PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

14-012-O

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING FLOOD PLAIN AND FLOOD HAZARD MITIGATION.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-18.1 of Chapter 50 be amended as follows:

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

A. **General.**

1. **Purpose statement.**

The purpose of this overlay is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development. It is intended to implement the Minnesota Wetland Conservation Act (WCA), federal emergency management agency (FEMA) rules, and the Minnesota department of natural Resources (DNR) shoreland and flood plain regulations. In accordance with this regulatory framework, wetlands, flood plains, and shorelands are protected by regulating developments that would have an adverse or potentially irreversible impact on unique and fragile land, by minimizing conflicts and encouraging compatibility between environmentally sensitive lands, and by requiring detailed review standards and procedures for developments proposed for such areas, thereby achieving a balance between urban growth and development and protection of natural areas;

2. **NR-O map.**

The NR-O map contains data from the following sources:

(a) For wetlands, there is no official wetlands map. All lands in the city that meet the definition of wetlands in Article 6 are considered wetlands for the purposes of this Section;

(b) For flood plains:~~, the flood boundary and floodway map for Duluth, Minnesota, published with an effective date of February 1, 1980, by the U.S. department of housing and urban development, and all subsequent amendments thereto. Determinations of flood plain status on individual properties shall be made based on the official version of this map on file with the city.~~

(i) The Flood Insurance Study, City of Duluth, Minnesota, St. Louis County, dated August 1979;

(ii) Flood Boundary and Floodway Map panels for the City of Duluth Minnesota, dated February 1, 1980, and numbered:

(1) 270421 0015 C

(2) 270421 0025 C
(3) 270421 0030 C
(4) 270421 0035 C
(5) 270421 0040 C
(6) 270421 0045 C

(iii) Flood Insurance Rate Map panels for the City of Duluth, Minnesota, dated April 2, 1982, and numbered:

(7) 270421 0015 C
(8) 270421 0025 C
(9) 270421 0030 C
(10) 270421 0035 C
(11) 270421 0045 C

(iv) Flood Insurance Rate Map panel for the City of Duluth, Minnesota, numbered 270421 0040 D and dated November 4, 1992;

(v) Flood Insurance Rate Map panels for St. Louis County, Minnesota, unincorporated areas, numbered 270416 1475 C, 270416 1500 C, and 270416 1650 C, all dated February 19, 1992;

(vi) The Letter of Map Revision issued by the Federal Emergency Management Agency, Case No. 07-05-3554P, with an effective date of October 17, 2008, including all attached maps, tables and flood profiles; and

(vii) The Letter of Map Revision issued by the Federal Emergency Management Agency, Case No. 12-05-3211P, with an effective date of November 26, 2012, including all attached maps, tables and flood profiles.

Copies of the above-listed documents are hereby adopted by reference and declared to be a part of this section. All documents shall be kept on file in the land use supervisor's office

(c) For shorelands, boundaries shall be based on (i) waters shown as protected on the map and inventory of protected waters in Duluth prepared by the DNR commissioner pursuant to Chapter 199, Laws of Minnesota, 1979, and (ii) selected waters that the city has added to the commissioner's survey as being worthy of shoreland protection. All of these waters are shown on the NR-O Map as currently revised as of November 19, 2010.

(d) Where interpretation is needed as to the exact location of any boundary as shown on an official map, the city engineer shall make the necessary interpretation based on available technical data, and, in the case of flood plains, based particularly on elevations on the regional flood profile or hydraulic modeling data.

(e) The NR-O map may be amended in the future, and any revisions shall become effective upon adoption of the revised NR-O map as an amendment to this Chapter.

B. WETLANDS

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

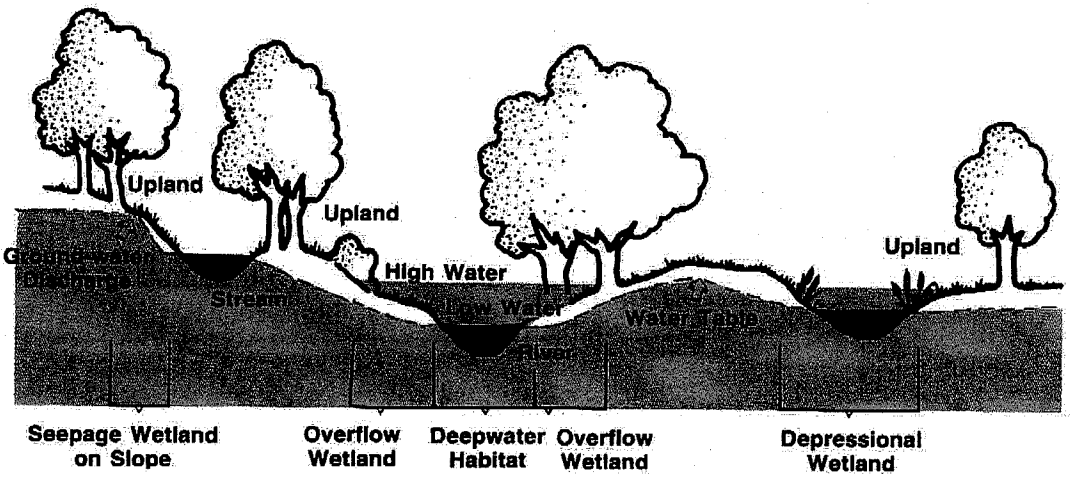


Figure 50-18.1-1: Typical Inland Wetland. Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

1. The building official shall require each permit applicant to specify on the permit application whether or not the proposed site contains wetlands. Regardless of the answer given, if the building official has reasonable grounds to believe the site contains wetlands, the official shall make a determination as to the existence of wetlands. In making that determination, the building official may require any of the following:
   (a) Require the applicant to submit a complete wetland delineation as outlined in WCA and performed by a professional wetland delineator, including information such as soil analysis, surveys of vegetation and engineering or hydrological data, to aid in the determination;
   (b) Conduct a site inspection and evaluation;
   (c) Consult with the city engineer, St. Louis County Soil and Water Conservation District, Board of Water and Soil Resources, and other available wetland experts;
   (d) Use any other reasonable method to determine if the site contains wetlands.

C. Flood Plains

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

which case the Flood Insurance Rate Map or Flood Boundary and Floodway Map, as applicable, shall control.

All lands within flood plains shall be divided into floodway districts, flood fringe districts, or general flood plain districts:

(a) The floodway district shall include those areas designated as floodway on the Flood Boundary and Floodway Map identified in Section 50-18.A.2.b.

(b) The flood fringe district shall include those areas designated as flood fringe on the Flood Boundary and Floodway Map.

(c) The general flood plain district shall include those areas designated as Zone A on the Flood Insurance Rate Maps identified in Section 50-18.A.2.b., and those areas designated Zone A1-A30 on the Flood Insurance Rate Maps that do not have a corresponding floodway/flood fringe delineation on the Flood Boundary and Floodway Map.

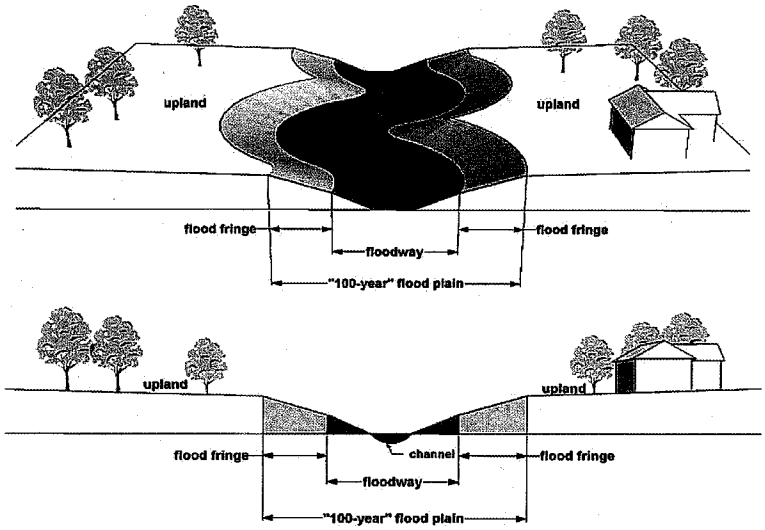


Figure 50-18.1-2: Flood plain, floodway, and flood fringe. Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

1. **Compliance**

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

2. **Uses and Special Use Permits – Floodway**

   (a) **Permitted Uses in Floodway**

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

   (i) Agriculture;

(ii) Industrial, commercial and mixed use loading areas, parking areas and airport landing strips;

(iii) Outdoor open space, recreation, and entertainment facilities and ~~that do not include temporary or permanent residences or occupied~~ structures;

(iv) Residential lawns, gardens, parking areas and play areas.

(b) **Special Uses in Floodway**

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

(i) Structures accessory to a permitted use;

(ii) Mining, extraction and storage of sand, gravel and other materials;

(iii) Marina or yacht club or accessory residential boat dock;

(iv) Railroad yard or shipyard and related facilities, electric power transmission lines, major utilities or wireless communication towers and minor utilities and accessory wireless antennas attached to existing structures;

(v) Bulk storage not listed elsewhere;

(vi) Placement of fill or construction of fences;

(vii) ~~Tourist trailer or camp~~; Road-ready recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 50-20;

~~(viii) Water-dependent manufacturing, light or heavy, and water-dependent bulk storage or wholesaling not listed elsewhere;~~ Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures.

~~(ix) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures;~~

~~(x) Other uses consistent with the stated purposes and provisions of this Section 50.18.1.C.~~

(c) **Standards for ~~s~~Special ~~u~~Use ~~p~~Permits In Floodway**

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

(i) The proposed use or structure will not cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected;

(ii) Any fill deposited in the floodway shall be no more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters and shall be protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the city;

(iii) ~~Accessory structures are not designed for human habitation, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters, shall be constructed whenever possible with the longitudinal axis parallel to the direction of flood flow,~~

~~shall be placed approximately on the same flood flow lines as those of adjoining structures and shall be floodproofed to the flood protection elevation in accordance with the State Building Code;~~ Accessory structures:

- Shall not be designed for human habitation;
- Shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters;
- Shall be constructed whenever possible with the longitudinal axis parallel to the direction of flood flow;
- Shall be placed approximately on the same flood flow lines as those of adjoining structures; and
- Shall be elevated on fill or floodproofed to the flood protection elevation in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code.

(iv) ~~The building official may require that~~ All floodproofed accessory structures must meet the following additional standards if the building official determines that compliance is necessary to carry out the stated purposes of this Section 50-18.1.C:

- The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
- Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed~~;~~.

~~The structure must be constructed to allow water to flow through it in case of flooding~~

As an alternative, an accessory structure may be internally or wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed 576 square feet in size at its largest projection, and for a detached garage, the structure must be used solely for parking of vehicles and limited storage. The structure must meet the following standards:

- To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
- There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(v) The use will not include the storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life. All materials or equipment stored shall be readily

removable from the area within the time available after a flood warning;

(vi) Any structural works for flood control that will change the course, current, or cross-section of wetlands or public waters shall comply ~~with state standards and regulations~~with the provisions of Minnesota Statutes, Chapter 103G.245

(vii) Any levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood, based on technical analysis that assumes equal conveyance or storage loss on both sides of a waterway.

(viii) Within an A-O zone, there must be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures or structure additions.

(ix) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element;

3. **Uses and Special Use Permits – Flood Fringe**

(a) **Permitted Uses In Flood Fringe**

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

(i) All structures, including accessory structures, shall be elevated on fill so that a structure's lowest floor is above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at that elevation at least 15 feet beyond the outside limits of the structure. In A-O zones, the finished fill elevation for structures must be a minimum of two feet above the highest adjacent grade. The structure's design and as-built condition in relation to the regulatory flood protection elevation must be certified by a professional engineer or architect licensed in Minnesota;

(ii) Any portion of a non-residential ~~basements~~ structure below the regulatory flood protection elevation will be structurally dry floodproofed in accordance with the FP-1 or FP-2 classification found in the State Building Code;

(iii) As an alternative to elevation, accessory structures that constitute a minimal investment and that do not exceed ~~500~~ 576 sq. ft. may be internally floodproofed in accordance with Section 50-18.1.C.2(c)(iii) and (iv) above;

(iv) Any placement of fill with a cumulative volume in excess of 1,000 cubic yards at any one time may only be used to elevate a structure in accordance with this subsection 3(a)(i);

(v) Any stored materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(b) **Special Uses In Flood Fringe**

The placement of more than 1,000 cubic yards of fill or other similar material, other than for the purpose of elevating a structure to the regulatory flood protection elevation, ~~or~~ and the storage of materials and equipment

below the regulatory flood protection elevation, may be permitted only after the issuance of a special use permit as provided in Article 5. In addition, this use is subject to the limitations on flood plain variances in Article 5 and the following requirements:

(i) Any fill deposited in the ~~floodway~~ flood fringe shall be no more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters and shall be protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the city;

(ii) The use ~~will~~ must not include the storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life. All materials or equipment stored shall be readily removable from the area within the time available after a flood warning.

(c) **Standards for all Flood Fringe Uses**

(i) All new principal structures must have vehicular access at or above an elevation not more than two ft. below the regulatory flood protection elevation. If a variance to this requirement is granted, limitations on the period of use or occupancy of the structure for times of flooding may be specified.

(ii) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the NR-O Map.

(iii) Accessory land uses such as yards, railroad tracks, and parking lots may be at elevations more than two feet below the regulatory flood protection elevation. Any facility that will be used by employees or the general public must have a flood warning system that provides adequate time for evacuation if the area would be inundated by the regional flood to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four.

(iv) Standards for recreational vehicles are contained in Section 50-20.

(v) All manufactured homes and those recreational vehicles not meeting the exemption criteria must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(vi) Within an A-O zone, there must be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures or structure additions.

4. **General Flood Plain District**

(a) **Permitted ~~u~~Uses In General Flood Plain District**

(i) The uses listed in subsection 50-18.1.C.2(a) above shall be permitted uses;

(ii) All other uses shall be subject to the floodway/flood fringe evaluation criteria below and the resulting designation shall be used in

determining uses. If the property owner does not complete a floodway/flood fringe evaluation, the land is presumed to be floodway;

(iii) Land determined to be in the floodway pursuant to subsection 4.(ba)~~(ii)~~ shall have those permitted and special uses listed in Section 50-18.C.2 above;

(iv) Land determined to be in the flood fringe pursuant to subsection 4.(ba)~~(ii)~~ shall have those permitted and special uses listed in Section 50-18.C.3 above.

(b) Procedures for floodway and flood fringe determinations within the general flood plain district:

(i) The applicant shall submit appropriate information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe district and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective DNR Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood;

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas;

(3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(ii) The city engineer shall present the technical evaluation and findings to the city council. The city council must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary and that the proposed use is allowed in the area where it is proposed, or deny the permit application. Prior to official action the city council may submit the application and all supporting data and analyses to FEMA, the DNR or the planning commission for review and comment. Once the floodway and flood fringe district boundaries have been determined, and assuming the proposed use is allowed in the area where it is proposed, the city council shall refer the matter to staff who shall process the permit application consistent with the applicable provisions of this section 50-18.1.C.

5. **Public Utilities, Railroads, Roads and Bridges**

(a) All public utilities and facilities such as gas, electrical, sewer and water supply systems, with the exception of sumps and wet wells, to be located in the floodway or flood fringe shall be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

(b) Railroad tracks, roads and bridges to be located within the floodway or flood fringe shall comply with subsections 2 and 3 above, as applicable.

Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(c) On-site water supply and sewage treatment systems: Where public utilities are not provided: 1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this section.

6. **Subdivisions**

New subdivisions in the flood plain area shall meet the following requirements:

(a) No land shall be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply, or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this section.

(b) All lots within the flood plain districts shall be able to contain a building site outside of the floodway district at or above the regulatory flood protection elevation.

(c) All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this chapter.

(d) All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional flood has been approved by the city council. The plan shall be prepared by a registered engineer or other qualified individual, and shall demonstrate that adequate time and personnel exist to carry out the evacuation.

(e) The floodway and flood fringe district boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(f) In the general flood plain district, applicants shall provide the information required in section 15-18.C.4(b) to determine the regional flood elevation, the floodway and flood fringe district boundaries, and the regulatory flood protection elevation for the subdivision site.

7. **Amendments.**

(a) The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this requirement may be permitted by the Commissioner of the Department of Natural

Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(b) All amendments to section 50.18.1.C, including flood plain designation amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of the DNR must approve the amendment prior to community approval.

D. Shorelands

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

1. **Shoreland Permit Required**

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

   (a) All structures;

   (b) All grading, filling and excavating;

   (c) All construction of impervious surfaces, including roads, driveways, parking areas and trails;

   (d) All removal of natural vegetation;

   (e) Any construction activity that removes or disturbs natural beach grasses on Park Point.

2. **Standards for Shoreland Permit**

   (a) Erosion and sediment control measures shall be required for any land disturbing activity.

   (b) Grading and filling of more than 250 sq. ft. or placement of more than 10 cubic yards of material within the shore impact zone shall only be permitted if a plan for erosion control, storm water management and shoreline buffer restoration is approved by the city and effectively implemented.

   (c) Impervious surfaces shall be designed and constructed to minimize and control runoff and erosion into the regulated waters.

   (d) Any removal of natural vegetation shall be designed to prevent erosion into regulated waters and to preserve shoreland aesthetics.

   (e) Removal of trees or shrubs in a contiguous patch, strip, row or block is prohibited in shore impact zones.

   (f) The project does not result in the proposed building being located in a shore or bluff impact zone.

   (g) Naturally vegetative buffers shall be restored to the extent feasible after any project is complete.

3. **Dimensional Standards**

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

Table 50-18.1.D-1: Minimum Shoreland Area Standards Standards	General Development Waters [1]	Natural Environmental Waters	Coldwater River
Minimum setbacks from Ordinary High Water Level or highest known water level, whichever is higher			
Structures	50 ft.	75 ft.	150 ft.
Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1-3	25 ft.	N/A	N/A
Impervious Surfaces in the Shore Impact Zone	50 ft.	50 ft.	75 ft.
Lowest floor elevation above Ordinary High Water Level or highest known water level, whichever is higher [2]	3 ft.		
Width of naturally vegetative buffer	50 ft.		

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

[2] For a structure located in an area where FEMA has established a base flood elevation, the structure is exempt from this shoreland elevation requirement, but must meet flood plain regulations.

(b) Exceptions to Dimensional Standards

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

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

iii. Properties in Stormwater Zone B, as defined in Section 50-19.1.E.3(f), that have been previously developed with 75% or greater impervious surface may use one of the following methods to determine building setback:

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

iv. Park equipment such as playground structures and ball fields (but not including structures such as garages, storage buildings, toilets or

warming houses) may be placed closer than the required structure setback provided they lie outside the area required for the native vegetative buffer.

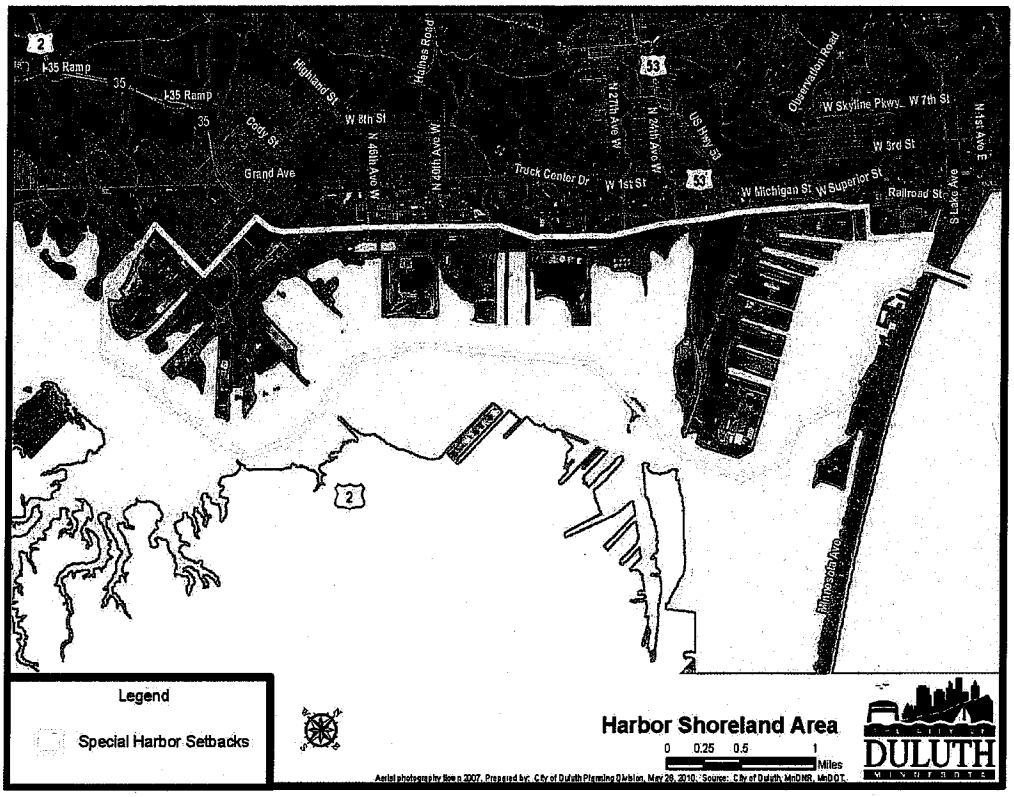


Figure 50-18.1-3

4. **Uses and Special Use Permits**

   (a) Those permitted and special uses shown in Table 50.19.8, subject to the issuance of any shoreland permit required by subsection 18.1.D.1 and compliance with the standards of subsection 18.1.D.2, except as listed below. Agricultural uses are not permitted in the shore impact zone. Within shoreland areas that are outside of the shore impact zone, agricultural uses are permitted if steep slopes are maintained in permanent vegetation or the land is operated under an approved conservation plan from the St. Louis County Soil and Water Conservation District.

   (b) All industrial uses, including mining, extraction and storage, on coldwater rivers or natural environmental waters require a special use permit pursuant to Article 5. The application for a special use permit must include a thorough evaluation of the topographic, vegetation and soils conditions on the site.

   (c) Standards for Special Use Permit

      (i) Compliance with all development requirements for shorelands in this Section 50-18.1.D;

      (ii) Prevention of soil erosion, storm water runoff or other possible pollution of public waters, both during and after construction or use;

(iii) Restoration of the shoreline buffer to a natural state;

(iv) Screening of structures and other facilities as viewed from regulated waters, as shown on the NR-O map.

5. **Subdivisions**

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

(a) The land shall not be subdivided until the land has been rezoned into the R-P zone district, and the concept and detailed development plans required in the R-P districts shall be designed to comply with the provisions of this Section 50-18.1.D;

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

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

6. **Nonconforming Lots of Record**

Lots of record in the office of the county recorder on November 19, 2010, may be allowed an exception from the structure setback requirement in subsection 18.1.D.3. If the lot of record cannot be developed under the setback requirements of subsection 18.1.D.3, then:

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

(b) The lot may be developed if a variance is obtained pursuant to Article 5.

E. Storm Water Management and Erosion Control

1. **Goals and Purpose**

(a) The federal Clean Water Act (CWA) requires that municipal storm water discharges be authorized under the National Pollution Discharge Elimination System (NPDES). The city is allowed to discharge its storm water under coverage provided by a CWA Municipal Separate Storm Sewer System General Permit (MS4 Permit). As part of the requirements of the permit, the city is required to develop a Storm Water Pollution Prevention Program (MS4 Program) with specific goals requiring:

(i) Non-degradation of all city waters;

(ii) Restrictions to special designated waters in the city, including: (a) Lake Superior (which is an MPCA designated Outstanding Value Resource Water with both restricted discharge and impaired water designations); (b) St. Louis River (which is an MPCA designated impaired water and area of concern; and (c) 16 trout streams designated by the DNR.

(b) The goals described in the city's MS4 Program pertaining to illicit discharge detection and elimination, construction-site runoff controls, and post-construction runoff treatment are incorporated into this Chapter by reference.

(c) The purpose of this Section 50-18.1.E is to establish regulations to comply with the federal CWA and the city's MS4 Permit and to achieve the goals stated in the city's MS4 Program.

2. **Temporary Erosion and Sediment Controls**

(a) Applicability

This Section 50-18.1.E.2 applies to all land disturbing activities within the city, except those specifically exempt in this section and those subject to a superseding or preemptive state or federal law. This section shall be deemed to supplement, but not to conflict with, the applicable provisions of the State Building Code.

(b) Requirements

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

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

[1] If the city engineer determines that the proposed development is in a vulnerable area and may cause the degradation of the waters connected to the city's storm water system, then the provisions applicable to land disturbance areas between 3,000 and 10,000 sq. ft. shall apply.
[2] If land disturbed is within a mapped shorelands zone, an MS4 Statement of Compliance from the city engineer is also required.

(c) Authority to Waive

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

3. **Permanent Water Quality and Discharge Rate Controls**

(a) Applicability

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

(ii) This section does not apply to pavement resurfacing and pavement rehabilitation projects where: no new impervious surface is created, there is no change to the configuration of the site, and there is no change to the land use.

(b) General Requirements

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

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

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

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

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

[4] If the site contains an existing impervious surface area greater than one acre, the drainage report must include a determination of the current total suspended solids removal across the entire site. If the current TSS removal is below 50%, the drainage report must include an evaluation of the feasibility of increasing the TSS removal to 50% on an annual basis across the entire site.

(c) Authority to Waive

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

(d) Shoreland Requirements

(i) In addition to the requirements in subsection 50-18.1.E.3(b) above, no residential development or redevelopment within a shoreland shall result in impervious surface area exceeding 25% of the lot area unless the owner (a) submits a development plan including water quality treatment and (b) obtains an MS4 Statement of Compliance by the city engineer.

(ii) In addition to the requirements in subsection50-18.1.E.3(b) above, no commercial, mixed use, institutional or industrial development or redevelopment within a shoreland shown on the NR-O Map shall create new impervious surface area unless the owner (a) submits a development plan including water quality treatment and (b) obtains an MS4 Statement of Compliance issued by the city engineer.

(e) Water Quality Treatment Requirements

Where subsection 50-18.1.E.3(b) requires that a development plan include water quality treatment, the development or redevelopment must be designed to provide the following treatment, volume reduction and pollutant removal:

(i) Treatment Requirements

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

Table 50-18.1.E-3: Treatment Requirements

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

[1] Refer to additional requirements under Section 3(e)(iii) Pollutant Removal

(ii) Storm Water Flow Volume Reduction

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

(1) Infiltration into the ground;

(2) Evaporation or transpiration;

(3) Storage for re-use;

(4) Enhanced infiltration swales, filter strips, or disconnected impervious area;

(5) Other demonstrable methods that reduce volume.

(iii) Pollutant Removal

Projects able to provide volume reduction for the first one-half in. of rainfall from newly created impervious surface shall have met city pollution abatement requirements and are exempt from this paragraph. Projects that do not meet the requirements of subsection 50-18.1.E.3(ii) above are required to complete computer modeling to show that water quality treatment shall provide 85% total suspended solids (TSS) removal, and the applicant shall also be required to describe and provide additional BMPs for temperature control.

(f) Runoff Rate Control

Where subsection 50-18.1.E.3(b) requires that a development plan include runoff rate control, the development or redevelopment must be designed to provide the controls as follows. Runoff rate control is beneficial in the upper, flatter part of the watershed above the bluff line. Below the bluff line, the topography is relatively steep and storm water flows quickly to Lake Superior and the St. Louis River. This bluff line designation is show on the NR-O Map.

The storm water rate control requirements for development and redevelopment are shown in Table 50-18.1.E-4:

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

(g) General Design Criteria

(i) New minor system drainage systems shall be designed to efficiently convey the peak discharge rates for a 10-year flow.

(ii) New major system drainage systems shall be designed to efficiently convey the peak discharge rates for a 100-year flow.

(iii) The 100-year rainfall event or 100-year peak flow shall be evaluated to ensure that no damage occurs to adjacent properties for all systems.

(iv) The storm water management systems for any new or redevelopment project shall maintain at least two ft. of freeboard between the anticipated 100-year high water elevation and the minimum building opening.

(v) Consideration may be given for treating existing untreated impervious areas diverted to the site and included in the control area for analysis if it is in the best interest of the city.

(vi) All impervious areas shall be considered connected and curve numbers shall not be weighted for impervious areas except under special circumstances.

(vii) 95% of all newly added impervious surface shall have its runoff directed to the water quality treatment area. If it is impractical to direct 95% of the added impervious surface to water quality area, alternate methods may be used in combination so long as 95% is treated and all peak flow requirements are fulfilled.

(viii) Flow shall not be diverted from one major or minor system to another major or minor system.

(ix) When storm water management plans involve directing runoff from a site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water to a point where the storm water enters a major system.

(x) Adequate measures shall be taken to prevent uncontrolled drainage across lot lines.

4. **General Storm Water Restrictions**

(a) Applying fertilizer, pesticides or any chemicals on impervious surfaces, within any part of storm water drainage system or any drainage way, within 25 ft.

of any wetland edge or Ordinary High Water level or bank edge of any drainage course, or within any water resource buffer area is prohibited.

(b) Sweeping, raking, blowing or otherwise placing yard waste, unless the yard waste is securely contained, in the street, ditch, gutter, storm inlet, catch basin or any part of any drainage way or other area that would allow yard waste to enter the storm drainage system is prohibited.

(c) Yard waste segregated for pickup must be securely contained until removed.

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

5. **Ownership and Maintenance**

(a) Maintenance of Temporary Erosion and Sediment Control Practices

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

(b) Ownership

(i) All components of the storm water management system shall be constructed, owned, operated and maintained by the developer or owner(s) to their confluence with the major system or city owned minor system.

(ii) In the case of developments in which right-of-way is transferred to public ownership, the storm drain system within the city right-of-way shall be owned and maintained by the city. Storm water treatment facilities and ponds shall be in common space and shall be owned and maintained by the developer or the owners of the development. Storm water treatment facilities shall not be located in the public right-of-way.

(c) Owner Inspection and Maintenance

(i) Storm water management facilities shall be designed to minimize maintenance and provide maintenance access. All facilities shall have a plan of operation and maintenance that assures continued effective removal of runoff pollutants and accumulated sediment. The developer or the owner(s) shall be responsible for inspection, maintenance and reporting for all non-publicly owned storm water management facilities associated with the development. Copies of the inspection records shall be maintained by the developer or owner for a period of six years. Copies of all inspection records shall be provided to the city upon request.

(ii) For the purposes of inspection during construction monitoring, the permittee shall submit an inspection log to the city on the first day of each month during the entire duration of construction.

(iii) For the purposes of ongoing monitoring and maintenance after construction is complete, the owner shall conduct inspections on all non-publicly owned structural components and all non-structural components (including swales and pond areas) of the storm water management system and:

(1) Submit a written report approved by an engineer summarizing findings and maintenance needs;

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

Section 2. That Section 50-37.9 of Chapter 50 be amended as follows:

50-37.9 Variance

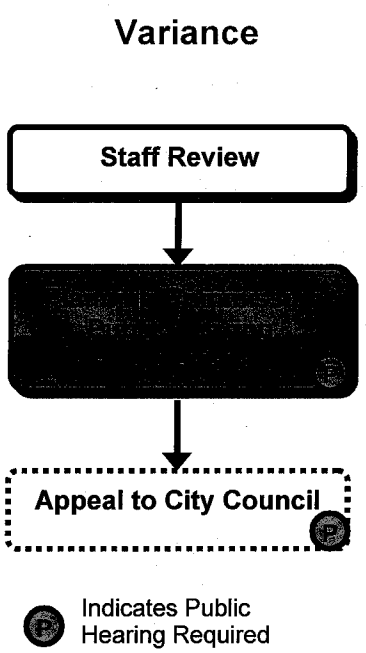
This section applies to applications for a variance from the terms and provisions of this Chapter. Different types of variances are subject to differing criteria for approval, and in many cases are also subject to limitations on the types of variances that can be granted.

A. Application

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

B. Procedure

The planning commission shall review the application, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision on the application based on the criteria in subsections 50-37.9.C through M below, as applicable to the specific type of variance being requested. The planning commission may grant a different variance or different form of relief than that requested by the applicant if it determines that the alternative relief better meets the criteria in subsections C through M below. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security pursuant to Section 50-37.1.P or a development agreement regarding the design, construction and operation of the project, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met. Constructing any improvement or beginning any activity authorized by the variance shall constitute the applicant's agreement to conform to all terms and conditions of the permit.



C. General Variance Criteria

Unless different or inconsistent criteria or limitations are stated in subsections 50-37.9.D through M below for the specific type of variance being requested, the planning commission shall approve an application for a variance, or approve it with conditions, if it finds that the proposed variance meets the following criteria. If there is a direct conflict between a provision or criteria in subsections D through M below and the general criteria in this subsection C, the provisions in subsections D through M shall govern:

1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property, the strict application of

the requirements of this Chapter would result in peculiar and practical difficulties or exceptional or undue hardship to the property owner;

2. The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant;
3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;
4. The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;
5. The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city;
6. The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map;
7. The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27;
8. The relief complies with any additional limitations or criteria applicable to that variance in subsections D through M below.

D. No Use Variances

No variance may be permitted to allow any use that is not listed in Table 50-19.8 as a permitted or special use in the zone district where the property is located.

E. Variances to Lot Size in Unsewered Areas

A variance from the minimum lot size in unsewered area shall not be granted without presentation of a permit or letter of intent to issue a permit for onsite sewerage treatment from the county.

F. Variances for Two-Family Dwellings in the R-1 District

The commission shall not grant any variance from the requirements for the allowance of two-family dwellings within the R-1 zone district except:

1. A variance from the required front yard setback;
2. A variance reducing the minimum dimensional requirements by up to 10%.

G. Variances From Parking and Loading Regulations

1. **Residential Districts**

   (a) A variance may be granted to allow parking on a portion of a lot in an R zone where parking is not permitted by Section 50-24.6.B in the following two cases:

      (i) On any non-corner lot in an R district where the permitted parking area as shown in Table 50-24-3 is of insufficient size or configuration

to allow for compliance with the off street parking requirements of this Chapter, and the applicant demonstrates hardship;

(ii) On any corner lot in an R district where the R district parking area is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, without a showing of hardship.

(b) The variance shall be subject to the following conditions, and any other conditions determined by the commission to be reasonable and necessary to protect the interests of the abutting property owners and the residential character of the surrounding neighborhood:

(i) On a non-corner lot with frontage of less than 50 ft., only one parking area may be located outside the R district parking area;

(ii) On a corner lot with frontage of less than 50 ft., the variance may allow for compliance with the off street parking requirements of this Chapter;

(iii) On a corner or non-corner lot with frontage of 50 ft. or greater, no variance may allow a parking area, including any driveway area leading to it, to exceed an additional 30% of the front yard;

(iv) The proposed parking area shall be entirely located on the applicant's lot and shall not encroach across any abutting lot line unless such abutting lot and the subject lot are under the same ownership and the abutting lot is not occupied by a dwelling unit;

(v) Where the proposed parking area will encroach into any unimproved area of a street, the variance shall expire upon improvement of the street;

(vi) Economic considerations, in whole or part, shall not constitute a hardship.

2. **Reducing Required Parking Spaces**

Except as provided in 50-37.9.G, variances from the minimum amount of off-street parking required may be approved if a smaller amount of off-site parking will be adequate to meet the needs of the facility because the facility is restricted to occupancy or use by populations with documented lower vehicle uses, such as the elderly or disabled.

3. **Exceeding Required Parking Spaces**

Variances from the maximum parking limits provided in 50-24.4 shall not exceed 175% of the minimum requirement provided in Table 50-24.1

H. Variances to Reduce Setbacks

When the application is for the reduction of a required front, rear or side yard setback, the commission may require the submission of a landscaping and buffering plan, and may require that all required landscaping or buffering, or landscaping and buffering of equal effectiveness, be installed within the reduced setback area. Decorative fencing and decorative wall structures may be proposed where more intense vegetated landscaping will not provide adequate mitigation of impacts on adjacent properties. The commission shall only approve the variance if the landscaping and buffering will mitigate impacts on adjacent properties as effectively as those required by Sections 50-25 and 50-26 of this Chapter.

I. Variances in the MU-C District

1. Within the MU-C district, the only variances that may be approved are variations in any dimensional standard in Sections 50-15.3 and 50-21 by no more than 10%. However, if the need for a variance is the result of a government taking pursuant to eminent domain powers, then (a) the limits of this subsection I.1 shall not apply and (b) all or part of the required landscaping and buffering may be placed in the public right-of-way if the property owner executes a perpetual maintenance agreement with the owner of the right-of-way.
2. In the case of a setback reduction variance, the landscaping and buffering in any reduced setback area shall be at least four ft. in height and screen out at least 50% of the view of any parking area, unless the setback is reduced to less than 5 ft., in which case it shall screen out at least 75% of the view of the parking area.

J. Variances in A-O Airport Overlay District

Variances 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.

K. Variances from Flood Plain Regulations

Variances to the flood plain regulations in Section 50-18.1.C shall only be granted in compliance with the limitations in this subsection K.

1. **In a floodway:**
   (a) No variance shall be granted that would result in any increase in flood levels during the base flood discharge;
   (b) No variance shall authorize the placement of a manufactured home, dwelling unit or any structure designed for human habitation;
   (c) No variance shall be granted authorizing a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
   (d) Variances shall be limited to giving the applicant a minimal reasonable use of the site.
2. **In a flood fringe:**
   (a) No variance shall authorize a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
   (b) Variances shall not produce any adverse effects to the flood capacity or efficiency of the watercourse.
3. **Flood insurance notice and recordkeeping**
   The building official shall notify the applicant for a variance that:
   (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and
   (b) Construction below the 100 year or regional flood level increases risks to life and property. Such copy notification shall be maintained with a record of all variance actions. The building official shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program.
4. **General considerations**

The city shall consider the following factors in granting variances and imposing conditions on permits and variances in flood plains:

(a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

(b) The danger that materials may be swept onto other lands or downstream to the injury of others;

(c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

(d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

(e) The importance of the services to be provided by the proposed use to the community;

(f) The requirements of the facility for a waterfront location;

(g) The availability of viable alternative locations for the proposed use that are not subject to flooding;

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(i) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles; and

(k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

5. **Submittal of hearing and decision notices to the DNR**

(a) The planning commission shall submit to the commissioner of the DNR a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days' notice of the hearing. Such notice shall specify the time, place, and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(b) A copy of all decisions granting variances shall be forwarded to the commissioner of the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

6. **Additional Federal Emergency Management Agency Conditions**

The following additional conditions of FEMA must be satisfied:

(a) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

7. **Conditions attached to variances**

Upon consideration of the factors listed above and the purpose of this section, the planning commission may attach such conditions to the granting of variances and permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:

(a) Modification of waste treatment and water supply facilities;

(b) Limitations on period of use, occupancy, and operation;

(c) Imposition of operational controls, sureties, and deed restrictions;

(d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and

(e) Floodproofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors

L. Standards for Variances in Shorelands

No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.

M. Reconstruction of a Non-Conforming Building

A variance may be granted to permit the reconstruction of a nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than ~~50%~~ 60% of its ~~reconstruction value~~ assessed market value as determined by the City Assessor, if the commission determines that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city.

Section 3. That Section 50-37.13 of Chapter 50 be amended as follows:

50-37.13 Zoning Permit

This section applies to a variety of permits covering development, redevelopment, and natural resources protection where the land use is a permitted use and the city must confirm whether the application complies with all other applicable provisions of this Chapter. The specific permits included in this section are summarized in Table 50-37.13-1.

Table 50-37.13-1: Types of Zoning Permits

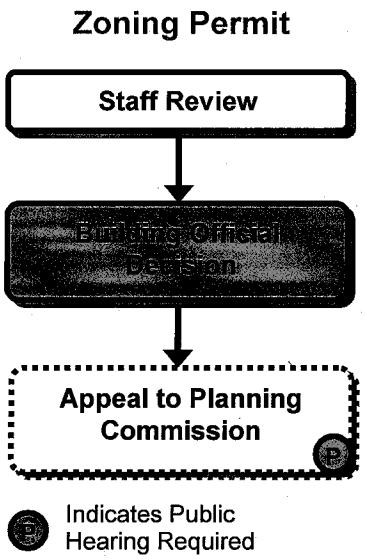
Type of Permit	Primary Compliance Requirement [1]
Shoreland Permit	Shorelands (Section 50-18.1.D)
Erosion and Sediment Control Permit	Temporary Soil and Erosion Control (Section 50-18.1.E)
Sign Permit	Signs (Section 50-27)
Fence Permit	Fences and Walls (Section 50-26.4)
Airport Environs Permit	A-O Airport Environs Overlay district (Section 50-18.2)

A. Application

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

B. Procedure

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



C. General Criteria

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

D. Additional Provisions for Specific Areas and Types of Permits

1. **Shoreland Permit**

   No building or zoning permit for land ~~containing~~ within any shoreland shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.D.

2. **Erosion and Sediment Control Permit (ESCP)**

   No land disturbance activity that requires an erosion and sediment control permit (ESCP) as indicated in Table 50-18.1.E-1 may be begin until a permit has been obtained. The building official shall refer the application to the city engineer, who shall review the plan to ensure that it complies with the requirements of section 50-18.1.E. The city engineer may require additional information and may require that any information submitted be verified by a licensed engineer, licensed surveyor or other technical professional. If the application is denied, the applicant shall be given a summary of the plan's deficiencies. The ESCP permit shall be considered expired only after all construction activities are completed and the entire site is fully stabilized with 70% successful establishment of vegetation.

3. **Airport Environs Permit**

   No airport environs permit shall be issued unless all of the requirements of Section 50-18.2 have been met. A permit for a tree or structure of less than 75 ft. of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 ft. from each end of the runway except when such tree or structure, because of terrain, land contour or topographic features, would violate the provisions of Section 50-18.2.

4. **Flood Plain Permit**

   No building or zoning permit for land within any flood plain shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.C.

Section 4. That Section 50-38 of Chapter 50 be amended as follows:

50-38 NONCONFORMITIES

This section clarifies how this Chapter applies to those buildings, structures and land uses that do not comply with this Chapter, including without limitation (a) those that do not comply with the Chapter on the date it is adopted, and (b) those that comply with the Chapter on the date it is adopted but become nonconforming due to the adoption of an amendment to this Chapter. This section is intended to comply with the provisions of MSA 462.357, subd. 1.e as amended, and shall be interpreted to comply with those provisions wherever possible.

50-38.1 Types of Nonconformities

The city recognizes five different types of nonconformities, each of which is addressed in the subsections below.

A. Nonconforming Buildings
B. Nonconforming Uses
C. Nonconforming Lots
D. Nonconforming On-premises Signs
E. Nonconforming Off-premises Signs

50-38.2 General Provisions

A. Airport Hazards

1. The owner of any nonconforming structure or tree within the Airport Overlay is required to allow the installation, operation and maintenance on the structure or tree those markers and lights deemed necessary by the building official to indicate to aircraft the presence of the airport hazards. Any required markers and lights shall be installed, operated and maintained at the expense of the owner.
2. The regulations in Section 50-18.2 A-O Airport Overlay shall not:
   (a) Require the removal, lowering or other alteration of any structure or tree not conforming to the regulations regarding Duluth International Airport on June 18, 1988, or not conforming to the regulations regarding Sky Harbor Municipal Airport on September 26, 1994;
   (b) Interfere with the continuance of any nonconforming use as permitted by this Section 50-38;
   (c) Require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun before September 26, 1994 and completed on or before September 25, 1996.

B. Flood Hazard Areas

A structure or the use of a structure or premises located in a flood plain ~~or flood fringe~~ area as defined and shown in Section 50-18.1.C that was lawful before February 1, 1980, or before an amendment to the flood plain management regulations of Section 50-18.1.C, but that is not in conformity with the provisions of this Chapter may be continued subject to the following conditions. Historic structures, as defined under "substantial improvement" in Section 50-41, are subject to the provisions of Subsections 1 through 5 of this Section:

~~1. No structural alteration or addition to any nonconforming structure in a flood fringe over the life of the structure shall exceed 50% of its market value at the time of loss or start of alteration to the structure, unless the entire structure is permanently changed to a conforming structure or unless the alteration or addition would reduce potential flood damages for the entire structure;~~

~~2. Any alteration or addition to a nonconforming structure or use that would result in increasing the flood damage potential of that structure or use shall be floodproofed in accordance with the State Building Code. Alterations or additions that equal or exceed 50% of the market value of the structure shall meet the specific flood protection standards in Section 50-18.1.C. No alteration or addition that would obstruct flood flow or raise regional flood elevation shall be permitted;~~

~~3. If any nonconforming use is destroyed by any means, including floods, to an extent of 50% or more if its market value, it shall not be reconstructed except in conformity with the provisions of Section 50-18.1.C;~~

~~4. If any nonconforming structure is destroyed or damaged in any part, the structure may be repaired or replaced so long as it is not expanded or enlarged from the size of the structure prior to its destruction and so long as any such activity that occurs within a flood plain will provide for adequate protection of the portion of the structure being repaired or replaced to flood protection elevations where applicable and will not result in any increase in flood levels during the occurrence of the base flood discharge;~~

~~5. Any existing well or private sanitary sewer septic system may be repaired and maintained in accordance with standards prescribed by the appropriate state or county agencies;~~

~~6. The provisions of this Section 50-38 do not permit any use, repair, replacement, maintenance, improvement or expansion of any nonconformity that would make the city ineligible to participate in the National Flood Insurance Program or would increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.~~

1. No such use or structure shall be expanded, changed or altered in a way that increases its nonconformity. Expansion of uses or structures within the floodway district is prohibited.
2. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 3 and 6 below.
3. The cost of all structural alterations to any nonconforming structure over the life of the structure shall not exceed 50 percent of the assessed market value of the structure as determined by the city assessor unless the conditions of this Section are satisfied. The cost of all structural alterations must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the assessed market value of the structure as determined by the City Assessor, then the structure must meet the standards of this chapter for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively.

4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for one year, any future use of the premises shall conform to this chapter.
5. If any nonconformity is substantially damaged, as defined in Section 50-41, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in Section 50-18.1.C will apply, depending upon whether the use or structure is in the floodway, flood fringe or general flood plain district.
6. Any substantial improvement, as defined in Section 50-41, to a nonconforming structure requires that the existing structure and any additions must meet the applicable requirements of Section 50-18.1.C for new structures, depending upon whether the structure is in the floodway, flood fringe or general flood plain district.

50-38.3 Nonconforming Buildings

A. A nonconforming building may continue to be used, and may be expanded provided that the expansion does not increase or extend any nonconformity horizontally or vertically. All additions must comply with the dimensional requirements in Article 2 and Section 50-21 or 50-22, as applicable, and the parking requirements of Section 50-24 must be satisfied for the expansion area.

B. A nonconforming building that has been damaged from any cause or has deteriorated to the extent of ~~more than~~ ~~50%~~ 60% or more of its ~~reconstruction~~ assessed market value at the time of the damage shall not be restored, except in conformity with this Chapter, unless the owner obtains a variance pursuant to Section 50-37.9. When damaged by less than ~~50%~~ 60% of its ~~reconstruction~~ assessed market value as determined by the City Assessor, a nonconforming building may be repaired or reconstructed, provided that a building permit is applied for within 180 days and such repairs or reconstruction are completed within 1 year of the date of the damage.

50-38.4 Nonconforming Uses of Buildings and Land

A. Any building existing on July 14, 1958, or existing on the date of the adoption of a city ordinance making it nonconforming, may continue to be used for the purposes it was used when it became nonconforming, even though that use does not conform to this Chapter, but may not be expanded or changed in a way that would increase any nonconformity.

B. The nonconforming use of a building may be extended throughout those parts of the building that were clearly arranged or designed for such use on the date the building became nonconforming.

C. A nonconforming use of a building or portion of a building that is discontinued for a continuous period of 1 year shall not again be used except for a permitted or special use in the district where the building is located, as shown in Table 50-19.8.

D. A building containing a nonconforming use shall not be enlarged, extended, reconstructed or structurally altered, unless the use is changed to a permitted or special use in the district where the building is located, as shown in Table 50-19.8.

E. A nonconforming use of land existing on July 14, 1958, may be continued but may not be expanded or extended, either on the same or adjoining property. If the nonconforming use of land or any portion of the use is discontinued for a continuous period of one year or changed, any future use of the land shall comply with this Chapter.

F. If no structural alterations are made to a nonconforming building, a nonconforming use of a building or land may be changed to another nonconforming use with fewer adverse impacts on surrounding properties, as determined by the land use supervisor.

G. Whenever a nonconforming use of a building or land has been changed to a use with fewer adverse impacts, as determined by the land use supervisor, the use shall not later be changed to a nonconforming use with greater adverse impacts on surrounding properties, as determined by the land use supervisor.

H. Within the Airport Overlay, whenever the building official determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit in Section 50-18.2. Whether or not an application for a permit is filed, the building official may order the owner of the abandoned or partially destroyed nonconforming structure, at his own expense, to lower, remove, reconstruct or to equip the same in the manner necessary to conform to the provisions of Section 50-18.2.

I. Whenever a nonconforming use of a building or land has been changed to a conforming use, all nonconforming uses expire, and the property may only be used for a permitted or special use in the district where the building is located, as shown in Table 50-19.8.

J. A nonconforming use of a building or land existing on the date this Chapter is adopted shall remain a nonconformity unless it complies with all applicable provisions of this Chapter.

K. The adoption of this Chapter shall not validate any temporary use beyond the expiration date of any temporary permit issued under prior approvals.

50-38.5 Nonconforming Lots

A. A lot that existed on November 18, 2010, and was held in separate ownership from adjoining lots on that date and does not meet the minimum lot area or frontage requirements for the zone district in which it is located may nevertheless be used for the construction of a primary structure permitted in that zone district. All other applicable dimensional standards in Article 2 and Section 50-21 apply unless the applicant obtains a variance from those dimensional standards pursuant to Section 50-37.9.

B. Nonconforming lots that are not provided with public sewer shall comply with county individual sewage treatment systems ordinance and standards. However a lot or parcel of record that was lawful as to lot area requirements and under separate ownership from any adjoining lot or parcel on May 23, 1993, shall not be deemed nonconforming as to lot area requirements unless subdivided after that date.

50-38.6 Nonconforming On-premises Signs

A. A legal nonconforming on-premises sign that was previously permitted may remain in use, so long as it remains otherwise lawful, and may be restored, repaired, or altered in the following ways: replacing lamps, replacing ballast, replacing transformers, painting the pole(s) and the cabinet, replacing or repairing the sign face(s), including H-bars and retainers behind the face(s), replacing trim, and replacement of sign fasteners, nuts, and washers. The following are not considered repair or restoration and shall require the legal nonconforming on-premises sign to be brought into conformance with this Chapter, except as provided in subsection F below: change or replacement in poles, structural supports, bases or shrouds, footings, moving the

sign for any reason, change or replacement of the interior and/or exterior cabinet frame (excluding trim) and any changes made to the size, height, light intensity or bulk of the sign or the temporary or permanent removal of the sign for the repair or replacement of the cabinet or any part thereof, not including the face. Temporary removal of the sign cabinet for the replacement of the sign face(s) is permitted and will not require that the sign be brought into conformance with all requirements of this Chapter.

B. No legal nonconforming sign may be relocated, in whole or in part, to any other location on the same or other lot, unless the entire sign conforms to all regulations of the zoning district in which the sign is relocated.

C. A legal nonconforming on-premises sign may not be altered in any way that would create any new nonconformity or increase the degree of any previously existing nonconformity.

D. In the event that any legal nonconforming sign is damaged or destroyed to the extent of more than 50 percent of its value prior to the damage, the sign cannot be restored or repaired unless it conforms to all applicable regulations for the district.

E. All sign illumination, electronic message signs, and electronic billboards that do not conform with the display requirements of this Chapter, including brightness, message duration and similar performance requirements for the electronic component, are required to conform to the standards of this Chapter for the electronic component within 90 days of this date: March 11, 2013.

F. A legal nonconforming on-premises sign that does not meet the standards for sign area or sign height is being altered in such a way as to reduce the nonconformity, the alteration may be approved by the land use supervisor

50-38.7 Nonconforming Off-premises Signs

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

A. Reconstruction of Existing Signs

1. A sign permit for reconstruction on the same site of a nonconforming off-premises sign that either exists or has been destroyed no more than 6 months prior to written sign permit application, may be issued after the building official certifies that the sign to be reconstructed has less of an adverse impact on the area near the site than the sign being replaced. A reconstructed sign may be enlarged, up to the maximum size of an off-premises sign permitted within the applicable zone district, by use of an exception credit pursuant to subsection 2. For purposes of this subsection the "same site" shall mean contiguous property owned by one person or entity, or a related person or entity, and not divided by an improved street.
2. No permit shall be issued until the sign to be reconstructed is removed.
3. All signs shall be constructed and placed in strict conformance with the permit and the failure to do so shall constitute a violation of this Chapter, and if not corrected shall be grounds for revocation of the permit and an order for removal of the sign.

B. Exception Credit System

1. The owner of a nonconforming off-premises sign may receive an exception credit if it is determined by the building official that a nonconforming off-premises sign is to be removed, or has been removed, due to a termination of lease for reasons beyond the reasonable control of the applicant, or other forced removal (not including destruction or other situations rendering the sign unusable). Such reasons include but are not limited to the refusal of a lessor to renew a lease or the applicant's inability to obtain a lease renewal on reasonable terms and conditions (including lease rent at a fair market rate). An exception credit may be issued for each such sign that has been removed no more than 30 days prior to written application for the exception credit.
2. The building official shall determine if the applicant is eligible to receive an exception credit and shall certify and keep a log of all such credits documenting the owner of the credit, cumulative square footage of sign area credited and number of locations available for sign structures. After approving the use of an exception credit, the building official shall notify the owner, in writing, of the owner's remaining credited total of available square footage of sign area and remaining credited number of locations available for sign structures.

C. Use of Exception Credits

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

Section 5. That Section 50-41.4 of Chapter 50 be amended as follows:

50-41.4 Definitions: D

D

Data Center

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

Day care facility

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

Decorative fence

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

Demolition debris

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

Dense urban screen

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

Design storm

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

Detention

The temporary storage of drainage water.

Deteriorated

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

Developable area

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

Development

The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels. Within flood plain districts, development is defined as any manmade change to improved or unimproved real estate, including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Diameter at breast height (DBH)

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

Direct illumination

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

Discharge

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

Discharge rate

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

District

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

DNR

Minnesota department of natural resources.

Drainage basin

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

Drainage system

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

Drainage water

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

Drip line

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

Dry cleaning or laundry plant

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

Dwelling

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

Dwelling unit

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

Dwelling unit, efficiency

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

Dwelling, live-work

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

Dwelling, multi-family

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

Dwelling, one-family

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

Dwelling, townhouse

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

Dwelling, two-family

A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families. A twin home is a two-family dwelling where each

unit shares a common vertical wall, and where a side lot line exists on the common wall extending to the front and rear lot lines, but is on two separate lots.

Section 6. That Section 50-41.6 of Chapter 50 be amended as follows:

50-41.6 Definitions: F

F

FAA

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

Family

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

FCC

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

Filling station

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

Flood

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

Flood frequency

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

Flood fringe

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

Flood hazard area

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

Flood peak

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

Flood plain

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

Flood profile

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

Floodproofing

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

~~**Flood protection elevation**~~

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

Floodway

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

Food processing

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

Forest management

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

Frontage

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

Funeral home or crematorium

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

Section 7. That Section 50-41.7 of Chapter 50 be amended as follows:

50-41.7 Definitions: G

G

Garage, private

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

Garden material sales

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

General development waters

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

General flood plain

The area within a flood plain on the Flood Insurance Rate Map and on the Flood Boundary and Floodway Map adopted in Section 50.18.1.C that ~~is~~ does not ~~in~~ have a delineated floodway or flood fringe.

Golf course

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

Government building or public safety facility

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

Grade

A. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

B. For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;

C. For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building;

D. Any wall approximately parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Where sidewalks do not exist the grade shall be as established by the office of the city engineer.

Grocery store

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

A. A small grocery store is one that contains less than 15,000 square feet of gross floor area;

B. A large grocery store is one that contains 15,000 square feet or more of gross floor area.

Groundwater management area

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

Groundwater recharge volume

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

Section 8. That Section 50-41.12 of Chapter 50 be amended as follows:

50-41.12 Definitions: L

L

Land development

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

Land disturbing activity

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

A. Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

B. Construction, installation and maintenance of electric, telephone and cable television utility lines or individual service connection to these utilities;

C. Installation of septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system;

D. Tilling, planting or harvesting of agricultural, horticultural or silviculture crops;

E. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;

F. Emergency work to protect life, limb or property and emergency repairs, except if the land disturbing activity would have required an approved erosion and sediment control plan except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of Section 50-18.1.E.

Landing area

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

Land owner

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

Landscape plan

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

Laundromat

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

Link

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

Loading space

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

Local watershed

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

Lot

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

Lot, corner

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

Lot, double frontage

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

Lot, flag

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

Lot, front

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

engineer shall select one frontage on the basis of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

Lot frontage

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

Lot of record

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

Lots on the block face

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

Low density residential lot

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

Low density residential structure

A one-family or two-family home.

Lowest floor

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

Section 9. That Section 50-41.13 of Chapter 50 be amended as follows:

50-41.13 Definitions: M

M

Maintenance agreement

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

Major system

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

Manufactured home

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Manufacturing, light

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

Manufacturing, heavy

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

Manufacturing, hazardous or special

An establishment or business that uses hazardous inputs or creates hazardous by-products in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially

hazardous impacts on the environment or surrounding areas. Examples include but are not limited to: acid manufacture; acid bulk storage; cement, lime, gypsum or plaster of paris manufacture; central concrete mixing or concrete proportioning plant; distillation, manufacture or refining of bones, coal or tar asphalt; explosives, manufacture or storage; fat, grease, lard or tallow rendering or refining; fertilizer manufacture from organic matter; glue or size manufacture; paper manufacture; petroleum or asphalt refining or storage; smelting of tin, copper, zinc or iron ores; storage or processing raw hides or fur; and stockyards or slaughter of animals other than poultry.

Marina or yacht club

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

Maximum extent practicable (MEP)

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

Medical or dental clinic

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

Migratory bird flight path

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

Mining, extraction and storage

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

Mini-storage facility

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

Minor system

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

Minor utilities

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

Mixed Use Structure

A structure containing a mix of the four major land uses, as defined by the permitted use table in UDC Section 50-19 (residential, public, commercial, and industrial). To be considered a mixed use structure, a structure must have at least 20 percent of its total square footage used by one of the four major land uses that is different than its principal use.

Modify or modification

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

Motor Vehicle

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

Municipal separate storm sewer system (MS4)

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

A. Owned or operated by a state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial water, stormwater or other wastes. Including special district, or similar entity or an Indian tribe or an authorized Indian tribal organization or a designated and approved management agency under Section 208 of the CWA (33 U. S. C.1288) that discharges to waters of the United States;

B. Designed or used for collecting or conveying stormwater;

C. That is not a combined sewer; and

D. That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR 122.2.

MPCA

Minnesota pollution control agency.

Museum, library, or art gallery

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

Section 10. That Section 50-41.18 of Chapter 50 be amended as follows:

50-41.18 Definitions: R

R

R-district parking area

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

A. On a lot, other than a corner lot, containing a dwelling unit without garage, the parking area also includes the area between one side lot line and the nearest wall of the dwelling unit and its extension to the improved street abutting the front yard;

B. On a lot, other than a corner lot, containing a dwelling unit with a detached garage, the parking area also includes the area between the closest side lot line to the side wall of the dwelling unit nearest the garage and its extension to the improved street abutting the front yard;

C. On a lot, other than a corner lot, containing a dwelling unit with attached garage, the parking area also includes the area between the closest side lot line and the common wall separating the dwelling unit and the garage and its extension to the improved street abutting the front yard;

D. On any corner lot, any parking area in addition to the rear yard and one side yard may be granted by variance as provided in Section 50-37.9.

Radio or television broadcasting tower

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

Railroad yard or shipyard and related facilities

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

Rainfall events

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

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

Reach

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

Readerboard

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

Receiving stream or channel

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

Receiving waters

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

Recharge

The replenishment of underground water reserves.

Recreational vehicle

A vehicle that is built on a single chassis, is four hundred (400) square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this chapter, the term recreational vehicle shall be synonymous with the term "travel trailer/travel vehicle."

Recycling collection point (primary use)

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

Redevelopment

A change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving or excavating, but excluding ordinary maintenance activities. For purposes of the erosion and stormwater controls in

Section 50-18.1.E, redevelopment does not include remodeling of buildings on the existing footprint, resurfacing of paved areas, and exterior changes or improvements that do not result in the disturbance of equal to or greater than one acre of land.

Regional flood

A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

Regional stormwater

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

Regulatory flood protection elevation

An elevation corresponding with a point not less than two feet above the water surface profile associated with the regional flood plus any increases in flood stages attributable to encroachments on the flood plain. Within an A-O zone, as shown on the Flood Insurance Rate Map adopted in Section 18.1.A.2(b), an elevation above the highest adjacent grade of an existing or proposed structure equivalent to two feet plus the depth number in feet specified on the Flood Insurance Rate Map.

Religious assembly

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

Repairs and maintenance

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

Research laboratory

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

Residential care facility/Assisted living facility

A building that houses persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care

services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following; residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers, and convalescent facilities.

Responsible party

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

Restaurant (no drive-in/drive-through)

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

Restaurant (with drive-in/drive-through)

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

Retail store

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

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

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

Riding stable

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

Rooming house

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

Runway

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

Section 11. That Section 50-41.19 of Chapter 50 be amended as follows:

50-41.19 Definitions: S

S

School, elementary

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

School, middle or high

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

Seasonal camp or cabin

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

Sediment

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

Sedimentation

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

Setback

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

Shore impact zone

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

Shoreland

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

Sidewalk

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

Sidewalk Cafe

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

Sign

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

Sign, A-Frame

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

Sign, agricultural identification

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

Sign, animated

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

Sign, attention getting

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

Sign, awning

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

Sign, ballons

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

Sign, banner

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

Sign, banner-exhibition

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

Sign, billboard

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

Sign, building directory

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

Sign, canopy

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

Sign, construction

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

Sign, community event

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

Sign, directional-parking lot

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

Sign, electronic display screen

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

Sign, electronic message

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

Sign, flashing

A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing Signs do not include Electronic Message Signs.

Sign, freestanding

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

Sign, freestanding monument

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

Sign, freestanding pole

A freestanding sign that is affixed, attached or erected on one (1) or two (2) poles that is not itself an integral part of the sign.

Sign, ghost

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

Sign, government information sign

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

Sign, home occupation

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

Sign, illumination types

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

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

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

Sign, marquee

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

Sign, memorial plaque

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

Sign, menuboard

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

Sign, moving

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

Sign, nameplate

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

Sign, non-commercial

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

Sign, off-premises

A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located. (Ord. No. 10044, 8-16-2010, § 6.)

Sign, on-premises

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

Sign, parking lot information

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

Sign, political

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

Sign, portable

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

Sign, projecting

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

Sign, property identification/management

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

Sign, property identification

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

Sign, public information

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

Sign, real estate

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

Sign, roof

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

Sign, scoreboard

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

Sign, snipe

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

Sign, temporary off-premises

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

Sign, under-awning

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

Sign, under-canopy

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

Sign, wall

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

Sign, window

A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within twelve (12) inches of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Window clings are considered a window sign and subject to all window sign regulations.

Significant tree

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

Site

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

Site plan

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

Slope

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

Solar, geothermal or biomass power facility (primary use)

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

Solid land

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

Solid waste

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

Solid waste disposal or processing facility

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

Special tree species

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

Special use

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

Stealth or stealth technology

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

Steep slope

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

Storage warehouse

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

Stormwater

Stormwater runoff, snowmelt runoff, surface runoff and drainage.

Stormwater management

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

Stormwater pollution prevention plan

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

Stormwater pollution prevention program (MS4 program)

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

Stormwater best management practice (BMP)

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

Stormwater retrofit

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

Stormwater runoff

Flow on the surface of the ground resulting from precipitation.

Story

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

Story, half

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

Stream buffer

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

Street

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

Street line

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

Structure

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

Structural alteration

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

Subdivision

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

Substantial Damage

Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred.

Substantial Improvement

Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 60 percent of the assessed market value of the structure as determined by the city assessor before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. For flood plain management and flood hazard purposes, substantial improvement shall be within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or

other improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed market value of the structure as determined by the City Assessor before the "start of construction" of the improvement.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

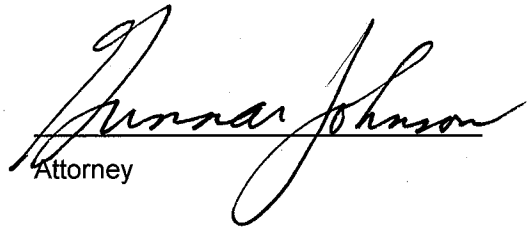
(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this chapter, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

Sustainable Development

Development that maintains or enhances economic opportunity and community well being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

Section 12. That this ordinance shall take effect 30 days after its passage and publication.

Approved to as form:



Attorney

PLANNING SR 2/13/14

STATEMENT OF PURPOSE: This ordinance implements text amendments to chapter 50 of the City Code, known as the Unified Development Chapter (UDC). This ordinance is one of three ordinances being proposed. One ordinance is related to simple amendments to the form district development standards, one is related to changes to the flood plain and flood hazard management standards requested by the Department of Natural Resources, and the third ordinances is related to amendments to the current development standards requested by the staff of the Planning Division.

The proposed changes have been discussed at a public information meeting on December 2, 2013, and also at published public hearings at the December 10, 2013 and January 14 and February 11, 2014 Regular Planning Commission meetings. After the public hearing on February 11, 2014, the Duluth Planning Commission made a motion to approve the recommended text amendments to the UDC passed with a vote of 8 yeas, 0 nays and 0 abstentions, with 1 Planning Commission member being absent from the meeting.

The Planning Division intends to submit one more UDC change in the near future concerning the platting process. In addition, near the end of this year, the Engineering division will be asking for some

modification of the storm water management language. Other than those two items, the Planning Division does not anticipate any additional text changes to the UDC in the next 12 to 16 months.

Action Deadline: Not Applicable

PL: 13-146

City of Duluth
Planning Division

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MEMORANDUM

DATE: February 5, 2014
TO: Planning Commissioners
FROM: Steven Robertson, Senior Planner
SUBJECT: Proposed Text Amendments to the UDC

The Planning Division is submitting recommendations for text changes to the Unified Development Chapter (UDC). Staff recommend that the Planning Commission review the changes and, if appropriate, make a motion to recommend that the City Council approve the text amendments. The proposed changes have been discussed at a public information meeting on December 2, 2013, and also at published public hearings at the December 10 and January 14 Regular Planning Commission meetings.

The Planning Division intends to submit one more UDC change in the near future concerning the quick platting process. In addition, near the end of this year the Engineering division will be asking for some modification of the storm water management language. Other than those two items, the Planning Division does not anticipate any additional changes in the next 12 to 16 months.

For ease of discussion, staff have segregated the UDC changes into three draft ordinances: one for proposed form district changes, one for requested Department of Natural Resources changes (required to bring the city into compliance with minimum requirements for the Flood Insurance Program), and one for changes that the Planning Division are recommending to improve and clarify existing language.

Brief Summary of Form District Changes

Section 1:
-Label images to more clearly identify different form district building types

Section 2:
-Move language that better defines form district building types to more appropriate location.
-Add clarifying sentence to Iconic Buildings.
-Add language to better explain how to calculate height in form districts (this language comes from Land Use Supervisor Interpretations 13-001 and 13-002).
-Reduce minimum build to zone for Main Street I and Corridor Building I to 65% (from 85% /75%)
-Reduce minimum rear yard setback to 0 feet for Main Street III and Corridor III (from 5 feet)
-Reduce minimum landscape for Corridor Building I and Cottage Commercial Building I to 10% (from 15% and 20% respectively)
- Add "double side aisle parking" to Corridor Building I and Cottage Commercial Building I (currently allowed rear or single side aisle parking).
-Add "single, or double side aisle parking" in Main Street I (currently rear only)
-Allow 2 driveways if 300 feet of frontage for Main Street III and Corridor III (currently 1 driveway allowed if no alley).
-Increase street façade entrances required from 1 per 75 feet to 1 per 50 feet for Main Street Building I and Corridor Building I
-Remove ground and upper story floor to ceiling restrictions for all form district building types.

Brief Summary of DNR Requested Flood Plain and Flood Hazard Changes

Section 1:

-List all the specific maps impacting Duluth.

-Maps to be stored in the Land Use Supervisor's Office.

-Clarify the difference in flood way, flood fringe, and general flood plain.

-Clarify allowed uses and requirements in flood way (also added clarification on road-ready recreational vehicles and sand/gravel operations). Clarify special uses (also added clarification on floodproofing accessory structures).

-Clarify allowed uses and requirements in flood fringe (also added note on securing manufactured homes and recreational vehicles).

-Minor edit change to general flood plain.

-Add language in general flood plains that if a property owner does not want to do a flood way/flood fringe evaluation, they can presume their land is in the flood way (note, this is a city staff addition, not DNR requested).

-Add language for new subdivisions in flood plains.

-Add language for on-site water systems and on-site sewage systems (septic tanks).

-Add language limiting future amendment process (note that this new language requires DNR approval before amending this specific section; city staff added clarification that this restriction also applies only to changing the official map relating to flood plain designation).

-Change table 50-18.1.D-1 to add footnote clarifying when lowest floor elevation of 3 feet is not necessary (note, this is a city staff addition for clarity, not DNR requested).

Section 2:

-Revise variance criteria. Also, changes require advanced 10 day notice to flood plain variances sent to DNR and added additional conditions to variances (note that standard for most variances is "practical difficulties or exceptional or undue hardship," whereas the variance from flood plain regulation is "exceptional hardship").

-Added clarity on how to calculate assessed market value of variance for reconstruction of non-conforming structure

Section 3:

-Add language for flood plain permits.

Section 4:

-Replace non-conforming language for flood hazard areas.

-Added clarity on how to calculate assessed market value of non-conforming structure (note that standard is being changed to 60%, from 50%, for non-flood hazard related non-conformities).

Sections 5 to 11:

-Add/amended several definitions required to conform to DNR/FEMA standards.

Brief Summary of Clarifying Text Amendments

Section 1:
-Added language to require a community meeting with neighboring citizens before submitting an R-P application (note: change made by the Planning Commission at the 2/11/14 meeting)

Section 2:
-Reduce front yard setback from 25 to 20 feet in the MU-N District (to support the option of more pedestrian friendly development)

Section 3:
-Increase maximum height allowed for non-residential structures from 45 to 60 feet in the MU-W zone district.

Section 4:
-Added language to require a community meeting with neighboring citizens before submitting an MU-P application (note: change made by the Planning Commission at the 2/11/14 meeting)

Section 5:
-Clarify primary streets for the Higher Education Overlay District.

Section 6:
-Remove and rewrite the use table legend (the current legend is blocky and consumes too much of the table).
-Add language in the use table to more clearly indicate when a Planning Commission Review may be required (in the past some citizens have confused staff "Plan Review" done administratively with "Planning Commission Review" done at a public hearing).
-Add language in the use table to more clearly indicate when additional standards from the Higher Education Overlay District may be required.
-Add Manufactured Home Park as special use in R-1, R-2, and MU-N, and permitted in R-P.
-Add multi family as permitted use in R-P.
-Add large day care facility as permitted use in R-P.
-Add veterinarian or animal clinic as a permitted use in the F-1, F-3, and F-6 zones.
-Remove University and College, Bank, Personal Service and Repair Larger, and Parking structure, removed from R-P (currently listed as Interim Uses).
-Remove distinction between restaurants with drive-throughs and without drive-throughs (note: additional requirements added to the use specific standards to reduce conflict between land uses. Similar language being added for retail and banks when located in MU-N).
-Changed restaurant, small, from a permitted to a special use in the R-P and MU-P zone districts (note: change made by the Planning Commission at the 2/11/14 meeting)
-Change name of Tourist or Trailer Camp to Recreational Vehicle Park (DNR/FEMA term).
-Add building types allowed in form districts to the use table (for easier citizen access).

Section 7:
-Add standards for manufactured home parks. (note: DNR/FEMA required standards for flood plain and hazard management).

Section 8:
-Add standards for Recreational Vehicle Park (and remove tourist and trailer camp).
-Remove distinction between restaurants with drive throughs and without drive-throughs and add standards.

Section 9:
-Clarify where zoning encroachments are allowed as shown on Table 50-21.3.1. Also clean up language related to exception to building height limits (religious assembly or ornamental spires and towers in form districts).

Section 10:
-Amend the parking calculation on Table 50-24.1 as follows: 1) clarify that the base requirement may be modified to 30% less or 50% more, 2) add uses that were overlooked from 50-19 (bus or rail transit station, convention and event center, data center, filling station, grocery store, personal service or repair, preschool, and vacation dwelling unit, 3) change name of "automobile filling station" to "filling station" and "personal service or repair not listed" to "personal service or repair" to match 50-19, 4) eliminate distinction between restaurant with drive through and restaurant that doesn't have drive-through, and 5) change calculation to a per 1,000 square feet where possible/appropriate.

Section 11:
-Clarify where parking is allowed on a lot on table 50-24.3.
-Add option to create pedestrian walkway in parking area to allow property owner to place more parking spaces in the front yard than normally allowed (50% versus 60%).

Section 12:
-Add additional parking option (75 degrees) and reduce minimum required width of parking aisle (from 25 feet for two-way to 24 feet) on table 50-24.7. Added clarification that parking and driveway entrances must meet design standards of the City Engineer.

Section 13:
-Clarify when tree canopy coverage is required.

Section 14:
-Add clarification for size limitation on the size of general, non-commercial signs (note that prior to the sign amendments last year, the maximum size was limited to 6 or 8 square feet).

Section 15:
-Clarify where electronic message centers are allowed

Section 16:
-Land Use Supervisor given authority to approve alternative design standards for plats when relating to road frontage (currently is listed as city engineer).

Section 17:
-Amend the summary table to require a sign notice when doing a quick plat (currently no public notice is required) and clarify when planning review is needed.
-Minor adjustment to powers of Land Use Supervisor to administratively approve 1 extra parking space beyond the maximum allowed.
-All final subdivision plats to be recorded 180 days after approval (instead of 90).

Section 18:
-Fix error concerning Heritage Preservation Commission (incorrectly labeled Historic Preservation Commission).