

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-070-O(a)

ORDINANCE NO. \_\_\_\_\_

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

CITY PROPOSAL:

The city of Duluth does ordain:

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

50-2 Purpose

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

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

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

50-13.3 Zone Districts Established

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

<b>Table 50-13.3-1: Zone Districts Established</b>		
<b>District Type</b>	<b>Abbreviation</b>	<b>District Name</b>
<b>Residential</b>	R-C	Rural-Conservation
	RR-1	Residential-Rural 1
	RR-2	Residential-Rural 2
	R-1	Residential-Traditional
	R-2	Residential-Urban
	R-P	Residential-Planned
<b>Mixed Use</b>	MU-N	Mixed Use-Neighborhood
	MU-C	Mixed Use-Commercial
	MU-I	Mixed Use-Institutional
	MU-B	Mixed Use-Business Park
	MU-W	Mixed Use-Waterfront
	MU-P	Mixed Use-Planned
<b>Form Based</b>	F-1	Form District 1
	F-2	Form District 2
	F-3	Form District 3
	F-4	Form District 4
	F-5	Form District 5
	F-6	Form District 6
	F-7	Form District 7
	F-8	Form District 8
	F-9	Form District 9
<b>Special Purpose</b>	I-G	Industrial-General
	I-W	Industrial-Waterfront
	P-1	Park & Open Space
<b>Overlay</b>	NR-O	Natural Resources Overlay
	A-O	Airport Overlay
	SP-O	Skyline Parkway Overlay
	HR-O	Historic Resources Overlay
	HE-O	Higher Education-Overlay

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

50-14.6 Residential-Urban (R-2)

**A. Purpose**

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

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

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

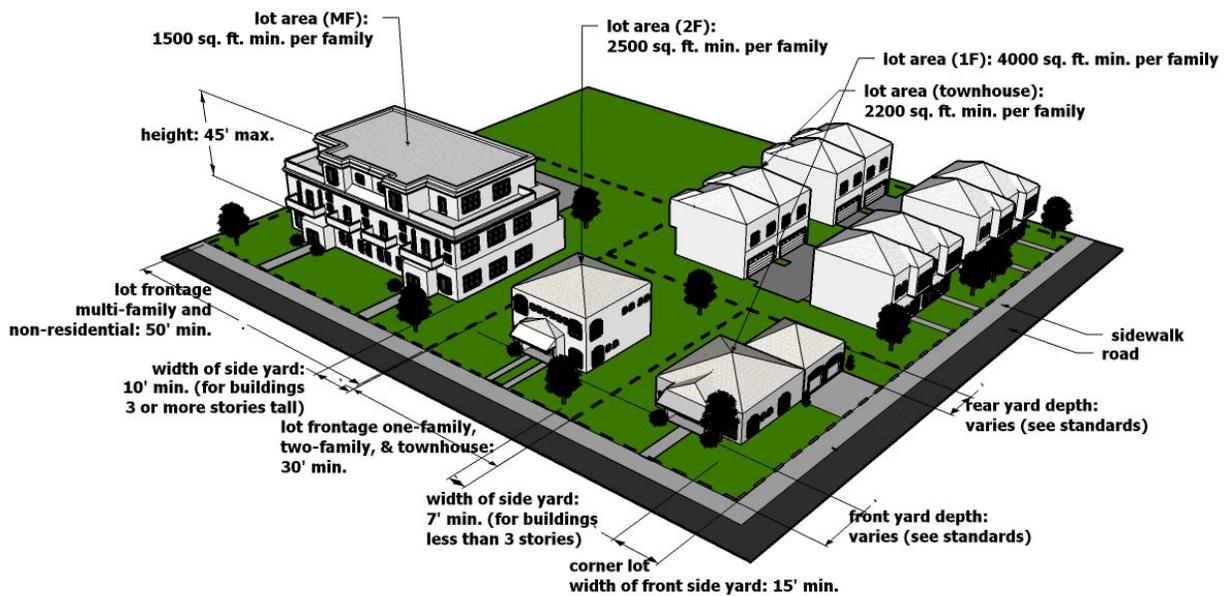
## B. Example

### 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 R-2 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, 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% 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 ft. 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 4. That Section 50-14.7 of Chapter 50 be amended as follows:

50-14.7 Residential-Planned

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**A Purpose**

The R-P district is established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. Single-family residences, two-family residences, and townhouses, ~~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~~ R-P 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 UDC Text or Zoning Map Amendment process in Section 50-37.3. 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.~~

**B. ~~C. Examples~~**

**R-P Example Building Forms**

**R-P Low Density Example Building Forms**

**R-P High Density Example Building Forms**



**C. Modifications**

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

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

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

#### **D.Rezoning 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 regulating plan that governs the uses, location, density, dimensional standards and character of the proposed project. The regulating plan shall cover all of the land in the proposed R-P district.

#### **D. E-Applicability**

An R-P district shall only be established in the ~~R-C~~, RR-1, RR-2, and R-1, ~~R-2~~, and MU-N districts provided the property meets the requirements in Table 50-14.7-42.

**TABLE 50-14.7-12: Characteristics of High-Density and Low-Density in R-P Areas**

<b>Characteristic</b>	<b>Low Density</b>	<b>High Density</b>
Current zoning	R-C, RR-1, RR-2	RR-1, RR-2, R-1, R-2, MU-N
Minimum lot size	<u>4 acres</u>	<u>2.4 acres</u>

**E. Rezoning Approval and Regulating Plan Required**

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

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

**F. Development Standards**

~~1. General Development Standards~~

- ~~1. The development standards of the base zone district(s) where the property is located shall apply to any R-P zoned land unless waived or varied by the terms of an approved R-P regulating plan. The ordinance approving an R-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property.~~
- ~~2. Overall density in residential portions of the R-P shall follow the density requirements of the previous zone district unless modified as part of the R-P plan.~~
- ~~3. Minimum percentage of property (excluding common open space) used for residential purposes shall be 66%.~~
- ~~4. Height standards:
  - (a) Maximum building height within 200 ft. of an R-1 district is 35 ft.
  - (b) Maximum building height within 200 ft. of an R-2 district is 50 ft.~~

~~2. Low Density~~

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

- ~~(a) A natural resources inventory is required~~
- ~~4. 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% of the area of the project (not including right of way) and shall comply with the following requirements:
  - (a) Common open space shall include the shore and bluff impact zones;
  - (b) Common open space shall include, where possible, lands within the Skyline Overlay;
  - (c) Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
  - (d) No more than one-quarter of the required common open space shall consist of wetlands;~~

- (e) Common open space shall not include areas within 25 ft. of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings;
- (f) At least 50% of the common open space shall be retained in a contiguous area;
- (g) Where possible, the design should utilize features such as vegetation, fences, topography, roads or trails to delineate the boundary of the common open space to minimize potential physical encroachments into the common open space by adjacent homeowners.
- (h) Common open space shall not include land within rights of way.
- (i) Ownership of common open space. Common open space shall be owned and managed by a property owners association and shall be encumbered through an easement, restrictive covenant or other instrument suitable to the city.

### 3.High Density

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

~~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~~

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

## **G. Required Rezoning Application and Regulating Plan Contents**

- 1. The rezoning application (approved per Section 50-37.3) shall include the following information:
  - a) A concept map showing the property to be rezoned and general uses within the area;
  - b) Maximum residential densities and maximum square footage for nonresidential land uses;
  - c) Maximum building heights.
- 2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed R-P district and shall regulate all future development in the R-P district. An approved R-P plan is required before any building permits may be issued within the R-P district. The R-P plan shall include maps and text describing the following information:
  - a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
  - b) Lot sizes and widths and, building setbacks, and maximum building heights for all proposed development parcels;
  - c) Previous base zone districts;
  - d) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;

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

#### H. **Previously Approved Developments**

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

**I. Amendments**

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

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

**50-15.2 Mixed Use-Neighborhood**

**A. Purpose**

The MU-N district is established to accommodate a mix of neighborhood-scale, 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
Minimum width of side yard	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of structure	Non-residential use	35 ft.
	Residential or mixed use (general)	75 ft.
	Residential or mixed use (within 200 ft. of R-1)	35 ft.
	Residential or mixed use (within 200 ft. of R-2)	50 ft.

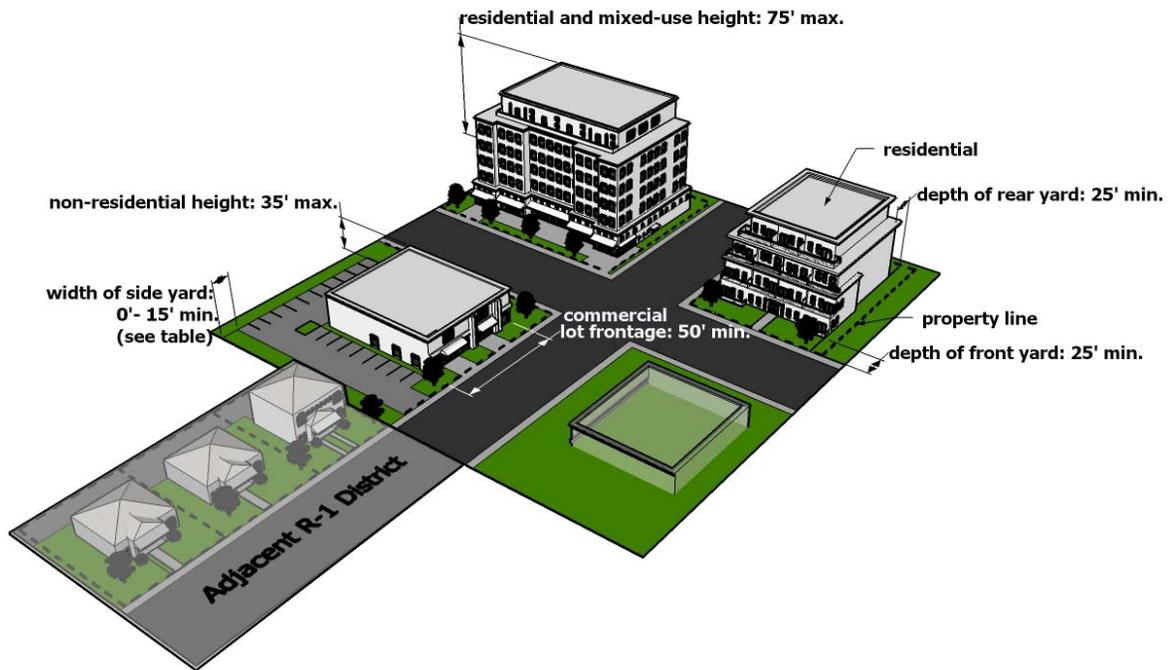
Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

## B Example

### MU-N Example Building Form



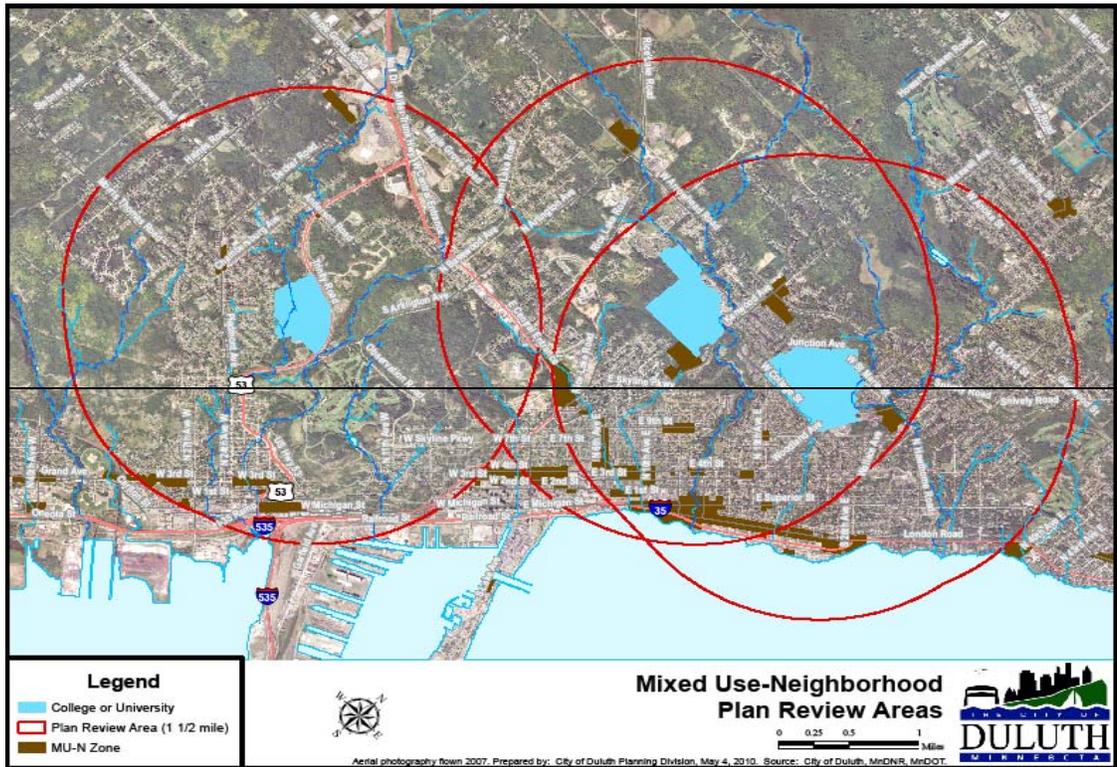
## C Illustration



## 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-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 affordable housing development projects funded by federal or state housing funds. The planning review is intended to mitigate the impacts of potential student use on the adjacent

residential neighborhood. Development may not proceed until the planning commission has approved the project through planning review.



## E Development Standards

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

1. Resident parking spaces shall be provided at the ratio of one space per bedroom;
2. Visitor parking spaces shall be provided at the rate of 15% of required resident parking spaces;
3. No residential balcony, patio or deck shall be located on any side of the property facing and within 200 ft. of an R-1 or R-2 district;
4. Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 and R-2 districts and that reduces the potential for pedestrian-vehicular conflicts;
5. Commercial development shall be concentrated on major roads, not on streets intended primarily for neighborhood traffic;
6. 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 6. That Section 50-15.7 of Chapter 50 be created as follows:

**A. Purpose**

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

**B. Examples**



*MU-P Example Building Forms*

**C. Modifications**

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

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

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

**D. Applicability**

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

**TABLE 50-15.7-2: Characteristics of MU-P Areas**

<u>Current zoning</u>	R-2, MU-N, MU-C, MU-B
<u>Minimum lot size</u>	2 acres

**E. Rezoning Approval and Regulating Plan Required**

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

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

**F. Development Standards**

1. The development standards of the base zone district(s) where the property is located shall apply to any MU-P zoned land unless waived or varied by the terms of an approved MU-P regulating plan. The ordinance approving an MU-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property.
2. Overall density in residential portions of the MU-P shall follow the density requirements of the previous zone district unless modified as part of the MU-P plan.
3. Height standards:
  - (a) Maximum building height within 200 ft. of an R-1 district is 35 ft.
  - (b) Maximum building height within 200 ft. of an R-2 district is 50 ft.
4. Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 20% of the area of the project and shall comply with the following requirements:
  - (a) Common open space shall include the shore and bluff impact zones;
  - (b) Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
  - (c) At least 50% of the common open space shall be retained in a contiguous area;
  - (d) Common open space shall not include roads or right of way.
5. The development shall encourage walkable, bikeable communities through the use of complete streets, alleys, sidewalks and trails, interconnected street networks, small blocks, front porches, and buildings that are sited adjacent to streets;
6. All shoreland setbacks and other dimensional requirements from Section 50-18.1 (NR-O) shall continue to apply and cannot be varied through the R-P process.

#### **G. Required Rezoning Application and Regulating Plan Contents**

1. The rezoning application (approved per Section 50-37.3) shall include the following information:
  - a) A concept map showing the property to be rezoned and general uses within the area;
  - b) Maximum residential densities and maximum square footage for nonresidential land uses;
  - c) Maximum building heights.
2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed MU-P district and shall regulate all future development in the MU-P district. An approved MU-P plan is required before any building permits may be issued within the MU-P district. The MU-P plan shall include maps and text describing the following information:
  - a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
  - b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;
  - c) Previous base zone districts;

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

#### H. **Amendments**

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

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

50-18.4 Skyline Parkway Overlay (SP-O) ~~(New Overlay)~~

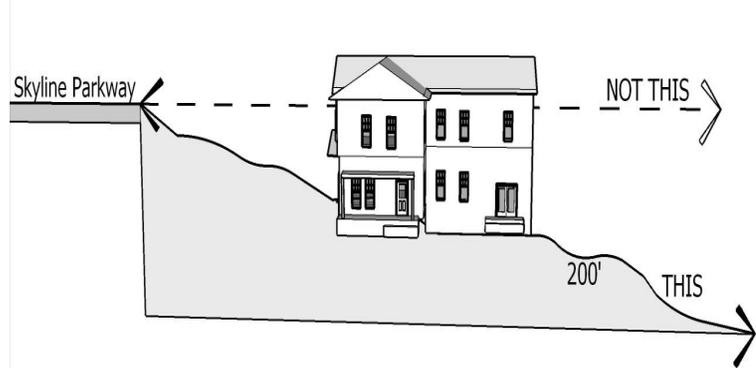
**A. Purpose**

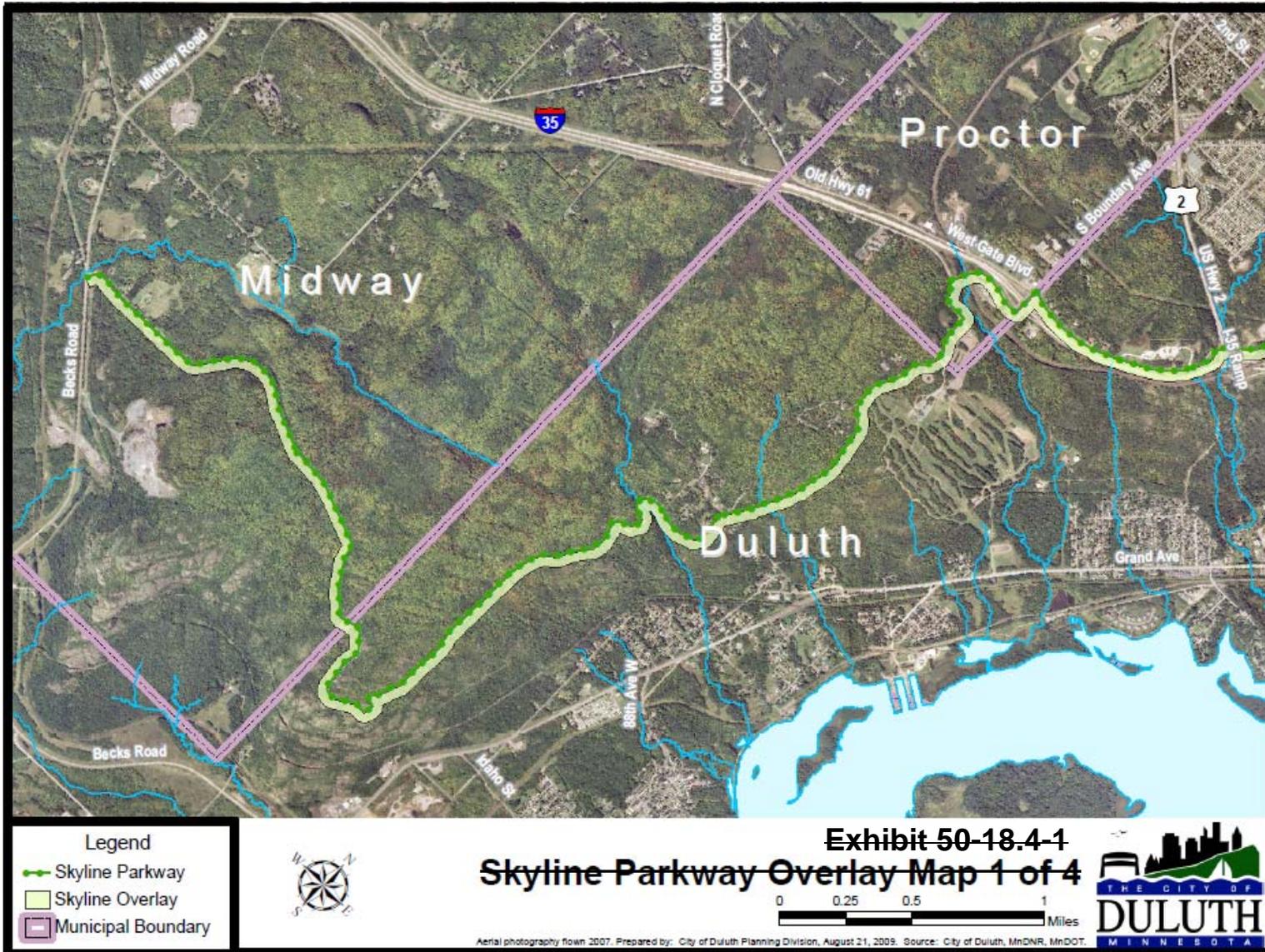
The purpose of this Section 50-18.4 is to protect the unique character and visual qualities of Skyline Parkway as documented in the Skyline Parkway Corridor Management Plan and the Comprehensive Land Use Plan while protecting the property rights of private property owners affected by these regulations.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

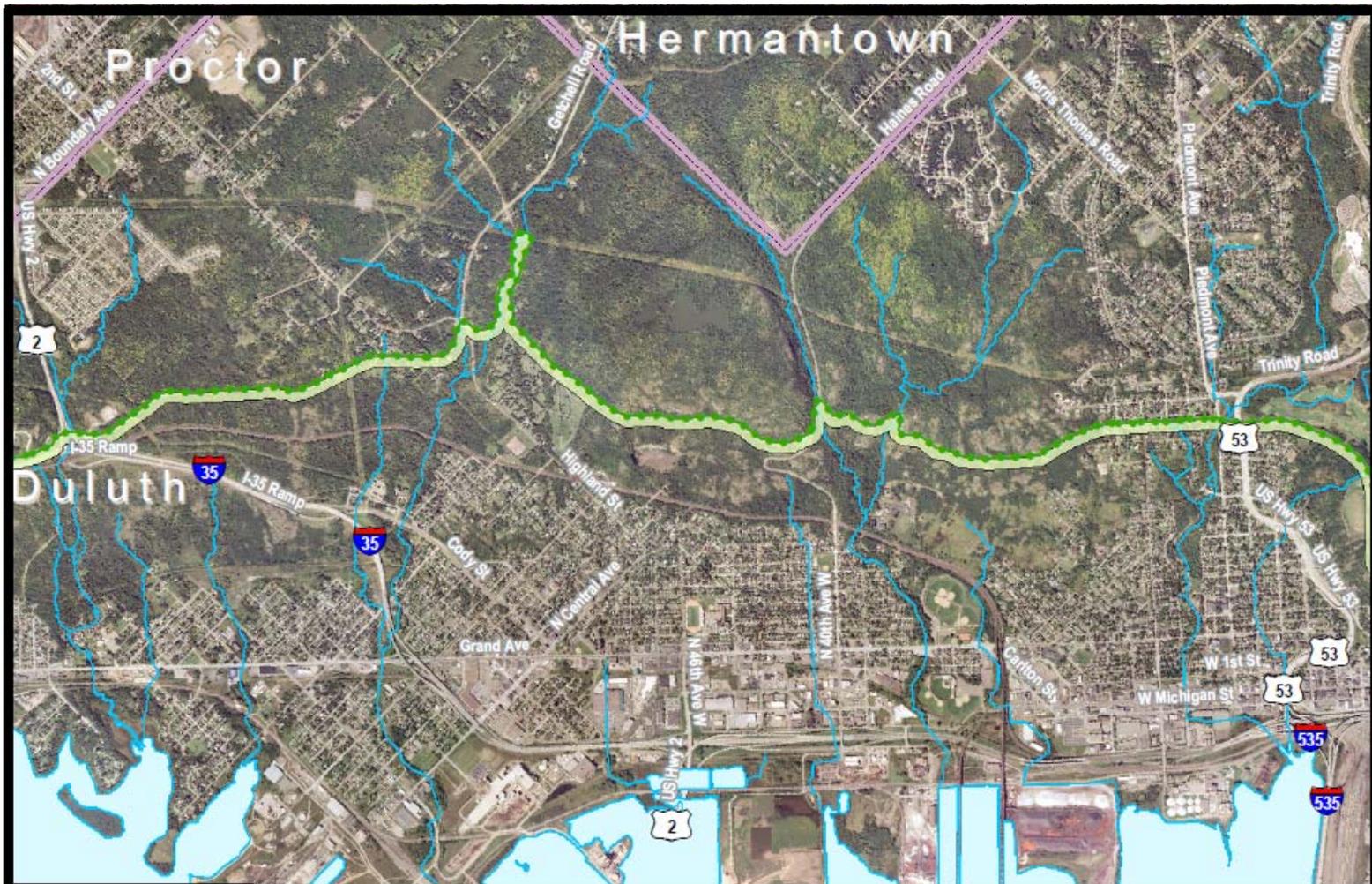
**B. Land Affected**

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

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





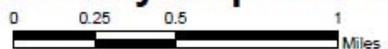


**Legend**

-  Skyline Parkway
-  Skyline Overlay
-  Municipal Boundary



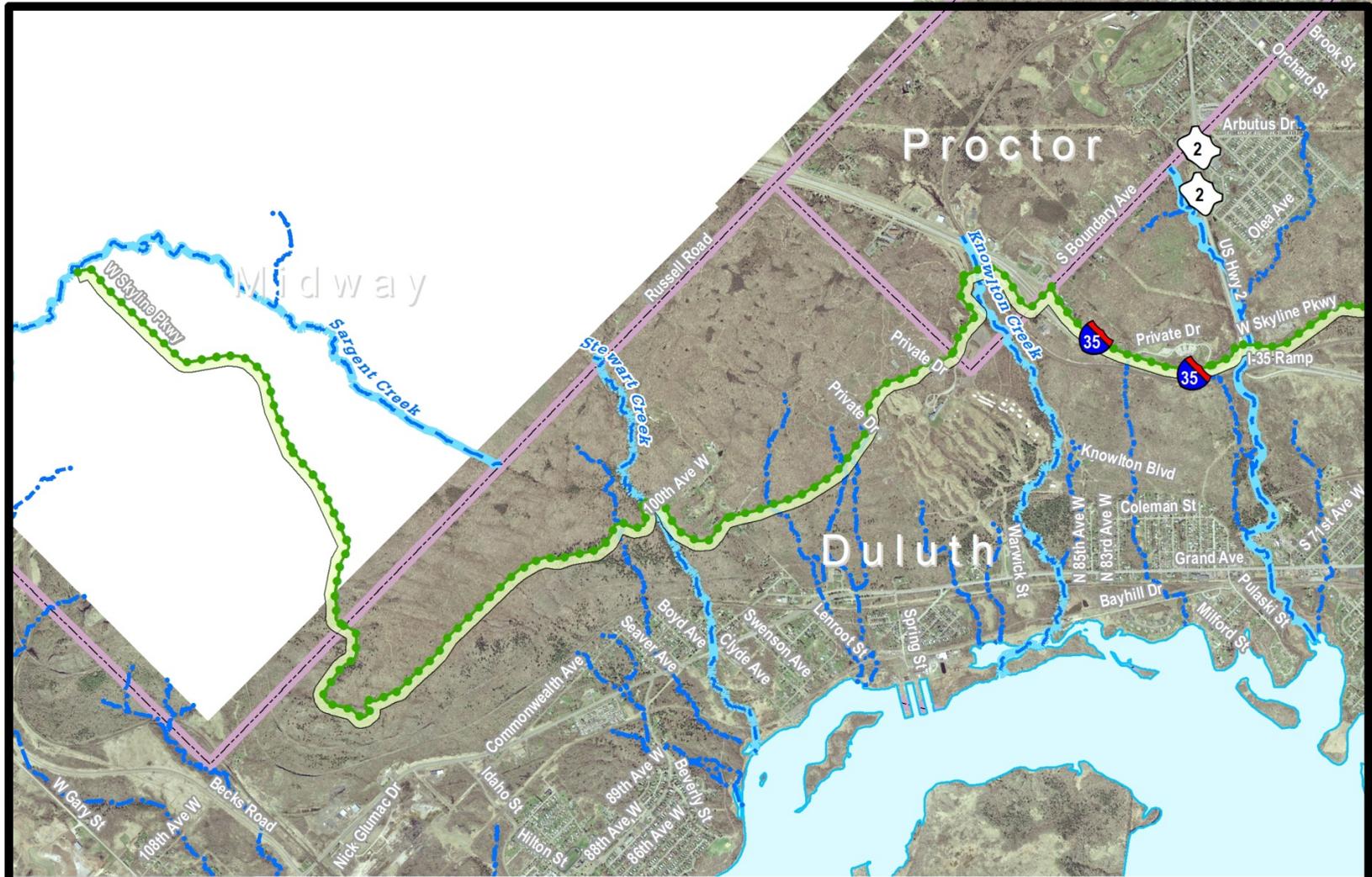
**Exhibit 50-18.4-2**  
**Skyline Parkway Overlay Map 2 of 4**



Aerial photography flown 2007. Prepared by: City of Duluth Planning Division, August 21, 2009. Source: City of Duluth, MnDNR, MnDOT.





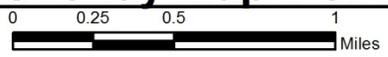


**Legend**

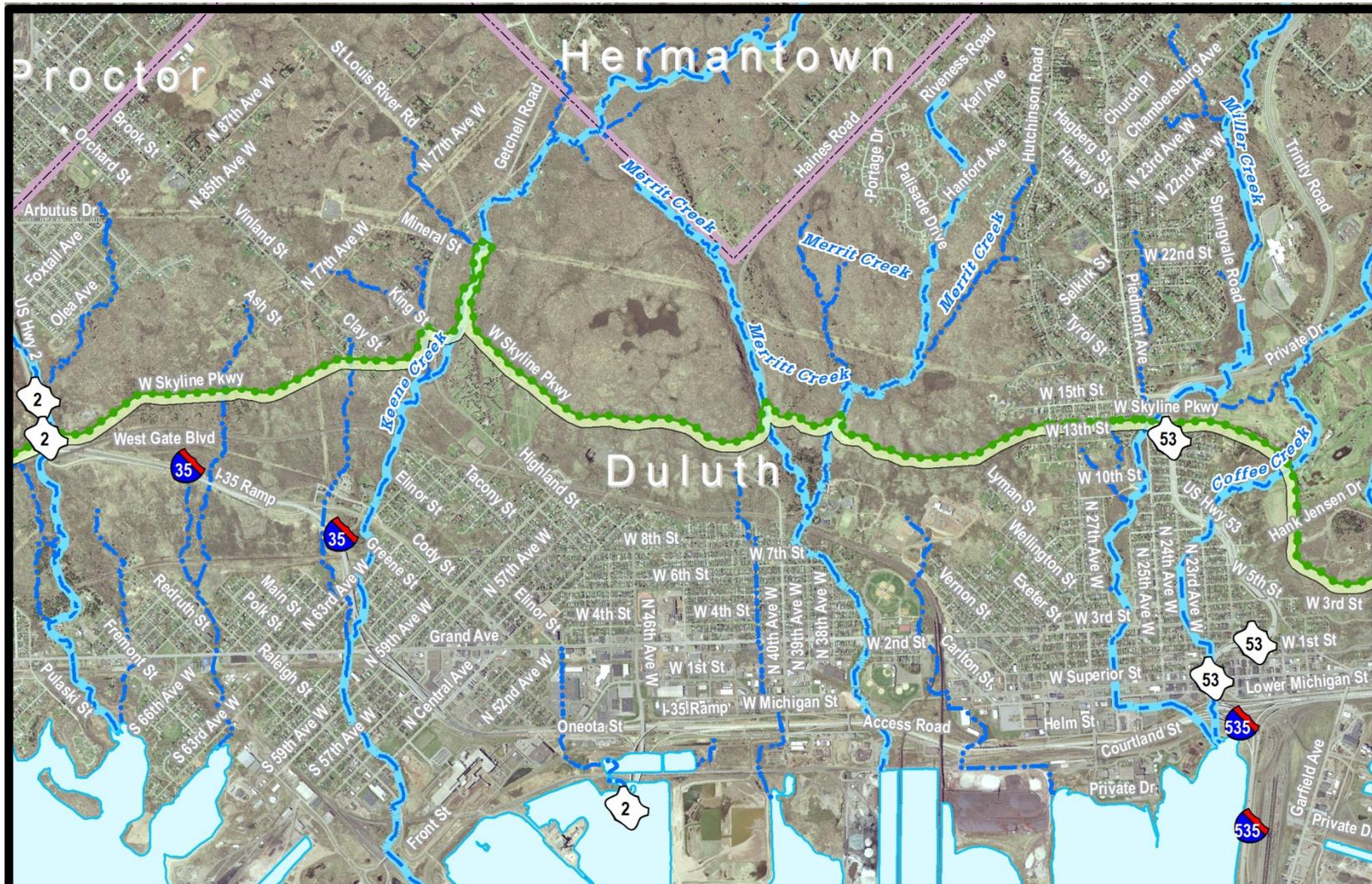
-  Skyline Parkway
-  Skyline Overlay
-  Municipal Boundary



**Exhibit 50-18.4-1**  
**Skyline Parkway Overlay Map 1 of 4**



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



**Legend**

- Skyline Parkway
- Skyline Overlay
- Municipal Boundary



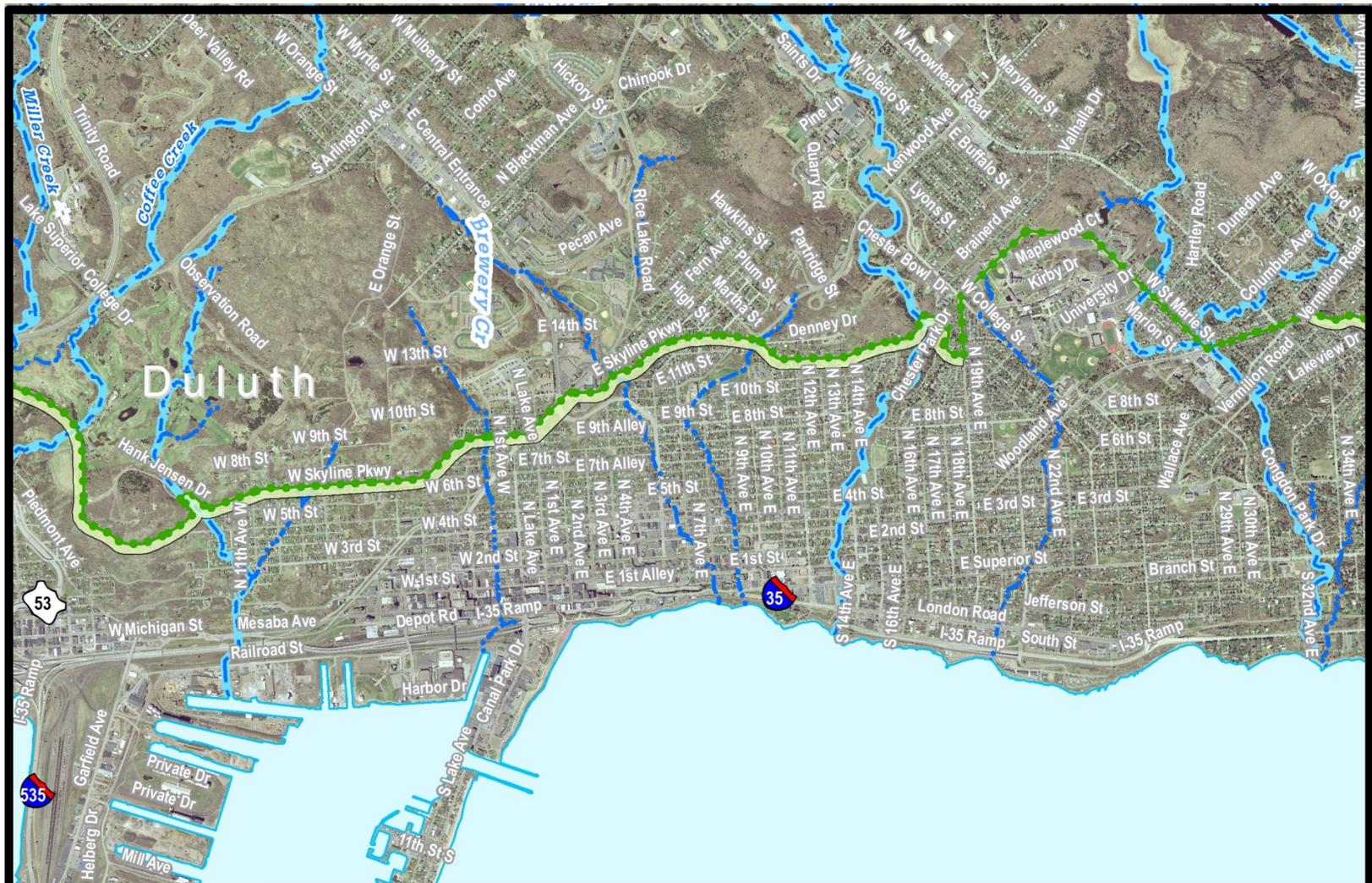
**Exhibit 50-18.4-2**

## Skyline Parkway Overlay Map 2 of 4

0 0.25 0.5 1 Miles

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





**Legend**

-  Skyline Parkway
-  Skyline Overlay
-  Municipal Boundary



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



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

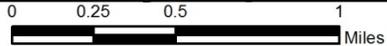


**Legend**

-  Skyline Parkway
-  Skyline Overlay
-  Municipal Boundary



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



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

### C. Construction and Reconstruction Affected

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

### D. Design Controls

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

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

Exhibit 50-18.4-6:  
Measurement of Long Axis

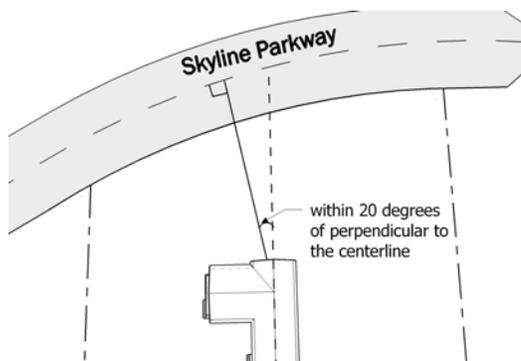
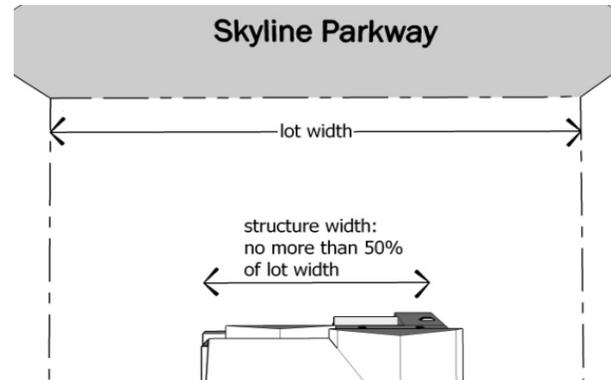


Exhibit 50-18.4-7:  
Measurement of 50% of Lot Width



2. The long axis of a new structure shall be located within 20 degrees of perpendicular to the right-of-way line of Skyline Parkway at the midpoint of the front property line, or if that is not possible due to site or engineering constraints, then as close to that number as is reasonably possible;
3. The width of a new primary structure closest to Skyline Parkway shall not exceed 50% of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way. For purposes of this paragraph, the width shall include all portions of the structure, including attached garages or enclosed porches;
4. Where an addition to an existing structure is proposed, the location of that addition shall not result in the width of structure and addition, taken together, exceeding 50% of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way;
5. The provisions of subsections 18.4.D.1 through 4 above shall not apply to any structure located and designed so that no part of the structure (other than

chimneys) extends taller than three ft. above the elevation of Skyline Parkway closest to the structure;

6. No wall located within 50 ft. of horizontal distance from the property line along Skyline Parkway shall exceed a height of 3 ft. above the elevation of the centerline of Skyline Parkway;
7. All portions of a fence located within 50 ft. of horizontal distance from the property line along Skyline Parkway and extending more than 3 ft. above the elevation of the centerline of Skyline Parkway shall be at least 75% transparent. No more than 25% of the area bounded by the top, bottom, and sides of the fence may be constructed of solid or opaque materials;
8. No landscaping located on the 50% of the lot width not occupied by the primary structure may be of a species that will have a height at maturity of more than 3 ft. above the elevation of the centerline of Skyline Parkway, and all installed landscaping in those areas shall be maintained so that its height does not exceed 3 ft. above the elevation of the centerline of Skyline Parkway.

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

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

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##### **A Purpose**

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

##### **B Applicability**

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

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

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

##### **C Development Standards**

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

connect people from public sidewalks along primary streets to businesses and residences. These walkways shall:

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

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

## 2. Residential

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

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

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

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

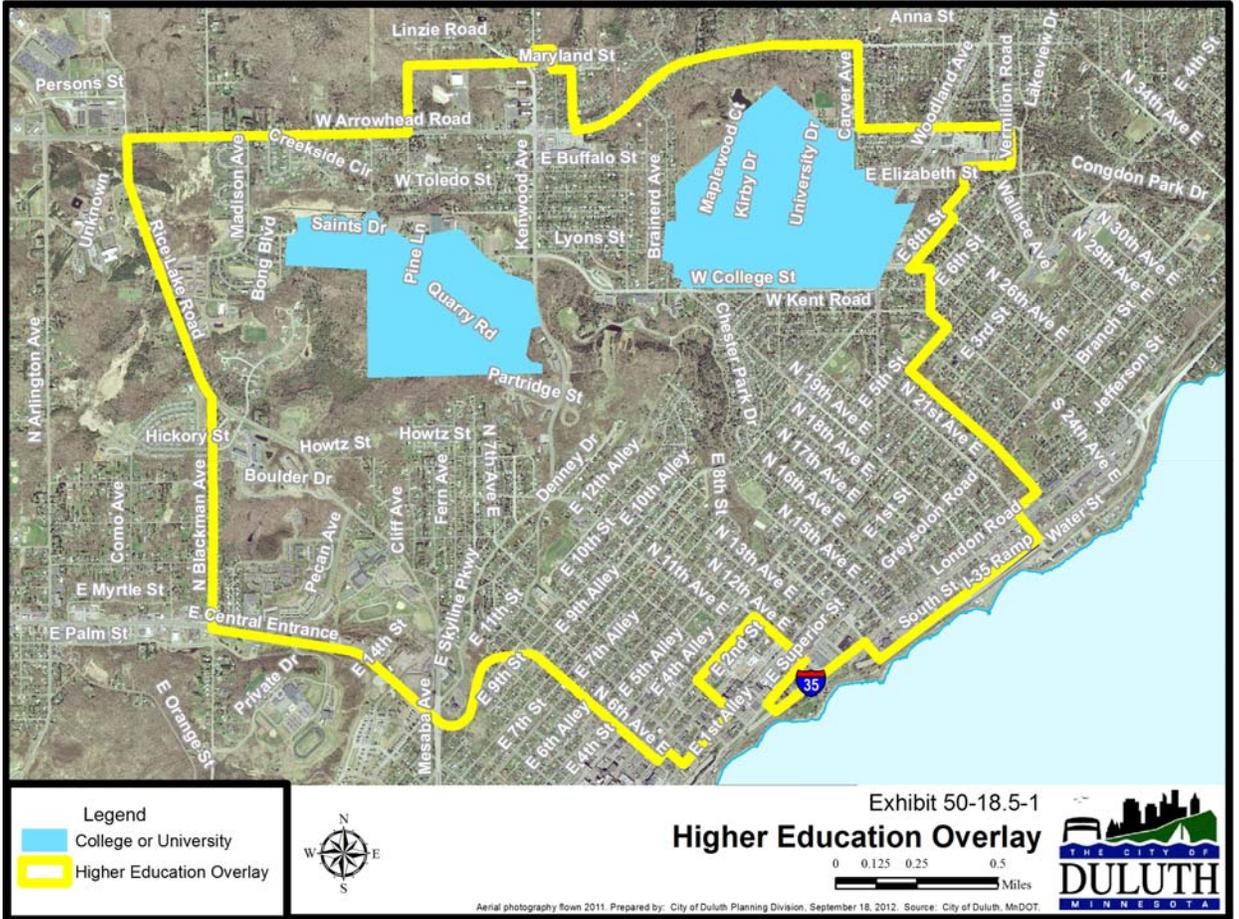
- The enhanced shelter shall not be located in any required yard setback.
- The enhanced shelter shall not be located between the principal building and a public street.
- The enhanced shelter shall be enclosed on at least three sides and covered to adequately protect bicycles from the elements.
- The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

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

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

## 3. Commercial

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



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

50-19.8 Permitted Use Table

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

P = Permitted Use U = Upper Story

A = Accessory Use

S = Special Use or Interim Use

I = Interim Use

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

**TABLE 50-19.8: USE TABLE**

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

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

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

**TABLE 50-19.8: USE TABLE**

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	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
<b>LAND USE CATEGORY</b>																												
Adult entertainment establishment																							P					50-20.3.A
Convention or event center								P		P	P	P				P	P		P	P	P						50-20.3.H	
Indoor entertainment facility								P		P	P	P	P	P		P	P		P	P	P							
Restaurant (no drive-in/drive-through)					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						50-20.3.P	
Restaurant (with drive-in/drive-through)								P		P		P	P	P		P											50-20.3.Q	
Theater							P	P			P	P	P	P		P	P		P	P	P							
<b>Lodging</b>																												
Hotel or motel						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											50-20.3.F	
Seasonal camp or cabin	P	P				P					P												S				50-20.3.S	
Vacation dwelling unit		I	I	I	I	I	I										I										50-20.3.V	
<b>Offices</b>																												
Bank						I	S	P	P	P	S	P	P	P	P	P	P	P	P	P	P						50-20.3.E	
Office					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						50-20.3.M	
Data center							S	P	P	P	S	P	U	U	U	U	U	U	U	U	U	P						
<b>Outdoor Recreation &amp; Entertainment</b>																												
Golf course		S	S			P																	P					
Marina or yacht club											P												S	S				
Tourist or trailer camp	S	S	S								S												S				50-20.3.T	

**TABLE 50-19.8: USE TABLE**

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<b>LAND USE CATEGORY</b>																									
Other outdoor entertainment or recreation use not listed		S						S		S	S														50-20.3.N
<b>Personal Services</b>																									
Business park support activities										P	P														
Preschool		S	S	S	P	P	P	P	P		P	P	P	P	P	P	P	S	P	S					
Day care facility, small (14 or fewer)	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P					50-20.3.I
Day care facility, large (15 or more)		S	S	S	S	P	P	P	P		P	P	P	P	P	P	P	S	P	S					50-20.3.I
Funeral home or crematorium					S		S	P	P	P	P		P		P						P				
Mini-storage facility										P											P	P			50-20.3.L
Personal service and repair, small						P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Personal service and repair, large						I	S	P	P	P	P		P		P		P		P		P				
<b>Retail Sales</b>																									
Adult book store																						P			Chapter 5
Building materials sales								S		P	P														50-20.3.G
Garden material sales		S						P			P				P										
Grocery store, small (less than 50,000 sq ft)						P	P	P			P		P		P	P	P	P	P						50-20.3.K
Grocery store, large (50,000 sq ft or more)								P			P														50-20.3.K
Retail store not listed, small (less than 15,000 sq ft)					S	P	P	P	P		P	P	P	P	P	P	P	P	P	P					50-20.3.R
Retail store not listed, large (15,000 sq ft or more)								P			P		P		P	P		P	P						50-20.3.R
<b>Vehicle-Related</b>																									

**TABLE 50-19.8: USE TABLE**

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	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
<b>LAND USE CATEGORY</b>																												
Automobile and light vehicle repair and service							S	P		P	<u>P</u>		P		P	P	P					P						50-20.3.C
Automobile and light vehicle sales, rental, or storage								P		P												P						50-20.3.D
Filling station					S	P	P	P		P	P		P		P	P	P					P	P					50-20.3.J
Parking lot or parking structure (primary use)						I		P	P	P	P	<u>P</u>	S	S	S	S	S	S	S	S	S	P	P					50-20.3.O
Truck or heavy vehicle sales, rental, repair, or storage										P												P						
<b>INDUSTRIAL USES</b>																												
<b>Industrial Service</b>																												
Contractor's shop and storage yard										P	<u>P</u>					P						P	P					50-20.4.B
Dry cleaning or laundry plant										P												P						
Research laboratories										P	P	<u>P</u>										P	P					
Industrial services										P												P	P					
<b>Manufacturing and Mining</b>																												
Manufacturing, light										P	P	<u>P</u>					P					P						50-20.4.F
Manufacturing, heavy																						P						
Manufacturing, hazardous or special																						S						50-20.4.G
Mining, extraction and storage																						S	S					50-20.4.H
Water-dependent manufacturing, light or heavy																							P					
<b>Transportation-Related</b>																												
Airport and related facilities	S																					P						50-20.4.A
Railroad yard or shipyard and related 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: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

P = Permitted Use U = Upper Story

A = Accessory Use

S = Special Use or Interim Use

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
<b>LAND USE CATEGORY</b>																												
Truck freight or transfer terminal										P													P	P				
<b>Utilities</b>																												
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	P	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	P	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												P	S				
Water or sewer pumping stations/reservoirs	S	S	S	S	S	P	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Water or sewer treatment facilities																							P	P				
Wind power facility (primary use)		S							S	S													P	S				50-20.4.M
<b>Waste and Salvage</b>																												
Junk and salvage services																							S	S				50-20.4.D
Recycling collection point (primary use)								S	S	S													P	P				
Solid waste disposal or processing facility		S								S													S	S				50-20.4.J
<b>Wholesale Distribution and Storage</b>																												
Storage warehouse										P							P						P					50-20.4.K
Wholesaling										P							P						P					50-20.4.L
Bulk storage not listed elsewhere																							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: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

P = Permitted Use U = Upper Story

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Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
<b>LAND USE CATEGORY</b>																												
Water-dependent bulk storage or wholesaling not listed elsewhere																										P		
<b>ACCESSORY USES</b>																												
Accessory agriculture roadside stand	A	A																									A	50-20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A																	50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A																	50-20.5.C
Accessory caretaker quarters											A											A	A	A				
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	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							
Accessory dwelling unit	A	A	A	A	A	A	A																					50-20.5.D
Accessory heliport	A								A		A											A						50-25.5.E
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A							50-20.5.F
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A							50-20.5.G
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H	
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I	
<u>Accessory vacation dwelling unit</u>		I	I	I	I	I	I										I										<u>50-20.5.L</u>	
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J	
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K	
<b>TEMPORARY USES</b>																												

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

P = Permitted Use U = Upper Story

A = Accessory Use

S = Special Use or Interim Use

I = Interim Use

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
<b>LAND USE CATEGORY</b>																									
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.A
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	

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

50-20.3 Commercial Uses

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**A. Adult Entertainment Establishment**

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

**B. Agriculture, General**

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

**C. Automobile and Light Vehicle Repair and Service**

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

**D. Automobile or Light Vehicle Sales, Rental or Storage**

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

**E. Bank**

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

**F. Bed and Breakfast**

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

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

5. Contain a minimum of 1,500 sq. ft. of area on the first floor of the main building;
6. Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to 6 days per year and shall be restricted to the period of October 15 through June 15;
7. Shall not have signage exceeding 12 sq. ft. in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days.

#### **G. Building Materials Sales**

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

#### **H. Convention or Event Centers**

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

#### **I. Day Care Facility, Small and Large**

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

#### **J. Filling Station**

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

#### **K. Grocery Stores, Small and Large**

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

#### **L. Mini-Storage Facility**

This use shall comply with the following standards:

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

#### **M. Office**

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

#### **N. Other Outdoor Entertainment or Recreation Use Not Listed**

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

#### **O. Parking Lot or Parking Structure (Primary Use)**

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

#### **P. Restaurant (No Drive-In/ Drive-Through)**

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

#### **Q. Restaurant (With Drive-In/Drive-Through)**

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

#### **R. Retail Stores, Small and Large**

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

#### **S. Seasonal Camp or Cabin**

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

#### **T. Tourist or Trailer Camp**

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

#### **U. Veterinarian or Animal Hospital**

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

#### **V. Vacation Dwelling Unit**

1. The minimum rental period shall not be less than 5 nights during the period from June 15 to September 15. The minimum rental period shall not be less than 2 nights during the rest of the year.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
3. Off-street parking shall be provided at the following rate:
  - (a) 1-2 bedroom unit, 1 space
  - (b) 3-4 bedroom unit, 2 spaces
  - (c) 5+ bedroom unit, 3 spaces
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.

5. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 3 to 21 days.
6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

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

#### 50-20.5 Accessory Uses

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##### **A. Accessory Agriculture Roadside Stand**

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

##### **B. Accessory Bed and Breakfast**

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

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

##### **C. Accessory Boat Dock, Residential**

This use shall comply with the following standards:

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

#### **D. Accessory Dwelling Unit**

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

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

#### **E. Accessory Heliport**

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

3.

#### **F. Accessory Home Occupation**

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

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

#### **G. Accessory Sidewalk Dining Area**

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

#### **H. Accessory Solar or Geothermal Power Equipment**

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

1. **Ground-mounted solar system:**
  - (a) Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;
  - (b) Solar collectors shall be located a minimum of 6 ft. from all property lines and other structures;
  - (c) Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 sq. ft., whichever is greater. The size of solar collector areas in all districts except Residential Districts shall not exceed one-half of the footprint of the principal structure;
  - (d) Solar collectors shall not exceed 5 ft. in height.
2. **Roof-mounted or wall-mounted solar system:**
  - (a) A solar collection system shall be located a minimum of six ft. from all property lines and other structures except the structure on which it is mounted;
  - (b) Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three (3) feet

above the ridge level of a roof on a structure with a gable, hip, or gambrel roof and shall not extend higher than ten (10) feet above the surface of the roof when installed on a flat or shed roof.

- (c) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one (1) foot from the exterior perimeter of a roof for every one (1) foot that the system extends above the parapet wall or roof surface, if not parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three (3) feet above the roof surface shall be exempt from this provision.
- (d) A solar collection system may be located on an accessory structure;
- (e) A development proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.

### 3. Solar easements

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

## I. Accessory Uses or Structures Not Listed Elsewhere

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

5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
  - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
  - (b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business.
6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use.
7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article 2 and Section 50-20.

#### **J. Accessory Wind Power Equipment**

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

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

10. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
11. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

**K. Minor Utilities and Accessory Wireless Antennas Attached to Existing Structures**

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

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

**L. Accessory Vacation Dwelling Unit**

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

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

9. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 3 to 21 days.
10. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
11. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

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

50-35 Summary Table

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

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

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

\*\*\* Applicant must provide documentation that the final plat has been recorded with the County Recorder.

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

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

50-37.1 Review and Approval Procedures

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**A. Pre-Application Meetings**

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

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

**B. Authority to File Applications**

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

**C. Application Materials and Fees**

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

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

#### **D. Determination of Completeness**

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

#### **E. Inactive Complete Applications**

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

#### **F. Withdrawal of Applications**

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

#### **G. Successive Applications**

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

#### **H. Public Notice**

##### 1. Types of Notice

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

- (a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least 10 days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing.
- (b) Mailed notice means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least 10 days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 ft. from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of 5 acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 ft. of the area to be rezoned. Failure to give mailed notice as required by this section or any defect in the notice given shall not invalidate any action of the planning

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

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

2. **Content of Notice**

Each required notice shall include the following information:

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

3. **Special Notice Provision for Appeals**

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

**I. Public Hearings**

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

**J. Review Criteria**

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

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

#### **K. Conditions on Approval**

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

#### **L. Administrative Adjustments**

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

1. The front, side or rear setbacks of a new or modified structure are no more than 1 ft. smaller than the minimum setbacks required by this Chapter;
2. The height of a new or modified structure is no more than 2 ft. taller than the maximum required by this Chapter;

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

#### **M. Modifications of Approvals**

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

#### **N. Lapsing of Approvals**

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

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

## **O. Appeals**

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

1. General Provisions for Appeal to Planning Commission
  - (a) Except as noted in subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be filed within 10 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 10 days after the decision by filing with the building official a written notice of appeal addressed to the board and specifying the grounds of the appeal. If the appellant is a person aggrieved or a taxpayer affected by the decision

regarding the zoning of an airport or the Airport Overlay district, the applicant shall submit an appeal to the city clerk in the manner set forth in Minnesota Statutes 360.068, Subdivision 2. All appeals shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern.

- (c) The building official shall promptly transmit to the commission, or to the airport board of adjustment, as applicable, the documents and records related to the decision being appealed.
- (d) A timely appeal shall stay all proceedings involved in the appeal; and no appeal shall be deemed to permit the appellant to do or to continue doing, directly or indirectly, any act or thing prohibited by the decision being appealed. However, if the building official notifies the planning commission in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the planning commission may order that proceedings not be stayed pending appeal.
- (e) The commission shall fix a time for a hearing on the appeal, shall provide notice of the hearing pursuant to Section 50-37.1.H, and shall hold a public hearing pursuant to Section 50-37.1.I.
- (f) Any party may appear at the hearing in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant.
- (g) If the appeal alleges that the boundaries of a wetlands or shorelands area on the Natural Resources Overlay map in Section 50-18.1 are in error, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence.

## 2. Exceptions

- (a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I No Safety Obstructions, 50-27.1.L Attachment to Buildings, 50-27.1.M Wind Pressure Design, 50-27.1.N Electrical Wiring, or 50-27.1.O Certification of Structural Engineer must be taken to the state building official as provided in the State Building Code.
- (b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Chapter 10 of the code or to the state building official.
- (c) An appeal from any decision under the housing code provisions in Section 50-32 of this Chapter must be taken to the building appeals board.
- (d) If an applicant believes that the decision of staff regarding compliance with the requirements of the SP-O zone district is incorrect or deprives the applicant of the reasonable use of his or her property, or is unreasonable given the size and shape of the property and its orientation to the protected views, the applicant may request review of the decision by the planning commission. The planning commission's review shall be based on the purpose and standards of this section, but may authorize variations to those standards, in accordance with the procedures in Article 5 of this Chapter, if unusual site conditions not generally shared along Skyline Parkway make compliance with the standards unreasonable or ineffective to protect the intended views of Lake Superior, the St Louis River and the harbor.

## 3. Powers of Planning Commission on Appeal

- (a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision

appealed, and may make any orders, requirements, decisions or determinations that the building official or land use supervisor could have made regarding the application.

- (b) In hearing permitted appeals of decisions regarding the sign regulations in Section 50-27, the planning commission shall have only the power to affirm, reverse or modify the decision of the building official.
  - (c) In the case of an appeal regarding the application of the NR-O Natural Resources Overlay district, no relief shall be granted that violates the limitations on variances applicable to that district.
  - (d) The decision of the planning commission shall be final unless a further appeal is filed pursuant to subsection 4 below.
4. Appeals of Planning Commission Decisions to Council
- (a) Except as provided in subsection 5 below, any person aggrieved by, or any department of the city affected by, any decision of the planning commission on an appeal pursuant to subsection 1 above may appeal that decision to the council.
  - (b) Any appeal must be filed within 10 days after the planning commission's decision by filing with the city clerk a written notice of appeal addressed to the council and specifying the grounds for the additional appeal.
  - (c) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. However, if the building official notifies the council in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the council may order that proceedings not be stayed pending appeal.
  - (d) The council shall hear the appeal at the next scheduled meeting with time available, and may affirm, modify or reverse the board's decision, and may make any orders, requirements, decisions, or determinations it deems appropriate regarding the appeal.
  - (e) No decision on an appeal or variance shall have the effect of allowing a use that is not a permitted or special use in the zone district where the property is located.
  - (f) If the appeal is regarding an application in any district where the approval of a district plan is required or requested prior to development, the council shall only approve development plans if it finds that the requirements for the district plan in that district will be satisfied.
5. Appeal of Planning Commission Decisions to the Courts
- (a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission.
  - (b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission.
  - (c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01.
6. Appeals of Historic Preservation Commission Decisions to Council
- (a) Where applicable, Section of 50-37.1.O.4 shall apply of historic commission decisions, when appealable to City Council

**P. Security for Improvements**

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

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

50-37.11 Planning Review

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

**A. Applications**

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

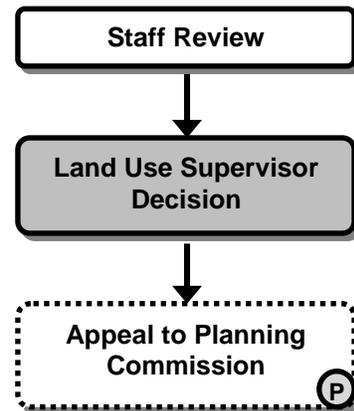
**B. Procedure**

1. Building permit applications for certain types of development and redevelopment activities will trigger planning review for compliance with the standards of this Chapter. Except as stated in subsection 2 below, this planning review shall be conducted by the land use supervisor pursuant to the criteria in subsection 50-37.11.C.
2. For applications involving covered types of development and redevelopment activities in the R-2, MU-N, MU-C, MU-I, and MU-W, and HE-O zone districts, the planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection 50-37.11.C.
3. The land use supervisor or the planning commission may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection 50-37-11.C have been met.

**C. Criteria**

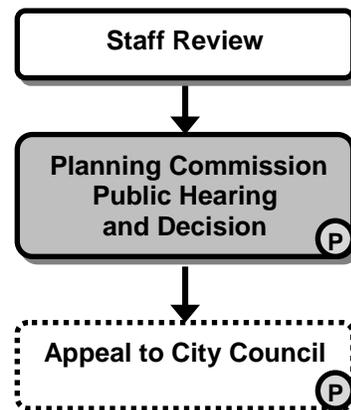
The land use supervisor or planning commission shall approve the planning review or approve it with modifications, if it is determined that the application complies with all applicable provisions of this Chapter.

**Planning Review General**



**(P)** Indicates Public Hearing Required

**Planning Review in R-2, MU-N, MU-C, MU-I, and MU-W, and HE-O**



**(P)** Indicates Public Hearing Required

Section 15. That this ordinance shall take effect 30 days after its passage and publication.

PLANNING SR:ek 11/14/2012

**STATEMENT OF PURPOSE:** This ordinance implements revisions to 14 sections of the Unified Development Chapter as part of the annual UDC Update process.

There were several public information meetings were held to gather comment and feedback from the public on changes to portions of the UDC: Thursday, February 9, Wednesday, May 30, Wednesday, September 12, and Wednesday, November 7, 2012. There were two public hearings held by the Planning Commission on on Tuesday, October 9 and Tuesday, November 13, 2012.

At the end of the public hearing on November 13, 2012, the Duluth Planning Commission made four separate motions to approve the changes on the following four major areas: signage, higher education overlay district, changes to R-P and creation of MU-P, and vacation rental homes. Each of the four motions to recommend the changes of the UDC passed with a vote of 7 yeas, 0 nays, and 0 absentions.



## MEMORANDUM

**DATE:** November 5, 2012  
**TO:** Planning Commissioners  
**FROM:** Jenn Reed Moses, Planner II  
**SUBJECT:** PL 12-151 UDC Text Amendments, R-P and C-P

One of the recommendations in the Higher Education Small Area Plan, adopted in April 2012, was the establishment of a Commercial-Planned district. In keeping with the goals of the comprehensive plan and the structure of the UDC, this proposed district is now named Mixed Use-Planned (MU-P) and would accommodate a wide variety of uses. After conducting the research for this new zone district, staff also is making suggestions for changes to the existing Residential-Planned (R-P) district. These changes have undergone further refinement since the October 9, 2012 Planning Commission meeting. A proposal incorporating these suggestions is attached to this memo for your review.

The attached document reflects the following changes:

- Removing the distinction between high-density and low-density R-Ps. The R-P district now largely reflects the former "low-density" characteristics, requiring open space and supporting conservation development. The high-density characteristics are included in the new MU-P district.
- Adding a list of desired amenities and tables of maximum modifications allowed under Planned districts.
- Requiring that rezoning to a Planned district, with City Council approval, be accompanied by a concept plan governing uses and density.
- Adding uses allowed under the MU-P to the use table.

A public hearing was held on October 9, 2012, and a public meeting will be held on November 7, 2012.



City of Duluth  
Planning Division

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## MEMORANDUM

**DATE:** November 2, 2012  
**TO:** Planning Commissioners  
**FROM:** Jenn Reed Moses, Planner II  
**SUBJECT:** PL 12-152 UDC Text Amendments – R-2, MU-N, and Overlay Districts

The Higher Education Small Area Plan, adopted in April 2012, included several recommendations relating to zoning regulations. In implementing the plan, the staff proposes the attached draft UDC changes for your review and comment.

The draft reflects the following changes:

- Changing the density in the R-2 district from 1,500 square feet to 750 square feet per multi-family unit.
- Removing the development standards from the R-2 and MU-N districts, and instead incorporating them as part of a new Higher Education Overlay district that regulates new multi-family residential development as well as new commercial development in the areas around UMD and St. Scholastica.
- Amending the Skyline Parkway Overlay maps to remove the segment known as the "UMD gap."

A public hearing was scheduled for October 9, 2012, and a public meeting will be held on November 7, 2012.



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## MEMORANDUM

**DATE:** November 5, 2012

**TO:** City Planning Commission

**FROM:** Keith Hamre, Director of Planning and Construction Services  
Kyle Deming, Planner II

**RE:** Addition of "Vacation Dwelling Unit" and "Accessory Vacation Dwelling Unit" Uses, Use Specific Standards, and Definitions (PL 12-148)

At last month's Planning Commission meeting you voted to table the proposed ordinance changes related to vacation rentals and to continue the public hearing in November. You requested the Planning Division hold another public meeting to gather comments and consider using another method for determining the number of occupants allowed at a vacation rental.

The Planning Division will hold a public meeting on Wednesday, November 7<sup>th</sup>, 2012 at 5:30 p.m. in City Hall Room 303. We will bring comments gathered at this meeting to you at your regular meeting on November 13.

The remainder of this memo is the summary of research on vacation rentals and description of the proposed ordinance changes that was in your packet last month; it incorporates modifications that were proposed by staff at your October 9<sup>th</sup> Commission meeting.

*Throughout the nation people are choosing a new form of lodging while visiting a community called a "vacation rental." Vacation rentals are most common in resort and tourism-oriented communities and involve the lodging of guests in traditional single-family neighborhoods, usually in typical single-family homes. People who choose this type of lodging are often looking for a more economical way to travel as a group or are seeking a different type of experience than the traditional hotel/motel or bed & breakfast establishment provides. The City Planning Division researched the regulation of vacation rentals and found some common principles, a summary of which is attached to this memo.*

*Our current UDC and rental licensing ordinances fall short in regulating these facilities because they only allow vacation rentals if the property owner meets the following criteria:*

- *Obtain a rental license,*
- *Rent for periods exceeding 7 days,*
- *Pay appropriate sales and tourism taxes.*

*These standards don't address many of the quality-of-life issues that go along with vacation rentals, such as noise, parking, and unfamiliarity with local rules. The current ordinances also don't allow vacation rentals to rent for shorter stays, something the owners of these facilities*

*maintain is necessary in the "off-peak" months. To solve these issues and regulate this phenomena the City Planning Division recommends the establishment of the "Vacation Dwelling Unit" and "Accessory Vacation Dwelling Unit" uses, Use Specific Standards for each, associated Definitions, and amendments to the UDC Application manual.*

*The City Planning Division held two public meetings over the past few months (and a third meeting November 7<sup>th</sup>) to get input from current vacation rental owners and neighbors. We combined the community's input (see also attached comments) with what we learned from other communities and are proposing the following amendments to the UDC:*

- A. Sec. 50-41, Definitions; New Definition – Vacation Dwelling Unit – a habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities that are physically separated from other habitable units that may be located in the same building for periods of occupancy from 3 to 21 days. This use does not include hotels, motels, or bed and breakfasts.*
- B. Sec. 50-41, Definitions; New Definition – Accessory Vacation Dwelling Unit – an accessory dwelling unit as defined by this chapter that is used for periods of occupancy from 3 to 21 days.*
- C. Table 50-19.8, Use Table; New line under Lodging category – Vacation Dwelling Unit – shown as an Interim use in RR-1, RR-2, R-1, R-2, R-P, MU-N, and F-5 districts – and having a reference to Use Specific Standards Sec. 50-20.3.V*
- D. Table 50-19.8, Use Table; New line under Accessory Uses category – Accessory Vacation Dwelling Unit – shown as an Interim use in RR-1, RR-2, R-1, R-2, R-P, MU-N, and F-5 districts and having a reference to Use Specific Standards Sec. 50-20.5.L*
- E. Sec. 50-20, Use Specific Standards; New standard – Sec. 50-20.3.V – Vacation Dwelling Unit:*
  - 1. The minimum rental period shall not be less than 5 nights during the period from June 15 to September 15. The minimum rental period shall not be less than 2 nights during the rest of the year.*
  - 2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.*
  - 3. Off-street parking shall be provided at the following rate:*
    - a. 1-2 bedroom unit, 1 space*
    - b. 3-4 bedroom unit, 2 spaces*
    - c. 5+ bedroom unit, 3 spaces*
  - 4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.*
  - 5. The property owner must obtain all applicable licenses and permits from the City of Duluth and State of Minnesota to permit guest stays for the property.*
  - 6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, interim use permit violations procedures.*

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

**F. *Sec. 50-20, Use Specific Standards; New standard – Sec. 50-20.5.L – Accessory Vacation Dwelling Unit:***

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

1. *Only one accessory vacation dwelling unit may be created per lot.*
2. *No variances shall be granted for an accessory vacation dwelling unit.*
3. *An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling.*
4. *If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building.*
5. *The minimum rental period shall not be less than 5 nights during the period from June 15 to September 15. The minimum rental period shall not be less than 2 nights during the rest of the year.*
6. *The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.*
7. *Off-street parking shall be provided at the following rate:*
  - a. *1-2 bedroom unit, 1 space*
  - b. *3-4 bedroom unit, 2 spaces*
  - c. *5+ bedroom unit, 3 spaces*
8. *Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.*
9. *The property owner must obtain all applicable licenses and permits from the City of Duluth and State of Minnesota to permit guest stays for the property.*
10. *The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, interim use permit violations procedures.*
11. *The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.*

**G. *In addition to the UDC amendments above, staff will amend the UDC Application Manual with the following requirements for Vacation Dwelling Units and Accessory Vacation Dwelling Units:***

1. *Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice.*
2. *Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.*

3. *Permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary. The permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.*
4. *Permit holder must disclose in writing to their guests the following rules and regulations:*
  - a. *The managing agent or local contact's name, address, and phone number;*
  - b. *The maximum number of guests allowed at the property;*
  - c. *The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;*
  - d. *Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;*
  - e. *Applicable sections of City ordinances governing noise, parks, parking and pets;*
5. *If a permit holder is cited for Excessive Consumption of Police Services as described in Chapter 40, Article III of the Duluth Legislative Code, the Land Use Supervisor may suspend the Interim Use Permit for 90 days. If the permit holder is cited for Excessive Consumption of Police Services a second time, the Interim Use Permit shall be revoked.*
6. *Permit holder must post their permit number on all print, poster or web advertisements;*
7. *Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax.*



## MEMORANDUM

**DATE:** November 13, 2012

**TO:** City Planning Commission

**FROM:** Keith Hamre, Director of Planning and Construction Services  
Kyle Deming, Planner II

**RE:** Vacation rentals additional minor amendments (PL 12-148)

Assistant City Attorney Nate LaCoursiere reviewed the proposed ordinance amendments related to vacation rentals and provided the following minor amendments that we recommend you incorporate in your motion, should you recommend approval:

- A. Sec. 50-41, Definitions; New Definition – Vacation Dwelling Unit – a habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities that are physically separated from other habitable units that may or may not be located in the same building for periods of occupancy from 3 to 21 days. This use does not include hotels, motels, or bed and breakfasts.
  
- E. Sec. 50-20, Use Specific Standards; New standard – Sec. 50-20.3.V – Vacation Dwelling Unit:
  5. The property owner must obtain all applicable licenses and permits from the City of Duluth and State ~~to permit guest stays for the property~~ required for guest occupancy on the property for 3 to 21 days.
  6. Must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
  
- F. Sec. 50-20, Use Specific Standards; New standard – Sec. 50-20.5.L – Accessory Vacation Dwelling Unit:

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

  9. Must obtain all applicable licenses and permits from the City of Duluth and State ~~to permit guest stays for the property~~ required for guest occupancy on the property for 3 to 21 days.
  10. Must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

G. In addition to the UDC amendments above, staff will amend the UDC Application Manual with the following requirements for Vacation Dwelling Units and Accessory Vacation Dwelling Units:

5. If a permit holder is cited for ~~Excessive Consumption of Police Services~~ any nuisance event as described in Chapter 40, Article III of the Duluth Legislative Code, the Land Use Supervisor may suspend the Interim Use Permit for 90 days. If the permit holder is cited for ~~Excessive Consumption of Police Services~~ any nuisance event a second time, the Interim Use Permit shall be revoked.