpose of the inspection.
- (e) Every occupant of property shall give the owner of the property, or his agent or employee, access to any part of the property at all reasonable times for the purpose of making repairs or alterations required to comply with the order.
- (f) The city shall not charge a fee for inspections made in response to complaints or to confirm compliance with an order.

2. Enforcement of Wireless Telecommunications Facility Violations

- (a) If the city determines that the wireless telecommunication facility is a public nuisance, the building official shall notify the holder of the special use permit in writing and order the correction of the violation or removal of the facility.
- (b) If the order requires removal of the wireless telecommunication facility the holder of the special use permit, or its successors or assigns, shall dismantle and remove such facility and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within the deadline provided for in the order to remove. If the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so if the land use supervisor determines that the retention of those access roads would promote the purposes of this Chapter.
- (c) Notwithstanding anything in this subsection to the contrary, the building official may approve a temporary extension of the order, for no more 90 days, during which time a suitable plan for the repair, sale, removal,

conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the city, and an agreement to such plan shall be executed by the holder of the special use permit and the city. If such a plan is not developed, approved and executed within the 90 day time period, then the city may exercise all available legal rights.

- (d) The holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with an order of the building official or any provision of Section 50-20.4.E.
- (e) If compliance or substantial progress towards compliance with the order has not been made by the compliance deadline, the city may exercise any legal remedies available to secure compliance with the order at the sole expense of the owner or special use permit holder.

3. Withholding Permits or Approvals

The city may refuse to process applications for permits and approvals under this Chapter if the application concerns a property where (a) the building official has determined to be in violation of the Chapter, (b) the city has issued an order requiring that the violation be corrected, and (c) the owner occupant has not remedied the violation within the time stated in that order, unless the application is for the purposes of remedying the existing violation.

4. Prevention of Violation

If the city becomes aware that a building, structure, sign or site feature is about to be constructed in violation of this Chapter, the city may take appropriate action to prevent the violation. The city's action may include but is not limited to withdrawal of any permits or approval related to the construction or activity that would constitute a violation.

5. Abatement

- (a) The city may take action to abate or remove the violation, and to charge the costs of the abatement or removal to the property owner if the property owner or occupant of a property fails to comply with an order to correct a violation of this Chapter within the time specified in the order, as that time may be extended by the building official in writing for good cause shown, and the building official determines that the continuance of the violation creates a threat to public health or safety.
- (b) Following the abatement or removal, the city shall issue an order that the owner of the land on which the violation occurred pay to the city the documented costs of the abatement or removal with 30 days.
- (c) If the owner of the land does not pay the documented costs of abatement or removal to the city within 30 days, those costs may be assessed against the land on which the violation occurred, and the city shall provide the owner of the land written notice of the assessment. Unless the assessment is paid within 90 days from the service of notice on the property owner, the sum shall bear interest at the rate of 8% per annum from the date the cost was incurred until paid, and shall be collected in the same manner as are general taxes.
- (d) The city shall end the process of assessing abatement and removal costs against the land, or shall cancel the assessment if it has been finalized, upon receipt of payment in full of all costs documented in the order and all accrued interest on those costs.

6. Administrative Citations

The city may issue an administrative citation pursuant to Chapter 12 of the city code, and may take all actions authorized.

7. Court Actions

The city may enforce this Chapter by filing an action in law or equity in any court of competent jurisdiction, including without limitation a request for a declaratory judgment, a request for a restraining order or a temporary or permanent injunction, or a request for money damages based on the penalties for violation established in this Chapter or elsewhere in the city code. The decision as to whether to seek enforcement in the courts, and what type of enforcement to seek, shall be at the discretion of the city.

8. Nuisance Abatement

If the building official determines that the violation constitutes a public nuisance under state law, the city may use all powers granted by state law to abate public nuisances.

9. Other Enforcement Powers

The city may enforce this Chapter through any other powers granted to the city by state law.

D. Notices and Orders.

1. Any notice and order under Section 50-39.2.C.1 shall be served upon the owner or the owner's agent and the occupant as the case may require. In the case of a notice involving the sign regulations in Section 50-27, the notice shall also be served on the owner of the sign or the person or entity that erected or caused the erection of the sign.
2. The notice shall be deemed to be properly served upon those individuals or entities identified in subsection 1 if a copy of the notice is:
 - (a) Served personally; or
 - (b) Sent by United States mail, postage prepaid, to the last known address of the owner, occupant or agent shows in the city records; or
 - (c) Posted in a conspicuous place in or about the property affected by the notice; or
 - (d) Served by any other method authorized or required by state law.
3. Any notice served pursuant to subsection 1 shall automatically become an order if a written petition for a hearing is not filed with the building official within 15 days after the notice is served. An order is final unless an appeal is filed pursuant Section 50.37.1.O
4. If the building official finds that an emergency exists that requires immediate action to protect the public health and safety, the building official may, without notice or hearing, issue an order declaring that emergency and requiring those actions that the building official deems necessary to meet the emergency notwithstanding the other provisions of this Chapter, and that order shall be effective immediately. Any person to whom the order is directed shall comply with the order immediately, but may file with the building official a request for a hearing following compliance with the order.

Section 58: That Section 50-41 of Chapter 50 be amended as follows:

50-41 Definitions.

~~1.~~ Accessory agriculture roadside stand.

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

~~2.~~ Accessory bed and breakfast.

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

~~3.~~ Accessory boat dock, residential.

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

~~4.~~ Accessory caretaker quarters.

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

~~5.~~ Accessory communications tower for private use.

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

~~6.~~ Accessory day care facility.

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

~~7.~~ Accessory dwelling unit.

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

8- Accessory heliport.

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

9- Accessory home occupation.

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

10- Accessory recycling collection point.

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

11- Accessory sidewalk dining area.

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

12- Accessory solar or geothermal power equipment.

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

13- Accessory use or structure.

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

accessory uses and structures for energy conservation and renewable energy production, and accessory structures for stormwater management and water conservation.

~~14.~~ Accessory wind power equipment.

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

~~15.~~ Accessory wireless antenna attached to existing structure.

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

~~16.~~ Adjacent developed lots facing the same street.

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

~~17.~~ Adult entertainment establishment.

See definition in Chapter 5 of the City Code.

~~18.~~ Adult book store.

See definition in Chapter 5 of the City Code.

~~19.~~ Agriculture, general.

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

~~20.~~ Agriculture, urban.

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

~~21.~~ Airport boundary.

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

- ~~22.~~ Airport elevation.
The established elevation of the highest point on the usable landing area, which elevation is established to be 1,438 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.
- ~~23.~~ Airport hazard.
Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.
- ~~24.~~ Airport and related facilities.
An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.
- ~~25.~~ Alley.
~~A public thoroughfare less than 30 ft. in width. A dedicated public right-of-way not more than thirty (30) feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation~~
- ~~26.~~ Alley line.
The established side line of an alley easement.
- ~~27.~~ Antenna.
A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.
- ~~28.~~ Apartment.
A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a one-family, including full cooking and bathroom facilities for individual use.
- ~~29.~~ Apartment hotel.
A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and newsstands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.
- ~~30.~~ Assisted living facility (elderly)
~~A building used exclusively as a residential rooming house for occupancy by persons 50 years of age or more.~~
- ~~31.~~ Automobile and light vehicle sales, rental, or storage.
The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles. This shall not include

salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

32. Automobile and light vehicle repair and service.

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

33. Average lot depth.

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

~~34.~~ Bank.

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

~~35.~~ Basement.

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

~~36.~~ Bed and breakfast.

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

~~37.~~ Block.

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

~~38.~~ Block face.

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

~~39.~~ Bluff.

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

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

~~40.~~ Bluff, bottom of.

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

~~41.~~ Bluff, top of.

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

~~42.~~ Bluff impact zone.

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

43. Bluff line.

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

44. Boathouse.

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

Buffer Area

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

45. Buffer, Naturally Vegetative

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

46. Build-to zone

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

47. Building.

Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.

48. Building material sales.

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

49. Bulk storage not listed elsewhere.

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

50. Bus or rail transit station.

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

51. Business, art, or vocational school.

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

52. Business park support activities.

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

53. Cemetery or mausoleum.

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

54. Channel.

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

55. Club or lodge (private).

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

56. Co-housing facility.

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

57. Co-location.

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

58. Coldwater river.

Rivers including trout streams and their tributaries.

59. Commercial impracticability or commercially impracticable.

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

60. Common open space.

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

61. Common plan of development or sale.
A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan. For redevelopment projects, contiguous includes parcels separated by a right-of-way.
62. Composting.
The controlled microbial degradation of organic waste to yield a humus-like product.
63. Confined animal feeding operation.
A facility, area, or place where the feeding of livestock, poultry, pigs, or small animals takes place for commercial purposes in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means.
64. Construction debris.
Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.
65. Contractor's shop and storage yard.
A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This definition includes architects, engineers, surveyors' construction offices and shops, real estate sign placement service, and showroom and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal and other material in connection with contracting services.
66. Convention or event center.
A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and training facilities, which may be associated with a hotel or motel.
67. Critical root radius.
An area around a tree measured with a radius of one foot for every in. diameter of the tree, which is generally the area of soil that must remain undisturbed to ensure long-term viability of the tree.
68. Cutoff angle.
For purposes of exterior lighting regulations, the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above from which no light is emitted.

Data Center

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

69. Day care facility.

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

70. Decorative fence.

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

71. Demolition debris.

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

72. Dense urban screen.

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

73. Design storm.

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

74. Detention.

The temporary storage of drainage water.

75. Deteriorated.

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

76. Developable area.

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

77. Development.
The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels.
78. Diameter at breast height (DBH).
The primary method of measuring the diameter of a tree trunk. Diameter is measured in inches 54 inches above the ground. If the tree splits into multiple trunks at a height below 54 inches, but above the ground, the diameter is measured at the highest point beneath the split.
79. Direct illumination.
Illumination by light sources that are effectively visible, either directly or through a translucent material, as a part of the sign and illuminating outward.
80. Discharge.
The discharge of any pollutant into the waters of the state from any point source.
81. Discharge rate.
The rate at which drainage water is released from a specific site and expressed as a volume per unit of time, such as cubic feet per second.
82. District.
Any section of the city within which the zoning regulations are uniform.
83. DNR.
Minnesota department of natural resources.
84. Drainage basin.
The tributary area through which drainage water is collected, regulated, transported and discharged to receiving waters.
85. Drainage system.
Any system that conveys stormwater or surface water including sewers culverts, ditches, and swales.
86. Drainage water.
Stormwater, snow melt, surface and irrigation water, water from footing drains and sump pumps or other drains approved by the city.
87. Drip line.
A vertical line extending from the outermost edge of a tree's canopy to the ground.
88. Dry cleaning or laundry plant.
An establishment where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

89. Dwelling.
Any building or portion of a building that is designed for or used for residential purposes and that either (a) has a minimum width of 20 feet, or (b) has a principal entrance facing the front lot line.
90. Dwelling unit.
A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only, occupied by the owner or by another family for periods of occupancy exceeding one week, and that is physically separated from any other habitable unit that may be located in the same building.
91. Dwelling unit, efficiency.
A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.
92. Dwelling, live-work.
A dwelling unit containing an integrated living and working space that is intended to function predominately as business workspace with incidental residential use. The unit typically has a store-front, with the workspace, public display area, or show-room on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor.
93. Dwelling, multi-family.
A building containing three or more dwelling units that is not a townhouse.
94. Dwelling, one-family.
A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, having a minimum outside width of 20 feet measured at its narrowest point and placed on a permanent foundation that complies with the State Building Code. This definition includes a manufactured or modular home that meets this definition and the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sections 5401 et. seq.).
95. Dwelling, townhouse.
A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.
96. Dwelling, two-family.
A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families.

- 97.** Electric power or heat generation plant.
-
- A facility or area that generates electricity from mechanical power produced by the firing of fossil fuels, or that produces heat or steam for space heating and other similar uses.
- 98.** Electric power transmission line or substation.
-
- A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts, as well as substations related to those facilities.
- 99.** Elevation (flood).
-
- In the context of flood related regulation, that elevation above mean sea level referenced in the National Geodetic Datum of 1929.
- 100.** Encroachment lines.
-
- In the context of flood related regulation, the lateral limits or lines drawn along each side and generally parallel to a stream or another body of water, which delineates the floodway and within which the flood carrying capacity of the stream or other body of water is to be preserved. Their location, if along a stream, should be such that the floodway between them will effectively carry and discharge a flood not less than the regional flood.
- 101.** Equal degree of encroachment.
-
- In the context of flood related regulation, a method of determining the location of encroachment lines so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.
- 102.** Erosion.
-
- Any process that wears away the surface of the land by the action of water, wind, ice or gravity. Erosion can be accelerated by the activities of man and nature.
- 103.** Erosion and sediment control plan.
-
- A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
- 104.** Erosion and sedimentation practice specifications, or practice.
-
- The management procedures, techniques and methods adopted by the city to adequately and effectively control soil erosion and sedimentation incident to land disturbing activity within the city. The specifications are primarily based upon the MPCA handbook entitled Protecting Water Quality in Urban Areas, published in October of 1989, but may be varied on a case by case basis to effectively control erosion and sedimentation.
- 105.** Established residential neighborhood in a built up urban area (ERN BUUA).
-
- In the context of airport regulation, an area that, if it existed on or before January 1, 1978 (for low density structures and lots) and an area that, if it existed on or before July 2, 1979 (for all

other land uses) shall be considered a conforming use that shall not be prohibited except as provided in this Chapter. The following criteria shall be applied and considered in determining what constitutes an ERN BUUA:

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

~~106.~~ Excepted parcel (airport overlay).

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

~~107.~~ Expression line.

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

108. FAA.
The federal aviation administration or its duly designated and authorized successor agency.
109. Family.
One or more persons related by blood, marriage or adoption, including foster children, and in addition to and including five other unrelated persons occupying a dwelling and living as a single housekeeping unit.
110. FCC.
The federal communications commission or its duly designated and authorized successor agency.
111. Filling station.
A building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting. This use may include the retail sales of convenience goods.
112. Flood.
A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
113. Flood frequency.
The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
114. Flood fringe.
That portion of the flood plain outside of the floodway. Flood fringe is synonymous with "floodway fringe."
115. Flood hazard area.
The areas identified as flood plain, floodway, or flood fringe at or below the flood protection elevation.
116. Flood peak.
The highest value of stage or discharge attained during a flood event; thus peak stage or peak discharge.
117. Flood plain.
The beds proper and the areas adjoining a wetland, lake, or watercourse that have been or may in the future be covered by a regional flood.
118. Flood profile.
A graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.

~~119.~~ Floodproofing.

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

~~120.~~ Flood protection elevation.

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

~~121.~~ Floodway.

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

~~122.~~ Food processing.

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

~~123.~~ Forest management.

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

~~124.~~ Frontage.

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

~~125.~~ Funeral home or crematorium.

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

~~126.~~ Garage, private.

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

~~127.~~ Garden material sales.

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

~~128.~~ General development waters.

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

~~129.~~ General flood plain.

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

~~130.~~ Golf course.

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

~~131.~~ Government building or public safety facility.

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

~~132.~~ Grade.

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

~~133.~~ Grocery store.

A retail sales establishment selling primarily food and beverages for off-site preparation and consumption that maintains a sizable inventory of fresh fruits, vegetables, fresh-cut meats,

or fresh seafood or specialize in the sale of one type of food item. This use may also include sales of personal convenience and small household goods.

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

~~134.~~ Groundwater management area.

A geographically defined area that may be particularly sensitive in terms of groundwater quantity or quality by nature of the use or movement of groundwater, or the relationship between groundwater and surface water, and where special management measures are deemed necessary to protect groundwater and surface water resources.

~~135.~~ Groundwater recharge volume.

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

~~136.~~ Habitable room.

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

~~137.~~ Habitable unit.

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

~~138.~~ Hardship.

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

~~139.~~ Hazardous waste.

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

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

~~140.~~ Height of building.

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

~~141.~~ Height of tower or structure.

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

~~142.~~ Height of wall or fence.

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

~~143.~~ Historic preservation district.

A contiguous collection or group of lands, parcels, sites, structures, buildings or objects that is determined to be historically, culturally or architecturally significant as a whole and has been locally designated as a historic preservation district pursuant to Section 50-18.3 of this Chapter.

144. Historic preservation guidelines.

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

145. Historic preservation landmark.

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

146. Hotel or motel.

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

147. Hospital.

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

~~148.~~ Impaired waters.

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

~~149.~~ Impervious surface.

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

~~150.~~ Indirect illumination.

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

~~151.~~ Indoor entertainment facility.

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

~~152.~~ Industrial services.

A facility or area where industrial services such as heating, ventilation, cooking and refrigeration supplies, motion picture production, plumbing supplies, printing and photocopying, publishing, engraving, exposition building or center, and other uses designed to support industrial or heavy commercial activities in the vicinity, provided that such services are not listed separately as a permitted of special use in this Chapter.

~~153.~~ Industrial stormwater permit.

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

~~154.~~ Industrial use.

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

~~155.~~ Infill development.

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

~~156.~~ Infiltration.

The process of percolating stormwater into the subsoil.

~~157.~~ Infiltration facility.

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

~~158.~~ Institution.

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

~~159.~~ Institutional support use.

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

~~160.~~ Junk or salvage service.

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

~~161.~~ Jurisdictional wetland.

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

~~162.~~ Kennel.

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

~~163.~~ Land development.

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

~~164.~~ Land disturbing activity.

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

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

~~165.~~ Landing area.

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

~~166.~~ Land owner.

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

~~167.~~ Landscape plan.

An accurate scale drawing that indicates the major natural features of a site and all proposed buildings, structures and site improvements in sufficient detail to allow the evaluation of impacts on natural systems and other aspects of the development. ~~The landscape plan shall contain, insofar as applicable, the following minimum information: lot dimensions; the location and size of all existing and proposed buildings and other structures; walls and fences; existing coniferous trees having a height of 8 ft. or greater and existing deciduous trees having a trunk diameter of more than 4 in., provided that boundaries for areas containing groups of such trees may be delineated as prime tree stands without identifying individual trees if the species and average tree size within such areas is indicated, and if there will be no construction of buildings or roadways within such areas; marshes, swamps and other wetlands; rock outcrops and severe slopes of 25% or greater; floodplains; the location, size and specific type of all proposed landscaping material; existing and proposed drainageways; existing and proposed contours at an interval of not less than 2 ft.; vehicular, pedestrian and service access, including parking areas; areas to be conveyed, dedicated or reserved as common open areas, including public parks and recreational~~

~~areas; drainage improvements such as culverts, retention/detention basins, major drainage swales and storm water pipes in excess of 6 in.; north arrow; scale; title; and date.~~

~~168.~~ Laundromat.

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

~~169.~~ Link.

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

~~170.~~ Loading space.

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

~~171.~~ Local watershed.

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

~~172.~~ Lot.

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

~~173.~~ Lot, corner.

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

~~174.~~ Lot, double frontage.

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

Lot, Flag

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

Lot, Front

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

175. Lot frontage.

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

176. Lot of record.

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

177. Lots on the block face.

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

178. Low density residential lot.

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

179. Low density residential structure.

A one-family or two-family home.

180. Lowest floor.

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

~~181.~~ Maintenance agreement.

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

~~182.~~ Major system.

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

~~183.~~ Manufacturing, light.

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

~~184.~~ Manufacturing, heavy.

An establishment or use of land that includes the assembly, fabrication, or processing of goods and materials using processes that ordinarily have impacts on the environment or significant impacts on the use and enjoyment of surrounding properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or any use where the area occupied by outside storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: battery, chemicals, machinery, and plastics manufacture; mushroom plant; batching plant; beverage bottling and distribution, packaging plant; slaughterhouse; and rendering plant. This use does not include any use that meets the definition of "light manufacturing" or "hazardous or special manufacturing", or a solid waste disposal site, or a yard waste compost facility, and does not include any use that constitutes a public nuisance.

~~185.~~ Manufacturing, hazardous or special.

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

~~186.~~ Marina or yacht club.

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

~~187.~~ Maximum extent practicable (MEP).

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

~~188.~~ Medical or dental clinic.

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

~~189.~~ Migratory bird flight path.

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

~~190.~~ Mining, extraction and storage.

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

~~191.~~ Mini-storage facility.

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

~~192.~~ Minor system.

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

~~193.~~ Minor utilities.

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

~~194.~~ Modify or modification.

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

Motor Vehicle

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

~~195.~~ Municipal separate storm sewer system (MS4).

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

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

~~196.~~ MPCA.

Minnesota pollution control agency.

~~197.~~ Museum, library, or art gallery.

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

- ~~198.~~ Nameplate.
An accessory sign containing only the name of the occupant of a dwelling and an occupation permitted in that zone district.
-
- ~~199.~~ National register of historic places.
The nation's official list of properties worthy of preservation designated by the United States department of the interior, national park service.
-
- ~~200.~~ Natural environment waters.
Include rivers that are forest previously classified remote, forest, transitional river segments, and tributary river segments that flow into natural environment lakes. The types and intensities of recreational uses within this class vary widely.
-
- ~~201.~~ Natural resource inventory.
An inventory that identifies and maps the critical natural resources on a site, including the following resources: existing land cover of vegetative types; streams; wetlands; lakes; significant, sensitive, threatened, or endangered species; critical wildlife habitat; soil types; geologic hazards (floodplains, unstable slopes, highly erodible soils); and mineral resources.
-
- ~~202.~~ Natural state.
Where vegetation exists in a wild state, where the condition of the ground and shrub layers and floristic composition of the plant community is substantially unaltered by humans, where restoration has been consistent with Commissioner 525 Guidelines or local government approved plans, or where the vegetation has been unaltered for at least one growing season.
-
- ~~203.~~ Navigable airspace.
Airspace at and above the minimum flight altitudes prescribed in the FARs including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).
-
- ~~204.~~ NIER.
Non-ionizing electromagnetic radiation.
-
- ~~205.~~ Node.
For purposes of the connectivity index described in Section 50-23.3, a node exists at each street intersection and cul-de-sac head within the development subject to the connectivity index.
-
- ~~206.~~ Nonconforming use.
Any building or land lawfully occupied by a use at the time of passage of this Chapter or an amendment to this Chapter that does not conform after the passage of this Chapter or amendment to this Chapter with the use regulations of the district in which it is situated.

207. Nonpoint source pollution.

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

208. Nonprecision instrument runway.

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

209. Non-structural measure.

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

210. NPDES.

National pollution discharge elimination system.

211. Nursing home.

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

212. Obstruction.

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

213. Office.

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

214. Off-site facility.

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

215. On-site facility.

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

216. Ordinary high water mark.

A mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

217. Outdoor entertainment or recreation use.

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

218. Owner.

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

~~219.~~ Park, playground or forest reserve.

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

~~220.~~ Parking area.

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

~~221.~~ Parking garage structure

~~A building or portion of a building designed or used for storing motor driven vehicles as a primary use of land. A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking, and underground or under-building parking areas.~~

~~222.~~ Parking lot

~~An open unoccupied space used for storing motor vehicles as a primary use of land. An off-street area used for the temporary storage of operable and street legal motor vehicles. Includes parking spaces, aisles, drives and landscaped areas, and provides vehicular access to public street.~~

~~223.~~ Parking space

~~A surfaced area, enclosed or unenclosed, permanently reserved for the temporary storage of 1 vehicle and connected with a street or alley by a surfaced driveway that affords satisfactory ingress and egress for vehicles. An off-street space available for the parking of one motor vehicle.~~

~~224.~~ Patterned wall.

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

~~225.~~ Permanent stormwater best management practice (BMP).

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

~~226.~~ Personal services and repair (small).

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

227. Personal services and repair (large).

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

228. Personal wireless facility.

See wireless telecommunications facilities.

229. Personal wireless service or PWS.

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

230. Place.

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

231. Place of public or semi-public assembly.

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

232. Planned future airport improvement.

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

233. Power transmission line.

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

234. Precision instrument runway.

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

235. Premises.

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

Preschool

An establishment licensed by the state to provide a systematic organization or arrangement of activities, personnel, materials, and equipment in a facility to promote the physical, intellectual, social, and emotional development of a child, who is at least 33 months old but

who has not yet attended the first day of kindergarten, in the absence of the parent for a period of less than 24 hours a day.

236. Principal Principle use or structure

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

237. Public assembly bulletin board.

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

238. Pylon.

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

239. R-district parking area.

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

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

240. Radio or television broadcasting tower.

A structure that is designed and constructed primarily for the purpose of supporting one or more antennae that transmit information (audio, video, data, but not personal wireless communications) in the form of electromagnetic signals to one or more receivers without the use of a physical connection between the transmitting and receiving source. The term includes but is not limited to: lattice towers, guyed towers, and monopole towers. The term does not include a wireless communication tower, clock tower, bell tower, steeple, light pole, power pole, water tower, or similar structure that incidentally supports antennae.

241. Railroad yard or shipyard and related facilities.

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

242. Rainfall events.

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

| | Design Year | Inches |
|-----------------------|-------------|--------|
| 100 yr 24 hr Rainfall | 100 | 5.2 |
| 50 yr 24 hr Rainfall | 50 | 4.64 |
| 10 yr 24 hr Rainfall | 10 | 3.36 |
| 5 yr 24 hr Rainfall | 5 | 2.88 |

| | | |
|---------------------|---|------|
| 2 yr 24 hr Rainfall | 2 | 2.31 |
|---------------------|---|------|

243. Reach.

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

244. Readerboard.

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

245. Receiving stream or channel.

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

246. Receiving waters.

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

247. Recharge.

The replenishment of underground water reserves.

248. Recycling collection point (primary use).

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

249. Redevelopment.

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

250. Regional flood.

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

251. Regional stormwater.

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

252. Religious assembly.

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

253. Repairs and maintenance.

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

254. Research laboratory.

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

255. Residential care facility/Assisted living facility

A public or private establishment, which, for gain or otherwise, regularly provides one or more dependents with 24 hour care, food, lodging, training, education, supervision, rehabilitation and treatment. A building that houses persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following: residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers, and convalescent facilities.

256. Responsible party.

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

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

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

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

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

259. Retail store.

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

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

260. Riding stable.

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

261. Rooming house.

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

262. Runway.

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

263. School, elementary.

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

264. School, middle or high.

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

265. Seasonal camp or cabin.

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

266. Sediment.

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

267. Sedimentation.

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

268. Setback.

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

269. Shore impact zone.

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

270. Shoreland.

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

Sidewalk

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

Sidewalk Cafe

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

271. Sign.

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

272. Sign, animated.

An animated sign is one that has any moving, rotating or otherwise physically animated part, as distinguished from lights that give the appearance of animation by flashing, blinking or fluctuating, but does not include changeable message signs that are stationary for a continuous time period of at least four seconds in each eight second period.

273. Sign, awning.

Any sign affixed to an awning, as that term is defined in Section 4506 of the Uniform Building Code, 1982 Edition.

274. Sign, changeable message (CMS).

Any off-premises advertising sign, display or device that changes the message or copy on the sign by means of electronic rotation or panels or slats. CMSs are outdoor advertising signs and must comply with all requirements applicable to outdoor advertising signs. This includes a flashing sign that is off-premises.

275. Sign, construction contractor.

An accessory sign informing the public that construction or remodeling is taking place on the property and identifying the architect(s), engineer(s), prime contractor(s) and subcontractor(s) working on the project.

276. Sign, double or triple faced.

A double or triple faced sign is any sign having displays on an integral structure that has two or three faces that are either back to back or "V" or triangular shaped with no internal angle of more than 60 degrees.

277. Sign, electronic.

An off-premise advertising sign, display or device that changes the message copy on the sign by means of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices with the display area.

278. Sign, home occupation.

An accessory sign identifying a home occupation that is permitted in the zone district where the property is located and the individual or entity performing the home occupation.

- ~~279.~~ Sign, flashing.
A sign that has direct illumination that is not kept constant in intensity at all times when in use, or that exhibits sudden or marked changes in lighting effects. Signs with direct illumination that indicate the time, temperature, date or other public service information shall not be considered flashing signs.
- ~~280.~~ Sign, marquee.
Any sign affixed to a marquee, as that term is defined in Section 414 of the Uniform Building Code, 1982 Edition.
- ~~281.~~ Sign, mobile.
Any sign so constructed as to permit movement from place to place, whether on wheels or otherwise.
- ~~282.~~ Sign, monument.
A permanent sign in which all or substantially all of the bottom of the sign is affixed to the ground or to a base structure, not to a post, pole or portion of a building.
- ~~283.~~ Sign, off-premises.
A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located. (Ord. No. 10044, 8-16-2010, § 6.)
- ~~284.~~ Sign, on-premises.
A sign that directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located.
- ~~285.~~ Sign, pole.
Any free standing, elevated sign erected on a pole or poles connected to the ground and that is less than 60 square feet in area.
- ~~286.~~ Sign, political.
Any sign that directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he is a candidate, or both.
- ~~287.~~ Sign, projecting.
An accessory sign that is affixed to the outside of an exterior wall of any building and that extends more than 18 inches from the building wall face.
- ~~288.~~ Sign, property identification/management.
An accessory sign containing only messages related to the identification or management of the property where the sign is located, including but not limited to signs identifying entrances, exits, parking areas or hazardous areas, prohibiting trespassing, or information about limits on property use.

~~289.~~ Sign, property owner opinion.

A sign that conveys a noncommercial message.

~~290.~~ Sign, readerboard.

A sign, including a portable or temporary sign, where all or substantially all of at least one sign face is a readerboard.

~~291.~~ Sign, recreational field.

Recreational field complex signs include no more than one directional sign identifying the entrance to the complex, no more than one building mounted sign identifying the complex, and up to one scoreboard sign for each play area.

~~292.~~ Sign, real estate.

An accessory sign advertising property for sale, lease or rent, or informing that property has been sold, leased or rented.

~~293.~~ Sign, residential complex.

An accessory sign identifying a multi-building residential complex that identifies the name of the complex or the property management company.

~~294.~~ Sign, roof.

Any sign erected, constructed or maintained above and connected to the roof of any building. For purposes of this definition a penthouse, elevator housing or any structure housing mechanical equipment of any kind shall not be deemed a part of the roof of any building.

~~295.~~ Sign, temporary.

A sign usually made of a relatively lightweight and inexpensive material, that is easily moved, and generally is displayed only until the event advertised by the sign is completed. Examples include but are not limited to: balloons or other inflatable devices, flags, streamers, sandwich signs, banners, posters, sidewalk or curb signs.

~~296.~~ Sign, wall.

A sign that is affixed to the outside of an exterior wall of any building when such sign extends no more than four feet above the top of such exterior wall and is parallel to that wall, and when such sign projects no more than 18 inches from the building wall face or from a parapet constructed on the wall face. Signs painted directly on the surface material of a building shall be considered a wall sign only if limited in content to the name of the principal firm or establishment located in such building or the name of the building's management firm.

~~297.~~ Sign area.

The space inside a continuous line drawn around and enclosing all letters, designs and background material, except that the area of a double or triple faced sign shall be the area of the largest face, and the area of a spherical sign shall be the area of the outline against the horizon formed by the largest dimension of the sphere.

298. Sign height.

The vertical distance from the average finished grade directly below the sign to the uppermost point on the sign or sign structure, whichever is higher.

299. Significant tree.

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

300. Site.

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

301. Site plan.

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

302. Slope.

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

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

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

304. Solid land.

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

305. Solid waste.

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

306. Solid waste disposal or processing facility.

Any tract or parcel of land, including any constructed facility that is designed or operated for the purpose of disposing of solid waste on or in the land, at which solid waste is disposed of in or on the land or processed for disposal or reuse, together with any appurtenant facilities

needed to process solid waste for disposal or for transfer to another solid waste facility, and that is not listed as a separate use in this Chapter.

307. Special tree species.

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

308. Special use.

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

309. Stealth or stealth technology.

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

310. Steep slope.

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

311. Storage warehouse.

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

312. Stormwater.

Stormwater runoff, snowmelt runoff, surface runoff and drainage.

313. Stormwater management.

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

314. Stormwater pollution prevention plan.

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

315. Stormwater pollution prevention program (MS4 program).

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

316. Stormwater best management practice (BMP).

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

317. Stormwater retrofit.

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

318. Stormwater runoff.

Flow on the surface of the ground resulting from precipitation.

319. Story.

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

320. Story, half.

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

321. Stream buffer.

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

322. Street.

~~A thoroughfare 30 ft. or more in width, dedicated to the public or privately owned and approved by council. This term includes street, avenue, boulevard, road, lane, alley, viaduct, and other ways. A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.~~

323. Street line.

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

324. Structure.

Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground. Examples include but are not limited to: backstops for tennis courts, fences or pergolas, ~~but excluding signs as defined in Chapter 44 of the city code.~~

325. Structural alteration.

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

326. Subdivision.

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

Sustainable Development

Development that maintains or enhances economic opportunity and community well being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

- 327.** Telecommunications.
The transmission or reception of audio, video, data, and other information by wire, radio frequency, light and other electronic or electromagnetic systems.
- 328.** Telecommunications site.
See wireless telecommunications facilities.
- 329.** Telecommunications structure.
A structure used in the provision of services described in the definition of wireless telecommunications facilities.
- 330.** Temporary.
~~In the context of wireless telecommunications, temporary in relation to all aspects of the city's wireless telecommunications regulations, something intended not to exist, or that does not exist, for more than 90 days. A fixed period of time not to exceed 180 days. For the purposes of wireless telecommunications, temporary means not more than 90 days.~~
- 331.** Temporary construction office or yard.
A facility or area used as a temporary field construction office, temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or construct buildings, structures or infrastructure.
- 332.** Temporary event or sales.
A temporary outdoor use of land for the purposes of an event or sale including but not limited to: a circus, carnival, fair, part, or celebration that reasonably may be expected to attract more than 100 persons at any one time; or any sale made by a person, firm or corporation engaging in the temporary business of selling goods, wares or merchandise from a tent, truck, vending cart or other area outside of a permanent structure on property owned or leased by the person, firm or corporation. The temporary event or sale must be secondary to or incidental to the permitted use or structure existing on the property and not incompatible with the intent of the zone district.
- 333.** Temporary moveable storage container.
A container designed for the storage of personal property that is typically rented to owners or occupants of property for their temporary use, and that customarily is delivered and removed by truck.
- 334.** Temporary real estate sales office.
A facility or area used as a temporary office to sell land or buildings within a specified area or subdivision.
- 335.** Theater.
~~A facility with fixed seats for the viewing of movies or live presentations of musicians or other performing artists. A building, structure or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.~~

336. Tourist or trailer camp.

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

337. Tower.

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

338. Trailer.

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

339. Truck.

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

340. Truck freight or transfer terminal.

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

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

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

342. University or college.

~~An institution other than a trade school that provides full-time or part-time education beyond high school. An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.~~

343. Useable open space.

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

344. Utility, major.

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

345. Utility, minor.

Equipment necessary to support utility services to development within the immediate vicinity and that involves only minor accessory structures. Employees typically are not located at the site on an ongoing basis. Examples include but are not limited to: electric transformer stations and service boxes, gas regulator stations, telephone service boxes, and well, water and sewer pumping stations, and related underground and aboveground pipes and wires, but excluding those that meet the definition of an electric power transmission line.

346. Utility runway.

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

347. Veterinarian or animal hospital.

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

348. Visual runway.

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

349. Watercourse.

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

350. Water-dependent bulk storage or wholesaling not listed elsewhere.

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

351. Water dependent manufacturing, light or heavy.

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

352. Water management district.

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

353. Water or sewer pumping station/reservoir.

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

354. Water or sewer treatment facility.

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

355. Waters of the state.

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

356. Wetland.

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

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

357. Wholesaling.

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

358. Wind power facility (primary use).

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

359. Wireless telecommunications facilities.

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

360. Yard.

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

361. Yard depth or width.

In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used. (Ord. No. 10044, 8-16-2010, § 6.)

362. Yard, front.

~~A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the primary building, but ignoring projections permitted by this Chapter. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. Where lines are equal, the front yard shall be the line that is the front by reason of the established pattern of the platting or development along the street(s).~~ A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the primary building, but ignoring projections permitted by this chapter.

363. Yard, rear.

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

364. Yard, side.

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

365. Yard waste.

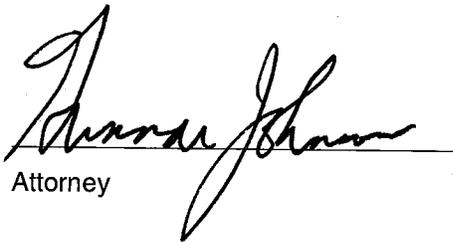
The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

366. Yard waste compost facility.

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

Section 59. That this ordinance shall take effect 30 days after its passage and publication.

Approved to as form:



Attorney

PC: ping SR: eu 6/30/2011

STATEMENT OF PURPOSE: This ordinance implements revisions to the Unified Development Chapter as part of the Six Month UDC Update process. The revisions were unanimously recommended (9-0) for approval by the Planning Commission at a public hearing on June 21, 2011.

Action Deadline: Not Applicable

FN: 11-077