

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

14-013-O

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING CHANGES TO DIMENSIONAL STANDARDS, HIGHER EDUCATION OVERLAY DISTRICT, USE TABLE, USE SPECIFIC STANDARDS, EXCEPTIONS AND ENCROACHMENTS, PARKING, LANDSCAPING AND PROCEDURES AND REQUIREMENTS.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-14.7 of Chapter 50 be amended as follows:

50-14.7 Residential-Planned (R-P)

A. Purpose

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

B. Examples

R-P Example Building Forms



C. Modifications

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

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

7. Bike lanes and trails within the development and connecting to other trails and destinations.
8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art.

Table 50-14.7-1: Modifications Allowed

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

D. Applicability

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

TABLE 50-14.7-2: Characteristics of R-P Areas

Current zoning	RR-1, RR-2, R-1
Minimum lot size	4 acres

E. Rezoning/Approval and Regulating Plan Required

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

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

Development Standards

1. The development standards of the base zone district(s) where the property is located shall apply to any R-P zoned land unless waived or varied by the terms of an approved R-P regulating plan. The ordinance approving an R-P district and the approved regulating plan shall identify the previous base zone districts for each portion of the property.
2. Overall density in residential portions of the R-P shall follow the density requirements of the previous zone district unless modified as part of the R-P plan.
3. Minimum percentage of property (excluding common open space) used for residential purposes shall be 66%.
4. Common open space. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 30% of the area of the project (not including right of way) and shall comply with the following requirements:
 - (a) Common open space shall include the shore and bluff impact zones;
 - (b) Common open space shall include, where possible, lands within the Skyline Overlay;
 - (c) Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state;
 - (d) No more than one-quarter of the required common open space shall consist of wetlands;
 - (e) Common open space shall not include areas within 25 ft. of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings;
 - (f) At least 50% of the common open space shall be retained in a contiguous area;
 - (g) Where possible, the design should utilize features such as vegetation, fences, topography, roads or trails to delineate the boundary of the common open space to minimize potential physical encroachments into the common open space by adjacent homeowners.
 - (h) Common open space shall not include land within rights of way.
 - (i) Ownership of common open space. Common open space shall be owned and managed by a property owners association and shall be encumbered through an easement, restrictive covenant or other instrument suitable to the city.
5. All shoreland setbacks and other dimensional requirements from Section 50-18.1 (NR-O) shall continue to apply and cannot be varied through the R-P process.

Required Community Meeting

The applicant shall hold at least one community meeting to discuss the plan before submitting the plan for review and approval by the city. Notice of the public meeting shall be mailed to all property owners within 350 ft. outside the planning area boundaries, and the city shall provide the applicant with the names and address of those property owners upon request. The applicant shall submit with the application

documentation that the community meeting has taken place, the date and time of the meeting, the number of attendees, any issues raised regarding the plan and any responses to those concerns incorporated in the plan.

GH Required Rezoning Application and Regulating Plan Contents

6. The rezoning application (approved per Section 50-37.3) shall include the following information:
 - (a) A concept map showing the property to be rezoned and general uses within the area;
 - (b) Maximum residential densities and maximum square footage for nonresidential land uses;
 - (c) Maximum building heights.
7. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed R-P district and shall regulate all future development in the R-P district. An approved R-P plan is required before any building permits may be issued within the R-P district. The R-P plan shall include maps and text describing the following information:
 - (a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
 - (b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;
 - (c) Previous base zone districts;
 - (d) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;
 - (e) A natural resources inventory and natural site features to be protected;
 - (f) Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the R-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
 - (g) Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8; special uses listed in the R-P plan will need to apply for and receive a Special Use Permit prior to building.
 - (h) Maximum residential densities and maximum square footage for nonresidential land uses.
 - (i) A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;

- (j) Details on buffering or transitioning between uses of different intensities both on- and off-site.
- (k) A plan for storm water collection and treatment that includes a summary of land use and technical methods used to minimize storm water run-off from the site;
- (l) Off-street parking to be provided in driveways, surface lots and garages;
- (m) Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use;
- (n) Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time.
- (o) If a project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements, and provision of public amenities. Phasing plan shall include an approximate time frame for each phase of development. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the City Attorney for the completion of the development according to the approved R-P plan.
- (p) Cross sections demonstrating the proportions of buildings and the relationship between those buildings, pedestrian spaces, and the streetscape.

HI Previously Approved Developments

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

IJ Amendments

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

Section 2. That Section 50-15.2 of Chapter 50 be amended as follows:

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

G. Purpose

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

TABLE 50-15.2-1

MU-N DISTRICT DIMENSIONAL STANDARDS

LOT STANDARDS		
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
	Townhouse or live-work dwelling	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use		
Minimum lot frontage	One-family, two-family, or townhouse dwelling	30 ft.
	Multi-family or non-residential	50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard	One-family, non-residential, and mixed use	The smaller of 25 20 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard	General, unless listed below	5 ft.
	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of structure	Non-residential use	35 ft.
	Residential or mixed use (general)	75 ft.
	Residential or mixed use (within 500 ft. of R-1)	35 ft.
	Residential or mixed use (within 500 ft. of R-2)	50 ft.

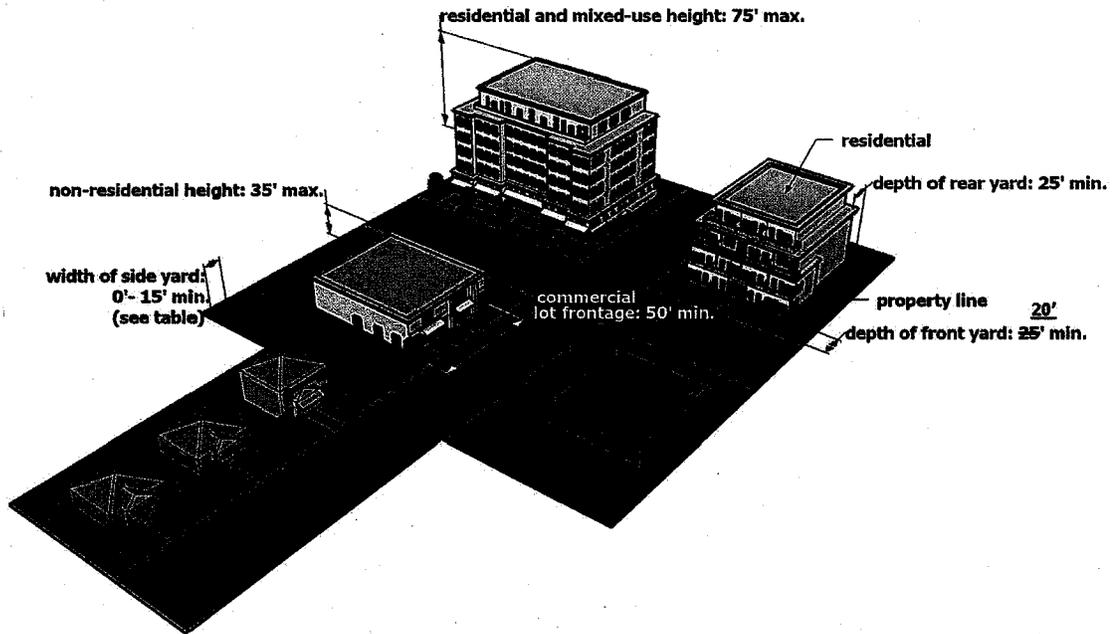
Section 50.21 *Dimensional Standards* contains additional regulations applicable to this district.

H. Example

MU-N Example Building Form



I. Illustration



Section 3. That Section 50-15.6 of Chapter 50 be amended as follows:

50-15.6 Mixed Use-Waterfront (MU-W)

A. Purpose

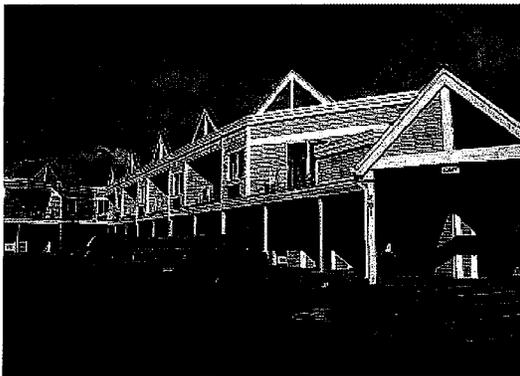
The MU-W district is intended to provide for waterfront-dependent commercial uses and medium to high density residential development. Intended non-residential uses include visitor-related retail and services, lodging, recreational facilities and maritime uses, as well retail and service uses that take advantage of the waterfront setting, as shown in Table 50-19.8. Development may include horizontal or vertical mixed use, and should facilitate transit and pedestrian connections between developments and the surrounding areas and community.

TABLE 50-15.6-1
MU-W DISTRICT DIMENSIONAL STANDARDS

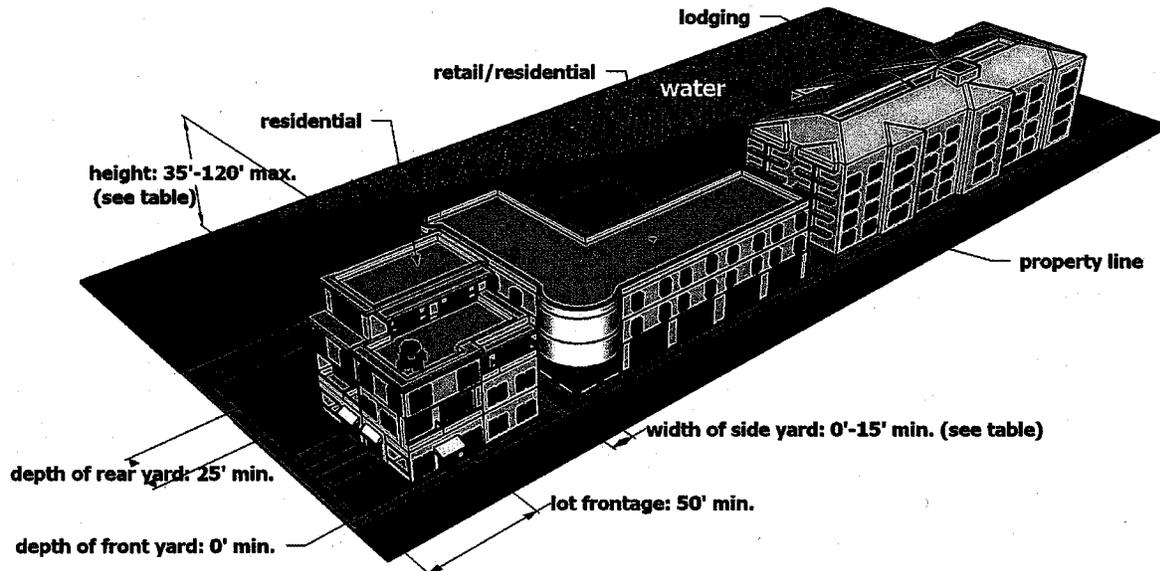
		LOT STANDARDS
Minimum lot area per family	Townhouse or live-work dwelling	2,200 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
Minimum lot frontage		50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard		0 ft.
Minimum width of side yard	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of structure	Residential or mixed use	120 ft.
	Non-residential	45 ft.
	Within 500 ft. of R-1 district	35 ft.
	Within 500 ft. of R-2 district	50 ft.
Section 50.21 <i>Dimensional Standards</i> contains additional regulations applicable to this district.		

B. Example

MU-W Example Building Forms



C. Illustration



D. Planning Commission Approval Required

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required for all development, redevelopment and expansions in the MU-W district, including but not limited to construction of driveways or other access from public streets and construction of off-premises signs, but excluding the following:

1. Building construction or expansion of less than 500 sq. ft. in area;
2. Building renovations that affect the exterior of structures that do not result in an increase in building square footage;
3. Grading and construction of parking areas less than 3,000 sq. ft.

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

E. Development Standards

All permitted development in the MU-W shall comply with the following development standards:

1. Proposed development shall be visually and functionally oriented toward the waterfront of Lake Superior, the harbor and the St. Louis River to the maximum extent possible so that users of buildings and associated outdoor areas have direct views and physical access to the waterfront;
2. To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all primary structures shall have a maximum width of 200 ft. measured along the shoreline and shall be separated from other primary structures by a minimum of 50 ft. These requirements shall not apply to portions of buildings that do not block public views of Lake Superior, the harbor and the St. Louis River from the closest landward public street running approximately parallel to the water due to topography or the location;

3. Buildings shall have a primary façade, with a functioning entrance for residents, employees or patrons facing the waterfront, and a second primary façade with a similar functioning entrance facing at least one of the adjacent streets, to the maximum extent feasible;
4. The quality of façade design and materials and the level of detail on the building façade facing the water shall be comparable to that on any other building façade containing a functioning entrance. The building façade facing the water shall have at least 40% transparency, measured as set forth in Section 50-22.5D.1; no rectangular area greater than 30% of each story of the façade facing the water may be windowless, as measured from floor to floor, and no horizontal distance greater than 15 ft. of each story of a facade facing the water may be windowless;
5. The parking requirements in Section 50-24 shall be met, except that where a property is not adjacent to an R zone district, the required parking may be reduced by 30% if the applicant can demonstrate that nearby properties provide supplemental on-street or off-street parking.

Section 4. That Section 50-15.7 of Chapter 50 be amended as follows:

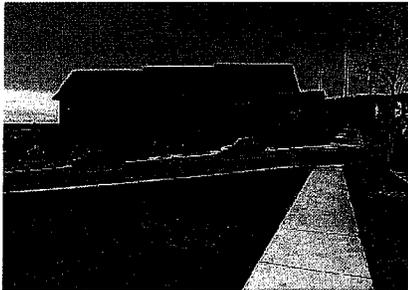
50-15.7 Mixed Use-Planned (MU-P)

A. Purpose

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

B. Examples

MU-P Example Building Forms



C. Modifications

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

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

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

D. Applicability

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

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

Current zoning	R-2, MU-N, MU-C, MU-B
Minimum lot size	2 acres

B. Rezoning Approval and Regulating Plan Required

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

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

F. Development Standards

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

G Required Community Meeting

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

GH Required Rezoning Application and Regulating Plan Contents

1. The rezoning application (approved per Section 50-37.3) shall include the following information:
 - (e) A concept map showing the property to be rezoned and general uses within the area;
 - (f) Maximum residential densities and maximum square footage for nonresidential land uses;
 - (g) Maximum building heights.
2. The regulating plan (approved per Section 50-37.11) shall cover all of the land in the proposed MU-P district and shall regulate all future development in the MU-P district. An approved MU-P plan is required before any building permits may be issued within the MU-P district. The MU-P plan shall include maps and text describing the following information:
 - (a) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail and bicycle circulation systems;
 - (b) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels;
 - (c) Previous base zone districts;
 - (d) A traffic impact analysis;
 - (e) A road, trail and bicycle circulation plan (including how the circulation may intersect with transit use) and a description of proposed road, trail and bike route widths, trail surfaces, a proposal for maintenance of each road and trail (which may include dedication to and maintenance by the city), and a statement as to whether public access will be permitted on each road, trail, and bicycle route;
 - (f) A natural resources inventory and natural site features to be protected;
 - (g) Common open space to be provided, the location of that open space, a calculation of proposed open space as a percentage of the total land area in the MU-P zone, a proposal for protection and maintenance of the open space over time and a statement as to whether public access to the open space shall be provided;
 - (h) Permitted and special uses for the site, which shall be consistent with those shown in Table 50-19.8; special uses listed in the MU-P plan will need to apply for and receive a Special Use Permit prior to building.
 - (i) Maximum residential densities and maximum square footage for nonresidential land uses.

- (j) A plan describing the demand for and location of water, sewer, and utility service to the property, including any additional right-of-way needed to accommodate those utilities. In addition, the plan shall indicate all utilities that will be owned or maintained by the public, and if any of those services are to be provided by the city or a public or quasi-public district, and provide a statement as to whether the proposed facilities will meet the engineering and maintenance standards of that entity;
- (k) Details on buffering or transitioning between uses of different intensities both on- and off-site.
- (l) A plan for storm water collection and treatment that includes a summary of land use and technical methods used to minimize storm water run-off from the site;
- (m) Off-street parking to be provided in driveways, surface lots and garages;
- (n) Any public amenities, other than common open space, to be provided by the applicant, together with a statement as to whether those amenities shall be available for public use;
- (o) Any required building types, form-based regulation or architectural design requirements, as well as a description of how those standards will be maintained and enforced over time.
- (p) If a project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements, and provision of public amenities. Phasing plan shall include an approximate time frame for each phase of development. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the City Attorney for the completion of the development according to the approved MU-P plan.
- (q) Cross sections demonstrating the proportions of buildings and the relationship between those buildings, pedestrian spaces, and the streetscape.

HL Amendments

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

Section 5. That Section 50-18-5 of Chapter 50 be amended as follows:

50-18.5 Higher Education Overlay (HE-O)

A. Purpose

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

B. Applicability

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

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

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

C. Development Standards

1. General
 - (a) Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 districts and that reduces the potential for pedestrian-vehicular conflicts.
 - (b) Primary buildings shall adhere to a build-to zone of 5 feet to 20 feet along primary streets. This requirement shall supersede building setbacks in Section 50-14.6 and 50-15.2. Alternatively, if the Land Use Supervisor determines that site conditions such as existing buildings or topography make this unfeasible, pedestrian walkways can be used to connect people from public sidewalks along primary streets to businesses and residences. These walkways shall:
 - Include pedestrian-scaled lighting.
 - Be raised or otherwise designed to encourage run-off and limit ponding during wet weather.
 - Be visually recognizable to both pedestrians and motorists.
 - Include trees and other landscaping along the length of the walkway; this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4.
 - Be at least 5 feet wide.
 - Include well-marked crossings where the walkway intersects with private vehicle drives.
 - (c) Unless lighting meets exception criteria in Section 50-31.1.B, the maximum height of any light pole is 20 feet.

2. Residential
 - (a) Required resident parking spaces shall be provided at the ratio of 0.7 space per bedroom, with a minimum of one space per dwelling unit.
 - (b) Visitor parking spaces shall be provided at the rate of 15% of required resident parking spaces.
 - (c) At least one bicycle or motorized scooter parking space per five parking spaces shall be provided, which shall not be located in any required yard or between the principal dwelling and the street.
 - (d) A development that provides an enhanced shelter with space dedicated solely for bicycle or motorized scooter parking shall be granted a reduction in the off-street parking requirement of 5% if the shelter complies with the following standards:
 - The enhanced shelter shall not be located in any required yard setback.
 - The enhanced shelter shall not be located between the principal building and a public street.
 - The enhanced shelter shall be enclosed on at least three sides and covered to adequately protect bicycles from the elements.
 - The enhanced shelter shall utilize primary exterior materials that match the primary exterior materials of the principal structure.
 - (e) If the development or redevelopment is determined to have mitigated the impacts of potential student use in the adjacent residential neighborhood, the development or redevelopment may adjust the parking requirements as provided in either Section 50-24.3.A or 50-24.3.B if eligible, but may not utilize both adjustments.
 - (f) No residential balcony, patio, or deck shall be located on any side of the property facing and within 200 feet of an R-1 district.
3. Commercial
 - (a) Commercial development shall be concentrated on major roads, not on streets intended primarily for neighborhood traffic.

D. Primary Streets

The following streets are designated as primary streets in the Higher Education Overlay District:

1. Woodland Avenue;
2. St. Marie Street;
3. Arrowhead Road;
4. College Street;
5. Kenwood Avenue, North of College Street;
6. 4th Street;
7. London Road;
8. Superior Street;
9. 9th Street, Between 6th Avenue East and 15th Avenue East; and
10. 8th Street, Between 15th Avenue East and Woodland Avenue.

Section 6. That Section 50-19 of Chapter 50 be amended as follows:

50-19 PERMITTED USE TABLE

50-19.1 General

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

The following legend in table 50-19. 1 shall be referenced when using the Permitted Use Table in 50-19.8.

TABLE 50-19.1: Use Table Legend for 50-19.8	
Abbreviation	Reference
P	Permitted Use
S	Special Use
I	Interim Use
A	Accessory Use
U	Use Allowed in the Upper Stories of the Form District Building
1	May Require Planning Commission Review Hearing (MU-C, MU-I, and MU-W Only)
2	May Require Additional Development Standards and Planning Commission Review if in the Higher Education Overlay District (HE-O)
Notes:	
Additional Restrictions May Apply on Uses Within the Natural Resources, Airport, Historic Resources, or Skyline Parkway Overlay Districts (NR-O, A-O, HR-O, SP-O)	
All Permitted Uses In The MU-N Zone District Shall be Considered as Eligible for an Interim Use Permit in R-1 or R-2 District for Structures Identified as a City of Duluth Local Historic Landmark, Per Section 50-20.7.	

50-19.2 Permitted Uses

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

50-19.3 Special Uses and Interim Uses

An "S" or an "I" in a cell of the use table indicates that the land use is allowed in that base zone district only upon approval of a special use or interim use permit as described in Section 50-37.10

and compliance with any use-specific standards referenced in the final column of the use table. Uses subject to a special use or interim use permit are subject to all other applicable requirements of this UDC, including those set forth in Article 4, Development Standards. In addition, council may approve interim uses through the procedure described in Section 50-37.10.

50-19.4 Prohibited Uses

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

50-19.5 Overlay Districts Provisions Govern

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

50-19.6 Use-Specific Standards

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

50-19.7 Unlisted Uses

When a proposed land use is not explicitly listed in the use table, the land use supervisor shall determine whether or not it is included in the definition of a listed use or is so consistent with the size, scale, operating characteristics and external impacts of a listed use that it should be treated as the same use. Any such interpretation shall be made available to the public and shall be binding on future decisions of the city until the land use supervisor makes a different interpretation.

Section 7. That Section 50-20.1 of Chapter 50 be amended as follows:

50-20.1 Residential Uses

A. Dwelling, Two-Family

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

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

B. Dwelling, Townhouse

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

1. Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 ft. of street frontage.
2. Variation of exterior walls. No more than two adjacent townhouse units may have front facades in the same vertical plane. Where a variation in front façade plane is required, the variation shall be a minimum of three ft.
3. Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous or evergreen trees meeting the minimum size requirements of Section 50-25.2 shall be planted in required front and back yard areas on an average spacing of 20 ft.
4. Screening of refuse areas. Where refuse storage areas are directly viewable from any exterior lot line at a height of 6 ft. above grade, they shall be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of 6 ft., designed so that at least 75% of the refuse area is obscured by opaque materials when viewed at an angle perpendicular to the screening materials.

C. Dwelling, Multi-Family

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

D. Residential Care Facility/Assisted Living

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

E. Rooming House

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

F. Manufactured Home Park

1. New manufactured home parks, expansions to existing manufactured home parks, and new or replacement of manufactured home units on lots of record are prohibited in the floodway district. If allowed in the flood fringe district, these uses shall be subject to the requirements of Section 50-18.1 of this chapter and the following standards.
2. Existing, new, and replacement manufactured homes in the flood fringe district must comply with the following standards:
 - (a) All manufactured homes 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 anchoring requirements for resisting wind forces.
 - (b) New or replacement manufactured homes in existing manufactured home parks must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation, unless the property owner has a flood warning and emergency evacuation plan acceptable to the city council as specified in Section 50-18.1.

Section 8. That Section 50-20.3 of Chapter 50 be amended as follows:

50-20.3 Commercial Uses

A. Adult Entertainment Establishment

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

B. Agriculture, General

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

C. Automobiles and Light Vehicle Repair and Service

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 ft. from any public right-of-way.
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district.

3. All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property.

D. Automobile or Light Vehicle Sales, Rental or Storage

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

E. Bank

- ~~1. In the MU-N district, banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises.~~
 1. When in the MU-N district, the following standards apply:
 - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure.
 - (b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.
 - (c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen.
 - (d) The Land Use Supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed.
 - (e) banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises.
2. Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.
3. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities.
4. Drive-through lanes shall allow for stacking space for 3 cars.

F. Bed and Breakfast

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

1. Have no more than 12 habitable units.
2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs.
3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests.
4. Be located on a lot or tract containing a minimum of 0.6 acre.
5. Contain a minimum of 1,500 sq. ft. of area on the first floor of the main building.
6. Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by

the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to 6 days per year and shall be restricted to the period of October 15 through June 15.

7. Shall not have signage exceeding 12 sq. ft. in size, and any signage shall complement the architecture of the structure.
8. Shall limit each guest stay to a maximum of 21 consecutive days.

G. Building Materials Sales

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

H. Convention or Event Centers

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

I. Day Care Facility, Small and Large

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

J. Filling Station

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

K. Grocery Stores, Small and Large

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

L. Mini-Storage Facility

This use shall comply with the following standards:

1. The use shall be contained within an enclosed building or buildings;

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

M. Office

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

N. Other Outdoor Entertainment or Recreation Use Not Listed

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

O. Parking Lot or Parking Structure (Primary Use)

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

P. Recreational Vehicle (RV) Park

1. Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures.
2. Criteria for exempt recreational vehicles:
 - (a) The vehicle must have a current license required for highway use.
 - (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

- (c) No permanent structural type additions may be attached to the vehicle.
 - (d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
 - (e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v.
 - (f) Cost of an accessory structure must not exceed five hundred dollars (\$500).
3. Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding five hundred dollars (\$500) for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location.
 4. New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:
 - (a) On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood.
 - (b) Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4(a) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section 50-37.10.
 - The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and
 - All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding.

Q. Restaurants (No Drive-In/Drive-Through)

1. In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area.
2. Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts zone districts.
3. Drive-through lanes shall allow for stacking space for 5 cars.
4. When in the MU-N district, the following additional standards apply:
 - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure.

(b) Drive-through may not open before 7:00 a.m or after 10:00 p.m during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.

(c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen.

(d) The Land Use Supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed.

(e) Restaurants are limited to one drive through lane and one speaker box.

5 When in the F-3 and F 5 districts, the following additional standards apply:

(a) Access to and from the drive-through must be through the alley, if alley exists.

(b) Restaurants are limited to one drive through lane.

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

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

R. Retail Stores, Small and Large

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas.
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock.
3. Retail stores limited to one drive-through window.
4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.
- 5 Drive-through lanes shall allow for stacking space for 3 cars.
- 6 When in the MU-N district, the following standards apply:

(a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure.

(b) Drive-through may not open before 7:00 a.m or after 10:00 p.m during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend.

(c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen.

(d) The Land Use Supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed.

S. Seasonal Camp or Cabin

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 ft. from any R district.

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

~~T~~ Tourist or Trailer Camp

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

UT Veterinarian or Animal Hospital

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

MU Vacation Dwelling Unit

1. The minimum rental period shall be as follows:
 - (a) For properties zoned RR-1, RR-2, R-1, and R-P the minimum rental period shall not be less than 2 nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than 5 nights.
 - (b) For properties zoned R-2, MU-N, and F-5 the minimum rental period shall not be less than 2 nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than 3 nights.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
3. Off-street parking shall be provided at the following rate:
 - (a) 1-2 bedroom unit, 1 space
 - (b) 3-4 bedroom unit, 2 spaces
 - (c) 5+ bedroom unit, 3 spaces
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
5. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 3 to 21 days.
6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

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

Section 9. That Section 50-21.3 of Chapter 50 be amended as follows:

50-21.3 Exceptions and Encroachments

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

Table 50-21.3-1: Exceptions and Encroachments	
Structure or Feature	Conditions or Limits
Architectural features (sills, belt courses, eaves, cornices) awnings and canopies, bay windows, gutters and downspouts	No more than <u>Up to 18 in.</u> into any required yard area
Unenclosed or lattice-enclosed stairs, fire escapes, and balconies opening upon fire towers	No more than <u>Up to 5 ft.</u> into any required rear yard, except as required to comply with applicable fire code or Americans with Disabilities Act
Chimneys and flues	No more than <u>Up to 2 ft.</u> into any required front or side setback.
Open sided porch, deck, or paved terrace	Not more than <u>Up to 10 ft.</u> into front yard, <u>but no closer than 5 ft. from any street line on a corner lot</u>
Enclosed vestibule or fixed canopy with a floor area of not more than 40 sq. ft.	No more than <u>Up to 4 ft.</u> into front yard
Fuel pumps or pump islands	Not closer than 15 ft. from any street line or closer than 50 ft. from any residential <u>use district boundary</u>
Fences meeting the standards of Section 50-26.4	Fences may not be located closer than 3 ft. to any <u>publicly maintained right-of-way</u>
Porte cochere, carport, or canopy if every part is unenclosed except for necessary structural supports	Permitted in any side setback, but not less than 5 ft. from any side lot line
Accessory Structures	No accessory structure may be located: (a) between a street and any façade of a primary building facing that street, or (b) closer than 10 ft. to any principal structure on an adjoining property, or (c) closer than 5 ft. to any rear lot line, or (d) closer than 3 ft. to any side lot line, except as listed for specific accessory structures below.
----- Accessory boat dock, residential	No setback required from property lines along the water
----- Accessory clotheslines, play equipment, trash containers, odor-controlled composting bins and rainwater harvesting tanks	Permitted in side and rear yards
----- Accessory raingarden	Permitted in all (front, side and rear) yards
----- Accessory wind power equipment	Permitted in side and rear yards except where prohibited by adopted building code
Television and radio towers, accessory communications towers for private use, religious assembly or ornamental spires and towers, belfries, monuments, tanks, water and fire towers, stage tower or scenery lofts, cooling towers, ornamental	Exempt from height limit. <u>The provisions In the Form District, the exceptions to building height limits for religious assembly towers and or ornamental spires and towers only apply if the</u>

towers, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, flagpoles, accessory wind power equipment, or accessory rooftop solar collectors.	applicant proposes an Iconic Building in a Form District.
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Section 10. That Section 50-24.2 of Chapter 50 be amended as follows:

50-24.2 Required Parking Spaces

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

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

Use	Requirement* (May Be Adjusted To 30% Less or 50% More)
RESIDENTIAL USES	
Dwelling, one-family	1 space per dwelling unit
Dwelling, two-family	
Dwelling, townhouse	
Dwelling, live-work	
Co-housing facility	
Manufactured home park	
Dwelling, Multi-family	1 space per dwelling unit
Assisted living facility (elderly)	1 space per 3 habitable units
Residential care facility	1 space per 9 residential care beds, but not less than 2 spaces
Rooming house	1 space per habitable unit
PUBLIC INSTITUTIONAL AND COMMERCIAL USES	
Bus or rail transit station	No requirement
Business, art, or vocational school	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
Cemetery or mausoleum	No requirement
Club or lodge (private)	± space per 400 2.5 spaces per 1,000 sq. ft. of floor area
Government building or public safety facility	As determined by land use supervisor based on anticipated use and neighborhood impacts
Hospital	2 spaces per 1,000 sq. ft.
Medical or dental clinic	4 spaces per 1,000 sq. ft. of gross floor area
Museum, library, or art gallery	1 space per 1,000 sq. ft. of gross floor area
Nursing home	1 space per 6 beds
Park, playground, or forest reserve	No requirement
Religious assembly	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
School, elementary	1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater
School, middle or high	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
University or college	±2 space per 500 1,000 sq. ft. of office, research, and library area plus 1 space per 1 space per 125 sq. ft. of auditorium space.
Other community facility or institutional support uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts

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

Use	Requirement* (May Be Adjusted To 30% Less or 50% More)
Adult book store	2.5 spaces per 1,000 sq. ft. of gross floor area
Adult entertainment establishment	1 per 200 5 spaces per 1,000 sq. ft. of gross floor area
Agriculture	No requirement
Automobile filling station	1 per 250 sq. ft. gross floor area plus 1 per service stall
Automobile and light vehicle repair and service	1 per 500 2 spaces per 1,000 sq. ft. of gross floor area
Automobile and light vehicle sales, rental, or storage	1 per 500 2 spaces per 1,000 sq. ft. of gross floor area
Bank	2.5 spaces per 1,000 sq. ft. of gross floor area
Bed and breakfast	1 space for manager plus 1 space per habitable unit
Building material sales	1 space per 1,000 sq. ft. of gross floor area
Business park support activities	1 per 500 2 spaces per 1,000 sq. ft. of gross floor area
Convention and Event Center	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
Day care facility	1 space per 5 persons care capacity
Data center	1 space per 1,000 sq. ft. of gross floor area
Filling station	4 spaces per 1,000 sq. ft. gross floor area plus 1 per service stall
Funeral home or crematorium	1 space per 50 square feet of floor space in slumber rooms, parlors, or individual funeral service rooms
Garden material sales	1 space per 1,000 sq. ft. of gross floor area
Grocery store	3 spaces per 1,000 sq. ft. of gross floor area
Golf course	1 space for every 400 2.5 spaces per 1,000 square feet of clubhouse area
Hotel or motel	2 spaces per 3 guest rooms plus 1 per 200 sq. ft. of gross floor area in all accessory uses including restaurants and meeting rooms
Indoor entertainment facility	1 space per 400 2.5 spaces per 1,000 sq. ft. of gross floor area
Kennel	1 space per 1,000 sq. ft. of gross floor area
Marina or yacht club	1 per 400 2.5 spaces per 1,000 sq. ft. of clubhouse area, plus 1 per 10 boat slips
Mini-storage facility	1 space per 20 storage units
Office	2.5 spaces per 1,000 sq. ft. of gross floor area
Parking lot or parking structure (primary use)	No requirement
Personal service or repair	2.5 spaces per 1,000 sq. ft. of gross floor area
Preschool	1 space per 5 persons care capacity
Restaurant (no drive-in/drive-through)	1 per 200 5 spaces per 1,000 sq. ft. of gross floor area
Restaurant (drive-in/drive-through)	1 per 200 sq. ft. of gross floor area
Retail store not listed elsewhere	3 spaces per 1,000 sq. ft. of gross floor area
Riding stable	No requirement
Seasonal camp or cabin	1 space for every two beds, or for each cabin or sleeping unit, whichever is greater
Theater	1 space per 6 seats or per 100 sq. ft. in main auditorium, whichever is greater
Tourist or trailer camp	2 spaces per 3 sleeping rooms, suites, or trailer spaces
Truck or heavy vehicle sales, rental, repair, or storage	1 space per 1,000 sq. ft. of gross floor area
Vacation dwelling unit	1 space for 1-2 bedrooms, 2 spaces for 3-4 bedrooms, 3 spaces for 5+ bedrooms
Veterinarian or animal hospital	1 per 400 2.5 spaces per 1,000 sq. ft. of gross floor area
Personal service or repair not listed	1 per 400 sq. ft. of gross floor area
Other commercial use not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts

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

Use	Requirement* (May Be Adjusted To 30% Less or 50% More)
Airport and related facilities	As determined by airport management
<ul style="list-style-type: none"> • Electric power or heat generation plant • Electric power transmission line • Junk and salvage services • Major utility or wireless communication tower • Radio or television broadcasting tower • Railroad or shipyard and related facilities • Solar or geothermal power facility (primary use) • Truck freight or transfer terminal • Water or sewer works • Wind power facility (primary use) • Bulk storage not listed 	No requirement
<ul style="list-style-type: none"> • Contractor's shop and storage yard • Dry cleaning or laundry plant • Recycling collection point (primary use) • Solid waste disposal or processing facility 	1 per 1,000 sq. ft. of gross floor area
<ul style="list-style-type: none"> • Manufacturing, light Manufacturing, heavy Manufacturing, hazardous or special • Storage warehouse • Water-dependent manufacturing, light or heavy • Wholesaling 	1 per 1,000 sq. ft. of gross floor area
Research laboratory	As determined by land use supervisor based on anticipated use and neighborhood impacts
Other Industrial uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
Accessory bed and breakfast	1 space for primary use dwelling; plus
	1 space per habitable unit
Accessory caretaker quarters	1 space
All other accessory uses	No requirement
Temporary real estate sales office	2 spaces
All other temporary uses	No requirement

*The Parking Space Requirement May be Modified by Section 50-18.5 (Higher Education Overlay District), Section 50-24.3 (Adjustment to Required Off-Street Parking), and 50-24.4 (Maximum Parking Spaces).

Section 11. That Section 50-24.6 of Chapter 50 be amended as follows:

50-24.6 Location of Parking Spaces

A. On Site Location and Exceptions

1. All required parking spaces shall be located on the same lot with the principal building or the primary use served; except as provided in subsection 2 below.
2. If an increase in the number of parking spaces is required by a change or enlargement of any use, the increased parking requirement may be satisfied by utilizing:
 - (a) Primary use parking lots or parking structures located and maintained up to 500 feet from the lot containing the change or enlargement, or
 - (b) Accessory parking lots that existed on November 18, 2010, were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials, and that are located and maintained up to 500 feet from the lot containing the change or enlargement.
3. Where required parking spaces are not provided on site, a written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit.

B. Parking Location Within the Site

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

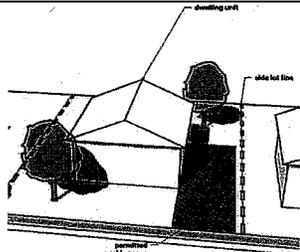
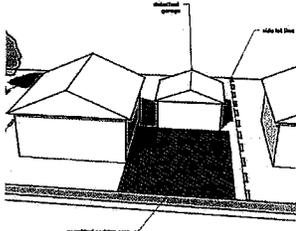
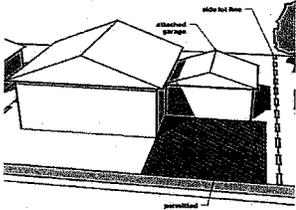
Table 50-24-3: Permitted Parking Areas	
Type of Lot	Permitted Parking Area
<u>All Lots-Non-corner lot with non-dwelling unit</u>	The rear yard and one side yard
Non-corner lot with dwelling unit and no garage	<p>The <u>rear yard, and the area</u> between one side lot line and the nearest side wall of the dwelling unit and its extension to the improved street abutting the front yard. (See diagram to the right)</p> 

Table 50-24-3: Permitted Parking Areas

<p>Non-corner lot with dwelling unit and detached garage</p>	<p>The <u>rear yard</u>, and the area between the closest side lot line to the side wall of the dwelling unit nearest to the garage, and its extension to the improved street abutting the front yard. (See diagram to the right)</p>	
<p>Non-corner lot with dwelling unit and attached garage</p>	<p>The <u>rear yard</u>, and the area between the closest side lot line to the common wall separating the dwelling unit and garage, and its extension to the improved street abutting the front yard. (See diagram to the right)</p>	
<p>Corner lot (<u>dwelling or non-dwelling</u>)</p>	<p>The rear yard and one side yard <u>By variance per Section 50-37.9</u></p>	
<p>C. Optional Pedestrian Walkways Within Parking Areas</p>		
<p>All Mixed Use and Special Purpose Districts</p>	<p>Buildings or projects constructed after November 19, 2010, shall locate no more than 50% of off-street accessory parking within the front yard, <u>except as provided in 50-24.5.C.</u></p>	
<p>Form Districts</p>	<p>Parking only permitted on those portions of the lot permitted for the building type being constructed pursuant to Sections 50-16 and 50-22.</p>	

C. Optional Pedestrian Walkways Within Parking Areas

For parking areas within mixed use and special purpose districts identified in Table 50-24.3, buildings or projects may locate up to 60% of off-street accessory parking within the front yard if a pedestrian walkway is provided. The pedestrian walkway shall:

- Include pedestrian-scaled lighting;
- Be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
- Be visually recognizable to both pedestrians and motorists;
- Include trees and other landscaping along the length of the walkway, this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4;
- Be at least 8 feet wide; and
- Include well-marked crossings where the walkway intersects with private vehicle drives.

Section 12. That Section 50-24.7 of Chapter 50 be amended as follows:

50-24.7 Parking Design Standards

A. General Standards

The design of required off street parking areas and spaces shall meet the standards shown in Table 50-24-4.

Table 50-24-4: Parking Design Standards		
Parking Space Size*		
Small	8.5 ft. x 15 ft.	
Standard	9 ft. x 17 ft.	
Aisle Widths		
	Parallel	Diagonal
Parallel/no parking	11 ft.	21 ft.
30 degree	11 ft.	21 ft.
45 degree	13 ft.	23 ft.
60 degree	18 ft.	25 24 ft.
75 degree	20 ft.	24 ft.
90 degree	24 20 ft.	25 24 ft.
Permitted Percentage of Small Car Spaces (Applies to lots with more than 5 spaces)		
Size of Parking Lot	Maximum Percentage of Small Cars	
6 to 100 spaces	40%	
100 to 149 spaces	45%	
150 or more spaces	50%	
Required Surface Treatment/Paving		
All residential district parking areas not in lawful existence on June 1, 2009.	Surfaced in a dust free, hard surface material such as concrete or bituminous, or pervious paving materials, except for rear yards, which may be surfaced in aggregate materials, compressed aggregates or similar surfaces.	
All Mixed Use and Special Purpose Districts	All parking areas shall be surfaced in a dust free, hard surface material such as concrete or bituminous. Pervious paving material shall be approved by the city engineer.	

*The area set aside for a parking space may encroach beyond the face of a curb a maximum of 1.5 ft., provided that (a) it does not include trees, posts, or other obstructions that would prevent a vehicle from fully utilizing the space, and (b) it is not included in required open space, landscape area requirements, or required pedestrian walkways.

B. Parking Lot and Driveway Entrances

All parking lot and driveway entrances must conform to the design specification regulations of the City Engineer.

BC Snow Storage Areas

A portion of the each accessory surface parking area shall be designated for snow storage. The areas required to meet the minimum parking requirements of this Section 50-24 shall not be used for snow storage. Snow storage areas may be landscaped if the vegetation is selected and installed so as not to be harmed by snow storage. Snow storage areas shall not count towards those landscape areas required by Section 50-25 unless they are integrated with a side or rear buffer required by Section 50-25.

CD Required Parking Lot Walkways

Each surface parking area that (a) serves a multi-family residential, commercial, public, institutional, civic, or mixed use, and (b) contains 50 or more parking spaces, and (c) contains any parking spaces located more than 300 ft. from the front façade of the building shall contain at least one pedestrian walkway allowing pedestrians to pass from the row of parking furthest from the primary building façade to the primary building entrance or a sidewalk allowing the pedestrian to reach the primary building entrance without crossing additional driving spaces or aisles. The required walkway must be at least 5 ft wide, shall not be located within a driving aisle, and shall be located in a landscaped island running perpendicular to the primary building façade if possible. If located in a landscaped island, the minimum width of the island shall be increased by 5 ft. to accommodate the walkway without reducing the amount of landscaped area. If any parking space in the parking aisle located furthest from the primary structure is more than 200 ft. from the walkway, additional similar walkways shall be required within 200 ft. of those spaces. If there is a public sidewalk along the street frontage located within 50 ft. of any required walkway, the walkway shall connect to that sidewalk.

Section 13. That Section 50-25.1 of Chapter 50 be amended as follows:

50-25.1 Applicability

A. The landscaping provisions of Sections 50-25.2 through 25.4 and 25.7 shall apply to lots and parcels in any zone district that contain (i) more than 10,000 sq. ft. of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, when any of the following conditions occur:

1. A new primary structure is constructed;
2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25%;
3. An existing primary structure is relocated on the lot or parcel;
4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is 75% or more of the pre-application assessor's market value of the primary structure, as shown in the records of the city assessor;
5. A new parking lot containing 25 or more spaces is constructed or an existing parking lot containing 25 or more spaces is reconstructed. Parking lots with less than 25 spaces must only provide the minimum tree canopy coverage as indicated in Section 50-25.4.B.6.

B. In any Form District, landscaping shall not be required on the portion of a lot occupied by a principle structure.

- C. The tree preservation provisions of Section 50-25.9 apply to all development or redevelopment on lots and parcels in any zone district that contain (i) more than 10,000 sq. ft. of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, as well as to any new lot of record created after November 19, 2010, regardless of the primary use of the property, in any zone district.
- D. The landscaping between differing land uses provisions of Section 50-25.5 apply to all development or redevelopment on lots and parcels when there is a change of use.

Section 14. That Section 50-27.6 of Chapter 50 be amended as follows:

50-27.6 Signs and Activities Exempt from Permit Requirements

A. Alteration and Maintenance Operations

The following activities are exempt from a zoning permit:

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

B. Illumination

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

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

C. Exempt Permanent Signs

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

Table 50-27.1: Exempt Permanent Sign Regulations

Sign	Permitted District or Use	Permitted Sign Type	Maximum Size	Maximum Height (Freestanding Signs)	Required Setback or Location (Freestanding Signs)	Number Per Lot
Agricultural Identification Sign	All agricultural uses	Freestanding or wall	RC, RR-1, RR-2: 20 sf. All other districts: 6 sf	6'	20' from front lot line & 10' from any other lot line	1 per street frontage
Bed and Breakfast	Bed and breakfast uses	Freestanding or wall	12 sf	7'	5' from any lot line	1 per lot
Building Directory Sign	All multi-family & non-residential uses	Freestanding or wall	6 sf	7'	Within 10' of building entry	1 per building entry
Day Care Facility	Residential zone districts	Wall or non-illuminated lawn sign	6 sf	7'	5' from any lot line	1 per lot
Flags – Federal, State or Local	All districts and uses	Freestanding	No Limit	No limit	5' from any lot line	No limit
Flags – Commercial	All non-residential uses	Freestanding	16 sf	Flagpole limited to maximum height of zoning district	5' from any lot line	1 per lot
Government Information Sign (Federal, State, County or City)	All districts and uses	Freestanding or wall	No Limit	No Limit	No Limit	No Limit
Home Occupation Sign	All residential dwelling uses and permitted accessory uses	Wall, window or freestanding including mounting on private lightposts	4 sf	4'	5' from any lot line	1 per lot
Memorial Plaque	All districts and uses	Freestanding or wall	No limit	Limited to maximum height of zoning district	5' from any lot line	1 per lot
Nameplate	All districts and uses	Wall	4 sf	(Not Applicable)	(Not Applicable)	1 per lot
Parking Lot Directional Sign	All parking lots and structures	Freestanding	4 sf	7'	0' from any lot line	No limit
Parking Lot Information Sign	All parking lots and structures	Freestanding or wall	16 sf	12'	0' from any lot line	3 per access point
Property Identification Sign	All multi-family residential uses	Wall	4 sf	(Not Applicable)	(Not Applicable)	1 per lot
Public Information Sign	The following uses: All educational facilities; cemetery or mausoleum; museum, library or art gallery; park, playground or forest reserve	Freestanding or wall	No limit	No limit	No limit	No limit
Public Information School and Field Identification Sign	All districts. K-12 public and private schools. Only to identify name of school, recreation field, or athletic team.	Non illuminated wall sign	No limit	No limit	No limit	No limit

Table 50-27.1: Exempt Permanent Sign Regulations

Sign	Permitted District or Use	Permitted Sign Type	Maximum Size	Maximum Height (Freestanding Signs)	Required Setback or Location (Freestanding Signs)	Number Per Lot
Permanent Window Sign	All non-residential uses	Window	Temporary & permanent signs (combined) are limited to 30% coverage of each window	(Not applicable)	(Not applicable)	(Not applicable)
Time and Temperature Sign (Electronic)	All non-residential uses	Must be integrated into primary freestanding or wall sign	20% of sign area of free-standing or wall sign, or if stand-alone sign, 6 sf	(Not Applicable)	(Not Applicable)	1 per lot

D. Exempt Temporary Signs

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

1. Exempt temporary signs are subject to the display periods in Table 50-27-2: Permitted Display Period.
2. Exempt temporary signs are subject to the regulations of Table 50-27-3: Exempt Temporary Sign Regulations.

Table 50-27.2: Exempt Temporary Sign Permitted Display Period Regulations

Sign	Permitted Display Period
Attention-Getting Device	When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event. When not related to a time-specific event: 10 days Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays
Banner (General)	When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event When not related to a time-specific event: 30 days Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays
Community Event Sign	Limited to no more than 4 display periods in a year for a total aggregate display time of 20 days per year
Construction Sign	Erected only after approval of a building permit and must be removed within 7 days of issuance of an occupancy permit or completion of construction, whichever occurs first
Non-Commercial Message Sign	General: No display period limitation Election: Signs of any size related to an election or referendum may be posted in any number from 46 days before the state primary in a state general election year until 10 days following the state general election
Real Estate Sign	All real estate signs may only be erected on the specific property offered for sale or lease or the property holding an open house. Real estate for sale/lease signs: Posted for the duration the property is offered for sale or lease, and must be removed within 7 days of closing or lease Real estate open house signs: Only during the day of the open house and must be removed within 2 hours of the end of the event
Temporary Window Sign	Limited to no more than 4 display periods in a year for a total aggregate display time of 60 days per year

Table 50-27.3: Exempt Temporary Sign Regulations

Sign	Permitted District or Use	Permitted Sign Type	Maximum Size	Maximum Height (Freestanding Signs)	Required Setback or Location (Freestanding Signs)	Number Per Lot
Attention-Getting Device	Nonresidential uses in MU-C	Freestanding	10 sf	6'	10' from any lot	1 per lot
Banner (general)	Non-residential uses	Wall or retaining wall	32 sf	(Not applicable)	(Not applicable)	1 per lot
Community Event Sign	All districts and uses	Freestanding or wall	10 sf	6'	10' from any lot	1 per lot
Construction Sign	All districts and uses	Freestanding or wall	50 sf	6'	10' from any lot	50 sf total per street frontage
Non-Commercial Message Sign, Election	All districts and uses	Freestanding, wall or retaining wall	No limit	No limit	No limit	No limit
Non-Commercial Message Sign, General	All districts and uses	Freestanding, wall or retaining wall	64 sf	6'	No limit	1 per street frontage
Real Estate Sign	All districts and uses	Freestanding or wall	Residential Districts: 4 sf All Other Districts: 12 sf	5'	10' from any lot	1 per street frontage
Temporary Window Sign	All nonresidential uses	Window	Temporary & permanent signs (combined) are limited to 30% coverage of each window	(Not applicable)	(Not applicable)	(Not applicable)

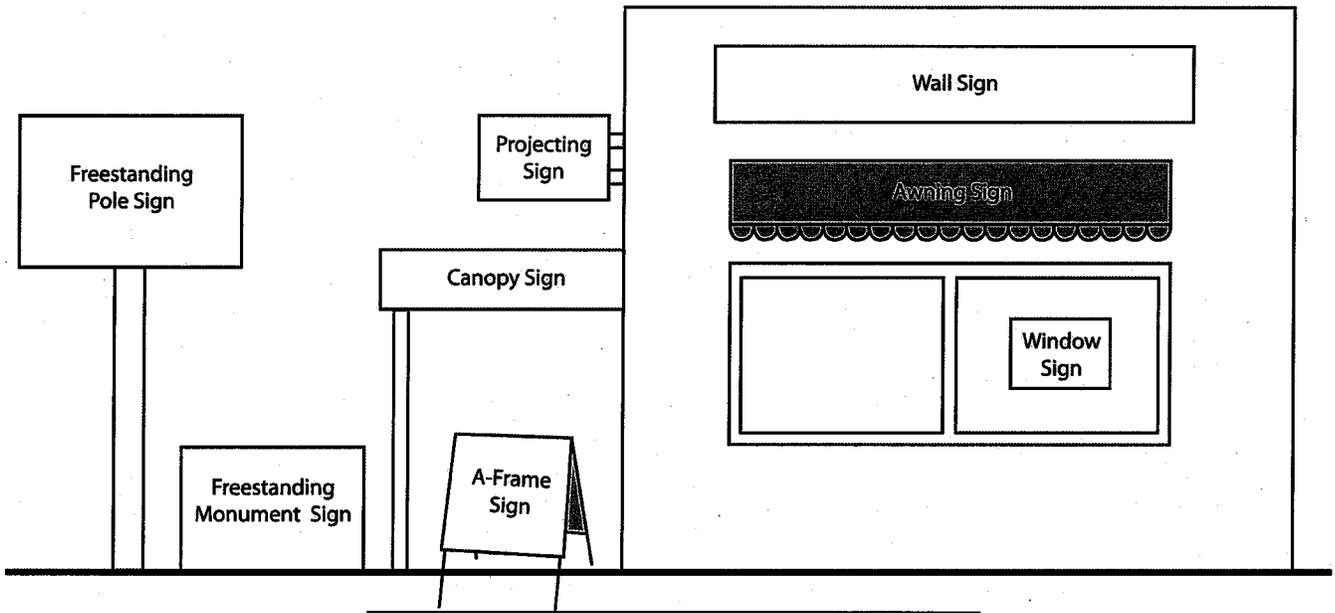


Figure 50-27.6-A: Examples of Common Sign Types

Section 15. That Section 50-27.7 of Chapter 50 be amended as follows:

50-27.7 Sign Types

A. General Regulation

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

TABLE 50-27-4: SIGN TYPES – PERMIT REQUIRED: DISTRICT AND USE PERMISSIONS																								
KEY (REFERENCE TABLE 50-19.8 FOR USES)																								
1 : Residential Uses 1A : Multi-Family Dwelling Only 2 : Public, Institutional and Civic Uses											3 : Commercial Uses 4 : Industrial Uses													
NOTE: Accessory uses are subject to the home occupation sign standards																								
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1
A-Frame Sign							3	3			3	3	3	3	3	3	3	3	3	3	3			2
Awning	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	2										
Banner Exhibition	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Billboard ¹								3 4		3 4		3 4										3 4		
Canopy	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	1A 2 3 4	2										
Electronic Message Sign ²	2	2	2	2	2	2	2 3	2 3 4	2 3 4	2 3 4	2	2 3 4	2 3	2 3 4	2 3 4	2 3 4	2 3 4	2						
Freestanding Signs-Pole	2	2	2	2	2	2	2 3 4	2 3 4	2 3 4	2	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2
Freestanding Sign-Monument	1 2	1 2	1 2	1 2	1 2	1 2	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	1 2 3 4	2
Marquee							3	3			3	3					3		3	3				
Projecting Sign							3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4	3 4
Scoreboard	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2
Wall Sign	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2 3 4	2										

¹ Billboards are permitted on any lot within the noted districts, whether developed or undeveloped, unless such lot is developed for a one-family or two-family dwelling.

² Filling station uses in any district are permitted to display fuel prices by an electronic message component, and are subject to the restrictions of that section. Electronic message signs are not allowed in the Historic Canal Park area as identified in UDC Section 50-27.9.C. Electronic message signs are allowed in the Entertainment District area as identified in UDC Section 50-27.9.C

Section 16. That Section 50-33.4 of Chapter 50 be amended as follows:

50-33.4 General Lot Design and Layout

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

Section 17. That Section 50-35 of Chapter 50 be amended as follows:

50-35 SUMMARY TABLE

TABLE 50-35-1: PROCEDURES SUMMARY TABLE								
Type of Application	Review, Decision, & Appeal Authority							
Comprehensive Land Use Plan	N			R		<R>	D	RES
UDC Text or Zoning Map Amendment								
Text Amendment	N			R		<R>	D	ORD
Map Amendment	N, S,	✓		R		<R>	D	ORD
District Plan Adoption/Amendment	S	✓		R		<D>	<A>	
Subdivision Plat Approval								
Concept Plan		✓		R				**
Preliminary Plat	S			R		<D>		AL
Final Plat				R		<D>		AL***
Quick Plat/Registered Land Survey	S			R		D<D>		AL***
Vacation of Street	S, M	✓		R		<R>	D	RES
Concurrent Use of Streets Permit	S	✓		R		<R>	D	ORD
Historic Resource Designation	M				<R>	R	D	ORD
Variance	S, M		R			<D>	<A>	AL
Special Use Permit	S, M	✓		R		<D>	<A>	AL
Interim Use Permit	S, M	✓		R		<R>	D	RES
Planning Review								
General Planning Review				D		<A>		AL
<u>Planning Commission Review When required in MU-C, MU-W, MU-I Zoning Districts and HE-O Overlay District-R-2 and Mixed Use Districts</u>	S, M	✓		R		<D>	<A>	AL
Temporary and Sidewalk Use Permit				D		<A>		AL
Zoning Permit****			D			<A>		AL
Historic Construction/Demolition Permit	S				<D>		<A>	COA
Wetland/WCA Permits			D			<A>		AL

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

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

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

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

Section 18. That Section 50-37.1 of Chapter 50 be amended as follows:

50-37.1 Common Procedures and Requirements

A. Pre-Application Meetings

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

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

B. Authority to File Applications

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

C. Application Materials and Fees

1. Each application for a permit or approval, or for a modification of a permit or approval, pursuant to this Chapter, shall include all those application materials listed for that type of application or modification listed in the UDC Application Manual for this Chapter and a fee in the amount listed for that type of application or modification shown in the latest schedule of fees approved by council.
2. The city may reject applications not meeting the requirements of this Chapter, the UDC Application Manual, or as required or authorized by MSA 15.99.

3. Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city.
4. The schedule of fees shall be adopted from time to time by the council by resolution, pursuant to Section 31-6 of the code, to defray estimated staff costs and expenses of processing applications.
5. The schedule of fees may provide for additional fees if an applicant submits more than two applications that are incomplete, pursuant to Section 50-37.1.D below, for the same proposed development.
6. All fees are non-refundable regardless of whether the applicant withdraws the application prior to a decision or whether the application is approved, approved with conditions or denied.

D. Determination of Completeness

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

E. Inactive Complete Applications

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

F. Withdrawal of Applications

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

G. Successive Applications

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

H. Public Notice

1. Types of Notice

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

- (a) **Newspaper notice** means the publication of one notice in a newspaper of general circulation within the city at least 10 days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing.
- (b) **Mailed notice** means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least 10 days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion

of the street proposed to be vacated, and (b) the portion of that street extending 350 ft. from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of 5 acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 ft. of the area to be rezoned. Failure to give mailed notice as required by this section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this section has been made.

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

2. **Content of Notice**

Each required notice shall include the following information:

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

3. **Special Notice Provision for Appeals**

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

16. **Public Hearings**

1. Public hearings before the planning commission and public hearings before the council on matters related to this Chapter shall be conducted pursuant to rules

and practices established by each of those bodies and in compliance with state law.

2. Attendance shall be open to the public.
3. All hearing and decision timeframes shall comply with MSA 15.99.

J. Review Criteria

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

K. Conditions on Approval

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

L. Administrative Adjustments

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

1. The front, side or rear setbacks of a new or modified structure are no more than 1 ft. smaller than the minimum setbacks required by this Chapter;
2. The height of a new or modified structure is no more than 2 ft. taller than the maximum required by this Chapter;
3. For properties where Section 50-24.2 requires more than 3 off-street parking spaces, and the property does not contain a single-family residential structure (regardless of the use of that structure) the site contains 1 less parking space than is required, or 1 more parking space than the maximum allowed in 50-24.4.
4. Handicap accessibility structures can encroach into the yard setbacks.
5. For properties where 50-21.2 requires improved street frontage, exceptions limiting the street improvement to no more than 50' in length may be granted if the Land Use Supervisor determines that further extension of the street is not anticipated due to topography, Comprehensive Land Use Plan, or utility availability.
6. For properties where 50-21.2 requires that not more than 30% of the rear yard be occupied by any one accessory structure, exceptions may be granted for an accessory structure to occupy up to 40% of the rear yard.
7. The area of a new or modified sign is no more than 10% larger than the maximum allowed by 50-27.

M. Modifications of Approvals

1. Application

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

2. Minor Modifications

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

3. Major Modifications

Major modifications are those that do not qualify as administrative adjustments pursuant to subsection 50-37.1.L or minor modifications pursuant to subsection 2 above. Applications for major modifications shall be treated as a new application

for an approval of the same type being modified. However, if the city determines that an application for modification is not consistent with a district plan applicable to the property, and that the inconsistency may materially and adversely affect other property owners subject to the same district plan, the city may require that the applicant obtain approval of a revised district plan instead of a major modification. In the case of a major modification involving a natural resources permit, the city may require additional reports and data necessary to evaluate the impacts of the modification.

N. Lapsing of Approvals

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

1. Approved preliminary plats for subdivision shall lapse unless a complete application for a final plat of at least 50% of the land covered by the preliminary plat is submitted within 5 years of the preliminary plat approval;
2. Approved final subdivision plats shall lapse unless the approved final plat is recorded with the register of deeds within ~~90~~ 180 days after approval;
3. Approved vacations of streets shall lapse unless a plat showing the vacation is recorded with the office of the county recorder within 90 days after final approval;
4. Approved planning reviews, zoning permits, special use permits, interim use permits, concurrent use of street permits, sidewalk use permits and variances shall lapse if the project or activity authorized by the permit or variance is not begun within 1 year of the permit date. The building official may extend this period one time for a period of up to 1 year if the property owner presents a written request showing the reasons for the delay was outside the owner's control;
5. Erosion and Sediment Control Permits (ESCP) shall lapse one year after approval if all construction activities are not completed or the entire site is not fully stabilized with 70% successful establishment of vegetation. In case of a lapse of the ESCP, a new permit shall be obtained;
6. Approved building permits shall lapse 1 year after issuance unless construction has begun by that date.
7. The MS-4 Statement of Compliance and accompanying drainage report will be valid for 2 years from the date of approval. If permanent stormwater facilities (BMPs) are not fully constructed and operational within 2 years, and extension of 1 year may be granted if a written request is submitted and approved by the City Engineer. The written request should document the reasons for the extension and the current state of completion of the project.

O. Appeals

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

1. **General Provisions for Appeal to Planning Commission**
 - (a) Except as noted in subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be filed within 10

days after the decision by filing with the building official a written notice of appeal addressed to the commission and specifying the grounds of the appeal.

- (b) If the appeal relates to a decision regarding the zoning of an airport or the Airport Overlay district, any person aggrieved by the decision, any taxpayer affected by the decision and any governing body of a municipality, county or airport zoning board, that believes the decision is an improper application of this Chapter as it concerns that governing body or board may appeal that decision to the airport board of adjustment. The appeal must be filed within 10 days after the decision by filing with the building official a written notice of appeal addressed to the board and specifying the grounds of the appeal. If the appellant is a person aggrieved or a taxpayer affected by the decision regarding the zoning of an airport or the Airport Overlay district, the applicant shall submit an appeal to the city clerk in the manner set forth in Minnesota Statutes 360.068, Subdivision 2. All appeals shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern.
- (c) The building official shall promptly transmit to the commission, or to the airport board of adjustment, as applicable, the documents and records related to the decision being appealed.
- (d) A timely appeal shall stay all proceedings involved in the appeal; and no appeal shall be deemed to permit the appellant to do or to continue doing, directly or indirectly, any act or thing prohibited by the decision being appealed. However, if the building official notifies the planning commission in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the planning commission may order that proceedings not be stayed pending appeal.
- (e) The commission shall fix a time for a hearing on the appeal, shall provide notice of the hearing pursuant to Section 50-37.1.H, and shall hold a public hearing pursuant to Section 50-37.1.I.
- (f) Any party may appear at the hearing in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant.
- (g) If the appeal alleges that the boundaries of a wetlands or shorelands area on the Natural Resources Overlay map in Section 50-18.1 are in error, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence.

2. Exceptions

- (a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I No Safety Obstructions, 50-27.1.L Attachment to Buildings, 50-27.1.M Wind Pressure Design, 50-27.1.N Electrical Wiring, or 50-27.1.O Certification of Structural Engineer must be taken to the state building official as provided in the State Building Code.
- (b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Chapter 10 of the code or to the state building official.
- (c) An appeal from any decision under the housing code provisions in Section 50-32 of this Chapter must be taken to the building appeals board.

- (d) If an applicant believes that the decision of staff regarding compliance with the requirements of the SP-O zone district is incorrect or deprives the applicant of the reasonable use of his or her property, or is unreasonable given the size and shape of the property and its orientation to the protected views, the applicant may request review of the decision by the planning commission. The planning commission's review shall be based on the purpose and standards of this section, but may authorize variations to those standards, in accordance with the procedures in Article 5 of this Chapter, if unusual site conditions not generally shared along Skyline Parkway make compliance with the standards unreasonable or ineffective to protect the intended views of Lake Superior, the St Louis River and the harbor.

3. Powers of Planning Commission on Appeal

- (a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the building official or land use supervisor could have made regarding the application.
- (b) In hearing permitted appeals of decisions regarding the sign regulations in Section 50-27, the planning commission shall have only the power to affirm, reverse or modify the decision of the building official.
- (c) In the case of an appeal regarding the application of the NR-O Natural Resources Overlay district, no relief shall be granted that violates the limitations on variances applicable to that district.
- (d) The decision of the planning commission shall be final unless a further appeal is filed pursuant to subsection 4 below.

4. Appeals of Planning Commission Decisions to Council

- (a) Except as provided in subsection 5 below, any person aggrieved by, or any department of the city affected by, any decision of the planning commission on an appeal pursuant to subsection 1 above may appeal that decision to the council.
- (b) Any appeal must be filed within 10 days after the planning commission's decision by filing with the city clerk a written notice of appeal addressed to the council and specifying the grounds for the additional appeal.
- (c) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. However, if the building official notifies the council in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the council may order that proceedings not be stayed pending appeal.
- (d) The council shall hear the appeal at the next scheduled meeting with time available, and may affirm, modify or reverse the board's decision, and may make any orders, requirements, decisions, or determinations it deems appropriate regarding the appeal.
- (e) No decision on an appeal or variance shall have the effect of allowing a use that is not a permitted or special use in the zone district where the property is located.
- (f) If the appeal is regarding an application in any district where the approval of a district plan is required or requested prior to development, the council shall

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

5. Appeal of Planning Commission Decisions to the Courts

- (a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission.
- (b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission.
- (c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01.

6. Appeals of ~~Historic~~ Heritage Preservation Commission Decisions to Council

- (a) Where applicable, Section of 50-37.1.O.4 shall apply of ~~historic~~ heritage commission decisions, when appealable to City Council

P Security for Improvements

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

Section 19. That Section 50-37.14 of Chapter 50 be amended as follows:

50-37.14 Historic Construction/Demolition Permit

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

A. Application

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

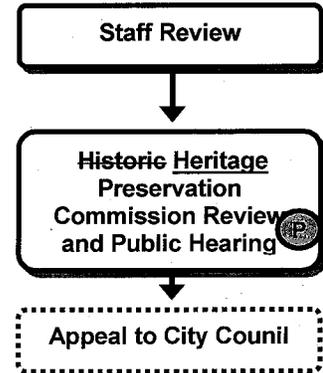
B. Procedure

The application shall be reviewed by the historic heritage preservation commission. The commission shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a decision to adopt, adopt with modifications, or deny the application based on the criteria in subsection 50-37.14.C.

C. Criteria

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

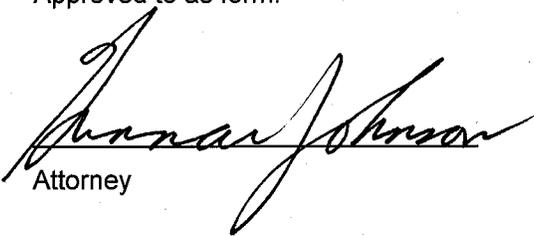
Historic Construction / Demolition Permit



(P) Indicates Public Hearing Required

Section 20. That this ordinance shall take effect 30 days after its passage and publication.

Approved to as form:



Annar Johnson

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 ordinance 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**

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
218-730-5580 • Fax: 218-730-5904 • www.duluthmn.gov

An Equal Opportunity Employer

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).