Zoning Regulations for City of Duluth Minnesota

Chapter 50 and 51
of the
Legislative Code

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CHAPTER 50.

ZONING.[1]

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Zoning Maps.

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Article I. In General.

Sec. 50-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by the following Sections. (Ord. No. 7158, 6-9-1958, §§ 1.1 to 1.56; Ord. No. 7236, § 1; Ord. No. 7274, § 1; Ord. No. 7314, §§ 1, 2; Ord. No. 8455, 5-7-1979, § 4; Ord. No. 8494, 12-26-1979, §§ 1, 2; Ord. No. 8578, 6-15-1971, § 2; Ord. No. 8638, 7-26-1972, § 1; Ord. No. 8685, 12-19-1973, §§ 2, 13; Ord. No. 8723, 2-11-1975, § 1; Ord. No. 9037, 8-19-1991, § 1; Ord. No. 9182, 2-7-1994, § 1; Ord. No. 9239, 3-6-1995, § 1; Ord. No. 9284, 12-11-1995, § 1.)

Sec. 50-1.1. Accessory building or use.

A building or use subordinate in use, area or purpose to the principal building or use on the same lot and serving a purpose naturally and normally incidental to such principal building or use. Where an accessory building is attached to the principal building in a substantial manner by a wall or roof, it shall be considered part of the principal building. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.2. Alley.

A public thoroughfare less than 30 feet in width. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.3. Alley line.

The established side line of an alley easement. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.4. Apartment.

A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a single family. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.5. Apartment hotel.

A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and news stands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.6. Basement.

A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than five feet of its height below the ceiling is above the grade of the adjoining ground. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.7. Bed and breakfast inn.

An owner occupied building designed as a single family dwelling providing lodging accommodations by prior arrangements, for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests. (Ord. No. 9284, 12-11-1995, § 2; Ord. No. 9368, 5-11-1998, § 1; Ord. No. 9533, 5-28-2002, § 1.)

Sec. 50-1.8. Bed and breakfast country inn.

A building designed as a single family dwelling containing habitable units providing no more than 12 guestrooms of lodging accommodations by prior arrangements, for compensation. It may or may not include serving of meals to guests and the general public. (Ord. No. 9284, 12-11-1995, § 2; Ord. No. 9533, 5-28-2002, § 2.)

Sec. 50-1.9. Building.

Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.10. Building, height of.

The vertical distance at the center of the principal front of a building, measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and hip or gambrel roof. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.11. Clinic.

An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or physicians and dentists in practice together. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.12. Club.

A building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.13. Composting.

The controlled microbial degradation of organic waste to yield a humus like product. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.14. Construction debris.

Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50.1-15. Day care facility.

A licensed private or public establishment, which, for gain or otherwise, regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, in a place other than the dependent's domicile. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.16. Demolition debris.

Solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.17. District.

Any section of the city within which the zoning regulations are uniform. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.18. Dwelling.

Any building or portion thereof which is designed for or used for residential purposes. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.19. Dwelling unit.

A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only; occupied by the owner or by another family for periods of occupancy exceeding one week, and which is physically separated from any other habitable unit that may be located in the same building. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.20. Dwelling, one family.

A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, having a minimum outside width of 20 feet measured at its narrowest point, and placed on a permanent foundation which complies with the Minnesota State Building Code. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.21. Dwelling, two family.

A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.22. Dwelling, group.

One or more buildings containing dwelling units and arranged around two or three sides of a court which opens onto a street or place. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.23. Dwelling, multiple family.

A building containing three or more dwelling units. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.24. Dwelling, townhouse.

A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.25. Efficiency dwelling unit.

A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.26. Elderly person.

An individual, married or single, 62 years of age or more. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.27. Elderly congregate housing.

A building used exclusively as a residential rooming house for occupancy by elderly persons. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.28. Family.

One or more persons related by blood, marriage or adoption, including foster children, and in addition to and including five other unrelated persons occupying a dwelling and living as a single housekeeping unit. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.29. Filling station.

Any building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.30. Frontage.

All the property on one side of a street between two streets which intersect such street (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between a street which intersects such street and the dead end of the street. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.31. Garage, private.

An accessory building designed or used for the storage only of not more than four motor driven vehicles. Not more than one of the vehicles may be a commercial vehicle, which vehicle shall not exceed a two ton capacity. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.32. Garage, public.

A building or portion thereof, other than a private storage or parking garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor driven vehicles. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.33. Garage, storage or parking.

A building or portion thereof designed or used exclusively for storage of motor driven vehicles, and within which motor fuels and oils may be sold, but no vehicles are equipped, repaired, hired or sold. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.34. Grade.

(a) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;

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

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

Any wall approximately parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Where sidewalks do not exist the grade shall be as established by the office of the city engineer. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.35. Habitable room.

Any room used or intended to be used for sleeping, cooking, living or eating purposes, excluding such enclosed spaces as closets, pantries, bath or toilet facilities, service rooms, corridors, laundries, unfinished attics, foyers, storage space, utility rooms or similar spaces. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.36. Habitable unit.

Any habitable room or group of habitable rooms which provide sleeping facilities alone or in combination with required cooking, eating or living facilities. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.37. Hazardous waste.

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

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants and corrosives. Hazardous waste does not include: source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.38. Home occupation.

Any uses customarily incidental and subordinate to the principal residential use conducted within a dwelling and not in any accessory building, provided that no retail business of any sort is involved; no stock in trade is kept or commodities sold, except such as are made on the premises; no person not a member of the family residing on the premises is employed therein; no mechanical equipment is used except such as is permissible for purely domestic or household purposes; and not more than 1/4 of the floor area of one story of the dwelling is devoted to such home occupation. Provided, however, that such home occupation shall not require internal or external alterations, or involve special construction or features; that the occupation shall be conducted entirely within the dwelling; that the entrance to the space devoted to such occupation be from within the building with no separate exterior entrance; and that no display pertaining to such occupation be visible from the street; and provided further, that only one sign or device not exceeding one square foot in area which may contain the name and title only shall be permitted in connection with each such home occupation and shall be attached to the dwelling and not illuminated. No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television. In particular, a home occupation includes the following: artist's studio; dressmaking; office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with musical instruction limited to not more than two pupils at the same time. However, a home occupation shall not be interpreted to include barbershops, beauty parlors, tourist homes, restaurants or tea rooms. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.39. Hotel or motel.

A building or series of buildings operated as a commercial establishment providing accommodations to the transient traveling public in habitable units for compensation for periods of less than a week. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.40. Landscape plan.

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

two feet; vehicular, pedestrian and service access, including parking areas; areas to be conveyed, dedicated or reserved as common open areas, including public parks and recreational areas; drainage improvements such as culverts, retention/detention basins, major drainage swales and stormwater pipes in excess of six inches; north arrow; scale; title; and date. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.41. Laundromat.

An establishment providing hometype washing, drying or ironing machines for use on the premises. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.42. Loading space.

A space within the main building or on the same lot therewith, providing for the off street standing, loading or unloading of trucks and trailers. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.43. Lot.

Land occupied or intended for occupancy by a use permitted in this Chapter, including one main building together with its accessory buildings, and the yards and parking spaces required herein, and having its principal frontage upon a street or upon an officially approved place. For the purposes of this Chapter, the term "lot" may include two or more lots of record which are contiguous or separated only by a public easement not exceeding 25 feet in width, are owned by the same owner and where none of the parcels can be severed or legally sold, conveyed or used without the other parcels by virtues of a legally binding agreement which runs with the land and is recorded in the office of the St. Louis County recorder's office. If at any time any parcel which had been recognized as part of any lot by reason of such proximity, ownership and agreement are severed, legally sold, conveyed or used separately from the other parcel or parcels making up said lot, the parcel so severed, legally sold, conveyed or used shall henceforth not be considered part of said lot, any uses relying on its status as part of said lot shall become nonconforming and the provision of Section 50-13 shall not be applicable to any such use. (Ord. No. 9284, 12-11-1995, § 2; Ord. No. 9563, 10-15-2002, § 1.)

Sec. 50-1.44. Lot frontage.

Frontage shall be the dimension of the lot line at the street, except where the lot line at the street is not straight, in which case the frontage shall be the dimension across the lot at the required front yard line. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.45. Lot, corner.

A lot abutting upon two or more streets at their intersection. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.46. Lot, double frontage.

A lot having a frontage on two streets as distinguished from a corner lot. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.47. Lot of record.

A parcel of land which is part of a subdivision, the map of which has been recorded in the office of the register of deeds of St. Louis County or a parcel of land described by metes and bounds the description of which has been recorded in the office of the register of deeds of St. Louis County or of the county auditor. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.48. Nonconforming use.

Any building or land lawfully occupied by a use at the time of passage of this Chapter or amendment thereto which does not conform after the passage of this Chapter or amendment thereto with the use regulations of the district in which it is situated. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.49. Nursing, rest or convalescent facilities.

Licensed facilities primarily engaged in providing shelter, food and intermediate or long term nursing and health related care for individuals but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.50. Parking area.

An open unoccupied space used or required for use for parking of vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.51. Parking lot.

An open surfaced area used exclusively for the temporary storage of motor vehicles and within which motor fuels and oils may be sold, but no vehicles are to be equipped, repaired, rented or sold. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.52. Parking space.

A surfaced area, enclosed or unenclosed, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for vehicles. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.53. Petroleum soil treatment.

The storage and placement of petroleum contaminated soil on or into the soil surface, by methods such as land treatment (soil farming), composting or aerobic treatment cells for the purpose of biodegradation treatment of organic waste components. Terms herein shall have the meanings as defined in state of Minnesota rules on petroleum contaminated soil. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.54. Place.

An open, unoccupied space or thoroughfare other than a street or alley permanently reserved as a principal means of access to abutting property. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.55. Power transmission line.

A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.56. Premises.

A lot, together with all buildings and structures existing thereon. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.57. Residential care facility.

A public or private establishment, which, for gain or otherwise, regularly provides one or more dependents with 24 hour a day care, food, lodging, training, education, supervision, rehabilitation and treatment. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.58. Rooming house, commercial.

A building containing habitable units which are absent some or all bathroom and/or kitchen facilities and which provide sleeping and/or living accommodations by prior arrangements, for compensation and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.59. Rooming house, residential.

A building designed as a single family dwelling containing habitable units which are absent some or all bathroom and/or kitchen facilities and which provide sleeping and/or living accommodations by prior arrangements, for compensation and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.60. Site plan.

An accurate scale drawing which indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development. The site plan shall contain, insofar as applicable, the following minimum information: lot dimensions; the location, size and floor elevation of all existing and proposed buildings and other structures; walls and fences; outdoor storage, yards and space between buildings; vehicular, pedestrian and service access, including curb cuts; stormwater drainage directions; off street parking and loading areas, including the location and type of curbs, number of parking spaces and dimensions; signs and lighting, including location, size, height and method of illumination; relationship to buildings on adjacent properties; street names, including adjacent streets; street dedications and improvements; utility and other easements; waste disposal facilities; the existing and intended use of each building or part of a building; total acreage of the site; north arrow; scale; title; and date. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.61. Solid waste.

Has the meaning given it in Minnesota Statutes, Section 116.06, Subdivision 22. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.62. Solid waste disposal facility.

Any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.63. Solid waste facility.

A waste facility permitted by the city of Duluth, the Western Lake Superior Sanitary District and the state of Minnesota that is designed or operated for the purpose of disposing of solid waste on or in the land, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.64. Story.

That portion of a building included between the surface of any floor and the surface of the floor next

above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.65. Story, half.

A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.66. Street.

A thoroughfare 30 or more feet in width, dedicated to the public or privately owned and approved by the city council. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.67. Street line.

The established side line of a street easement or right-of-way. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.68. Structure.

Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground, including but without limiting the generality of the foregoing, backstops for tennis courts, fences or pergolas, but excluding signs as defined in Chapter 44 of this Code. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.69. Structural alterations.

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.70. Tourist home.

A dwelling in which accommodations are provided or offered for one or more, but not exceeding ten, transient guests for compensation. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.71. Trailer.

Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include trailers whose wheels and/or axles have been removed. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.72. Trailer camp.

Any park, trailer park, trailer court, court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches or upon which any trailer coach or trailer coaches are parked, and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the trailer camp and its facilities or not. Trailer camp shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.73. Truck.

Every motor vehicle designed, used or maintained primarily for the transportation of property. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.74. Useable open space.

Open space, other than required building setback areas, which is utilized exclusively for active recreational purposes such as softball, tennis or playgrounds or for passive recreational purposes such as pedestrian walkways or trails which have been preserved in their natural setting or landscaped. Areas with slopes of 15 percent or greater, and areas of wet, spongy land saturated and partially or intermittently covered with water shall not be considered useable open space. Useable open space shall not include streets or other vehicular access not used exclusively for the maintenance of such open space. Land on which buildings or other facilities are located may be considered useable open space if such buildings or other facilities are used for noncommercial, recreational or cultural purposes which are compatible with useable open space objectives and have been specifically approved as part of the development plan. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.75. Wind energy conversion systems (WECS).

An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, i.e., wind charger, windmill or wind turbine. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.76. Yard.

An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.77. Yard, front.

A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the main building or any projections thereof other than projections permitted in Subsection (c) of Section 50-22. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. Where lines are equal, the front yard shall be the line which is the front by reason of the established pattern of the platting or development along the street(s) and/or avenue. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.78. Yard, rear.

A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies or uncovered porches and the rear lot line. On all lots the rear yard shall be at the opposite end of the lot from the front yard. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.79. Yard, side.

A yard between the main building and the side line of the lot, and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.80. Yard waste.

The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-1.81. Yard waste compost facility.

A site used to compost or co-compost yard waste that originates off of the site including all structures or processing equipment used to control drainage, collect and treat leachate, and storage area for the incoming yard waste, the final product and residual resulting from the composting process. (Ord. No. 9284, 12-11-1995, § 2.)

Sec. 50-2. Districts enumerated.

For the purposes of this Chapter, the city is hereby divided into districts, of which there shall be 15 in number, as follows:

(a) S suburban district;
(b) S-2 suburban residential district;
(c) R-1-a one-family residential district;
(d) R-1-b one-family residential district;
(e) R-1-c one-family residential district;
(f) R-2 two-family residential district;
(g) R-3 apartment residential district;
(h) R-4 apartment residential district;
(i) C-1 commercial district;
(j) C-2 highway commercial district;
(k) C-3 shopping center district;
(l) C-4 business center commercial district;
(m) M-1 manufacturing district;
(n) M-2 manufacturing district;
(o) W-1 waterfront district. (Ord. No. 7158, 6-9-1958, § 2.1; Ord. No. 9551, 7-22-2002, § 1.)

Sec. 50-3. Zoning district map.

The boundaries of the districts set out in Section 50-2 are hereby established as shown on the plates labeled "plates 1 through 49, inclusive," which accompany and are made a part of this Chapter and incorporated by reference herein, which plates are designated as the zoning district map. The zoning district map and all the notations, references and other information shown thereon are a part of this Chapter and shall have the same force and effect as if such map and all the notations, references and other information shown thereon were all fully set forth or described herein, which zoning district map is properly approved and on file in the office of the city clerk. For the purpose of amendment, each of such plates constituting the zoning district map shall be deemed to be a separate Section within the meaning of Section 17 of the City Charter.

The district boundary lines on such map follow either streets, alleys or lot lines. Where the districts designated on the map are bounded by such street, alley or lot lines, the center line of the street or alley or the lot lines shall be the boundary of the district, unless such boundary is otherwise indicated on the map. In the case of unsubdivided property, the district boundary lines shall be determined by use of the scale appearing on the zoning district map or by dimensions.

Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of such railroad line. (Ord. No. 7158, 6-9-1958, §§ 2.2, 2.3)

Sec. 50-4. Annexed territory to be placed in S district.

Any territory annexed to the city after July 14, 1958, shall be in the S suburban district, unless previously determined. (Ord. No. 7158, 6-9-1958, § 2.3.3.)

Sec. 50-5. Use of land.

Except as specifically provided in this Chapter and Chapter 44, no land shall be used except for a purpose permitted in the district in which it is located. (Ord. No. 7158, 6-9-1958, § 3.1; Ord. No. 8685, 12-19-1973, § 3.)

Sec. 50-6. Use of buildings.

Except as specifically provided in this Chapter, no building shall be erected, converted, enlarged, reconstructed, moved, structurally altered or used, except for a use permitted in the district in which such building is located. (Ord. No. 7158, 6-9-1958, § 3.2.)

Sec. 50-7. Height limitations.

Except as specifically provided in this Chapter, no building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established in this Chapter for the district in which such building is located. (Ord. No. 7158, 6-9-1958, § 3.3.)

Sec. 50-8. Area regulations.

Except as specifically provided in this Chapter, no building shall be erected, converted, enlarged, reconstructed or structurally altered, except in conformity with the area regulations of the district in which such building is located. (Ord. No. 7158, 6-9-1958, § 3.4.)

Sec. 50-9. Off street parking and loading regulations.

Except as specifically provided in this Chapter, no building shall be erected or structurally altered to the extent specifically provided in this Chapter, except in conformity with the off street parking and loading regulations of this Chapter. (Ord. No. 7158, 6-9-1958, § 3.5.)

Sec. 50-10. Encroachment upon or reduction below specified minimums of yards, parking spaces, etc., prohibited.

Except as specifically provided in this Chapter, the minimum yards, parking spaces and open spaces, including lot area per family, required by this Chapter for each and every building existing on July 14, 1958, or for any building thereafter erected shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building nor shall any lot area be reduced below the requirements of this Chapter for the district in which such lot is located. (Ord. No. 7158, 6-9-1958, § 3.6.)

Sec. 50-11. Buildings to be located on lots; limitation of number of buildings on lot.

Except as specifically provided in this Chapter, every building erected or structurally altered after July 14, 1958, shall be located on a lot as defined in this Chapter and in no case shall there be more than one main building on one lot. (Ord. No. 7158, 6-9-1958, § 3.7.)

Sec. 50-12. Repealed by Ordinance No. 8685, 12-19-1983, § 13.

Sec. 50-13. Nonconforming uses--buildings.

(a) Any lawful use of a building existing on July 14, 1958, may be continued, even though such use does not conform to the provisions of this Chapter. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building

may be extended throughout those parts thereof which were manifestly arranged or designed for such use on July 14, 1958;

(b) Whenever the use of a building shall become nonconforming through a change in this Chapter or in the district boundaries, such use may be continued and, if no structural alterations are made, may be changed to another nonconforming use of the same or of a more restricted classification;

(c) A nonconforming use of a building or portion thereof which is hereafter discontinued for a continuous period of two years shall not again be used, except in conformity with the regulations of the district in which such building is located;

(d) No building or premises existing on July 14, 1958, devoted to a use not permitted by this Chapter in the district in which such building or premises is located, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which such building or premises is located;

(e) A nonconforming building which has been damaged from any cause or has deteriorated to the extent of more than 60 percent of its reproduction value at the time of damage shall not be restored, except in conformity with the regulations of the district in which it is located, or as provided in Article VI of this Chapter. For the purposes of this paragraph and subparagraph 2 of paragraph (c) of Section 50-47 below, a building or component of a building shall be deemed to have deteriorated when its function has been so impaired by natural forces including but not limited to weathering or decay that it needs to be replaced to restore its functionality.

When damaged by less than 60 percent of its reproduction value, a nonconforming building may be repaired or reconstructed and used as before the time of damage; provided, that such repairs or reconstruction are completed within one year of the date of such damage;

(f) A nonconforming use in violation of the provisions of the zoning ordinance which this Chapter supersedes shall not be validated by the adoption of this Chapter, nor shall this Chapter validate any temporary use beyond the expiration date of the temporary permit. (Ord. 7158, 6-9-1958, § 22.1; Ord. No. 7199; Ord. No. 8685, 12-19-1983, § 4; Ord. No. 9563, 10-15-2002, § 2.)

Sec. 50-14. Same--Land.

A nonconforming use of land existing on July 14, 1958, may be continued; provided, that no such nonconforming use of land shall be in any way expanded or extended, either on the same or adjoining property. If such nonconforming use of land or any portion thereof is discontinued for a continuous period of one year or changed, any future use of such land shall be in conformity with the provisions of this Chapter. (Ord. No. 7158, 6-9-1958, § 22.2.)

Sec. 50-15. Plans to be submitted with applications for building permits.

All applications for building permits shall be accompanied by accurate plot plans, submitted in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact sizes and locations on the lot of the buildings and accessory buildings then existing and the lines within which the proposed building and structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of families or housekeeping units the building is designed to accommodate and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Chapter. One copy of such plot plans shall be returned to the owner when such plans have been approved. An inspection period of two weeks shall be allowed for inspection of plans before a permit shall be issued.

All dimensions shown on such plans relating to the location and size of the lot to be built upon shall be based on an actual survey and the lot shall be staked out on the ground before construction is started. (Ord. No. 7158, 6-9-1958, §§ 25.1, 25.2.)

Sec. 50-16. Interpretation and purpose of chapter.

In their interpretation and application, the provisions of this Chapter shall be construed to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, morals and

general welfare. It is not intended by this Chapter to interfere with, abrogate or annul any other resolution or rules, regulations or permits previously adopted or issued or which shall be adopted or issued not in conflict with any of the provisions of this Chapter, nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, that where this Chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires a larger open space or larger lot area than that imposed or required by such other resolutions, easements, covenants or agreements, the provisions of this Chapter shall control. (Ord. No. 7158, 6-9-1958, § 28.1.)

Sec. 50-17. Enforcement of chapter.

It shall be the duty of the building inspector to enforce this Chapter. In no case shall a permit be granted for the construction or alteration of any building, if the building as proposed to be constructed or altered would be in violation of any of the provisions of this Chapter.

Appeal from a decision of the building inspector may be made to the board of zoning appeals as provided in Article VI of this Chapter. (Ord. No. 7158, 6-9-1958, § 27.1.)

Sec. 50-18. Effect of chapter on certain plans, construction, etc.

Nothing in this Chapter shall require any change in the plans, construction, size or designated use of a building or part thereof for which a building permit has been granted or for which plans were on file with the building inspector before July 14, 1958, or the effective date of an amendment to this Chapter, and the construction of which, from such plans, shall have been started within 90 days of July 15, 1958. If any of these requirements have not been fulfilled within the time specified herein or if the building operations are voluntarily discontinued for a period of 90 days, any further construction shall be in conformity with the provisions of this Chapter. (Ord. No. 7158, 6-9-1958, § 27.3.)

Sec. 50-19. Penalties.

Any person violating any of the provisions of this Chapter or failing to comply therewith or building or altering a building in violation of any detailed statement or plan submitted and approved thereunder shall be deemed guilty of a misdemeanor and shall be fined as provided in Section 1-7 of this Code. The owner of any building or premise or part thereof, where anything in violation of this Chapter shall be placed or shall exist, and any architect, builder, contractor, agent or other person employed therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense. Each day's violation existing in excess of 30 days after notification shall constitute a separate offense. (Ord. No. 7158, 6-9-1958, § 27.4; Ord. No. 7718, 7-21-1969, § 7; Ord. No. 9231, 1-23-1995, § 1; Ord. No. 9611, 7-28-2003, § 55.)

Article II. Height and Area Requirements.

Sec. 50-20. Generally.

The height and area requirements for the districts regulated by this Chapter shall be those set out in the following schedule:

	Minimum lot area per family:		Minimum lot frontage (in feet):		Minimum depth front yard (in feet)	Minimum width of:		Minimum depth of rear yard (in feet)	Maximum height of buildings (in feet)
	1* sewered areas	2* unsewered areas	1* sewered areas	2* unsewered areas		either side yard (in feet)	aggregates of side yards (in feet)		
Sec. 50-20.1.									
S Suburban	5 acres (see Sec. 50-20.12)		250		60	25	50	50	30
S-2 suburban residential	2 acres	2 acres	100	200	35	10	20	25	30
R-1-a - 1 family residential	14,000 sq. ft.	2 acres	75	200	35	8	18	25	30

	Minimum lot area per family:		Minimum lot frontage (in feet):		Minimum depth front yard (in feet)	Minimum width of:		Minimum depth of rear yard (in feet)	Maximum height of buildings (in feet)
	1* sewered areas	2* unsewered areas	1* sewered areas	2* unsewered areas		either side yard (in feet)	aggregates of side yards (in feet)		
R-1-a - 2 family residential	10,500 sq. ft.	2 acres	120	200	35	10	20	25	30
R-1-b 1 family residential	1F., 7,000 sq. ft.	2 acres	50	200	30	6	14	25	30
	2F., 6,000 sq. ft.	2 acres	90	200	30	8	18	25	30
R-1-c 1 family residential	1F., 5,000 sq. ft.	2 acres	50	200	25	6	14	25	30
	2F., 4,500 sq. ft.	2 acres	75	200	25	8	18	25	30

Sec. 50-20.2.

R-2	2 Family residential	1F., 5,000 sq. ft.		50		25	6	14	25	30
		2F., 3,000 sq. ft.		50		25	6	14	25	30
	Townhouse dwelling	2,500 sq. ft.		70		25	10 (see Sec. 50-20.15)	22	25	30
R-3	Apartment residential	1F., 5,000 sq. ft.		50		(see Sec. 50-20.9)	7 (see Sec. 50-20.5)	15 (see Sec. 50-20.5)	(see Sec. 50-20.9)	
		2F., 2,500 sq. ft.		50						
		M.F., 1,500 sq. ft.	(see Sec. 50-20.11)	50						
	Townhouse dwelling	2,200 sq. ft.		50						
R-4	Apartment residential	1F., 5,000 sq. ft.		50		(see Sec. 50-20.9)	(see Sec. 50-20.13)		(see Sec. 50-20.9)	120 (see Sec. 50-20.14)
		2F., 2,500 sq. ft.		50						
		M.F. 500 sq. ft. (see Sec. 50-20.11)		50						
	Efficiency dwelling unit	380 sq. ft.		50						
	Townhouse dwelling	2,200 sq. ft.		50						

Sec. 50-20.3.

C-1 Commercial	see Art. XIV	2 acres		200	25	none (see Sec. 50-20.6)	---	25	35
C-2 Highway Commercial	see Art. XV	2 acres		200	25	none (see Sec. 50-20.6)	---	25	45
C-3 Shopping Center	see special regulations as contained in Art. XVI								
C-4 Business center commercial	see Art. XVII					none	---	none (see Sec. 50-20.7)	see Art. XVII
C-5 Planned commercial	see special regulations in Art. XXIII		25		see Art.XXII	see Art.XXIII	see Art.XXIII	see Art.XXIII	see Art.XXIII

Sec. 50-20.4.

M-1 Manufacturing	see Art.XXIII				25 (see Sec. 50-20.10)	none (see Sec. 50-20.7)	---	none	60 (see Sec. 50-20.8)
M-2 Manufacturing					25 (see Sec. 50-20.10)	none (see Sec. 50-20.7)	---	none	60 (see Sec. 50-20.8)
W-1 Waterfront					25 (see Sec. 50-20.10)	none (see Sec. 50-20.7)	---	none	60 (see Sec. 50-20.8)
I-P Industrial park	see special regulations in Art. XXII		see Art. XXII		see Art. XXII	see Art. XXII	see Art. XXII	see Art. XXII	see Art. XXII

*1 For parcels which are served with municipal public sewer service.
*2 For parcels which are not served with municipal public sewer service.

Sec. 50-20.5. For buildings less than three stories in height. For three story buildings, side yards of ten feet each shall be required.

Sec. 50-20.6. No side yard required except that a side yard of not less than seven feet shall be provided on the side of a lot abutting a residential district.

Sec. 50-20.7. No side or rear yard required; except, that a side yard of not less than seven feet and rear yard of not less than 25 feet shall be provided on the side or rear of a lot abutting a residential district.

Sec. 50-20.8. Whenever any building in a M-1 or M-2 district adjoins or abuts a residential district, such building shall not exceed three stories or 40 feet in height, unless it is set back one foot from the required side and rear yard lines for each foot of additional height above 40 feet.

Sec. 50-20.9. Front yard and rear yard requirements in R-3 and R-4 districts are six feet for each story with a minimum of 25 feet and a maximum of 54 feet.

Sec. 50-20.10. If average depth of the lot is less than 250 feet, the minimum front yard depth required is ten percent of the average lot depth, but not less than ten feet.

Sec. 50-20.11. No lot of record contained in 5,000 square feet or less shall be used except for a single-family dwelling or a permitted nondwelling use.

Sec. 50-20.12. To be computed so as to include any highway easements or parts thereof within the original parcel of land.

Sec. 50-20.13. Side yard requirements in R-4 districts are a minimum of six feet for each story with a maximum side yard of 54 feet.

Sec. 50-20.14. The 120 feet maximum height of buildings in R-4 zoning districts shall be increased one additional foot for each one foot, in addition to the required setback, that the building is set back from the nearest property line.

Sec. 50-20.15. A side yard of not less than 25 feet shall be provided on the side of a lot abutting a platted street.

Sec. 50-20.16. Lot areas for properties not provided with public sewer.

Lot areas for properties not provided with public sewer shall be two acres or larger and shall be subject to St. Louis County individual sewage treatment systems ordinance and standards. However, a lot or parcel of record which was lawful as to lot area requirements on the effective date of this amendment, and was under separate ownership from any adjoining lot or parcel (on effective date of this ordinance [Section]) shall not be deemed nonconforming as to lot area requirements, unless subdivided after said date. (Ord. No. 7158, 6-9-1958, Chap. 18; Ord. No. 7199, 4-6-1959, §§ 18.1 to 18.12; Ord. No. 7274, 3-27-1961, § 1; Ord. No. 7749, 12-8-1969, § 1; Ord. No. 8454, 4-30-1979, § 1; Ord. No. 8494, 12-26-1979, §§ 3, 4; Ord. No. 9133, 4-12-1993, §§ 1, 3; Ord. No. 9284, 12-11-1995, § 3; Ord. No. 9551, 7-22-2002, § 2.)

Sec. 50-21. Exceptions to article--height.

(a) The height regulations prescribed in this Article shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers, or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, flagpoles and wind energy conversion systems;

(b) Public, semi-public or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding 60 feet and churches and temples not exceeding 75 feet

when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located;

(c) The limitation on number of stories shall not apply to buildings used exclusively for storage purposes; provided that such buildings do not exceed the height in feet permitted in the district in which they are located. (Ord. No. 7158, 6-9-1958, § 19.1; Ord. No. 7199; Ord. No. 8723, 2-11-1985, § 2.)

Sec. 50-22. Same--Front yards.

(a) When 40 percent or more of the frontage on one side of the street between two streets which intersect such street is improved with buildings which have observed, with a variation of six feet or less, a front yard which is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a front yard depth shall not be required to exceed 50 percent in excess of the front yard otherwise required in the district in which the lot is located, nor shall it be greater than the maximum setback of the structures on the two adjoining premises;

(b) On lots having double frontage, the required front yard shall be provided on both streets;

(c) An open, uncovered porch or paved terrace may project into a required front yard for a distance of not more than ten feet. An enclosed vestibule or fixed canopy with a floor area of not more than 40 square feet may project into a front yard for a distance not to exceed four feet;

(d) Filling station pumps and pump islands may be located within a required yard; provided, that they are not less than 15 feet from any street line and not less than 50 feet from the boundary of any residential district;

(e) The ordinary projections of sills, belt courses, cornices, eaves, awnings, overhangs and ornamental features may extend to a distance not to exceed 18 inches into a required front yard;

(f) In the M-1, M-2 and W-1 districts, if a lot is less than 250 feet in average depth, the required front yard shall be ten percent of the average depth of such lot; provided, that in no event shall the front yard be reduced to less than ten feet. (Ord. No. 7158, 6-9-1958, § 19.2; Ord. No. 7236, § 2.)

Sec. 50-23. Same--Side yards.

(a) On a corner lot the minimum depth of the yard between the side street property line and the structure, shall be not less than that shown in the table below:

	Zoning districts	
Structure use	in S-2 and R-1-a	in R-1-b through R-4
For dwellings	25 feet	15 feet
Detached accessory buildings and front wall of attached garages	25 feet	20 feet
Educational, religious, institutional and recreational buildings	35 feet	25 feet

provided, however, that the buildable width of a lot of record on July 14, 1958, shall not be reduced to less than 32 feet (old Section 19.3.1);

(b) No accessory building shall project beyond a required yard line along any street;

(c) Where dwelling units are erected above commercial establishments no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district;

(d) A porte-cochere, carport or canopy may project into a required side yard; provided, that every part of such porte-cochere, carport or canopy is unenclosed, except for necessary structural supports, and not less than five feet from any side lot line;

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

(f) Where a lot of record on July 14, 1958, is less than 50 feet in width no side yard shall be less than five feet;

(g) The ordinary projections of sills, belt courses, cornices, eaves, awnings, overhangs and ornamental features may extend to a distance not to exceed 18 inches into a required side yard;

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

(i) On the lots in the R-1-b, R-1-c or R-2 districts having a frontage of 50 feet or less upon which a garage is provided the aggregate of the side yards may be 12 feet. (Ord. No. 7158, 6-9-1958, § 19.3; Ord. No. 7199; Ord. No. 7314, § 4; Ord. No. 8494, 12-26-1979, § 4; Ord. No. 9551, 7-22-2002, § 3.)

Sec. 50-24. Same--Rear yards.

(a) Where a lot abuts upon an alley, ½ of the alley width may be considered as part of the required rear yard;

(b) An accessory building not exceeding 20 feet in height may occupy not to exceed 30 percent, and unenclosed parking spaces may occupy not to exceed 90 percent of the area of a required rear yard, but no accessory building or private swimming pool, shall be closer than ten feet to any dwelling or other main building which is located on an adjacent property, no closer than five feet to any rear lot line, nor closer than two feet six inches to any side property line, an accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Section 50-20;

(c) The ordinary projections of sills, belt courses, cornices and ornamental features may extend to a distance not to exceed 18 inches into a required rear yard;

(d) Open or lattice enclosed fire escapes, outside stairways and balconies opening upon fire towers and the ordinary projections of chimneys and flues into a rear yard may project for a distance not to exceed five feet when these are so placed as not to obstruct light and ventilation. (Ord. No. 7158, 6-9-1958, § 19.4; Ord. No. 7236, § 2; Ord. No. 7314, § 6; Ord. No. 8196, 1-5-1976, § 1; Ord. No. 8419, 8-7-1978, § 1; Ord. No. 9321, 12-2-1996, § 1.)

Sec. 50-25. Same--Lot area per family.

Where a lot of record on July 14, 1958, was held under separate ownership from adjoining lots and has less area or width than required by this Article, such lot may nonetheless be used for a one-family dwelling or for any nondwelling use permitted in the district if it has a width of 33 feet or more; provided, that a lot held under separate ownership from adjoining lots prior to October 24, 1925, may nonetheless be used for a one-family dwelling if it has a width of 25 feet or more. (Ord. No. 7158, 6-9-1958, § 19.5.)

Article III. Off Street Parking and Loading Requirements.

Sec. 50-26. Required parking spaces.

In all districts except the C-3 shopping center, the C-4 center commercial and IP industrial park districts, there shall be provided, at the time any building or structure is erected or structurally altered, except as provided in Section 50-27, off street parking spaces in accordance with the following requirements:

(a) Bed and breakfast homestay: Two parking spaces for the primary dwelling unit plus one space for each additional habitable unit, plus one parking space for each two seats in the dining area in excess of two seats per habitable unit;

(b) Bed and breakfast inn: Two parking spaces for the primary dwelling unit plus one space for each habitable unit, plus one parking space for each two seats in the dining area in excess of two seats per habitable unit, plus one parking space per employee on the largest shift;

(c) Bowling alley: Five parking spaces for each alley;

(d) Business, professional or public office building, studio, bank or dental clinic: Three parking spaces plus one additional parking space for each 400 square feet of floor area over 1,000;

(e) Church or temple: One parking space for each eight seats in the main auditorium;

(f) College or high school: One parking space for each eight seats in the main auditorium or three spaces for each classroom, whichever is greater;

(g) Community center, library, museum or art gallery: Ten parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet;

(h) Dance hall, assembly or exhibition hall without fixed seats: One parking space for each 100 square feet of floor area used therefor;

(i) Day care facility: Two parking spaces plus one parking space per employee on the largest shift;

(j) Dwellings three stories or less: One parking space for each dwelling unit. Whenever a two-family dwelling is permitted in a R-1-a, R-1-b or R-1-c residential zone at least one of the required parking spaces shall be within a private garage located on the same lot as the dwelling;

(k) Elderly congregate housing: Two parking spaces per three habitable units;

(l) Fraternity or sorority: One parking space for each six beds;

(m) Furniture or appliance store, hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service shop: Two parking spaces, plus one additional parking space for each 300 square feet of floor area over 1,000;

(n) Golf club: One parking space for every 400 square feet of clubhouse area;

(o) Medical related facilities:

(1) Medical clinic: Five spaces per 1,000 square feet of gross floor area used for administrative, office, examination and treatment;

(2) General hospital: One space for each bed plus one space for each employee normally present on any single weekday shift;

(3) Nursing facilities: A minimum of one space for every four beds;

(4) Outpatient facilities: Two spaces for each examination and each treatment room, plus one space for each employee normally present on a weekday shift;

(p) Hotel or motel: One parking space for each habitable unit, plus one space per employee working on the largest shift, plus one parking space for each 200 square feet of commercial nonlodging floor area contained therein;

(q) Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse or similar establishment: One parking space for each two employees on the maximum working shift, but no less than one space for every 1,000 square feet of floor area;

(r) Mortuary or funeral home: One parking space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms;

(s) Multiple dwelling over three stories or apartment hotel: Two parking spaces for each three dwelling units or suites;

(t) Private club or lodge: One parking space for every 400 square feet of floor area;

(u) Residential care facility: Two parking spaces plus one parking space per employee on the largest shift;

(v) Restaurant, night club, cafe or similar recreation or amusement establishment: One parking space for each 100 square feet of floor area;

(w) Retail store, billiard parlor or personal service establishment, except as otherwise specified herein: One parking space for each 200 square feet of floor area;

(x) Rooming house, commercial: One parking space for each two habitable rooms;

(y) Rooming house, residential: Two parking spaces per three habitable units;

(z) Sanatorium, convalescent home, home for the aged or similar institutions: One parking space for each six beds;

(aa) Seasonal camp or cabin: One parking space for each two beds or for each cabin or sleeping unit, whichever is greater;

(bb) School, except high school or college: One parking space for each ten seats in the auditorium or main assembly room or one space for each classroom, whichever is greater;

(cc) Sports arena, stadium or gymnasium (except school): One parking space for each five seats

or seating spaces;

(dd) Theater or auditorium (except school): One parking space for each five seats or bench seating spaces;

(ee) Tourist home, cabin or motel: One parking space for each sleeping room or suite. (Ord. No. 7158, 6-9-1958, § 20.1; Ord. No. 7675, 11-12-1968, § 1; Ord. No. 8454, 4-30-1979, § 3; Ord. No. 8455, 5-7-1979, § 2; Ord. No. 8510, 3-31-1980, § 1; Ord. No. 9213, 9-26-1994, §§ 1, 2; Ord. No. 9284, 12-11-1995, § 4.)

Sec. 50-26.1. Parking design standards.

The design of required off street parking areas and space shall meet the following standards:

(a) Parking space size: The following schedule shall constitute minimum standards for parking spaces for the identified type, small car or standard size cars, and for the intended tenure of parking, short term or long term:

Size of car	Short term (four hours and less)	Long term (more than four hours)
Small	8.5 feet x 15.0 feet	7.5 feet x 15.0 feet
Standard	9.0 feet x 17.0 feet	8.0 feet x 17.0 feet

The area set aside for a parking space may encroach beyond the face of a curb a maximum of 1.5 feet. Such area shall be considered part of the parking space and reserved as such. It shall include no trees, posts, signs, light poles or other encroachments that would prevent a vehicle from fully utilizing the space. Such space shall not be included in required open space, landscape area requirements or required pedestrian walkways or sidewalks;

(b) Aisle widths: The following schedule indicates the minimum aisle widths to be used in a parking area based on the angle of parking provided and whether the aisle serves one way or two way traffic:

	Width of aisle	
Angle of parking	One way traffic	Two way traffic
Parallel/no parking	10 feet	21 feet
30 degree	10 feet	21 feet
45 degree	12 feet	23 feet
60 degree	18 feet	25 feet
75 degree	20 feet	25 feet
90 degree	22 feet	25 feet;

(c) Small car percentage: In any parking area containing over five parking spaces, a percentage of the total spaces may be designed and marked for small cars according to the following schedule:

Duration and size of parking area	Maximum percentage of small car parking spaces
Short term (four hours and less)	
less than 100 spaces	30 percent
100 to 149 spaces	35 percent
150 or more spaces	40 percent
Long term (more than four hours)	
less than 100 spaces	40 percent
100 to 149 spaces	45 percent
150 or more spaces	50 percent.

(Ord. No. 9284, 12-11-1995, § 5.)

Sec. 50-27. Rules for computation of parking spaces.

In computing the number of parking spaces required by this Article, the following rules shall govern:

(a) Floor area shall mean the gross floor area of the specific use;

(b) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number;

(c) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the planning commission;

(d) Whenever a building or use is enlarged to the extent of 50 percent or more in floor area or in the area used, such building or use shall then and thereafter comply with the parking requirements set forth in this Article for the entire use;

(e) In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately. (Ord. No. 7158, 6-9-1958, § 20.2.)

Sec. 50-28. Parking spaces to be located on same lot; exception.

All parking spaces required by this Article shall be located on the same lot with the building or use served; except, that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from an institutional building served and not to exceed 500 feet from any other nonresidential building served.

In any case where the required parking spaces are not located on the same lot with the building or use served or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form and execution by the city attorney, and shall be filed with the application for a building permit. (Ord. No. 7158, 6-9-1958, §§ 20.3, 20.3.2.)

Sec. 50-29. Sharing of parking spaces.

Up to 50 percent of the parking spaces required for (a) theaters, public auditoriums, bowling alleys, dance halls, night clubs or cafes and up to 100 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a); provided, that written agreement thereto is properly executed and filed, as specified in the preceding Section. (Ord. No. 7158, 6-9-1958, § 20.3.1.)

Sec. 50-30. Location of required parking spaces in front yards; front yard permits.

Off street parking space may be located within the required front yard of any C or M district, but no parking lot shall be located nearer than 50 feet to any S or R district and no off street parking shall be permitted in the required front yard of any R district, unless a front yard parking permit is applied for and approved by the planning commission. This Section does not prohibit parking in a driveway designed primarily for access to the dwelling or the garage. The following minimum standards shall be met prior to issuance of a front yard parking permit:

(a) Where parking available to the existing use of the property is inadequate, no feasible alternatives to front yard parking exists on the site to mitigate the parking inadequacy, and the proposal will not have detrimental impacts on other properties;

(b) The proposed individual parking spaces shall exceed the minimum requirements of this ordinance, but in no case be greater in size than ten feet by 20 feet;

(c) The proposed parking spaces shall be located in their entirety upon the property and shall not encroach into any public right-of-way or across any property line;

(d) No more than two front yard parking spaces per dwelling unit shall be permitted upon a lot with the additional restriction that no more than 50 percent of the required front yard may be used for front yard parking irrespective of the number of spaces allowed by the preceding provision;

(e) A parking space shall be located no closer than four feet to a side lot line, unless the adjoining property owner has signed an affidavit agreeing to a lesser spacing;

(f) No parking space shall be located nearer than 25 feet to the side street right-of-way line of a corner lot;

(g) All parking shall be designed such that it is perpendicular to the street paralleling the front yard. No right angle, diagonal or similar parking configurations shall be allowed;

(h) The entire parking space and all drive areas leading to it shall be surfaced in a dust free, hard surface type material such as concrete or bituminous, or pervious surface materials. Aggregate materials, compressed aggregates or other similar type surfaces shall not be permitted. (Ord. No. 7158, 6-9-1958, § 20.3.3; Ord. No. 9284, 12-11-1995, § 6; Ord. No. 9605, 6-23-2003, § 1.)

Sec. 50-31. Required loading space.

There shall be provided at the time any building is erected or structurally altered, except as otherwise provided in this Chapter, off street loading space in accordance with the following requirements:

(a) Office buildings and hotels: One space for each 5,000 to 50,000 square feet of gross floor area in C-1 and C-2 districts, one space for each 20,000 to 50,000 square feet of gross floor area in C-4, M-1 or M-2 districts, two spaces for each 50,000 to 200,000 square feet of gross floor area in any district and one additional space for each 75,000 square feet of gross floor area above 200,000 square feet in any district;

(b) Retail or service establishments or wholesale commercial use: One space for each 2,000 to 20,000 square feet of gross floor area in C-1 and C-2 districts, one space for each 4,000 to 20,000 square feet of gross floor area in C-4, M-1 or M-2 districts, two spaces for each 20,000 to 100,000 square feet of gross floor area in any district and one additional space for each 75,000 square feet of gross floor area above 100,000 square feet in any district;

(c) Manufacturing or industrial use: One space for each 5,000 to 25,000 square feet of gross floor area in C-4, M-1 and M-2 districts and one additional space for each 75,000 square feet of gross floor area in C-4, M-1 and M-2 districts;

(d) No building or part thereof in the C-1 and C-2 districts erected prior to July 14, 1958, which is used for any of the purposes specified above shall hereafter be enlarged or extended, unless off street loading space is provided for both the original structure and the addition in accordance with the provisions of this Article;

(e) No building or part thereof in the C-4, M-1 and M-2 districts erected prior to July 14, 1958, which is used for any of the purposes specified above shall hereafter be enlarged or extended to provide a gross floor area of 25,000 square feet or more, unless off street loading space is provided in accordance with the provisions of this Article. (Ord. No. 7158, 6-9-1958, § 20.4.)

Article IV. Special Uses.

Sec. 50-32. Permit from city council.

Subject to the provisions of this Article, the city council may, by resolution, grant a special permit for the special uses set out in this Article in any district, as herein qualified, which uses are otherwise prohibited by this Chapter, and may impose appropriate conditions and safeguards, including performance bonds and a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood. In the event of approval by the city council of the special use, the site plan, landscape plans and building elevation drawings for the development as approved, and other commitments and contractual agreements, shall be recorded as a city council public document prior to the issuance of any building permit. All future use of the land and structures erected thereon pursuant to the special use permit shall be thereafter governed by and limited to the approved plans. Any subsequent change or addition to the plan or use shall be submitted for approval as herein provided. Without limitation on other valid reasons for denying a permit, the city council may deny a permit should it find that the proposed special use would result in a random pattern of development with little contiguity to existing or programmed development, causing anticipated negative fiscal or environmental impacts upon the community. (Ord. No. 7158, 6-9-1958, § 21.1; Ord. No. 8494, 12-26-1979, § 6; Ord. No. 9239, 3-6-1995, § 2.)

Sec. 50-32.1. Application; fees; information.

All applicants for special use permits shall submit to the city clerk the following information and the required fees at least three weeks in advance of the planning commission meeting at which consideration will be given:

(a) Completed application form provided by the secretary of the planning commission;

(b) Required application fees as set forth in Section 50-33;

(c) Map and names and addresses of all property owners within 350 feet of the subject property boundary;

(d) Building floor plans and elevations when the proposal involves new building construction, expansion of an existing structure or renovations and change of use of an existing building;

(e) Detailed site plan drawn at a scale no less than 1"=50', including building locations, parking areas, drives, landscaping, signage and other physical features on the site;

(f) Other information as required in this Article or as deemed necessary by the planning commission secretary. (Ord. No. 8494, 12-26-1979, § 7; Ord. No. 9284, 12-11-1995, § 7.)

Sec. 50-32.2. Study and report by the planning commission.

All applications for special use permits shall be referred by the city clerk to the planning commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held before the planning commission. Notice of the public hearing shall be published and mailed to all property owners within 350 feet of the subject property at least one week in advance of the public hearing. Failure to give written notice to all property owners within 350 feet of the subject property boundary or any defect in the notice shall not invalidate any action of the planning commission or city council, provided that a bona fide attempt to comply with this Section has been made. In its report, the planning commission may recommend that the applicant be required to furnish a performance bond guaranteeing that all conditions of the special use permit recommended are met. (Ord. No. 8494, 12-26-1979, § 8; Ord. No. 9284, 12-11-1995, § 8.)

Sec. 50-33. Application fee.

Before any action is taken either by the city planning commission or the city council, the applicant, except the state or any of its political subdivisions and except the federal government, shall pay to the city clerk a filing fee, which shall be set in accordance with Section 31-6(a) of this Code, for all special use permits other than low density planned developments and community unit plans. In the case of low density planned developments and community unit plans, such fees for initial permits and plan alteration reviews shall be set in accordance with Section 31-6(a) of this Code. The purpose of such fees is to help defray the cost of reviewing and hearing such applications. Any fee paid to the city clerk shall be refunded by the city clerk if the applicant for the permit withdraws his permit application prior to consideration of such application by the planning commission. (Ord. No. 7158, 6-9-1958, § 21.2; Ord. No. 7236, 5-9-1960, § 2; Ord. No. 7742, 11-10-1969, § 2; Ord. No. 8218, 3-29-1976, § 2; Ord. No. 8494, 12-26-1979, § 9; Ord. No. 8551, 11-24-1980, § 21; Ord. No. 9118, 1-11-1993, § 42; Ord. No. 9284, 12-11-1995, § 9; Ord. No. 9611, 7-28-2003, § 56.)

Sec. 50-34. Compliance with chapter.

Any proposed special use shall otherwise comply with all the regulations set forth in this Chapter for the district in which such use is located; except, that the city council may permit hospitals and institutions to exceed the height limitations of such district. (Ord. No. 7158, 6-9-1958, § 21.3.)

Sec. 50-35. Enumerated.

The following are the special uses for which the city council may issue a special permit, as provided in Section 50-32:

(a) Airport, landing field or landing strip for all forms of aircraft, auto race track and drag strip;

(b) Amusement park, but not within 300 feet of any R district;

(c) Beauty salon in an R district, subject to the following restrictions and conditions:

(1) Such use shall be incidental and subordinate to the principal residential use conducted within a dwelling and not in an accessory building;

(2) At least 120 square feet but not more than 1/4 of the floor area of one story of the building shall be devoted solely to such use and to no other use;

(3) Only one person shall work in the beauty salon and such person shall reside on the premises;

(4) There shall be no separate entrance to the beauty salon from the front of the building, and the applicant shall provide evidence of inspection and compliance with all applicable fire and building codes;

(5) No signs or displays advertising the salon shall be permitted on the premises;

(6) At least two off street parking spaces shall be available on the premises for use by patrons of the salon, such parking space requirement to be in addition to the parking space requirements otherwise applicable to the premises;

(7) Applicant shall, prior to issuance of a special use permit pursuant to this Section, provide proof that applicant has all required licenses for operation of a beauty salon;

(8) Notice and publication as required by Section 50-32.2 of this Code shall, in the case of permits under this paragraph, include mailed notice to all property owners and occupants of property within 200 feet of the building;

(9) No permit shall be granted pursuant to this paragraph if a beauty salon already exists within 1,000 feet of the premises;

(d) The city council recognizes that bed and breakfasts are an asset to the community and help the preservation of historic homes and neighborhoods and help the economy of the region as small businesses. Bed and breakfast inns and country inns; in districts where they are permitted as special uses and only as provided herein;

(1) This special use permit shall be granted only to those properties, which meet or exceed the criteria outlined herein. A bed and breakfast inn must be a residential building that has no greater impact on the uses of the public areas or infrastructure or natural resources of the neighborhood than, or be apparent to an observer to be other than, the existing property used as a fully occupied private home with house guests. The principal building must appear outwardly to be a single family dwelling, giving no appearance of a business use other than allowed signs.

No permit shall be considered or issued for a bed and breakfast facility located closer than 450 feet to an existing bed and breakfast facility. This limitation may be waived by the city council for properties which are locally designated heritage preservation landmarks;

(2) An application for this special use permit shall include the following:

(A) A site plan as defined in Section 50-1.60;

(B) A landscape plan as defined in Section 50-1.40;

(C) A set of detailed floor plans indicating the traditional uses of all rooms and the intended uses in the bed and breakfast operation;

(D) Sign drawings showing location, dimensions and detail;

(E) For a waiver of the 450 foot separation, a copy of the resolution designating the properties as a heritage preservation landmark;

(3) Bed and breakfast inns and country inns may be granted special use permits subject to the following standards and conditions:

(A) The property must be comprised of a minimum of 0.6 acre;

(B) The main residential building must contain a minimum of 1,500 square feet of area on the first floor;

(C) For an inn, the proprietor shall be the owner and occupant of the property;

(D) Off street parking for the uses of the property shall be provided on site as required in Section 50-26. Scattered off site parking shall not be allowed;

(E) All parking areas shall be hard-surfaced and visually screened by vegetation and/or fencing (consistent with the architecture of the structure) as required by the city in order to maintain the apparent single family use of the property;

(F) Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In bed and breakfast country inns, allowed under this Section, 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 bed and breakfast inns, 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 which involve a total number of participants in excess of the approved dining area seating capacity shall be limited to: six days per year and shall be restricted to the period of October 15 through June 15;

(G) Any construction to restore buildings to historic condition, any construction of new buildings and any exterior alterations to the building must be authorized by the city council through this special use permit process;

(H) There shall be a limitation on the number of guest rooms permitted based on the size of the building, building code or fire code;

(I) Total signage on the property shall not exceed 12 square feet in size. Such signage shall complement the architecture of the structure;

(J) Guests' stays shall be limited to 21 consecutive days;

(K) A bed and breakfast establishment must comply with all building and fire code requirements. Inspections shall be conducted before special use permits or licenses are issued;

(L) The owner/operator shall present inspection reports from the city fire marshal and St. Louis County health department to the city clerk prior to the issuance of any licenses;

(M) Such other conditions deemed necessary by the planning commission and/or city council to ensure the use complies with the purpose of this Subsection;

(e) Cemetery, crematorium or mausoleum;

(f) Child care facility. A state licensed residential facility for care and treatment of children located within 100 feet of an existing state licensed residential program that has an administrative organization and structure approved under state law for providing shelter, food, training, treatment and other aspects of care of not more than six children, and is an extension of an existing facility licensed under state law.

Any such facility shall meet all other state licensing requirements for such facilities, be contiguous to or located not more than 100 feet from the existing licensed facility charged with operation of the facility, and must not present any external image other than that of a single family residence;

(g) Circus or carnival grounds, but not within 300 feet of any R district;

(h) Clinic of less than 10,000 square feet in floor area;

(i) Commercial, recreational or amusement development for temporary or seasonal periods;

(j) Commercial rooming house, but only in those districts where permitted as special use;

(k) Commercial services and recreational uses in the IP industrial park district, as further defined in Section 50-123 of this Chapter;

(l) Day care facility, but only in those districts where permitted as a special use;

(m) Elderly congregate housing facility, but only in those districts where permitted as a special use;

(n) Marina;

(o) Mini storage facilities; subject to compliance with the following criteria:

(1) Located in a S zone;

(2) On a parcel not less than 7-1/2 acres in size with no less than 500 feet of frontage on a publicly maintained right-of-way;

(3) Development shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration (5.25 inches of rainfall);

(4) Signage shall be limited to one 40 square foot illuminated pole and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line and no closer than 50 feet to any side property line;

(5) There shall be maintained a minimum of 50 feet of landscaped or naturally vegetated buffer from all property lines;

(6) There shall be a minimum structure setback of 100 feet from any property line;

(7) Storage area unit shall not exceed a 12 foot wall height and a floor area of 300 square feet;

(8) Lighting shall be limited so as not to illuminate beyond property lines;

(p) Office building of a civic, religious or charitable organization, conducting activities primarily by mail and not handling merchandise or rendering services on the premises, but only within the R-4 district;

(q) Petroleum soil treatment;

(1) Petroleum soil treatment in the form of land treatment (soil farming) shall be located in S-suburban zones and shall comply with the following criteria:

(A) That the pollution control agency (PCA) shall have reported to the planning department regarding the individual site and the possibility of any problems relative to issuance of PCA authorization for use of the site;

(B) The natural topography, drainage character, vegetation and use of the site shall not be altered beyond site preparation required for any listed permitted land use within the S-suburban zone. Specifically:

1. No vegetation shall be cut or removed from within state required setbacks except as required for installation of temporary roads;

2. Vegetation removal shall be minimal. Vegetation greater than six inches caliper shall not be removed except as determined necessary to accommodate minimal equipment clearances, and there shall be minimal preparation of the soil on the treatment area. Such preparation shall minimize disturbance of the topsoil and does not preclude the return of the site to listed permitted S-suburban zone land uses;

(C) All treatment areas must be planted to pasture grasses during treatment and replanted to the original vegetation after the treatment process has been completed;

(D) No sites shall be located within wetland, shore land or flood zones as defined by Chapter 51 of the Code;

(E) That the applicant shall maintain the treatment site in strict compliance with all conditions of this permit and associated state or federal permits;

(2) Petroleum soil treatments using biodegradation such as composting or aerobic treatment cells or other technologies as may be developed and approved by the PCA from time to time, shall be only permitted in M-1 and M-2 zones, and shall be subject to the standards (A), (B), (D) and (E) cited above;

(r) Power transmission line, review and approval to be provided for separately in each of two steps:

(1) A general corridor special use permit;

(2) A final design special use permit, under the following conditions and procedures:

(A) Submittal information for general corridor special use permits. In addition to other information required by the special use permit process, the applicant shall provide the following information with applications for general corridors:

1. A statement demonstrating the need for the proposed line;

2. Drawings showing the approximate location of a preferred route (having a width of less than 1,000 feet) and at least one alternative route. Included within each route shall be an intended center line and subject site and adjacent area information, the form of which shall be determined by the planning commission on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views. Drawings shall also indicate proposed general types, heights and ranges of spacing of supporting structures and related equipment such as pumping stations, although the specific type of line shall not be approved until the final design review;

3. A statement identifying potential locations of conflict such as adjacent scenic and residential areas and describing general proposed methods of dealing with such conflicts;

4. A statement addressing each applicable standard of Section 50-35(r)(4) below in regard to the preferred route and alternative routes;

(3) Submittal information for final design special use permits. In addition to information otherwise required by the special use permit process, the applicant shall provide the following for final design special use permits:

(A) Plans and profiles, the form of which shall be determined by the planning commission, showing the exact location of the center line and the exact location and design of supporting

structures and related equipment as proposed by the applicant. Alternative potential designs of supporting structures shall also be presented;

(B) A landscaping plan and subject site and adjacent area information on existing topography, land uses, soils, vegetation, water courses, wetlands, major drainage ways, flood plains, rock outcroppings and scenic views in a form which shall be determined by the city planning commission;

(C) A statement addressing each applicable standard of Section 50-35(r)(4) below;

(4) Standards for approval. No special use permit shall be granted unless the following standards and conditions are met in addition to normal requirements of the special use permit process:

(A) For general corridor special use permits:

1. The public need for the route and facility as specifically proposed shall be demonstrated;

2. Where possible, lines shall avoid existing and potential urban density residential neighborhoods;

3. The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;

(B) For final design special use permits:

1. Where it is determined that a proposal would unduly harm adjacent property or property values, it shall be determined that no other feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

2. All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;

3. Lines shall meet or exceed the National Electric Safety Code;

4. Electro-magnetic noise and interference with radio and television reception, as well as audible hum outside the line right-of-way, shall be minimized;

5. The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

(C) For both general corridor and final design special use permits. The following standards shall apply in addition to those required above under general corridor and final design special use permits:

1. When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion which would create sedimentation and pollution problems; areas of unstable soils which would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

2. Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

(5) Alteration of final design special use permit. Once the final design special use permit is issued, the applicant may change the height and location of structures for engineering purposes provided no structure height is increased or decreased by more than 20 percent of its approved height or moved more than 25 feet from its approved location. Should it be necessary to alter the height or location more than the amounts set forth herein, applicant must obtain the approval of the city planning commission after the commission has conducted its normal public hearing and notice procedures. The decision of the planning commission on any alterations shall be final unless appealed to the city council within ten days;

(s) Privately operated community building or recreation field;

(t) Any public or government owned or leased building not permitted in a particular district; provided that such permit shall run for a full period of the lease and that both lease and permit shall run for not less than ten years from date of permit;

(u) Radio or television broadcasting tower or station;

(v) Residential care facility, only in those districts where permitted as a special use;

(w) Residential rooming house, only in those districts where permitted as a special use;

(x) Riding stable;

(y) Solid waste disposal facility;

(1) Special use permits for solid waste disposal facilities and yard waste compost facilities shall be granted only under certain circumstances and under certain conditions;

(2) An application for this special use permit shall include the following:

(A) A complete legal description of the property and the specific site within the property description;

(B) A site plan as defined in Section 50-1.64;

(C) A landscape plan as defined in Section 50-1.65.7;

(D) A detailed plan schedule for excavation, grading, dumping, filling, covering, landscaping and closure of the facility;

(E) Engineering certification, signed by the project engineer, which must certify (with any exceptions listed) that the design for construction is in accordance with standards as set out in these regulations and state statutes and rules relating to the specific type of requested facility;

(F) Signage plans showing location, dimensions and detail;

(G) Drainage plan that provides for diversion of surface water around and away from the disposal area and does not increase the rate of runoff, from the predevelopment condition, from the site onto adjoining properties;

(H) Ground water monitoring plan as and if required by state statutes or rules;

(I) A detailed dust control plan for the facility and for roadways in and leading to and from the facility;

(3) Standards and conditions. Solid waste disposal facilities and yard waste composting facilities may be granted special use permits in S, M-1 and M-2 zones subject to the following:

(A) Setbacks, in M-2 zones, all aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. In S and M-1 zones the setback shall be 300 feet from all properties zoned other than M-2. Such setbacks shall be bermed and/or landscaped so as to be visually screened from adjacent properties and roadways. Natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines;

(B) Licensing for all solid waste disposal operations and facilities as well as yard waste composting facilities shall comply with all state and Western Lake Superior Sanitary District requirements in accordance with Minnesota Statutes and agency rules;

(C) Solid waste disposal facilities for industrial waste shall only be allowed in M-2 zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;

(D) Solid waste disposal facilities for construction debris shall only be allowed in M-2 zones;

(E) Facilities for composting of yard waste shall not accept materials other than yard waste;

(F) No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined in Chapter 51 of this Code;

(G) All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;

(H) There shall be no burning of materials;

(I) Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect

on the neighborhood. All roads leading to and from and within facilities located in S and M-1 zones shall be constructed with an approved, as part of the special use permit, dust free material;

(J) All vehicles transporting materials to or from the facility shall be covered;

(K) For sites in S and M-1 zones, there shall be no dumping or operations outside of buildings, nor delivery or removal of materials to or from the site occurring between the hours of 10:00 p.m. and 7:00 a.m.;

(L) Except for yard waste composting facilities there shall be no processing (separating or sorting) of materials outside of covered structures;

(M) Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed 55db at any property line which abuts property zoned other than M-2;

(N) In S and M-1 zones there shall be no exterior lighting permitted except to provide security for buildings and parking areas. Where such lighting is permitted it shall be directed so no light source is visible from any property line;

(O) Compliance funding: in the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and certified by the project engineer for each phase of operation and final closure;

(z) Strobe lights, as defined in Section 10-36 of this Code, may be used on radio and television broadcasting towers exceeding 400 feet in height located in that area of the city commonly known as the tower farm within Section 28, Township 50, Range 14, subject to the following restrictions and conditions:

(1) Strobe lights may be used only when the north sky illumination on a vertical surface at the base of the tower is greater than five footcandles. Red obstruction lights must be used at all other times;

(2) Strobe installations shall be shielded so as not to be visible from ground elevation for a radius of two miles from the antenna base;

(3) Strobe installations will be allowed only on towers which are required by federal aviation administration regulations to be painted orange and white;

(aa) Drive-in theater in the S suburban district;

(bb) Tourist or trailer camp; provided, that such tourist or trailer camp shall comply with the applicable provisions of this Code and the laws of the state;

(cc) Essential municipal or public utility use, facility or building, other than a business office or production facility; provided that such use, facility or building shall be located in a S district only if its specific function requires that it be so located in order to serve the immediate neighborhood, as opposed to serving a major portion of the community. Provided, that a substation which serves more than the immediate neighborhood may be granted a special use permit in S districts if such substation is located in such a manner that it is visually screened from adjacent properties and is located on a site of at least five acres;

(dd) Veterinarian or animal hospital; provided, that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, which are ordinarily permitted in the house and kept for company or pleasure) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a sound-proof building with adequate ventilation;

(ee) Wind energy conversion systems. Wind energy conservation systems (WECS) shall be permitted, provided; tower height shall not exceed 200 feet; that existing or future uses permitted within adjacent properties are not adversely effected by noise, electronic signal interference or safety conditions; that satisfactory visual screen buffers be provided at the edges of the property to mitigate aesthetic impacts upon the neighborhood if located within "R" districts; and that WECS be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower unless it can be demonstrated that tower failure would not damage adjacent public or private interests;

(ff) Personal wireless communications service towers. These towers shall include all towers and poles over 50 feet high used to provide "personal wireless services" as defined in 47 USCS §332(c)(7)(C)(I), including those commonly known as cellular telephone towers or personal communications services (PCS) towers. The following standards shall apply to the considerations of special use permits for these towers:

(1) No permit decision shall unreasonably discriminate among providers of functionally equivalent services;

(2) No permit decision shall have the effect of prohibiting personal wireless services in an area;

(3) No permit decision shall be based on the environmental effects of radio frequency emissions if the proposed tower complies with all applicable federal communications commission regulations;

(4) Any decision to deny a permit for these towers must be made in writing and supported by substantial evidence contained in a written record;

(5) The construction of new towers shall, where possible, be avoided when there are existing high buildings or other structures in the area that can reasonably be used to house the telecommunications facilities;

(6) Whenever possible, new towers shall be built in zones for manufacturing or commercial uses as opposed to zones for residential uses;

(7) New towers shall, where possible, be constructed to accommodate multiple telecommunications users and thus minimize the proliferation of the towers, if such multiple use capacity can be attained using reasonable height limitations;

(8) New towers shall, where reasonably possible, be designed to blend into the proposed site so as to minimize its visual impact on the surrounding area;

(9) Telecommunications facilities and equipment used in conjunction with the tower shall not create unacceptable noise levels for the surrounding area;

(10) New towers shall comply with all applicable laws, including, but not limited to, the state building code and federal communications and aeronautics statutes, rules and regulations. (Ord. No. 7158, 6-9-1958, § 21.4; Ord. No. 7409, 8-31-1964, § 1; Ord. No. 8395, 4-24-1978, § 2; Ord. No. 8455, 5-7-1979, § 3; Ord. No. 8510, 3-31-1980, § 2; Ord. No. 8578, 6-15-1981, §§ 1, 3; Ord. No. 8692, 3-12-1984, § 1; Ord. No. 8723, 2-11-1985, § 3; Ord. No. 8913, 9-19-1988, § 1; Ord. No. 8937, 4-17-1989, § 1; Ord. No. 9039, 9-9-1991, § 2; Ord. No. 9044, 9-16-1991, § 1; Ord. 9181, 1-31-1994, § 1; Ord. No. 9182, 2-7-1994, § 1; Ord. No. 9213, 9-26-1994, § 3; Ord. No. 9239, 3-6-1995, § 3; Ord. No. 9284, 12-11-1995, § 10; Ord. No. 9368, 5-11-1998, § 2; Ord. No. 9493, 5-29-2001, § 1; Ord. No. 9533, 5-28-2002, § 3; Ord. No. 9802, 11-27-2006, § 1 Ord. No. 9815, 1-16-2007, § 1.)

Sec. 50-36. Temporary buildings for construction of work.

Temporary buildings used in conjunction with construction work only may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work. (Ord. No. 7158, 6-9-1958, § 21.5.)

Sec. 50-36.1. Low density planned development--purpose.

The low density planned development special use is established to encourage a variety of housing types within established neighborhoods while maintaining the character and vitality of such neighborhoods. It is intended to promote more economic development with relation to public services, to preserve significant natural features through the consolidation of yards into open spaces of sufficient size and character to provide active or passive recreation facilities and to facilitate the development of a sufficient choice of housing types within the city. To this intent, it allows variation in the relationship of uses and required yards in developments compatible with the massing, use and scale of buildings within established neighborhoods. (Ord. No. 8494, 12-26-1979, § 10.)

Sec. 50-36.2. Same--Eligibility.

The owner of any tract of land comprising an area of more than four acres may submit to the city council a plan for the use and development of all such tracts for one-family homes, two-family homes, townhouses, and/or multiple dwellings containing no more than eight dwelling units, provided that such tracts are located within the S suburban, S-2 suburban residential district, R-1 one-family residential districts, the R-2 two-family residential district, R-3 apartment residential or a combination of such districts. No use or

development shall be permitted except in conformity with a specific plan complying with the standards and requirements hereinafter set forth. With respect to low density planned development, such standards and requirements shall supersede any inconsistent standards or requirements set forth elsewhere in this Chapter. (Ord. No. 8494, 12-26-1979, § 11; Ord. No. 9551, 7-22-2002, § 4; Ord. No. 9860, 9-10-2007, § 1.)

Sec. 50-36.3. Same--Standards.

A low density planned development shall implement the purposes set forth in Section 50-36.1 of this Code and shall meet the following standards and requirements:

(a) Lot area per family. The average lot area per family within the site shall not be less than 80 percent of the lot area per family required in the district(s) in which the development is located;

(b) Frontage, building setbacks and yards. Frontages, building setbacks and yard requirements shall be established for each development plan to insure that the purposes of this Article are carried out. The following general standards shall be considered in establishing such requirements:

Dwelling type	Minimum lot frontage (in feet)	Minimum building setback from any low density planned development boundary line (in feet)	Minimum distance between principal buildings (in feet)
One-family	50	30	15
Two-family	75	30	15
Townhouse	75	50	15
Multiple dwelling	75	50	15

(c) Useable open space. Adequate provisions shall be made for the permanent preservation and maintenance of useable open space for the mutual use of all residents within the low density planned development. Useable open space shall not be less than 15 percent of the gross area of the project exclusive of streets, except that when the city council determines that publicly owned useable open space exists in close proximity to the proposed development, a lesser percentage may be approved. Usable open space shall be reasonably accessible from all dwelling units with minimal conflict with vehicular traffic. The use and development of such open space shall be limited to that approved through this special use permit;

(d) Natural features. Environmentally sensitive natural features such as swamps and other wetlands, steep slopes, rock outcrops, prime tree stands and flood plains shall be preserved by the development plan;

(e) Landscaping. Trees and/or shrubs shall be provided within all building setback and useable open space areas, and whenever practical, healthy trees within such areas shall be saved. Shade trees having a minimum trunk diameter of two inches at the time of placement shall be placed along all sides of parking areas with an average spacing of not more than 12 feet, and adjacent to all lot lines on public streets with a maximum spacing of 30 feet, except when the city council determines that because of topography or existing vegetation, lesser requirements are appropriate. Views of garages shall be minimized through judicious placement or through the placement of coniferous vegetation or sodded earth berms. Storage areas for refuse shall be screened with wood, brick or stone fences;

(f) Off street parking. For each two dwelling units a minimum of three off street parking spaces shall be provided, at least 1/4 of which shall be located within a garage, except when the city council determines that because of the type of residents that will be occupying the dwelling units, lesser requirements are appropriate.

Each garage shall be similar in design character and materials to the dwelling to which it is appurtenant within the low density planned development. Each garage shall be designed and used for storage of not more than six vehicles. Parking areas containing more than eight adjacent parking spaces shall be separated by curbed landscaped islands which have a minimum width of eight feet and contain a minimum of two shade trees having a minimum trunk diameter of two inches at the time of placement, except when the

city council determines that because of topography or existing vegetation, lesser requirements are appropriate;

(g) Arrangement of buildings. The location of all buildings shall be harmonious with significant natural features and shall maximize views of scenic resources from dwelling units;

(h) Building and structure design. All buildings and other structures shall be compatible with the texture, scale and massing of the existing development in the area;

(i) Sewage disposal. All subsurface sewage treatment systems shall conform to the following requirements:

(1) The proposed project is located in an area designated rural residential in the city of Duluth comprehensive land use plan, Duluth comprehensive plan future land use map, adopted June 26, 2006; and

(2) The city engineer approves in writing the use of the system; and

(3) The applicant provides a report prepared and certified by a certified soil scientist who is certified by the Minnesota pollution control agency as a subsurface sewage treatment systems designer. The report shall include the following data:

(A) Identification of the locations of suitable soil conditions for the siting of the subsurface sewage treatment system(s); and

(B) A letter from the appropriate permitting authority accepting the soil condition report; and

(4) The applicant shall impose covenants upon all owners within the permitted area requiring each owner to enter into a managed onsite system agreement. The agreement shall provide that all systems shall be inspected and maintained by a qualified third-party operator on a regular basis and provide for enforcement authority by the owner's association. A current copy of the covenants shall be submitted to the city planning department prior to the issuance of any building permit. (Ord. No. 8494, 12-26-1979, § 12; Ord. No. 9917, 6-19-2008, § 1.)

Secs. 50-37 to 50-37.3. Repealed by Ordinance No. 9436[2], 1-24-2000, § 1.

Sec. 50-38. Townhouse or group dwellings.

A permit for the erection of townhouse or group dwellings in those districts permitted may be approved, even though each structure is not located on an individual lot, by the city council under the procedures set out in sections 50-32, 50-32.1, 50-32.2 and 50-33; provided, that such townhouse or group of dwellings conforms to the following requirements:

(a) The buildings shall be arranged around a court or other permanent open space having direct street access, the width of which court or open space shall be:

(1) Not less than 30 feet for one-story buildings, 40 feet for two-story buildings and 50 feet for three-story buildings where the court is flanked by buildings on only one side; and

(2) Not less than 40 feet for one-story buildings, 50 for two-story buildings and 60 feet for three-story buildings where the court is more than 50 percent surrounded by such buildings. For circular courts, one side shall be defined as that which is within an angle of 90 degrees or less;

(b) The distance between buildings shall not be less than the minimum width of the aggregate of the two side yards required for the district, as specified in Article II of this Chapter, in which such group dwelling is located, and the distance between any group dwelling and the street line shall not be less than the required front yard nor shall the distance between such building and any side or rear lot line be less than the required rear yard for the district in which said group dwelling is located;

(c) The lot area per family requirement of the district in which such dwelling group is located shall be observed. (Ord. No. 7158, 6-9-1958, § 21.8; Ord. No. 7749, 12-8-1969, § 2; Ord. No. 8494, 12-26-1979, § 15.)

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[2] An amendment of any community unit plan which has been approved pursuant to sections 50-37, 50-37.1 and 50-37.3, but has not yet been implemented, may be approved by the council in conformance with the provisions of those sections until February 27, 2001.

Sec. 50-38.1. Variances.

Notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the terms of this Article shall be granted. (Ord. No. 8494, 12-26-1979, § 16.)

Article V. Certificates of Occupancy.

Sec. 50-39. When required.

Certificates of occupancy shall be required for any of the following:

(a) Occupancy and use of a building hereafter erected or structurally altered;

(b) Change in use of an existing building to a use of a different classification;

(c) Occupancy and use of vacant land;

(d) Change in the use of land to a use of a different classification;

(e) Any change in the use of a nonconforming use. No such occupancy, use or change of use shall take place until a certificate of occupancy therefor shall have been issued by the building inspector. (Ord. No. 7158, 6-9-1958, § 24.1.)

Sec. 50-40. Application; fee.

Written application for a certificate of occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. Such certificate shall be issued within three days after a written request for the same has been made to the building inspector or his agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Chapter.

Written application for a certificate of occupancy for the use of vacant land, for a change in the use of land or of a building or for a change in a nonconforming use, as provided in this Chapter, shall be made to the building inspector. If the proposed use is in conformity with the provisions of this Chapter, the certificate of occupancy therefor shall be issued within three days after the application for same has been made. The fee for such certificate of occupancy or each copy thereof shall be set in accordance with Section 31-6(a) of this Code, to be paid to the building inspector. (Ord. No. 7158, 6-9-1958, §§ 24.2, 24.3; Ord. No. 9118, 1-11-1993, § 43; Ord. No. 9611, 7-28-2003, § 57.)

Sec. 50-41. Contents; records to be kept.

Each certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the office of the building inspector or his agent and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected. (Ord. No. 7158, 6-9-1958, § 24.4.)

Sec. 50-42. Nonconforming uses.

Upon application, a certificate of occupancy shall be issued for all lawful nonconforming uses of land or buildings created by adoption of this Chapter. Application for such certificate of occupancy for a nonconforming use shall be filed with the building inspector by the owner or lessee of the building or land occupied by such nonconforming use within one year of July 14, 1958. It shall be the duty of the building inspector to issue a certificate of occupancy for a lawful nonconforming use. Failure to apply for such certificate of occupancy for a nonconforming use or refusal of the building inspector to issue a certificate of occupancy for such nonconforming use shall be prima facie evidence that such nonconforming use was either illegal or did not lawfully exist on July 14, 1958. (Ord. No. 7158, 6-9-1958, § 24.5.)

Sec. 50-43. Failure to obtain certificate violation of chapter.

It shall constitute a violation of this Chapter for any person, firm or corporation, either owner or agent, to do any of the things mentioned in this Article without having first obtained an occupancy certificate. Any certificate issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the building inspector, he shall forthwith revoke the same, by notice in writing to be delivered by him to the holder of the void certificate upon the premises where the violation has occurred or, if such holder be not found there, by mailing the notice of revocation to his last known address. Any person who shall proceed thereafter with such work or use without having obtained a new certificate shall be deemed guilty of violation of this Chapter. (Ord. No. 7158, 6-9-1958, § 27.2.)

Article VI. Board of Zoning Appeals.

Sec. 50-44. Established.

A board of zoning appeals is hereby established. (Ord. No. 7158, 6-9-1958, § 23.1.1.)

Sec. 50-45. Membership; appointment; term of office; vacancies.

The board of zoning appeals shall consist of seven members, all of whom shall be citizens of the city and none of whom shall be a paid city employee. Six shall be appointed by the mayor and with the consent of the city council. One member of the board shall be a member of the planning commission, appointed annually by the mayor with the consent of the city council. Members shall be appointed for a term of four years; except, that the terms of members of the first board so appointed shall be staggered so as to provide expiration of the term of one member each year. Vacancies shall be filled by appointment for the unexpired term only. Members of the board shall serve without compensation. (Ord. No. 7158, 6-9-1958, § 23.1.1; Ord. No. 9351, 10-27-1997, § 1.)

Sec. 50-46. Meetings; officers; quorum; records.

Meetings of the board of zoning appeals shall be held at such times as the board may determine. The board shall select one of its members as chairman and one as vice chairman, who shall serve one year and until their successors have been selected. Four members of the board shall constitute a quorum for the transaction of business. The board shall cause a proper record to be kept of its proceedings. (Ord. No. 7158, 6-9-1958, § 23.1.2; Ord. No. 9351, 10-27-1997, § 2.)

Sec. 50-47. Powers generally.

Subject to the provisions of Section 50-49, the board of zoning appeals shall have the following powers:

(a) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision or refusal made by the building inspector in the carrying out of enforcement of any provisions of this Chapter;

(b) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the terms of this Chapter would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property, to authorize upon an appeal relating to such property a variance from such strict application so as to relieve such difficulties or hardship; provided, that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent of the zoning plan and this Code; provided, that no variance shall be granted unless the board finds that all of the following conditions exist:

(1) The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;

(2) The granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;

(3) The authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or increase the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the city;

(c) Upon appeal, the board is hereby empowered to permit the following exceptions, regardless of the limitations established by paragraph (b) above:

(1) The extension of an existing or proposed building for a distance not to exceed 50 feet into a more restricted district under such conditions as will safeguard the character of the more restricted district;

(2) The reconstruction of a nonconforming building which has been damaged from any cause or has deteriorated, as defined in paragraph (e) of Section 50-13 above, to the extent of more than 60 percent of its reproduction value, where the board shall find that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city;

(3) Variances to lot sizes in unsewered area shall not be granted without presentation of a permit or letter of intent to issue a permit for on site sewerage treatment from the St. Louis County health department;

(4) To interpret the provisions of this Chapter where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is made a part of this Chapter;

(5) To permit parking lots or parking structures on land, not more than 300 feet from the boundary of any commercial or industrial district, under such conditions as will protect the character of surrounding property. Notwithstanding the terms of this Section, no variances shall be granted from this Section for parking lots or parking structures for land uses within the medical center district or medical center link district;

(6) To vary the parking and loading regulations of this Chapter whenever the character or use of a building is such as to make unnecessary the full provision of parking or loading facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience;

(7) The erection, reconstruction or structural alteration of a building for residential purposes in the M-1 and M-2 manufacturing districts;

(8) Other uses of the same character as those listed in a particular district. Any use so determined shall be regarded as a listed use;

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

(9.1) No person, firm, corporation or public body shall extract, remove or process said earth materials except as necessary incident to actual, immediate or continuing construction on the premises without first obtaining a written permit therefor from the building inspector upon written order of the board of zoning appeals. For this purpose such applicant shall file with the building inspector a verified application, in triplicate, for every permit, containing all information required on the building inspector's form, including a detailed statement of the purpose and extent of the proposed work, together with a plan or map fully dimensioned and extending beyond the proposed work area and explaining and showing: The area to be excavated; existing contour lines on the premises and proposed contour lines which will result from the intended excavation or removal, at a scale not more than 100 feet to the inch, with a contour interval not to exceed five feet; existing and proposed drainage on the premises; the names and addresses of owners of abutting property; all street and public easements; proposed routes of access to public highways from the area to be excavated; and location, size and use of all buildings existing within the mapped area;

(9.2) A certificate of the city engineer shall be filed with the application, certifying that such proposed extraction, removal or processing, and the proposed finished grades on said property, as shown on said map, will not endanger the function of any public highway or utility easement of the city. As an

alternate to the above the city engineer may qualify his statement by proposing conditions and safeguards which in his opinion will be necessary to protect adjoining property, both city and privately owned;

(9.3) The proposed excavation, removal or processing shall not result in the creation of any hazardous sharp pits, steep banks, soil erosion, drainage or sewerage problems or other conditions which would ultimately impair the use of the property in accordance with the general purpose and intent of the zoning regulations for that district;

(9.4) Finished slopes in the excavated area shall not exceed one foot vertical rise to two feet of run except in the case of dams or swimming pools, or where specifically approved in writing by the board of zoning appeals; no stagnant water shall be permitted to result from such removal, excavation or processing;

(9.5) No earthmoving, processing or excavating equipment or trucks which are inoperative for more than 30 days shall be stored in the open on the property included in the permit;

(9.6) The board, upon investigation of the permit application, may approve or deny the permit, or require it to be amended. The board may determine the period for which the permit may be granted, and may limit the hours of operation. It may also include in the permit requirements for installation of fencing and dust pallatives where deemed necessary for safety and neighborhood protection;

(9.7) Upon completion of the excavation, processing or removal of earth materials in accordance with the approved proposed contour lines, the premises shall be cleared of all debris and, unless the excavated area is beneath water, a top layer of soil which will sustain the growth of turf shall be spread over the premises and shall be seeded with perennial rye or grasses;

(9.8) All excavation, removal and processing of earth materials, and the extent and limits thereof, together with operational time limits, shall be in accordance with the written permit, the application, plan or map and conditions approved by the board of zoning appeals. As a guarantee of performance, and to insure that the property is and shall be left in the final condition desired, and as a prerequisite to issuing the permit, the applicant, except when it is a division or agency of government, shall give proof that all taxes and assessments against the property which are due and payable have been paid, and, shall execute and file with the building inspector a corporate surety bond subject to approval by the city attorney, such bond to be executed by a corporate surety authorized to transact business in the state of Minnesota as a corporate surety, in an amount to be fixed by the board of zoning appeals, but not less than $2,000, conditioned upon the due and faithful performance by the principal named in such surety bond of all conditions contained in the permit, and to indemnify the city of Duluth for any damage resulting from issuance of this permit. In determining the amount of such bond, the board shall consider the nature and extent of the proposed extraction, removal or processing, and fix an amount which will, as nearly as can be estimated, cover the costs of performing the conditions of the permit in the event of default by the permittee, at which time such bond, or cash deposit in lieu of such bond, shall be forfeited to the city of Duluth. Such bond shall remain in full force and effect until a certificate of completion has been issued by the building inspector, certifying to the fact that all provisions and conditions of the permit have been fully complied with. Application for such certificate shall be made in writing on forms provided by the city, provided that when the applicant is not the owner of the premises that said owner shall, with the application, file his written consent to the work to be done on his premises and to the issuance of the permit for said proposed work. In lieu of such bond, a cash deposit or deposit of negotiable securities may be accepted by the city;

(10) Permit the conversion of a dwelling into a three-family dwelling in an R-2 two-family residential district; provided the following conditions exist: That the floor area of the dwelling other than basement or attic space not used for living quarters or of garages or utility rooms totals not less than 2,200 square feet; that such minimum floor space was constructed under a building permit issued before April 1, 1942; that the lot contains not less than 10,000 square feet; that three-family occupancy will not tend to change the character of the surrounding property or make it less valuable for the purposes for which it was zoned or reduce neighborhood property values and that only changes approved by the board shall be made in the exterior appearance of the building which shall not include opening of an additional front entrance. (Ord. No. 7158, 6-9-1958, § 23.3; Ord. No. 7390, 3-23-1964, § 1; Ord. No. 7409, 8-31-1964, § 2; Ord. No. 7452, 3-8-1965; Ord. No. 9133, 4-12-1993, § 2; Ord. No. 9213, 9-26-1994, § 4; Ord. No. 9563, 10-15-2002, § 3.)

Sec. 50-48. Hearings and appeals to board.

(a) Appeals to the board of zoning appeals may be taken by any person aggrieved or by any officer, agency, department, board or bureau of the city affected by any decision of the building inspector in the enforcement of this Chapter. Such an appeal shall be taken within ten days after such decision, by filing with the building inspector a notice of appeal addressed to the board, specifying the grounds thereof. The building inspector shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from is taken;

(b) An appeal shall stay all proceedings involved in the appeal; and no such appeal shall be deemed to permit the appellant permission or authority to do or to continue doing, directly or indirectly, any act or thing specified in the decision of the building inspector;

(c) The board shall fix a time for a hearing on such appeal and decide the same within 60 days after date of the hearing. Upon the hearing, any party may appear in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant requesting the hearing;

(d) Hearings before the board shall not be held until notice thereof has been given in accordance with the rules of the board. (Ord. No. 7158, 6-9-1958, § 23.2; Ord. No. 7390, 3-23-1964, § 2.)

Sec. 50-49. Appeals to council.

All action of the board of zoning appeals shall be final, unless, within ten days of mailing of the notice of the decision of the board, there is filed with the building inspector by any person aggrieved or by any officer, agency, department, board or bureau of the city affected by such decision an appeal, addressed to the city council, stating the grounds upon which a further appeal to the city council is desired. The filing of such a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. Upon receipt of such an appeal, the building inspector shall file the same with the city council. The council, at its next regular meeting, shall hear the appeal and subsequently shall affirm, modify or reverse the board's decision. (Ord. No. 7158, 6-9-1958, § 23.4.)

Sec. 50-50. Filing fees.

A fee, set in accordance with Section 31-6(a) of this Code, shall be paid to the building official at the time the notice of appeal to the board is filed, which fee shall be retained by the city to help defray the cost of such appeal; provided, that such fee shall be refunded by the building official to the appellant if the appeal is withdrawn prior to consideration by the board. (Ord. No. 7158, 6-9-1958, § 23.5; Ord. No. 8218, 3-29-1976, § 3; Ord. No. 8551, 11-24-1980, § 22; Ord. No. 8953, 8-21-1989, § 5; Ord. No. 9118, 1-11-1993, § 44; Ord. No. 9611, 7-28-2003, § 58.)

Article VII. Suburban Districts.

Division 1. S Suburban Districts.

Sec. 50-51. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the S suburban district. (Ord. No. 7158, 6-9-1958, § 4.1; Ord. No. 9551, 7-22-2002, § 5.)

Sec. 50-52. Permitted uses.

A building or premises in the S suburban district shall be used only for the following purposes:

(a) Agricultural uses, such as field crops, truck gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, aviaries and apiaries, including a greenhouse and a sales room for the sale of products grown on the premises;

(b) Farms devoted to the hatching, raising and marketing of poultry, rabbits and other small animals, fish and other creatures; provided, that no killing or dressing of poultry, rabbits or other small animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(c) Farms for grazing, breeding and raising horses, cattle, sheep, dogs or goats and goat or cattle dairies; provided, that all buildings and enclosures, including fences, for the feeding, breeding or milking, but not including pasturing and grazing, of such animals be located not less than 200 feet from any lot line;

(d) One-family dwelling;

(e) Church or other place of worship or Sunday school;

(f) Public school, elementary and high, parochial school or private school having a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school;

(g) Universities and colleges;

(h) Publicly owned or operated forest reserve, park, playground or community building;

(i) Country club or golf course, except a miniature course or driving range for commercial purposes;

(j) Kennel, veterinary hospital or riding stable; provided, that any building or enclosure so used shall be located not less than 100 feet from any lot line;

(k) Hospital or institution of an educational, religious, charitable or philanthropic nature; provided, that such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;

(l) Home occupation;

(m) Seasonal camp or cabin, buildings to be located not less than 200 feet from a R district;

(n) One roadside stand offering for sale only farm products produced on the premises; provided, that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

(o) Accessory building or use, customarily incident to the above uses; provided, that any such accessory building erected prior to the construction of the principal building shall comply with the following conditions:

(1) That the construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory use;

(2) That prior to issuance of a building permit for such accessory use, a building demolition bond approved by the city attorney and in an amount sufficient to demolish such accessory structure be filed with the building official;

(3) That the owner execute a license, in a form approved by the city attorney, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section.

One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(p) Residential care facility serving six or fewer persons;

(q) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children. (Ord. No. 7158, 6-9-1958, § 4.2; Ord. No. 7964, 12-26-1972, § 1; Ord. No. 8685, 12-19-1983, § 5; Ord. No. 8723, 2-11-1985, § 4; Ord. No. 9284, 12-11-1995, § 11; Ord. No. 9551, 7-22-2002, § 5; Ord. No. 9859, 9-10-2007, § 1.)

Sec. 50-53. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter and in Section 50-52 shall be observed. In addition, the minimum lot area for churches, schools, kennels, veterinary hospitals, seasonal camp or cabin, riding stables, farms and agricultural uses listed in paragraphs (a) and (b) of Section 50-52 shall be five acres, farms and uses permitted in paragraph (c) of Section 50-52 shall be 20 acres and for

country clubs and golf courses, the minimum lot area shall be 30 acres. (Ord. No. 7158, 6-9-1958, § 4.3; Ord. No. 9551, 7-22-2002, § 5.)

Sec. 50-54. Parking requirements.

Off street parking space shall be provided in accordance with the requirements of specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 4.4; Ord. No. 9551, 7-22-2002, § 5.)

Division 2. S-2 Suburban Residential Districts.

Sec. 50-55. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the S-2 suburban residential district. (Ord. No. 9551, 7-22-2002, § 6.)

Sec. 50-55.1. Permitted uses.

A building or premises in the S-2 suburban residential district shall be used only for the following purposes:

(a) One-family dwelling;

(b) Agricultural uses primarily for home consumption, such as domestic gardening, berry or bush crops, tree crops, flower gardening, nurseries, orchards, keeping chickens for domestic use and consumption on the premises in compliance with all sections under 6-79 and 6-79.1, aviaries and apiaries, including a greenhouse, but not including a salesroom or roadside stand;

(c) Publicly owned or operated forest reserve, park, playground or community building, museum, library or art gallery; provided, that any such building shall be located not less than 25 feet from any side lot line;

(d) Church or other place of worship or Sunday school; provided, that any such building shall be located not less than 25 feet from any side lot line;

(e) Public school, elementary and high, university, college, parochial school or private school having a curriculum similar to that ordinarily given in public schools; provided, that any such building shall be located not less than 40 feet from any side or rear lot line; and provided further, that there shall be no rooms regularly used for housing or sleeping purposes, except staff quarters when located on the premises for the school;

(f) Golf club grounds with an area of not less than 30 acres. A miniature course or practice driving tee operated for commercial purposes is not permitted;

(g) Home occupation;

(h) Subject to the provisions of Section 50-24, accessory building or use, including a private garage customarily incident to the above uses, but not involving the conduct of a business; provided, that any such accessory building erected prior to the construction of the principal building shall comply with the following conditions:

(1) That the construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory use;

(2) That prior to issuance of a building permit for such accessory use, a building demolition bond approved by the city attorney and in an amount sufficient to demolish such accessory structure be filed with the building official;

(3) That the owner execute a license, in a form approved by the city attorney, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section;

(i) Residential boat dockage under the following conditions:

(1) General provisions:

(A) Dockage of boats owned and primarily used by a resident of the property in question is a permitted accessory use to the primary residential use and shall not be limited in number;

(B) The rental or use of boat dockage spaces on property on which there is a residential structure by owner of boats not residing on the property in question is a permitted accessory use to the primary residential use, but only if such rental or use is limited to two boats, for every residence having frontage on an improved street;

(C) The boat dockage use of a property that is not residentially developed is permitted as a principal use provided that:

1. The use is limited to one boat for each lot or group of contiguous lots in the same ownership; and

2. The boat is owned and primarily used by the owner of the property;

(2) Off street parking. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Article III (off street parking and loading requirements) of this Code [Chapter];

(3) Proof of adherence to Code. At the request of the city building inspector or zoning inspector, the owner of property shall promptly provide boat registration or other documentary evidence to prove adherence to this Code;

(4) Commercial use prohibitions. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays, and other commercial uses shall be permitted;

(j) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(k) Bed and breakfast inn containing no more than 12 habitable units, provided a special use permit is secured according to the procedures set forth in Article IV. (Ord. No. 9551, 7-22-2002, § 6; Ord. No. 9859, 9-10-2007, § 2; Ord. No. 9925, 8-25-2008, § 1.)

Sec. 50-55.2. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the S-2 suburban residential district. (Ord. No. 9551, 7-22-2002, § 6.)

Sec. 50-55.3. Parking requirements.

Off street parking space shall be provided in the S-2 suburban residential district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 9551, 7-22-2002, § 6.)

Article VIII. R-1-a One-Family Residential Districts.

Sec. 50-56. Permitted uses.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the R-1-a one-family residential district.

A building or premises in the R-1-a one-family residential district shall be used only for the following purposes:

(a) All uses permitted in the S-2 suburban residential district;

(b) Two-family dwelling, provided that such dwelling is designed to protect and reflect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Single front entrance. Access to the second dwelling unit shall be either through a common hallway within one front entrance, or by means of a separate entrance at the side or rear of the building;

(2) Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;

(3) Third floor exits. Any dwelling unit or portion thereof which is located on the third floor shall have two separate means of exit;

(4) Roomers. Any two-family dwelling located in a one-family residential district shall be for the exclusive occupancy by two families and no roomers shall be permitted;

(5) Roof character. Except for buildings in existence on May 11, 1980, and buildings constructed after May 11, 1980, which have been put to a lawful use other than a two-family dwelling for a minimum of five years, roofs shall have a minimum slope of 2-1/2 feet vertical rise to 12 feet of run;

(6) Minimum dwelling size. No two-family dwelling within a structure erected after May 11, 1980, shall contain a total of less than 1,800 square feet of floor area other than garages or utility rooms or basement or attic space not used for living quarters;

(7) Dispersion of dwellings. No two-family dwelling shall be constructed and no single family dwelling shall be converted to a two-family dwelling within a distance of 300 feet from any other two-family dwelling or multiple family dwelling located within the same block; provided, that no more than one two-family dwelling or multiple family dwelling shall be permitted within a block containing an area of 120,000 square feet or less;

(8) Required drawings. In addition to required plot plans, applications for building permits shall be accompanied by a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot, such elevations to indicate the size and location of all windows and doors, and the type of exterior materials;

(9) Limitations on variances. Notwithstanding its power to grant variances as set forth in Section 50-47 of this Code, the board of zoning appeals shall not grant any variance from the requirements for the allowance of two-family dwellings in a one-family residential district except as provided by this Section and only if the findings required by Section 50-47(b) of this Code are made by such board;

(A) Such board may grant a variance reducing by not more than ten percent the minimum dimensional requirements for allowance of a two-family dwelling in a one-family residential district;

(B) Such board may grant a variance from the roof character requirements set forth in clause (5);

(C) Such board may grant a variance from the required front yard setback;

(c) Residential care facility serving six or fewer persons;

(d) Day care facility serving 12 or fewer persons and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to serve 14 or fewer children;

(e) Residential care facility serving seven or more persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(f) Elderly congregate housing facility containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV. (Ord. No. 7158, 6-9-1958, § 5.2; Ord. No. 7964, 12-26-1972, § 2; Ord. No. 8052, 3-11-1974, § 1; Ord. No. 8510, 3-31-1980, § 3; Ord. No. 8685, 12-19-1983, § 6; Ord. No. 8723, 2-11-1985, § 5; Ord. No. 9284, 12-11-1995, § 12; Ord. No. 9368, 5-11-1998, § 3; Ord. No. 9533, 5-28-2002, § 4; Ord. No. 9551, 7-22-2002, § 7; Ord. No. 9576, 12-16-2002, § 1.)

Sec. 50-57. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the R-1-a one-family residential district. (Ord. No. 7158, 6-9-1958, § 5.3.)

Sec. 50-58. Parking requirements.

Off street parking space shall be provided in the R-1-a one-family residential district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 5.4.)

Article IX. R-1-b One-Family Residential Districts.

Sec. 50-59. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the R-1-b one-family residential district. (Ord. No. 7158, 6-9-1958, § 6.1.)

Sec. 50-60. Permitted uses.

The use regulations in the R-1-b one-family residential district are the same as those in the R-1-a one-family residential district. (Ord. No. 7158, 6-9-1958, § 6.2; Ord. No. 8454, 4-30-1979, § 2; Ord. No. 8510, 3-31-1980, § 4.)

Sec. 50-61. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the R-1-b one-family residential district. (Ord. No. 7158, 6-9-1958, § 6.3.)

Sec. 50-62. Parking requirements.

Off street parking spaces shall be provided in the R-1-b one-family residential district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 6.4.)

Article X. R-1-c One-Family Residential District.

Sec. 50-63. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the R-1-c one-family residential district. (Ord. No. 7158, 6-9-1958, § 7.1.)

Sec. 50-64. Permitted uses.

The use regulations in the R-1-c one-family residential district are the same as those in the R-1-a one-family residential district. (Ord. No. 7158, 6-9-1958, § 7.2.)

Sec. 50-65. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the R-1-c one-family residential district. (Ord. No. 7158, 6-9-1958, § 7.3.)

Sec. 50-66. Parking requirements.

Off street parking spaces shall be provided in the R-1-c one-family residential district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 7.4.)

Article XI. R-2 Two-Family Residential District.

Sec. 50-67. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the R-2 two-family residential district. (Ord. No. 7158, 6-9-1958, § 8.1.)

Sec. 50-68. Permitted uses.

A building or premises in the R-2 two-family residential district shall be used only for the following purposes:

(a) Any use permitted in the R-1-a one-family residential district;

(b) Two-family dwelling;

(c) Townhouse dwelling, provided that each dwelling shall exhibit the characteristics of a series of single family dwellings which are arranged in an attached side by side fashion, and that such dwelling is designed to protect the character of one-family residences. To this intent, in addition to those regulations otherwise set forth in this Code, the following requirements shall be observed:

(1) Dispersion of dwellings. Regardless of ownership, no townhouse dwelling shall be constructed within 300 feet of any other townhouse dwelling;

(2) Modulation of roof lines. The roofs or portions thereof of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same plane, and any variation in height of such roofs or portions thereof shall be a minimum of three feet;

(3) Modulation of exterior walls. The exterior vertical walls of no more than two adjacent dwelling units within a townhouse dwelling shall be located within the same vertical plane, and the variation in setback of such exterior vertical walls shall be a minimum of three feet;

(4) Private open space. A private open space shall be provided at each end of all dwelling units by means of an extension of the vertical party or division walls; these extensions shall be provided by wood, brick or stone fences, evergreen vegetative materials, or the direct extension of the party or division walls; these extensions shall be for a minimum distance of six feet and shall have a minimum height of five feet;

(5) Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous trees having a minimum height of five feet at the time of placement and/or deciduous trees having a minimum trunk diameter of two inches at the time of placement shall be provided within all required yard areas, such trees to have a maximum average spacing of 20 feet;

(6) Parking and refuse storage areas. Parking areas shall contain a maximum of four adjacent parking spaces, such parking areas to be separated by landscaped islands which have a minimum width of eight feet being separated from parking areas by a poured concrete curb having a minimum height of six inches, and containing at least two deciduous trees having a minimum trunk diameter of two inches at the time of placement. Trees as specified in Subsection (5) above shall be placed along all sides of parking areas, such trees to have a maximum average spacing of 12 feet. Where parking or refuse storage areas are directly viewable from any exterior lot line at a height of six feet above such lot line, such areas shall be screened by wood, brick or stone fences, or vegetative materials, such fences or vegetative materials to have a minimum height of four feet, and to provide a minimum obstruction by opaque materials of 75 percent when viewed at an angle perpendicular to such fences or vegetative materials;

(7) Dwelling units must front on street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 feet of street frontage;

(8) Required drawings. All applications for building permits shall include the following information: a site plan and landscape plan as defined in this Code, such plans to be drawn at a scale of not less than 1/8 inch equals one foot; and, a complete set of four building elevations drawn at a scale of not less than 1/8 inch equals one foot indicating the size and location of all windows and doors. Such drawings shall also contain notations on the type of exterior materials and details of all fences;

(9) Review by the secretary of the city planning commission. Each application for a building permit for a townhouse dwelling located in a two-family residential district shall be forwarded to the secretary of the city planning commission for review and certification that such application is in compliance with the terms of this Section;

(10) Limitations on variances. Notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article for townhouse dwellings in R-2 two-family residential districts shall be granted except variation of not more than ten percent of the dimensional requirements established in this Article;

(d) Day care facility serving 13 through 16 persons, provided a special use permit is secured according to the procedures set forth in Article IV;

(e) Group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, to more than 14 children;

(f) Bed and breakfast inn;

(g) Bed and breakfast country inn containing no more than 12 habitable units in addition to the owner's dwelling unit, provided a special use permit is secured according to the procedures set forth in Article IV;

(h) Residential rooming house containing 12 or fewer habitable units, provided a special use permit is secured according to the procedures set forth in Article IV. (Ord. No. 7158, 6-9-1958, § 8.2; Ord. No. 8494, 12-26-1979, § 17; Ord. No. 9284, 12-11-1995, § 13; Ord. No. 9368, 5-11-1998, § 4; Ord. No. 9533, 5-28-2002, § 5.)

Sec. 50-69. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the R-2 two-family residential district. (Ord. No. 7158, 6-9-1958, § 8.3.)

Sec. 50-70. Parking requirements.

Off street parking spaces shall be provided in the R-2 two-family residential district in accordance with the requirements for specific uses set forth in Article III of this Chapter; provided, that where townhouse dwellings are erected in an R-2 two-family residential district, for each two dwelling units a minimum of three off street parking spaces shall be provided, at least 1/2 of such spaces to be located within a garage attached to or incorporated into the townhouse dwelling. (Ord. No. 7158, 6-9-1958, § 8.4; Ord. No. 8494, 12-26-1979, § 18.)

Article XII. R-3 Apartment Residential District.

Sec. 50-71. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter when referred to in this Article, are the regulations in the R-3 apartment residential district. (Ord. No. 7158, 6-9-1958, § 9.1.)

Sec. 50-72. Permitted uses.

A building or premises in the R-3 apartment residential district shall be used only for the following purposes:

(a) Any use permitted in the R-2 two-family residential district;

(b) Apartment hotel;

(c) Multiple dwelling;

(d) Row or group dwellings, subject to the requirements of Section 50-38;

(e) Religious, educational, eleemosynary institutions of a philanthropic nature, but not a penal or mental institution;

(f) Nursing, rest or convalescent home;

(g) Private club, fraternity, sorority or lodge, excepting one the chief activity of which is a service customarily carried on as a business;

(h) Accessory building or use customarily incidental to any of the above uses, including a storage garage on a lot occupied by a multiple dwelling, apartment hotel, row or group house, rooming or boarding-house, provided that any such accessory building shall be erected at the same time or after the construction of the principal building;

(i) Residential care facility;

(j) Day care facility;

(k) Elderly congregate housing facility;

(l) Residential rooming house;

(m) Commercial rooming house, provided a special use permit is secured according to the procedures set forth in Article IV;

(n) Bed and breakfast country inn. (Ord. No. 7158, 6-9-1958, § 9.2; Ord. No. 8685, 12-19-1983, § 7; Ord. No. 9213, 9-26-1994, § 6; Ord. No. 9284, 12-11-1995, § 14; Ord. No. 9533, 5-28-2002, § 6.)

Sec. 50-73. Height and area regulations.

The height and area requirements set forth in Article II of this Chapter shall be observed in the R-3 apartment residential district. (Ord. No. 7158, 6-9-1958, § 9.3.)

Sec. 50-74. Parking requirements.

Off street parking spaces shall be provided in the R-3 apartment residential district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 9.4.)

Article XIII. R-4 Apartment Residential District.

Sec. 50-75. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the R-4 apartment residential district. (Ord. No. 7158, 6-9-1958, § 10.1.)

Sec. 50-76. Permitted uses.

A building or premises in the R-4 apartment residential district shall be used only for the following purposes:

(a) Any use permitted in the R-3 apartment residential district;

(b) Hotels, in which services customarily incident to the operation thereof may be conducted for the convenience of the occupants of the hotel;

(c) Commercial rooming house. (Ord. No. 7158, 6-9-1958, § 10.2; Ord. No. 8685, 12-19-1983, § 8; Ord. No. 9284, 12-11-1995, § 15.)

Sec. 50-77. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the R-4 apartment residential district. (Ord. No. 7158, 6-9-1958, § 10.3.)

Sec. 50-78. Parking requirements.

Off street parking spaces shall be provided in the R-4 apartment residential district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 10.4.)

Article XIV. C-1 Commercial District.

Sec. 50-79. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the C-1 commercial district. (Ord. No. 7158, 6-9-1958, § 11.1.)

Sec. 50-80. Permitted uses.

A building or premises in the C-1 commercial district shall be used only for the following purposes:

(a) Any use permitted in the R-4 apartment residential district;

(b) Automobile parking lot or parking garage;

(c) Bank;

(d) Display room for merchandise to be sold at wholesale, where merchandise sold is stored elsewhere;

(e) Clinic, medical and dental only occupying 20,000 square feet or less in total floor area;

(f) Dressmaking, tailoring, shoe repairing, repair of household appliances and bicycles, dry cleaning and pressing, catering and bakery with sale of bakery products on the premises and other uses of a similar character; provided, that no use permitted in this paragraph shall employ more than five persons in a single shift on the premises, not including employees whose principal duties are off the premises or temporary seasonal employees;

(g) Filling station;

(h) Offices and office building;

(i) Personal service uses, including barbershops, beauty parlors, photographic or art studios, messenger, taxicab, newspaper or telegraphic branch service stations, dry cleaning receiving stations, restaurants and other uses of a similar character;

(j) Private school;

(k) Retail store. In connection with such store there shall be no slaughtering of animals or poultry, nor commercial fish cleaning and processing on the premises;

(l) Theater, not including drive-in theaters;

(m) Laundromat;

(n) Florist shop or greenhouse;

(o) Accessory buildings and uses; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:

(1) One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(2) Except for truckload or trailerload retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck. Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted use unless the primary use of the lot is a parking lot, parking garage or filling station or unless the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business. (Ord. No. 7158, 6-9-1958, § 11.2; Ord. No. 7199; Ord. No. 7236, § 2; Ord. No. 7314, § 5; Ord. No. 8685, 12-19-1983, § 9; Ord. No. 8723, 2-11-1985, § 6; Ord. No. 8809, 11-3-1986, § 1; Ord. No. 9213, 9-26-1994, § 7; Ord. No. 9802, 11-27-2006, § 2.)

Sec. 50-81. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the C-1 commercial district. In addition, every building or portion thereof used for dwelling purposes shall comply with the side yard and lot area per family requirements of the R-4 apartment residential district. (Ord. No. 7158, 6-9-1958, § 11.3.)

Sec. 50-82. Parking and loading requirements.

Off street parking and loading spaces shall be provided for in the C-1 commercial district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 11.4.)

Article XV. C-2 Highway Commercial District.

Sec. 50-83. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the C-2 highway commercial district. (Ord. No. 7158, 6-9-1958, § 12.1.)

Sec. 50-84. Permitted uses.

A building or premises in the C-2 highway commercial district shall be used only for the following purposes:

(a) Any use permitted in the C-1 commercial district;

(b) Automobile, trailer or boat display lot and sales room;

(c) Business or commercial school;

(d) Bowling alley, drive-in restaurant and drive-in theater; provided, however, that in a C-2 highway commercial district no part of the above uses shall be less than 100 feet from any S or R district;

(e) Dancing or music academy;

(f) Frozen food locker;

(g) Farm implement display lot and sales room;

(h) Hotel;

(i) Marina;

(j) Motel;

(k) Milk pasteurizing, bottling and distributing station;

(l) Public garage located at least 50 feet from any S or R district;

(m) Radio or television broadcasting station or studio;

(n) Veterinarian or animal hospital; provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, which are ordinarily permitted in the house for company or pleasure); that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation. Veterinarian or animal hospital; treating other than small animals; provided that no such building, kennel or exercise runway or other holding area shall be closer than 100 feet to any S or R district;

(o) Undertaking business or establishment;

(p) Used car or boat sales or storage lot, when located at least 100 feet from any S or R district;

(q) When not employing more than ten persons on the premises in a single shift, not including persons whose principal duties are off the premises: dyeing and cleaning establishment or laundry, painting, plumbing or tinsmithing shop, tire sales and service, including vulcanizing, upholstering shop, not involving furniture manufacturing and any other general service or repair establishment of similar character;

(r) Accessory building or use customarily incidental to any of the above uses; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building and subject to the following restrictions. Except for truckload or trailerload retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck. The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless the primary use of the lot is a parking lot, parking garage, filling station, public garage, or automobile, trailer, boat or farm implement sales or storage lot or unless the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business. (Ord. No. 7158, 6-9-1958, § 12.2; Ord. No. 7236, § 2; Ord. No. 8685, 12-19-1983, § 10; Ord. No. 8809, 11-3-1986, § 2; Ord. No. 8913, 9-19-1988, § 2.)

Sec. 50-85. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the C-2 highway commercial district. In addition, every building or portion thereof used for dwelling purposes shall comply with the side yard and lot area per family requirements of the R-4 apartment residential district. (Ord. No. 7158, 6-9-1958, § 12.3.)

Sec. 50-86. Parking and loading requirements.

Off street parking and loading spaces shall be provided in the C-2 highway commercial district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 12.4.)

Article XVI. C-3 Shopping Center District.

Sec. 50-87. Established.

In order to provide for modern retail shopping facilities of integrated design in appropriate locations to serve residential neighborhoods, the C-3 shopping center district is hereby established. Such district shall be laid out and developed as a unit according to an approved plan as provided in this Article so as to accomplish such purpose. (Ord. No. 7158, 6-9-1958, § 13.1.)

Sec. 50-88. Submission of plan to city council; reference of same to planning commission; hearing on same.

The owner of any tract of land comprising an area of not less than five acres may submit to the city council a plan for the use and development of all or part of such tract for the purposes of and meeting the requirements set forth in this Section, either as a separate proposal or as a part of a community unit plan as provided for in Article IV of this Chapter. The plan shall be referred to the city planning commission for study and report and for public hearing. Notice and publication of such public hearing shall conform to the procedure for hearings on amendments prescribed in Article XXI of this Chapter. If no report is transmitted by the planning commission within 90 days of notification, the city council may take action without further awaiting such report. If the planning commission approves the plans, they shall then be submitted to the city council for their consideration and action. The planning commission's approval and recommendations shall be accompanied by a report stating the reasons for approval and that the application meets the requirements of the C-3 shopping center district as set forth in this Article. (Ord. No. 7158, 6-9-1958, § 13.2.)

Sec. 50-89. Land, buildings, etc., to be under single ownership or management.

In order that the purpose of the C-3 shopping center district may be realized, the land, buildings and appurtenant facilities shall be in single ownership, under the management or supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this Article. (Ord. No. 7158, 6-9-1958, § 13.3.)

Sec. 50-90. Permitted uses.

Within the C-3 shopping center district, a building or premises may be used only for the retail sale of merchandise, services, recreational, except outdoor theaters or otherwise, parking areas and other facilities ordinarily accepted as shopping center uses. The shopping center shall be designed as a whole, unified and single project in compliance with the requirements of this Article and, if built in stages, each stage shall conform to the approved plan.

Motel uses may be allowed in a C-3 shopping center district when such motel use consists of no more than 50 percent of total shopping center uses, and only when said use directly adjoins a federal highway. (Ord. No. 7158, 6-9-1958, § 13.4; Ord. No. 9096, 9-14-1992, § 1.)

Sec. 50-91. Maximum area permitted for buildings.

The aggregate gross area of all buildings in the shopping center shall not exceed 25 percent of the entire lot area of the project. All buildings shall be set back at least 30 feet from all streets adjoining the shopping center site. (Ord. No. 7158, 6-9-1958, § 13.4.1.)

Sec. 50-92. Parking requirements.

Off street parking spaces shall be provided in the ratio of not less than one parking space for each 100 square feet of floor area in the buildings in the project. (Ord. No. 7158, 6-9-1958, § 13.4.2.)

Sec. 50-93. Paving of roads, walks, parking areas, etc.

All roads, parking and loading areas and walks in the shopping center shall be paved with hard surface material meeting applicable specifications of the city planning commission. (Ord. No. 7158, 6-9-1958, § 13.4.3.)

Sec. 50-94. Landscaping of area not used for buildings, parking, etc.

Any part of the project area not used for buildings or other structures or for parking, loading or accessways shall be landscaped with grass, trees, shrubs or pedestrian walks. (Ord. No. 7158, 6-9-1958, § 13.4.4.)

Sec. 50-95. Height limitation.

No building in the shopping center shall exceed three stories or 45 feet in height. (Ord. No. 7158, 6-9-1958, § 13.4.5.)

Sec. 50-96. Additional limitations may be imposed by planning commission.

Reasonable additional requirements as to landscaping, lighting signs or other advertising devices, screening, accessways and building setbacks and height limitations may be imposed by the city planning commission for the protection of adjoining residential property. (Ord. No. 7158, 6-9-1958, § 13.4.6.)

Sec. 50-97. Surety bond may be required by planning commission.

If required by the planning commission, the applicant shall file a surety bond, conditioned that if the applicant shall commence the construction of the shopping center, such shopping center shall be substantially completed within three years in accordance with the plans and specifications submitted and approved to the planning commission or in accordance with such altered plans as the planning commission may approve or that, if such shopping center is not completed within such period, the applicant will remove the buildings and restore the ground to its original condition as nearly as can possibly be done. No such bond shall be accepted unless it be enforceable by or payable to the city in a sum at least equal to the estimated cost of constructing the shopping center and in a form with surety and conditions approved by the city attorney. In the event the shopping center is not constructed, it shall revert to the same zoning classification existing prior to the change to the C-3 district and the district regulations in force prior to the establishment of the shopping center district shall thereupon be in full force and effect. (Ord. No. 7158, 6-9-1958, § 13.5.)

Article XVII. C-4 Business Center Commercial District.

Sec. 50-98. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the C-4 business center commercial district. (Ord. No. 7158, 6-9-1958, § 14.1.)

Sec. 50-99. Permitted uses.

A building or premises in the C-4 business center commercial district shall be used only for the following purposes:

(a) Any use permitted in the C-2 highway commercial district;

(b) The following uses are permitted, as well as any similar new or improved uses, as determined by the board of zoning appeals, which are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences than the minimum amount normally resulting from other uses permitted, such permitted uses being generally wholesale and retail trade, service industries and light industries that manufacture, process, store and distribute goods and materials and are in general dependent on raw materials refined elsewhere, and manufacture, compounding, processing, packaging or treatment as

specified of the following products or similar products:

(c) Chemicals, petroleum, coal and allied products:

(1) Cosmetics and toiletries (compounding only);
(2) Ice manufacture, including dry ice;
(3) Ink manufacture (mixing only);
(4) Insecticides, fungicides, disinfectants and related industrial and household chemical compounds (blending only);
(5) Perfumes and perfumed soap (compounding only);
(6) Pharmaceutical products;
(7) Soap, washing or cleaning, powder or soda (compounding only);

(d) Clay, stone and glass products:

(1) Clay, stone and glass products;
(2) Concrete products (except central mixing and proportioning plant);
(3) Pottery and porcelain products;

(e) Food and beverage:

(1) Bakery products, wholesale (manufacturing permitted);
(2) Beverage blending and bottling (all types);
(3) Candy, wholesale (manufacturing permitted);
(4) Chewing gum manufacture;
(5) Chocolate, cocoa and cocoa products, processing and packaging;
(6) Coffee, tea and spices processing and packaging;
(7) Condensed and evaporated milk processing and canning;
(8) Creamery and dairy operation;
(9) Dairy products;
(10) Flour, feed and grain (packaging, blending and storage only);
(11) Fruit and vegetable processing (including canning, preserving, drying and freezing);
(12) Gelatin products;
(13) Glucose and dextrine;
(14) Grain blending and packaging, but not milling;
(15) Ice cream, wholesale (manufacturing permitted);
(16) Macaroni and noodle manufacture;
(17) Malt products manufacture (except breweries);
(18) Meat and fish products, packaging and processing (no slaughtering);
(19) Oleomargarine (compounding and packaging only);
(20) Poultry packing and slaughtering (wholesale);
(21) Yeast;

(f) Metals and metal products:

(1) Agricultural or farm implements;
(2) Aircraft and aircraft parts;
(3) Aluminum extrusion, rolling, fabrication and forming;
(4) Automobile, truck, trailer, motorcycle and bicycle assembly;
(5) Boat manufacture (vessels less than five tons);
(6) Bolts, nuts, screws, washers and rivets;
(7) Container (metal);
(8) Culvert;
(9) Firearms;
(10) Foundry products manufacture (electrical only);
(11) Heating, ventilation, cooking and refrigeration supplies and appliances;
(12) Iron (ornamental) fabrication;
(13) Machinery manufacture;
(14) Nails, brads, tacks, spikes and staples;
(15) Needle and pin;
(16) Plating, electrolytic process;
(17) Plumbing supplies;

(18) Safe and vault;
(19) Sheet metal products;
(20) Silverware and plated ware;
(21) Stove and range;
(22) Tool, die, gauge and machine shops;
(23) Tools and hardware products;
(24) Vitreous enameled products;

(g) Textiles, bedding and fibers:
(1) Bedding (mattress, pillow and quilt);
(2) Carpet, rug and mat;
(3) Hat bodies of fur and wool felt (including men's hats) manufacture;
(4) Hosiery mill;
(5) Knitting, weaving, printing, finishing of textiles and fibers into fabric goods;
(6) Rubber and synthetic treated fabrics (excluding all rubber and synthetic processing);
(7) Yarn, thread and cordage;

(h) Wood and paper products:
(1) Basket and hamper (wood, reed, rattan, etc.);
(2) Box and crate;
(3) Cooperage works (except cooperage stock mill);
(4) Furniture (wood, reed, rattan, etc.);
(5) Pencils;
(6) Planing and millwork;
(7) Pulp goods, pressed or molded (including papier-mache products);
(8) Shipping container (corrugated board, fiber or wire bound);
(9) Trailer, carriage and wagon;
(10) Veneer;
(11) Wood products;

(i) Unclassified uses:
(1) Animal pound;
(2) Animal, poultry and bird raising, commercial;
(3) Building materials (cement, lime, sand, gravel, lumber and the like) storage and sales;
(4) Bus garage and repair shop;
(5) Button manufacture;
(6) Carbon paper and inked ribbons manufacture;
(7) Cigar and cigarette manufacture;
(8) Circus grounds;
(9) Cleaning and dyeing of garments, hats and rugs;
(10) Coal and coke storage and sales;
(11) Contractor's shop and storage yard;
(12) Exposition building or center;
(13) Fairgrounds;
(14) Fur finishing;
(15) Greenhouses, wholesale;
(16) Industrial vocational training school, including internal combustion engines;
(17) Laboratories, research, experimental, including combustion type motor testing;
(18) Leather goods manufacture, but not including tanning operations;
(19) Laundries;
(20) Livery stables and riding academy;
(21) Market, wholesale;
(22) Motion picture production;
(23) Printing, publishing and engraving;
(24) Produce and storage warehouse;
(25) Tire retreading and vulcanizing shop;
(26) Truck or transfer terminal, freight;

(27) Wholesale houses and distributors;

(28) Wharves, docks, the repair, service, sales or storage of boats and other facilities used in connection with water transportation or navigation;

(29) Hospital, clinic or institution;

(30) Other uses similar to the above when approved by the board of zoning appeals. (Ord. No. 7158, 6-9-1958, § 14.2; Ord. No. 7658, 8-12-1968, § 1; Ord. No. 8685, 12-19-1983, § 11; Ord. No. 9213, 9-26-1994, § 8.)

Sec. 50-100. Height, area and bulk regulations.

Every building or portion thereof in the C-4 business center commercial district used for dwelling purposes shall comply with the lot area per family requirements of the R-4 apartment residential district.

(a) No building erected or structurally altered after July 14, 1958, shall exceed the cubical contents of a prism having a base equal to the area of the lot and having a height two times the width of the street on which the lot abuts; provided, however, that a tower with a base not exceeding 25 percent of the lot area and with no side greater than 60 feet in length and no wall within 20 feet of any lot line may be constructed without reference to the above limitations;

(b) If the lot abuts on two streets of unequal width, then, for the purpose of calculating the cubical contents, the wider of the two streets shall control for a distance of 200 feet measured at right angles back from such wider street; provided, that such 200 feet shall be within the C-4 business center commercial district;

(c) Lot area per family requirements shall not apply to dormitories, fraternities, sororities, clubs, hotels or apartment hotels where no built-in cooking facilities are provided in individual rooms or apartments. (Ord. No. 7158, 6-9-1958, § 14.3; Ord. No. 9737, 8-8-2005, § 1.)

Sec. 50-101. Parking and loading requirements.

Off street loading spaces shall be provided in the C-4 business center commercial district in accordance with the requirements of Article III of this Chapter. Provision for off street parking is not required in the C-4 business center commercial district. (Ord. No. 7158, 6-9-1958, § 14.4.)

Article XVIII. M-1 Manufacturing District.

Sec. 50-102. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the M-1 manufacturing district. (Ord. No. 7158, 6-9-1958, § 15.1.)

Sec. 50-103. Permitted uses.

(a) The use regulations for the M-1 manufacturing district are the same as those in the C-4 business center commercial district; except, that a dwelling, other than for a resident watchman or caretaker employed on the premises, shall not be permitted;

(b) Building or premises may be used for bulk petroleum distribution plants but only if the storage tanks are buried completely below grade. (Ord. No. 7158, 6-9-1958, § 15.2; Ord. No. 7314, § 3.)

Sec. 50-104. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the M-1 manufacturing district. (Ord. No. 7158, 6-9-1958, § 15.3.)

Sec. 50-105. Parking and loading requirements.

Off street parking and loading spaces shall be provided in the M-1 manufacturing district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 15.4.)

Article XIX. M-2 Manufacturing District.

Sec. 50-106. Generally.

The regulations set forth in this Article or set forth elsewhere in this Chapter, when referred to in this Article, are the regulations in the M-2 manufacturing district. (Ord. No. 7158, 6-9-1958, § 16.1.)

Sec. 50-107. Permitted uses.

A building or premises in the M-2 manufacturing district shall be used only for the following purposes:

(a) Any use permitted in the M-1 manufacturing district. No dwelling, other than that for a resident watchman or caretaker employed on the premises, shall be permitted;

(b) Any other use, other than those enumerated in paragraph (k) of this Section and other than solid waste disposal sites and yard waste compost facility sites not in conflict with any state Statute or provision of this Code regulating nuisances, including the manufacture, compounding, processing, packaging or treatment of the following or similar products together with any similar new or improved uses, as determined by the board of zoning appeals, which are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences than the minimum amount normally resulting from other uses permitted;

(c) Chemicals, petroleum, coal and allied products:

(1) Adhesives;
(2) Alcohol, industrial;
(3) Bleaching;
(4) Bluing;
(5) Calcimine;
(6) Candles;
(7) Cleaning and polishing preparation (nonsoap) dressing and blackings;
(8) Dye-stuff;
(9) Essential oils;
(10) Exterminating agents and poisons;
(11) Fertilizer (nonorganic);
(12) Fuel briquettes;
(13) Glue and size (vegetable);
(14) Ink manufacture from primary raw materials including colors and pigments);
(15) Soap and soap products;

(d) Clay, stone and glass products:

(1) Abrasive wheels, stones, paper, cloth and related products;
(2) Asbestos products;
(3) Brick, fire brick and clay products;
(4) Glass and glass products;
(5) Graphite and graphite products;
(6) Monument and architectural stone;
(7) Pottery and porcelain products (coal fired);
(8) Refractories (other than coal fired);
(9) Sand-lime products (other than a central concrete mixing or concrete proportioning plant);
(10) Stone products;
(11) Wallboard and plaster, building insulation and composition flooring;

(e) Food and beverage:

(1) Casein;

(2) Chocolate and cocoa;
(3) Cider and vinegar;
(4) Distilleries (alcoholic), breweries and alcoholic spirits;
(5) Flour, feed and grain milling or storage;
(6) Gelatin;
(7) Glucose or dextrine;
(8) Malt extracts;
(9) Meat packing;
(10) Molasses;
(11) Oils, shortenings and fats (including oleomargarine);
(12) Pickles, vegetable relish and sauces;
(13) Poultry (including slaughter);
(14) Rice cleaning and polishing;
(15) Sauerkraut;
(16) Sugar refining;

(f) Metal and metal products:
(1) Boat manufacture;
(2) Boiler manufacture (other than welded);
(3) Brass and bronze foundries;
(4) Forge plant, pneumatic, drop and forging hammering;
(5) Foundries;
(6) Galvanizing or plating (hot dip);
(7) Lead oxide;
(8) Locomotive and railroad car building and repair;
(9) Motor testing (internal combustion motors);
(10) Ore dumps and elevators;
(11) Shipyard;
(12) Stoves and ranges;
(13) Structural iron and steel fabrication and manufacture;
(14) Wire rope and cable;

(g) Textiles, fibers and bedding:
(1) Bedding (mattress, pillow and quilt);
(2) Bleachery;
(3) Carpets, rugs and mats;
(4) Cordage and rope;
(5) Cotton ginning;
(6) Cotton wadding and linter;
(7) Hats;
(8) Hair and felt products washing, curing, dyeing;
(9) Knitted and woven goods;
(10) Jute, hemp and sisal products;
(11) Linoleum and other hard surfaced floor covering;
(12) Nylon;
(13) Oilcloth, oil treated products and artificial leather;
(14) Rayon;
(15) Shoddy;
(16) Wool pulling or scouring;

(h) Wood and paper products:
(1) Barrels;
(2) Carriages and wagons;
(3) Charcoal and pulverizing;
(4) Excelsior;
(5) Furniture;
(6) Paper and paperboard products;

(7) Planing and millwork;
(8) Sawmill (including cooperage stock mill);
(9) Wallboard;
(10) Wood preserving treatment;

(i) Miscellaneous industries:
(1) Carbon papers and ribbons;
(2) Chewing tobacco manufacture;
(3) Leather tanning and curing;
(4) Rubber (natural and synthetic), gutta percha, chicle and balata processing;
(5) Rubber tire and tube;
(6) Shell grinding;
(7) Storage battery (wet cell);

(j) Miscellaneous uses:
(1) Automobile wrecking, cars and parts, storage and sale;
(2) Bag cleaning;
(3) Boats and shipyards, docks, repair, service, sales or storage of boats. Dock wharves, transit sheds and other facilities used in connection with water transportation or navigation purposes;
(4) Coal pocket;
(5) Junk and salvage (metal, paper, rags, waste or glass), storage, treatment, baling;
(6) Railroad yard, roundhouse, repair and overhaul shops;
(7) Oils, vegetable and animal (nonedible) and storage;
(8) Paint, lacquer, shellac and varnish (including colors and pigments, thinners and removers);
(9) Roofing materials, building paper and felt (including asphalt and composition);
(10) Salt tanning materials and allied products;
(11) Tar products (except distillation);

(k) Uses approved by city council. Any of the following uses, when the location of such use has been approved by the city council after public hearing and investigation and report by the city planning commission:
(1) Acid manufacture; acid bulk storage;
(2) Cement, lime, gypsum or plaster of Paris manufacture;
(3) Central concrete mixing or concrete proportioning plant;
(4) Distillation, manufacture or refining of bones, coal or tar asphalt;
(5) Explosives, manufacture or storage;
(6) Fat, grease, lard or tallow rendering or refining;
(7) Fertilizer manufacture (from organic matter);
(8) Glue or size manufacture;
(9) Paper manufacture;
(10) Petroleum or asphalt refining or storage;
(11) Smelting of tin, copper, zinc or iron ores;
(12) Storage or processing raw hides or fur;
(13) Stockyards or slaughter of animals (except poultry).

In permitting any such uses, the city council may impose appropriate conditions and safeguards, including performance bonds, to protect the health, safety and welfare of the residents of the community and the environment. The site plan, landscape plans and building drawings for the use as approved, and other commitments and contractual agreements, shall be recorded as city council public documents prior to the issuance of any building permit. All future use of the land and structures erected thereon shall be thereafter governed by and limited to the approved plans. Any subsequent change or addition to the plan or use shall be submitted for approval as herein provided. Without limitation on other valid reasons for denying approval for such a use, the city council may deny approval for such a use if it should find that such a use would have negative environmental, health or safety impacts on the community or have little or no contiguity with existing or programmed development in the affected area. (Ord. No. 7158, 6-9-1958, § 16.2; Ord. No. 7274, § 1; Ord. No. 9061, 12-19-1991, § 1; Ord. No. 9239, 3-6-1995, § 4.)

Sec. 50-108. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the M-2 manufacturing district. (Ord. No. 7158, 6-9-1958, § 16.3.)

Sec. 50-109. Parking and loading requirements.

Off street parking and loading spaces shall be provided in the M-2 manufacturing district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 16.4.)

Article XX. W-1 Waterfront District.

Sec. 50-110. Generally.

The regulations set forth in this Article or set forth elsewhere in the Chapter, when referred to in this Article, are the regulations in the W-1 waterfront district. (Ord. No. 7158, 6-9-1958, § 17.1.)

Sec. 50-111. Permitted uses.

A building or premises in the W-1 waterfront district shall be used only for the following purposes:

(a) Boats and shipyards, docks, repair, service, sales or storage of boats. Dock wharves, transit sheds and other facilities used in connection with water transportation or navigation purposes;

(b) Sewage pumping and disposal plants;

(c) Power generation plants;

(d) Waterworks or water-pumping stations;

(e) Yacht harbors and clubs;

(f) Any use permitted as a matter of right or by special permit in the M-2 manufacturing district; provided, that the planning commission certifies to the building inspector that the proposed use is advantageously served in this location through the direct access to water transportation for receipt or shipment of fuel, supplies, goods or commodities or requires ready access to large quantities of raw water for condensing, cooling, washing or other mill or manufacturing purposes or for other reasons requires direct access to the waterfront. (Ord. No. 7158, 6-9-1958, § 17.2.)

Sec. 50-112. Height and area regulations.

The height and area regulations set forth in Article II of this Chapter shall be observed in the W-1 waterfront district. (Ord. No. 7158, 6-9-1958, § 17.3.)

Sec. 50-113. Parking and loading requirements.

Off street parking and loading spaces shall be provided in the W-1 waterfront district in accordance with the requirements for specific uses set forth in Article III of this Chapter. (Ord. No. 7158, 6-9-1958, § 17.4.)

Article XXI. Amendment of Chapter.

Sec. 50-114. Authority of city council.

Whenever justified or required by the public necessity, convenience, general welfare or good zoning practice and after public hearing, the city council may, by ordinance, amend the regulations set forth in this Chapter for the districts established on the zoning district map in accordance with the procedure set forth in this Article. Except as otherwise provided by law, and subject to the requirements of this Article, the adoption or amendment of the zoning ordinance shall be by a majority vote of all members of the city council. Before

voting on an amendment, supplement or change to the district boundary lines or regulations, the city council shall obtain a report thereon from the city planning commission. (Ord. No. 7158, 6-9-1958, § 26.1; Ord. No. 9527, 3-25-2002, § 1.)

Sec. 50-115. Initiation of amendments.

The city planning commission may, upon its own motion, propose and hear amendments to the district boundaries or to the text of this Chapter. Any person owning real estate may petition the planning commission to amend the district boundaries in which such real estate is located or which such real estate abuts. Such a petition shall be filed with the city clerk who shall immediately refer it to the city planning commission for the hearing, report and recommendations required by this Article. Petitions of property owners shall be made on a form provided by the secretary of the planning commission and shall include a legal description of the property, a map and names and addresses of all property owners within 350 feet of the property, and other such information as determined necessary by the planning commission. After said public hearing, the planning commission shall forward to the city council a report and recommendations. Petitions for amendments from property owners shall be filed at least four weeks in advance of the planning commission meeting at which they are to be heard. (Ord. No. 7158, 6-9-1958, § 26.2; Ord. No. 9284, 12-11-1995, § 16.)

Sec. 50-116. Public hearing.

The city planning commission, before submitting its recommendations on a proposed amendment to the city council, shall hold at least one public hearing thereon, notice of which shall be given in a daily newspaper of general circulation at least once each week for three successive weeks prior to such hearing, which notice shall state the time, place and purpose of such hearing. (Ord. No. 7158, 6-9-1958, § 26.3.)

Sec. 50-117. Written consent of property owner required; exception.

Except as otherwise provided by law, the adoption or amendment of any district boundaries from residential to either commercial, industrial or manufacturing shall be made in conformance with this Section and only after there shall have been filed in the office of the city clerk a written consent of the owners of 2/3 of the several descriptions of real estate situated within 100 feet of the total contiguous descriptions of real estate held by the same owner or any party purchasing any such contiguous property within one year preceding the request and after the affirmative vote in favor thereof by a majority of the city council. The city council may, by a 2/3 vote of its members, after hearing, adopt a new zoning ordinance without such written consent whenever the planning commission shall have made a survey of the whole area of the city or of an area not less than 40 acres, within which the new ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of descriptions of real estate affected by such changes and alterations renders the obtaining of such written consent impractical, and the planning commission shall report in writing as to whether in its opinion the proposals of the city council in any case are reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall have conducted a public hearing on such proposed ordinance, changes or alterations and shall have reported to the city council its findings and recommendations in writing. (Ord. No. 7158, 6-9-1958, § 26.4; Ord. No. 9527, 3-25-2002, § 2.)

Sec. 50-118. Interim ordinances and uses.

(a) Upon introduction of an interim ordinance to the city council, the council may provide for the imposition of interim uses. The imposition of interim uses shall be done by the introduction of a resolution. The resolution establishing interim uses may provide that no use, development, project or subdivision for which an application has not been previously filed shall be established or expanded, nor shall any application for a license, building permit, administrative waiver, review or approval of any application, including an application for any zoning approval, which concerns both the geographical area and subject matter of the

interim ordinance filed after the introduction of the interim ordinance, be granted or further processed, pending a final decision on the adoption of the interim ordinance;

(b) Upon final adoption of an interim ordinance, the following restrictions shall apply:

(1) No permits, licenses or other approvals of any kind which concern both the geographical area and subject matter of the interim ordinance shall be processed or issued except in accordance with its terms;

(2) No use, development, project or subdivision which concerns both the geographical area and subject matter of the interim ordinance shall be established or expanded except in accordance with its terms;

(c) If the interim ordinance is not adopted, the resolution establishing interim uses shall be null and void and requests for permits and other necessary approvals shall be processed promptly in accordance with the procedures governing the request. (Section previously repealed by Ord. No. 9527, 3-25-2002, § 3; new language added by Ordinance 9872, 11-13-2007, § 1; amended by Ord. No. 9901, 4-14-2008, § 1; Ord. No. 9916, 6-19-2008, § .)

Sec. 50-119. Procedure before planning commission.

Procedure before the planning commission shall be governed by rules and regulations adopted by the commission. (Ord. No. 7158, 6-9-1958, § 26.6.)

Sec. 50-120. Fees.

Before any action is taken upon any application as provided by this Article, either by the planning commission or the city council, the applicant shall pay through the city clerk into the treasury of the city fees, which shall be set in accordance with Section 31-6(a) of this Code, for the following:

(a) A filing fee to help defray the cost of reviewing and hearing such application;

(b) A fee for revisions to C-3 shopping center district approved plans;

(c) An additional fee to pay all costs for publications, map changes and public notices. (Ord. No. 7158, 6-9-1958, § 26.7; Ord. No. 7742, 11-10-1969, § 3; Ord. No. 8551, 11-24-1980, § 23; Ord. No. 9118, 1-11-1993, § 45; Ord. No. 9611, 7-28-2003, § 59.)

Article XXII. IP Industrial Park District.

Sec. 50-121. Generally.

In order to provide for modern light-industrial developments of attractive integrated design and function, the IP industrial park district is hereby established. The intent of such districts is to establish a development unit according to an approved overall plan in which the high quality of individual properties are protected through development standards. Because of varying characteristics of industrial park locations themselves and adjacent areas, certain standards are intended to be flexible and determined at the time of establishment of individual industrial parks. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-122. Review and approval of park plan.

As part of any city council ordinance amending district boundaries to establish or add to an industrial park district, the following shall be included after discussion and recommendation of the city planning commission:

(a) An approved general plan, including functional street classifications, rail spur locations (if applicable), buffers at periphery of the industrial park (if applicable), general utility plan, stormwater drainage, and general lot configuration;

(b) Minimum yard setbacks and maximum building height;

(c) Building surface materials allowances or limitations;

(d) Location of sites which necessarily require an exception to the underground utility restriction;

(e) Language of required covenants to be filed. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-123. Permitted uses.

A building or premises in the IP industrial park district shall be used only for the following purposes:

(a) Light manufacturing, wholesaling, jobbing, warehousing, animal shelters, municipal animal pounds, distributive and general administration uses which in general are dependent on raw materials refined elsewhere. Such uses shall not include those listed under the M-2 manufacturing district;

(b) Commercial services and recreational uses which are incidental to and supportive of industrial park uses if said uses are granted a special use permit under the procedures of Article IV of this Chapter. Such special use permit shall be granted only if a commercial service or recreational use is found to be appropriate in terms of the specific industrial park's character, purposes, size and location. Such supportive uses shall not include activities which are primarily retail in nature and devoted to the sale of consumer goods;

(c) Accessory building or use customarily incidental and secondary in use and area to any of the above uses; provided, that any such accessory building shall be erected at the same time or after the construction of the principal building. One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet;

(d) Other similar uses as those enumerated in paragraphs (a), (b) and (c) of this Section, as determined by the board of zoning appeals, except that the uses permitted in the M 1 and M-2 manufacturing districts, and solid waste disposal sites and yard waste compost facility sites shall not be allowed. The applicant for a use authorized by this paragraph shall provide information clearly demonstrating that the proposed use meets the following standards:

(1) The use does not conflict with any state statute or provision of this Code regulating nuisances;

(2) The use will not create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences than the minimum amount normally resulting from other uses permitted;

(3) The use is not likely to create conflicts with other uses permitted (Ord. No. 8455, 5-7-1979, § 1; Ord. No. 8685, 12-19-1983, § 12; Ord. No. 8723, 2-11-1985, § 7; Ord. No. 9836, 6-11-2007, § 1.)

Sec. 50-124. Loading requirements.

All loading, unloading and maneuvering operations shall occur off street and shall be located in the side yard, rear yard, or rear yard setback area and comply with the requirements for a specific use as set forth in Article III of this Chapter. No such loading or unloading shall be permitted in a location which interferes with ingress or egress of traffic on a street and no vehicle shall be allowed to back into loading areas from the street. Loading areas shall be constructed with a durable dust-free material having a smooth, hard surface, and shall be defined on all sides by raised cast-in-place concrete curbs. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-125. Street access.

A 30 foot minimum radius shall be required for all driveway access. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-126. Outside storage.

Outdoor storage of materials, supplies, products, equipment, waste, or company owned vehicles other than passenger cars, shall be allowed in the side yards, rear yard and rear yard setback area only, and in such cases shall be visually screened by fences, walls or plantings which prohibit view of storage from access streets, freeways and adjacent properties. Decorative fences or walls shall form a 75 percent opaque screen up to a point five feet in vertical height. Plantings shall provide a year-round screen buffer consisting of plantings of evergreen variety with individual plantings having a minimum height of four feet at the time of planting. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-127. Utility lines.

All utility lines shall be placed underground, including telephone lines, electrical and energy transmission lines and distribution lines. Exceptions to said underground requirement shall be made by the city council upon recommendation of the planning commission only if it is conclusively shown that original placement or conversion to underground is infeasible. Transformer or terminal equipment shall be visually screened to prohibit views from streets and adjacent properties. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-128. Yards and building height.

Specific minimum yard setbacks and maximum building heights shall be specified on the ordinances creating individual industrial parks, depending upon individual characteristics of each site. However, in no case shall any front yard be less than 25 feet in depth, corner side yard be less than 25 feet, interior side yard be less than ten feet or rear yard be less than ten feet, except that rear yards and side yards may be less if adjacent to a rail easement. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-129. Exterior building appearance.

All buildings erected shall create a credible and acceptable appearance by constructing and maintaining four attractive walls. All appurtenant equipment shall be screened from view. Additional standards for building exteriors shall be established for individual industrial parks, based upon individual desired characteristics of said parks. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-130. Covenants.

The city council may require filing of covenants upon applicable properties in order to assure compliance with the requirements of this Article. In order to further assure that the intent of this Article is fulfilled, said covenants may include elements relating to maintenance, code compliance, enforcement, duration of controls and other applicable provisions. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-131. Variances.

Notwithstanding the power to grant variances as set forth in Section 50-47 of this Code, a reduction by not more than ten percent of the minimum dimensional requirements established herein may be granted if the required conditions of Section 50-47(b) of this Code are found to exist. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-132. Off street parking.

All vehicular parking whether customer, visitor or employee, shall be off street. The number of off street parking spaces shall comply with the following requirements:

(a) One parking space for each 1,000 square feet of gross floor area used for warehousing, jobbing and distributing;

(b) One parking space for each 500 square feet of gross floor area used for manufacturing;

(c) One parking space for each 250 square feet of office floor area.

Parking shall not be allowed within the front and side yard setback areas. Parking shall not be permitted in the front yard between the building line and the front yard setback line unless a three foot high bermed landscaped area is established on the street side of such parking and unless such parking is limited to visitor vehicles.

All parking areas shall be constructed with a durable dust-free material, having a smooth, hard surface and shall be defined on all sides by raised cast-in-place concrete curbs. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-133. Landscaping.

Landscaping, including planting of grass by sodding and suitable trees and shrubbery, or equivalent landscaping, shall be the responsibility of the owner of the property and shall be established and maintained. The owner of the property shall:

(a) Incorporate existing vegetation into the landscape plan wherever possible;

(b) Protect existing vegetation during construction and thereafter maintain such vegetation;

(c) Place coniferous trees having a minimum height of five feet at the time of placement and/or deciduous trees having a minimum trunk diameter of two inches at the time of placement in all required front yard areas, such trees to have a maximum average spacing of 30 feet and to include boulevard trees. No trees shall be erected less than 30 feet from a public street intersection;

(d) Provide trees and shrubbery to relieve the visual monotony of large parking areas. Parking areas which contain more than ten adjacent parking spaces and which are located in the front yard between the building line and front yard setback line or between the building line and side yard setback line shall be separated by landscaped islands which have a minimum width of eight feet, lined by cast-in-place concrete curbs and containing at least two deciduous trees having a minimum trunk diameter of two inches at the time of placement;

(e) Generally incorporate large irregular groupings or massings of the same variety, avoiding rigid or repeated specimen planting except for boulevard trees, and introducing multiple varieties within one general area;

(f) Select plant materials consistent with a climate tolerant list approved and maintained by the planning commission;

(g) Grade, properly drain, sod, and maintain open areas or reserved or potential land not used. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-134. Approval of plans for individual construction projects.

Before commencing with the construction or alteration of any building, enclosure, fence, outdoor storage or display, loading dock, parking facility, storage yard, sign or landscaping, or any other structure or improvement on or to any parcel, the property owner, lessee or other occupant shall first submit plans and specifications to the city building inspector, city engineer, and secretary of the city planning commission for written certification that these regulations have been complied with. If the above-mentioned project applicant or secretary are unclear as to the meaning, intent or applicability of the regulations, or if the applicant is aggrieved as to the interpretation of any of the above officials, the matter shall be submitted to the planning commission's land use and zoning committee for clarification or determination. Said plans and specifications shall include:

(a) Landscape plan at a scale of not less than one inch = 20 feet and as defined in this Chapter;

(b) Elevation drawings of all man-made landscaping devices such as tree pots, benches, etc., at a scale of not less than 1/8 inch = one foot;

(c) Elevation drawings of all outdoor storage screening devices, indicating color, materials, and method of construction;

(d) A site plan as defined in this Chapter and including utilities serving the site;

(e) Building elevation drawings, including notations as to specific building materials and colors;

(f) Sign elevation drawings;

(g) It is suggested that a professional designer be employed to develop these drawings in order to fulfill the requirements of these regulations. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-135. Severability.

If any paragraph in these regulations or part thereof shall be invalid, illegal or inoperative for any reason, the remaining part so far as possible and reasonable shall be effective and fully operative. These regulations repeal the standards as set forth in the urban renewal plan for the Oneota area established December 1972. (Ord. No. 8455, 5-7-1979, § 1.)

Sec. 50-136. Expansion of nonconforming buildings.

Notwithstanding the provisions of Section 50-13, a nonconforming building may be enlarged or reconstructed provided that the use thereof is a permitted use in a IP district, the number of parking spaces are in accordance with IP district requirements, the building setbacks of the IP district are observed and the enlargement constitutes no more than 60 percent of the gross floor area of all buildings on the site as of June 10, 1979. (Ord. No. 8455, 5-7-1979, § 1.)

Article XXIII. C-5 Planned Commercial District.

Sec. 50-137. Purpose.

The C-5 planned commercial district is established in order to ensure orderly and attractive commercial growth in areas of the city which exhibit sensitive environmental problems, traffic congestion or other characteristics of urban sprawl. To accomplish this objective the council determines that a detailed review of the design of development in such areas is necessary in order to minimize blighting influences on surrounding uses and neighborhoods, reduce adverse effects of development on the natural environment, enhance the visual and aesthetic quality of development, and ensure the provision of adequate and cost efficient public facilities. (Ord. No. 8494, 12-26-1979, § 19.)

Sec. 50-138. Permitted uses.

A building or premises in the C-5 planned commercial district shall be used only for the following purposes:

(a) Any use permitted in the C-2 highway commercial district and in accordance with the use regulations set forth for such uses in the C-2 highway commercial district;

(b) Dwelling, provided that such dwelling use shall not be permitted within either the first or the basement story and provided that the minimum lot area per family be the same as in the R-3 district. (Ord. No. 8494, 12-26-1979, § 19.)

Sec. 50-139. Plan review requirements.

The following activities in the C-5 district shall be initiated and building permits shall be issued only after the secretary of the city planning commission has certified in writing that the review and approval procedures specified in Section 50-140 have been completed:

(a) New building construction;

(b) Building expansions of more than 500 square feet in area;

(c) Grading and construction of parking areas having more than 3,000 square feet in area;

(d) Construction of driveways or other means of providing access to property from public streets or highways;

(e) Construction of signs which display products or services which are not sold or provided on the same premises;

(f) Excavations of more than five cubic yards of earth or placement of more than five cubic yards of fill or other material. All excavations or fill placements in furtherance of a single project shall be considered to be one excavation or fill placement for purposes of this Section;

(g) Removal of vegetation within wetlands as defined in Chapter 51. (Ord. No. 8494, 12-26-1979, § 19.)

Sec. 50-140. Procedures.

(a) Plan review for the activities noted in Section 50-139 shall be performed by the city planning commission and city council. For projects on sites with a total area of five acres or less, approval of the planning commission only shall be required. Projects on sites of more than five acres shall first be reviewed by the commission and then forwarded to the city council for final approval. Consideration by the commission

shall only be made after a complete application including all required supporting information is submitted at least two weeks prior to the meeting at which commission action is requested. The secretary of the commission shall send a notice of the time and date of the meeting at which the commission shall conduct plan reviews to all property owners within 350 feet of the proposed site. Failure to give said notice to all individual property owners or any defect in the notice shall not invalidate any action of the commission or city council, provided that a bona fide attempt to comply with this Section has been made. The commission and the city council may attach conditions to their approval to assure that the purpose of the C-5 district are met and may deny such approval if the required findings of Section 50-141 of this Code cannot be made;

(b) Applications for such review and approval shall be accompanied by a site plan drawn at a scale no less than 1=50', a landscape plan including all existing and proposed plant materials and sizes, elevation and floor plans of proposed new structures or additions to structures, drawings of all existing and proposed signs, detailed stormwater management plans, detailed erosion plans, detailed traffic analysis and plan for traffic control and improvements, a preliminary plat where the subject property is unplatted, involves the use of vacated and unplatted street right-of-way or involves the assemblage of multiple platted lots, a map and names and addresses of all property owners within 350 feet of the proposal site, and a written statement describing the proposed development or use. In addition, the commission or city council may subsequently require the provision of a performance bond or other form of security to insure the construction of necessary public and/or private improvements. The secretary of the commission may waive these requirements where the secretary deems them to be inapplicable in the case of minor expansion of existing approved projects or in the case of new projects on sites of less than one acre;

(c) Decisions of the commission shall be final unless an aggrieved party appeals to the city council within seven days after written notification of the action is given to the applicant by filing a notice of appeal with the city clerk. The filing of an appeal to the city council shall stay all proceedings in furtherance of the decision appealed from. The city council may affirm, modify or reverse the decision of the commission, but shall approve development plans only if it first finds that the requirements specified in Section 50-141 of this Code will be satisfied;

(d) After the city planning commission or the city council has approved specific plans, all construction or other activities so approved shall be in accordance with the specific approved plans and shall thereafter be maintained in accordance with such plans. Subsequent changes or modifications in the plans or project shall be subject to review as initially required. (Ord. No. 8494, 12-26-1979, § 19; Ord. No. 9284, 12-11-1995, § 17; Ord. No. 9284, 12-11-1995, § 17.)

Sec. 50-141. Requirements of plan approval.

Plans for the activities specified in Section 50-139 of this Code shall be approved only after a finding that the following requirements will be satisfied. These provisions shall be applicable to all new developments, expansions to existing developments and shall retroactively apply to existing nonconforming portions of developments where the proposed expansion or combination of expansions exceed an increase of 30 percent of the total building floor area:

(a) The development, as designed, will not be materially detrimental to present and future land uses of adjacent properties because of traffic congestion, noise, visual blight, glare or other nuisance characteristics;

(b) There shall be a landscaped or naturally vegetated setback area adjacent to all S and R district boundaries no less than the distance required in the following table:

Total project site area	Minimum landscape setback
less than .5 acres	20 feet
.5 to .9 acres	30 feet
1 to 4.9 acres	50 feet
5 to 9.9 acres	100 feet
10 to 19.9 acres	150 feet
20 to 39.9 acres	200 feet
40 acres or more	300 feet

No parking or loading shall be permitted within such setback areas except approval may be given by the commission or council for an encroachment of up to 50 percent of the required area provided all property owners within a distance equal to double the required setback have given written approval of the requested encroachment and it is determined a lesser landscape setback will satisfy the intent of this Section. Within the landscaped setback area natural vegetation shall be maintained to the maximum extent possible. Where natural vegetation is disturbed it shall be replaced with materials that offer equivalent or superior visual screening effects;

(c) A minimum of five percent of all parking areas on the proposed site shall be landscaped islands. Islands shall have a minimum average width of four feet and shall include a minimum of one tree at least two inches in diameter at the time of planting. This provision shall be retroactively applied to all existing parking areas when a proposed expansion or combination of expansions exceed an increase equal to 30 percent of the original nonconforming parking area. Parking areas shall include at least one tree for every ten parking spaces within or at the edges of the parking areas;

(d) The location, size and number of curbcuts shall be designed to minimize traffic congestion or hazard in the area. Any traffic control improvements required as a result of the proposal such as traffic signals, turning lanes, medians, signage and other types of improvements necessary to accommodate traffic flow to and from the proposed project shall be paid for by the property owner. Any additional right-of-way or easements needed shall be provided by the property owner at no cost to the city;

(e) Development of the land shall not increase the peak stormwater runoff from the site from its existing condition based upon a storm of 100 year frequency and 24 hour duration;

(f) The proposed development shall be designed to minimize pollutants in stormwater runoff to the lowest level possible applying the best available technology;

(g) The proposed development shall not create an excessive burden on existing and proposed public improvements in the area;

(h) Any necessary public easements over the subject property shall be dedicated, and any necessary improvements within such easements or other easements adjacent to the subject property shall be made;

(i) Wetlands, shorelands and floodplains shall be preserved as described in Chapter 51 of this Code;

(j) Curbing shall be provided to define parking and landscaped areas and to direct stormwater runoff;

(k) Building height restrictions and building setback requirements shall be established for each development plan to ensure that the purposes of this Article are carried out. The following general standards shall be considered in establishing such restrictions and requirements:

(1) Maximum building height: 45 feet;

(2) Minimum front yard: 25 feet;

(3) Minimum side yards: the side yard abutting a street on a corner lot shall be 25 feet and side yards abutting residential uses in nonresidential districts shall be seven feet;

(4) Minimum rear yard: 25 feet. (Ord. No. 8494, 12-26-1979, § 19; Ord. No. 9284, 12-11-1995, § 18.)

Sec. 50-142. Parking requirements.

Except as provided in this Section, off street parking spaces shall be provided in the C-5 planned commercial district in accordance with the requirements for specific uses set forth in Article III of this Chapter. The city council may approve plans with fewer parking spaces than required by Article III in large multiple user projects over five acres where shared parking results in demands for fewer spaces. The city council in these circumstances may approve plans with reduced parking to as low as 80 percent of what is required in Article III. Parking spaces shall not be permitted within the required setback areas required in Section 50-141(k). Parking spaces shall not be permitted within the required landscape setback areas of Section 50-141(b) except as specifically permitted in said Section. If there is a conflict between these two sections, the most restrictive section shall apply. (Ord. No. 8494, 12-26-1979, § 19; Ord. No. 9284, 12-11-1995, § 19.)

Sec. 50-143. Limitations on variances.

(a) Except as provided in this Section, and notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article shall be granted except a variation of not more than ten percent from any dimensional requirement and 20 percent from any off street parking requirement;

(b) When an approved plan is impacted as the result of a governmental taking pursuant to eminent domain powers, the limitation on variances provided in this Section shall not apply. In such case, building and parking setback variances may be granted pursuant to Section 50-140 of this Chapter and the following standards;

(1) An application for a variance from setback standards must include a landscape plan for the setback areas. The plan must evaluate the screening effect of the proposed landscaping and improvements in the setback area with a goal of achieving a mixture of berms, landscaping, decorative fencing, decorative wall structures and other techniques that enhance the appearance of the property when viewed from surrounding public rights-of-way;

(2) Landscape requirements may be met through placement of all or a portion of the required landscaping in the rights-of-way adjacent to the setback area provided that the landscaping be subject to a perpetual maintenance agreement between the owner of the rights-of-way and the applicant and such landscaping shall not be removed by either party unless replaced with landscaping that meets the requirements of this Code;

(3) The landscape plan supporting an application to reduce setbacks to a width of ten feet or greater shall include a combination of two or more of the following elements: berms, canopy trees, shrubs, decorative fencing and other techniques that together screen the site when viewed from the public rights-of-way, such screening in the setback area between ground and an elevation four feet above the parking lot or building first floor elevation adjacent to the rights-of-way shall screen out at least 50 percent of the view;

(4) The landscape plan supporting an application to reduce setbacks to a width of between five feet and ten feet shall include a combination of two or more of the following elements: berms, ornamental trees, shrubs, decorative fencing and other techniques that together screen the site when viewed from the public rights-of-way, such screening in the setback area between ground and an elevation four feet above the parking lot or building first floor elevation adjacent to the rights-of-way shall screen out at least 50 percent of the view;

(5) Setbacks shall not be reduced to a width five feet or less unless the applicant, in addition to the required landscape plan, has submitted a site plan that meets the minimum values or dimensions set by city codes or regulations or other government laws or regulations, such as setbacks or parking lot design. The applicable minimum values or dimensions may be exceeded only where the existence of a hardship, as defined in Minnesota Statute 462.357 subd. 6(2), has been shown. Where a hardship is shown to exist, the variance from applicable minimum values or dimensions shall be the minimum necessary to provide a reasonable use. The landscape plan supporting the application shall include a combination of

two or more of the following elements: shrubs, patterned walls, decorative fencing, and other techniques that together screen the site when viewed from the public rights-of-way, such screening between ground and an elevation four feet above the parking lot or building first floor elevation adjacent to the rights-of-way shall screen out at least 75 percent of the view;

(c) For the purposes of this Section, decorative fence shall be defined as powder coated steel, solid core ornamental fence, decorative wood fence, or similar. No form of chain link or highway guard rail shall be considered screening;

(d) For the purposes of this Section, patterned walls shall be defined as walls with a patterned or textured look to mimic stone or similar design or patterned to create reveals and shadow lines. No blank concrete or wood timber walls shall be permitted;

(e) All tree and shrub vegetated areas shall be constructed with drip irrigation systems to ensure plant survival. All plant species selected shall be suitable for use in Zone 3 and environments with exposure to deicing chemicals. All landscape plans shall show plant materials at 75 percent of mature size (height and width) for calculating of screening value to meet this requirement;

(f) All landscaping elements shall be continuously maintained and all nonviable plantings shall be immediately replaced. (Ord. No. 8494, 12-26-1979, § 19; Ord. No. 9899, 3-24-2008, § 1.)

Article XXIV. Downtown Waterfront Mixed Use-Design Review District (DWMX-D).

Sec. 50-144. Statement of purpose.

Located south of Interstate Highway 35, the Downtown Waterfront encompasses canal point and several bayfront properties. Canal Point is the centerpiece of Duluth's revitalizing waterfront, containing not only the state's number one tourist attraction, the Aerial Lift Bridge and shipping canal, but also a solid core of historic industrial and warehouse structures that lend a special working waterfront atmosphere to the area. Immediately west is Minnesota Slip with the museum ore carrier, the William A. Irvin; the Duluth Entertainment Convention Center; Bayfront Festival Park along with Slip Nos. 1 and 2 and several private properties. The area's visibility, historical uniqueness and economic importance to the city as a whole all recommend a special approach in the development of this area. Thus, the Downtown waterfront mixed use-design review district (DWMX-D), which is a mixed use zoning district with an overlapping design review district (the latter being created pursuant to Laws of Minnesota, 1987, Chapter 84), is hereby established to preserve and enhance the unique visual character and environmental quality of this area and to provide for the coordinated implementation of the downtown waterfront plan.

The DWMX-D district allows for flexible and creative approaches to development concepts with mixed land uses that would not be permitted within standard zoning districts. Because mixed land uses have the potential for conflicting impacts and the unique qualities of mixed use districts are fragile and unusually sensitive to visual chaos and blight, design review is considered essential to maintain those characteristics deemed worthy of protection and enhancement. Substantial city investment in public improvements within the district also call for special regulations for the district. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-145. Subdistricts.

For purposes of regulating setbacks, permitted uses and building heights, the DWMX-D district has been divided into subdistricts. Refer to the official zoning map, Plate 29 for delineation of these subdistricts. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-146. Permitted uses.

(a) Generally. It is the intent of this Section to provide for a variety of compatible, integrated land uses that will enhance the liveliness of the DWMX-D district and to provide for a balance between tourist-oriented attractions, public recreational facilities, commercial and industrial enterprises, residential uses and neighborhood services. A building or premises within the DWMX-D district may be used for the following listed uses, or uses determined by the city planning commission to be similar to those listed and compatible with the purposes of the district;

(b) Residential;

(1) Multi-family dwellings, townhouses or apartments, except in the area south of Buchanan Street and east of Canal Park Drive;

(c) The following retail and wholesale sales, services and production and accessory uses; provided drive-up service windows are not permitted:

(1) Antiques refinishing, repairing and sales;
(2) Art studio;
(3) Bakery and sale of bakery products on the premises;
(4) Bar licensed to serve liquor;
(5) Boat sales room;
(6) Catering service;
(7) Cleaning service;
(8) Clothing store;
(9) Dancing and music academy;
(10) Delicatessen;
(11) Display room for wholesale merchandise stored elsewhere;
(12) Dressmaking, tailoring and shoe repair;
(13) Dry cleaning and pressing;
(14) Excursion rides;
(15) Florist shop;
(16) Fueling facilities for motor vehicles, except that no such fueling facility (either as a principal or accessory use) shall be permitted in Subdistrict A;
(17) General business office (except medical and dental clinics);
(18) Grocery stores;
(19) Hair styling salon;
(20) Hotel and motel;
(21) Household appliance repair;
(22) Laundry and laundromat;
(23) Livery stable;
(24) Marina;
(25) Meat, poultry and fish shops, provided that there is no slaughtering of animals or poultry on the premises;
(26) Parking lots and ramps;
(27) Photography studio;
(28) Pottery studio;
(29) Remote electronic bank teller facility;
(30) Restaurant;
(31) Retail and wholesale sales of general or specialized merchandise; except that in connection with such sales, there shall be no slaughtering of animals or poultry on the premises;
(32) Theater, movie or live performance;
(33) Upholstery shop;

(d) The following light industrial production, warehousing and distribution:

(1) Beverage blending and bottling;
(2) Brewery;
(3) Cooperage works;
(4) Cosmetics and toiletries;
(5) Food packaging;
(6) Fruit and vegetable processing;
(7) Ice cream production;
(8) Iron (ornamental) fabrication;
(9) Leather goods manufacture, not including tanning operations;
(10) Motion picture production;
(11) Pharmaceutical products;
(12) Printing, publishing and engraving;

(13) Small metal products fabrication such as needles and pins, nails, brads, tacks, staples, tools and hardware products.

(14) Storage, packaging and distribution of wholesale merchandise;

(15) Textile bedding and fiber production (excluding rubber and synthetics processing and productions);

(16) Wharves, docks and the repair, service and storage of boats and other facilities used in connection with water transportation or navigation;

(e) The following institutional uses:

(1) Convention centers;

(2) Museums, research and interpretive facilities;

(3) Parking decks/ramps and surface parking lots;

(4) Private schools and academies;

(5) Public parks and open space;

(6) Sports facilities;

(7) Recreational vehicle parking;

(f) The following miscellaneous and/or water-related uses:

(1) Boat manufacture;

(2) Boatyards and shipyards;

No variances from the provisions of this Section shall be allowed. (Ord. No. 8972, 3-12-1990, § 1; Ord. No. 9832, 5-14-2007, § 1.)

Sec. 50-147. Technical design advisory committee.

(a) A technical design advisory committee, hereinafter called the design committee, is hereby established for the DWMX-D district pursuant to Laws of Minnesota, 1987, Chapter 84;

(b) Responsibilities. The design committee shall have the responsibility of reviewing development proposals within the DWMX-D district for consistency with the established design framework for the area, as set forth in Sections 50-150 through 50-160, and issuing certificates of appropriateness where warranted. The design committee may by rule delegate specified review functions for minor proposals to subcommittee and/or department of planning and development staff as deemed necessary in order to expedite the review process;

(c) Membership. The design committee shall consist of seven members, appointed by the mayor, subject to confirmation by the city council. No more than three of the members shall be property owners or tenants of the district and one shall be a member of the city planning commission. All members of the design committee shall be knowledgeable in the field of design by virtue of their interests, training and experience, and at least one member shall be an architect;

(d) Terms. One of the five design committee members initially appointed will serve a term of one year, two will serve terms of two years, and two will serve terms of three years. All subsequent appointments shall be for a term of three years. In the event of a vacancy, the unexpired term shall be filled in the same manner as the appointment was originally made. No member shall serve more than three consecutive terms. Members shall serve without compensation and shall continue to hold office until their successors have been appointed and confirmed;

(e) Organization. The design committee shall select from among its members such officers as it may deem necessary. The design committee shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs for the purpose of carrying out the intent of this ordinance which are not inconsistent with the laws of the city of Duluth and the state of Minnesota. Such rules and regulations shall include, but not be limited to meeting notification, procedures and provision for timely reviews of development proposals;

(f) Reports and records. The design committee shall make an annual report, containing a statement of its activities and decisions, to the Duluth City Council. Minutes of all meetings shall be kept and all records and meetings of the committee shall be open to the public. (Ord. No. 8972, 3-12-1990, § 1; Ord. No. 9089, 8-10-1992, § 1.)

Sec. 50-148. Approval of construction activity.

(a) Type of activity. The design committee shall review all construction activities, including all street and utility activities, within the DWMX-D district. No person shall undertake any of the following activities in a DWMX-D district prior to issuance of a certificate of appropriateness under this Article:

(1) Remodeling, repairing or altering structures or improvements in any manner which will change their exterior appearance, including such things as sandblasting, chemical cleaning and painting;

(2) New construction and improvements;

(3) Construction of and changes to parking facilities, curb cuts and driveways;

(4) Moving a building;

(5) Adding or removing any landscape plantings or features whose characteristics include a height at maturity of over four feet;

(6) Placement of signs, except for temporary signs which are regulated under Section 44-9 of this Code;

(b) Seasonal concession activities. In addition to the construction activities requiring review, all mobile and/or seasonal concession vehicles/stands located within the DWMX-D District which effectively become permanent structures by remaining immobile at the same location for more than three hours in any day shall be required to obtain a certificate of appropriateness under the provisions of Sections 50-150 through 50-160 of the City Code;

(c) Application and plans. Every application for a building permit or certificate of appropriateness for any activity listed in paragraph (a) of this Section within the DWMX-D district shall be accompanied by detailed plans for the proposed work to be done and a narrative explaining the proposed use. Such plans shall, at a minimum, include:

(1) Scale drawings of all building elevations impacted by the proposed change including notes on building materials and color samples;

(2) Floor plans to scale;

(3) Landscape plans;

(4) Site plans;

(5) Sign plans; showing materials, colors and text at scale.

Applications, plans and narrative shall be submitted to the city planning division, which shall process the applications for review by the design committee. The division of building inspection shall not issue permits in regard to an application until receiving a written certificate of appropriateness from the design committee;

(d) Plan review. The design committee, upon receipt of a complete application for a permit, shall undertake an expeditious and timely review of the proposal to determine whether the work to be performed meets the intent and requirements of the design framework for the district. A certificate of appropriateness shall be issued only upon a finding by the design committee that the proposed construction activities are in conformance with the design framework. The design committee may delegate to subcommittee or a designated city department of planning and development official its power to review and approve permit applications and issue certificates of appropriateness for certain minor modifications;

(e) Variances. The provisions of Section 50-47(b) relating to the granting of variances shall be applicable to only Section 50-152 building height limitations, Section 50-154 setbacks, and Section 50-155 parking and loading of this Article. Variances from and/or interpretations of all other Sections of this Article shall be made by the design committee if it is found that the proposed work in question will better meet the overall intent, goals and policies of the design framework without strict compliance, and findings to this effect are made;

(f) Appeals. If an application for a certificate of appropriateness is denied by an official of the city department of planning and development or subcommittee, the applicant has the right of appeal to the design committee within ten days of official notification of the decision. The applicant or any party aggrieved by any decision by the design committee regarding design framework standards or variances therefrom has the right of appeal to the city council within ten days of the written notice of the official decision. A public hearing shall be held upon appeal to the city council, notice of which shall have been published in the city's official newspaper and sent to all other property owners within 400 feet of the subject property at least ten days prior to the date of the hearing. Decisions by the design committee appealed to the city council regarding variances from design framework standards may only be overturned after specific findings are made based

on the overall intent, goals and policies of the design framework as reflected in Sections 50-156 through 50-160 and upon the affirmative vote of at least five councilors. (Ord. No. 8972, 3-12-1990, § 1; Ord. No. 9089, 8-10-1992, § 1.)

Sec. 50-149. Notification of demolition activities.

Applications for demolition permits within the DWMX-D district are subject to a 30 day waiting period, commencing upon the date of application. The waiting period is to allow for documentation of the building(s) to be demolished and for the property owner to consult with the design committee regarding the design framework guidelines for the site. The city building official shall not issue a demolition permit within the 30 day waiting period unless the design committee finds that the demolition is compatible with the design framework for the district and waives in writing the waiting period. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-150. Design framework established.

A design framework for the DWMX-D district, consisting of Sections 50-150 through 50-160 of the city Code, is hereby established to serve as a basis for design review in the district. The Downtown waterfront design framework supplement (DF supplement), a copy of which is on file in the office of the planning division, is a guideline for the implementation of this design framework. Additions to, or deletions from, the DF supplement may be made from time to time by resolution of the city council. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-151. Design framework goals and objectives.

The primary goal of the design framework is to foster the spirit of the working waterfront in the Downtown Waterfront. To achieve this, the design framework presents specific objectives that will enhance the unique historic waterfront/industrial character of the district, promote public access to the water, assure

The standards and guidelines set forth in this design framework are intended to encourage sensitive architectural rehabilitation and preservation of the older buildings and historic artifacts. The design framework also establishes standards for new developments, including how they harmonize with existing structures of quality and otherwise contribute to the waterfront character of the district. The design framework should be enforced with an understanding of the aesthetic rationale which lies behind it so that the spirit of the waterfront character is fully expressed. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-152. Building height limitations.

(a) The building height limitations vary between the six subdistricts in order to maintain the existing building massing which is stepped-down from the central business district and harbor areas to Lake Superior. Maximum heights allowable within these districts are as follows:

(1) Subdistrict A: shall comply with height limits contained in Chapter 51 of this Code (water resource management ordinance);

(2) Subdistrict B: shall not exceed 4½ stories and 54 feet in height;

(3) Subdistrict C: shall not exceed eight stories and 100 feet in height;

(4) Subdistrict D: shall not exceed 74 feet in height;

(5) Subdistrict E: shall not exceed six stories and 75 feet in height;

(6) Subdistrict F: shall not exceed four stories and 48 feet in height. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-153. Lot coverage.

The aggregate gross area of new buildings and accessory structures on an individual parcel or group of parcels shall be regulated by the setback and parking requirements of this Article and Chapter 51 of this Code, and also by restrictions on impervious surfaces, contained in Chapter 51 of this Code (water resource management). (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-154. Setbacks.

(a) Side yards in Subdistrict A, for purposes of this Section, shall be defined as running along property boundaries which are generally perpendicular to either Canal Park Drive or Lake Avenue South. In Subdistrict A, the total side yard setbacks shall be a minimum of 20 percent of the lot width. For lots with 200 feet or more of frontage, the required side yard setbacks shall be met by providing two side yards, each of which must be a minimum of 20 feet. For lots with less than 200 feet of frontage, the side yards may be combined, with the location of the resulting side yard being subject to approval by the design committee. Principal structures, fences which are more than ten percent opaque and over 36 inches in height and accessory buildings and structures are all subject to the setbacks stated herein. However, accessory buildings and structures which cover less than 200 square feet of ground may be allowed in side yards by the design committee if the purposes of the side yard setback requirement to preserve visual access to the water are otherwise achieved. No side yard setbacks are required for Subdistricts B, D, E and F;

(b) In Subdistrict A, rear yard setbacks, measured from the January 1, 1985, ordinary high water mark (OHW), shall be a minimum of 50 feet and the design committee shall require that any accessory structures or fences do not detract from Downtown Lakewalk. In the other subdistricts, rear yard setbacks shall be regulated by the provisions of Chapter 51 of this Code (water resource management). (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-155. Parking and loading.

(a) Provision of off street parking is not required in the DWMX-D district, except for hotels and motels and residential developments of over ten dwelling units and in Subdistrict F, in which case the requirements set forth in Article III of this Chapter apply;

(b) All parking lots and parking areas shall be improved with permanent, smooth, hard surface coverings;

(c) Off street loading shall be provided as required for C-4 districts pursuant to Article III of this Chapter. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-156. Urban design.

To refine and/or enhance the most desirable characteristics of the district, the design committee shall apply the following urban design concepts which have been established by the Downtown Waterfront Plan to its review of all development proposals:

(a) Waterfront character. Developments throughout the Downtown Waterfront shall contribute to capturing the authentic spirit or character of the working waterfront. By considering the impact of new development on all our senses, this spirit can be promoted. Along with views of the water and water-related activities discussed in paragraph (b) below, use of water- and boating-related artifacts, architectural features and historical interpretive devices are encouraged to carry out the waterfront theme. The use of cobblestone, brick and boards underfoot should be considered, as they add another dimension to the experience of the working waterfront district. Other senses such as sound which reinforce the waterfront experience should also be considered. Use of traditional regional architectural styles and related artifacts will help ensure cohesiveness and harmony with the overall character of the district. Devices which introduce additional sensory stimulation must be handled in a skillful and sensitive manner so that the resulting design does not simply add a chaotic, distracting quality to the environment;

(b) View corridors. Preservation of view corridors that allow visual access to the lake and harbor solidify the perception of the waterfront character. Designated view corridors, as illustrated in the DF supplement, are of particular importance and new building construction and landscaping should be designed to not unduly block or compromise these corridors. In addition to the major designated views, open space along the water's edge is encouraged to allow views to the water and water-related activities;

(c) Access. Pedestrian access to the water's edge is important to allow direct, tangible experience of the waterfront as well as to ensure visual access. Thus, promenades along shorelines to provide comfortable access are encouraged on all waterfront properties;

(d) Scale/texture. The present scale and texture of much of the district (specifically, Subdistricts A through C) is largely determined by the existing historic buildings within the district, with brickwork, architectural detailing and classic proportions. Thus, in addition to encouraging the retention of historic buildings, new developments shall emulate the scale and texture of these structures. Matching the existing pattern of building heights in the area will also emphasize the traditional, human scale of the district. To strengthen and enhance the historic feel of this area, new construction should repeat and harmonize with the scale, height, proportion and texture of the historic buildings. As an example, the window-to-wall proportions of the district's major historic buildings, such as DeWitt-Seitz, should be utilized as extensively as possible. Use of ornamentation such as brackets supporting overhanging roofs, arched entrances with sculpted keystones, stone corbels flanking windows and broken building fronts with decorative panels will provide the finer details which will help recreate the texture and scale of traditional area buildings in new developments. Where taller buildings are proposed, a stepping down of building masses to match adjacent building heights provides the transition necessary to create harmony between old and new.

In Subdistrict D, the scale and texture of the built environment is monumental, thus improvements in this area should aim at providing more detailed, human scaled elements to provide a transition between the divergent characters of Canal Point and the DECC area.

Few structures occupy subdistricts E and F, most of which are expected to be removed. Redevelopment of this area affords an excellent opportunity to introduce forms and details which reflect historic styles native to the region. From the traditional Scandinavian fishing village to the romantic Victorian flavor of the old Duluth boat clubhouse, buildings which utilize a variety of older, vernacular architectural styles could reinstitute a waterfront atmosphere in subdistricts E and F;

(e) Construction techniques. Use of traditional building techniques is one of the principal methods of achieving a character and look that will further the historic industrial flavor that is to be enhanced in subdistricts A through C and F. Some modern construction methods such as the glass curtain wall can destroy the continuity and cohesiveness of the district and are therefore inappropriate. In subdistricts D and E where new construction relates to the existing DECC, modern construction techniques are more acceptable;

(f) Signage. Signs shall be designed to be integral with the architectural expression of the building to which they belong. Specifically, the scale, proportion and color shall be appropriate to the building to which the sign is attached. In subdistricts A through C and F, historic typestyles shall be utilized; examples of appropriate sign designs are illustrated in the DF supplement. Signs which carry out the waterfront/historic industrial flavor of the district, and which incorporate sculptural characteristics and appropriate symbols should be promoted. In particular, the following types of signs are encouraged:

(1) Projecting sculptural or carved signs with wrought iron brackets as illustrated in the DF Supplement;

(2) Wall signs consisting of individually mounted letter (except for internally illuminated letters);

(3) Neon signs within windows or over building entrances;

(4) Banners and flags, not including temporary pennant stringers.

Signs are specifically regulated by Chapter 44 of this Code;

(g) Variety. The foregoing urban design guidelines are in no way intended to create uniformity which would result in an uninteresting and contrived appearance. Rather, new developments which add to the variety of compatible uses, harmonious visual images, and rich sensory experiences of the district are encouraged. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-157. Building materials, colors and architectural features.

(a) Acceptable exterior building materials within the district include brick, wood, stone and ornamental iron or other metal determined to be appropriate by the design committee. The use of such materials, along with traditional building techniques, are intended to promote and enhance the waterfront character of the district while providing a harmonious cohesiveness between old and new structures. Where additions to historic buildings are proposed, materials should match as closely as possible, as should the patterns created, and mortar, in the case of brick buildings. In general, brick and stone buildings should not be painted;

(b) Colors are an important element of the overall design concept for the downtown waterfront and should be used to bring richness to the area and to carry out the desired nautical flavor rather than solely for the purpose of demanding attention. The color palette in the DF supplement provides examples which reflect the desired traditional industrial/waterfront character. Colors to be used on buildings and in architectural features such as sculptural elements, awnings, etc., along with building signage, should reflect this color palette;

(c) Architectural features which create a sculptural or three-dimensional quality such as marquees, balconies, grill work, sculpted keystones, caryatids, dentiled cornices, brackets, niches and awnings are encouraged. Such ornamentation also furthers the urban design goal of adding scale and texture to the district. However, these features shall be in keeping with the overall architectural style of the building and carry out the authentic historic industrial/waterfront character of the district as illustrated in the DF supplement. Internally illuminated awnings, for example, are not considered to be suitable in the district due to their ubiquitous, contemporary qualities. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-158. Landscaping and screening.

(a) All open areas of a lot not covered by buildings, sidewalks, required parking areas, drives, courtyards or accessory structures shall be landscaped with a combination of trees, shrubs, flowers and ground covers. Landscape design introducing a nautical character in features such as decorative walks, statuary, bollards, fountains, wood decks and terraced areas are encouraged. Plantings shall be utilized so as to frame and enhance denoted view corridors and vistas, and shall not block important architectural, historic or natural features on the site or adjacent property;

(b) Deciduous trees shall have a minimum caliper of 2.5 inches except that ornamental deciduous trees are required to have a minimum caliper of 1.5 inches. Coniferous trees shall be a minimum of six feet in height. The above dimensions apply to sizes at time of planting;

(c) All surface parking lots and parking areas containing over 100 stalls shall be designed to incorporate unpaved, landscaped islands; number and locations as approved by the design committee. Landscaped islands shall contain a minimum of 200 square feet. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-159. Skywalks.

(a) Skywalks are encouraged to be located in such a manner that they do not block major view corridors as illustrated in the DF supplement. Also the location and design of skywalks should not compromise the historic or architectural integrity of existing buildings. If proposed for any building or district on the national register of historic places or locally designated as a heritage preservation landmark, comments on the skywalk location and design shall be obtained from the city's heritage preservation commission prior to any issuance of a certificate of appropriateness by the design committee;

(b) Design of skywalks shall be closely scrutinized as to their architectural sensitivity, harmony, and cohesiveness with the historic/industrial waterfront character of the district. In particular, the skywalks should not compete with views of the aerial lift bridge or limit the water-to-sky vistas available from major pedestrian areas within the district. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-160. Special review considerations.

(a) Because of the varying characteristics of the land uses allowed and adjacent uses, projects must be viewed in the context of existing and planned developments. The design committee may impose special design requirements upon a proposed use in order to mitigate against undue negative impacts on surrounding uses;

(b) The design committee, when considering the aesthetics of a development proposal, should recognize that developments must maintain their economic viability if any improvements are to be made in the district;

(c) The design committee should be mindful of the need and requirements for handicapped accessibility in its review of development proposals. (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-161. Violations constitute nuisance.

Any remodeling, repairing, altering, demolition or construction activity in violation of this Article is hereby declared a nuisance, and the city may take appropriate action to prevent unlawful alteration of the building and/or site in question. Such action may include restraining, correcting or abating the violation(s). (Ord. No. 8972, 3-12-1990, § 1.)

Sec. 50-162. Other regulations applicable.

The regulations contained in this Article shall be deemed to be in addition to those contained in this Code and other applicable laws, ordinances, rules and regulations unless otherwise noted. Where conflicts occur, the most restrictive regulations shall apply. (Ord. No. 8972, 3-12-1990, § 1.)

Article XXV. Medical Center District.

Sec. 50-163. Purpose.

The medical center district is established in order to ensure orderly and attractive development of medical facilities, and assure positive relationships with the East Hillside and Central Hillside neighborhoods.

To accomplish this objective, it is determined that the detailed review of the design of development, as well as the type of specific uses in these areas, is necessary in order to minimize blighting influence on surrounding uses and neighborhoods, provide for an appropriate and compatible mix of related uses, reduce adverse effects of development on the environment, enhance the visual and aesthetic quality of development, provide for appropriate housing needs and ensure the provision of adequate and cost-efficient public facilities. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-164. Permitted uses in the medical center (MC) district.

A building or premises in the MC medical center district shall be used only for the following purposes which shall be certified by the planning commission:

(a) Hospital (except veterinary);
(b) Medical or dental clinics or offices;
(c) The following medical related or supportive uses:
  (1) Drug store or pharmacy;
  (2) Prosthetic manufacture, repair and sales;
  (3) Medical waste disposal;
  (4) Medical supply;
  (5) Linen supply;
  (6) Laundry and dry cleaners;
  (7) Day care centers which are designed to serve the uses listed herein;
  (8) Other uses which are determined by the planning commission to be primarily related to or supportive of the above medical uses;
(d) Housing which is supportive to medical uses (i.e., housing for senior citizens, developmentally and/or physically disabled, nursing homes out-patient apartments, temporary housing for relatives of patients, housing for persons with medical needs requiring close proximity to hospitals or clinics);
(e) Parking lots and structures;
(f) Churches and synagogues;
(g) Mortuary. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-165. Activities requiring plan review and approval.

Permitted uses and the following activities in furtherance thereof in a MC district may be initiated and building permits may be issued only after the review and approval procedures in Section 50-166 have been completed:

(a) New building or other structural construction or expansion;

(b) Grading, construction or expansion of parking areas or structures;

(c) Construction of driveways or other means of providing access to property from public streets or highways;

(d) Installation of signs;

(e) Demolition of structures or exterior parts of structures. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-166. Plan review and approval procedures.

Plan review for the activities noted in Sections 50-165 shall be performed by the city planning commission. The commission may delegate to a committee of the commission or to its secretary such review and plan approval for designated types of activities.

The commission or its designee may attach conditions to its approval to assure that the purposes of the MC districts are met and may deny such approval if the required findings cannot be made.

Applications for such review and approval shall be accompanied by a site plan; a landscape plan; elevation drawings of proposed structures, signs and lighting and a written statement describing the proposed development or use in sufficient detail to permit the commission or its designee to make a determination with respect to the findings required by this Article. The commission may waive these requirements where it deems them to be inapplicable.

Decisions of a commission designee may be appealed to the commission by any aggrieved party within seven days after written notification of the action is transmitted to the applicant by the filing of a notice of appeal by said aggrieved party with the secretary of the commission. Decisions of the commission shall be final unless an aggrieved party appeals to the city council within seven days after written notification of the action is transmitted to the applicant by the filing of a notice of appeal by said aggrieved party with the city clerk. The filing of an appeal to either the commission or the city council shall stay all proceedings in furtherance of the decision appealed from. The city council may affirm, modify or reverse the decision of the commission, but shall approve development plans only if the proposed use is one set forth in Section 50-164 above and only if requirements specified in Section 50-167 below will be satisfied.

After the city planning commission or its designee or the city council has approved specific plans, all construction or other activities so approved shall be in accordance with the specific approved plans and shall thereafter be maintained in accordance with such plans. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-167. Requirements of plan approval.

Plans for the activities specified in Section 50-164 of this Code shall be approved only after a finding that the following requirements will be satisfied:

(a) The development (including uses), as designed, is consistent with the stated purpose of a MC district;

(b) Structures and parking facilities are set back from property lines which abut avenues a minimum of 15 feet; and from property lines which abut streets a minimum of ten feet. Such setback areas shall contain landscaped spaces. Such setback areas may be of lesser dimension on a portion of the frontage if the average setback on such frontage meets the standard and if a view corridor along said frontage is not compromised. Rear yard and interior side yard setbacks shall be established on an individual basis. Such setbacks shall be of a dimension that respects the architecture, scale and light, air and solar access of adjacent properties;

(c) Building materials and architecture may vary and shall relate to and compliment traditional materials and architecture within the district;

(d) Berming and landscaping or fencing shall visually screen parking, delivery, refuse and other service areas from the streets and avenue;

(e) A minimum of 15 percent of the proposed site shall be a landscaped or naturally vegetated pervious surface. This requirement is higher for developments located in a water management ordinance district;

(f) The location, size and number of curb cuts shall be designed to minimize traffic congestion or hazard in the area;

(g) Development of the land shall encourage safe, and where practical, enclosed, pedestrian connections;

(h) The proposed development shall be designed to minimize negative impacts on view corridors from the hillside toward the lake;

(i) Any necessary public easements over the subject property shall be dedicated, and any necessary improvements within such easements or other easements adjacent to the subject property shall be completed;

(j) Curbing shall be provided to define parking and landscaped areas and to direct stormwater runoff;

(k) Building height: Maximum building height shall be established on an individual basis. Such heights shall be of a dimension that respects the architecture, scale and light, air and solar access of the neighboring properties. In no case shall building height exceed 120 feet, except for those areas located:

(1) Between Fifth Alley and East Fifth Street and Fourth and Fifth Avenues East where the limit shall be not more than 58 feet above the elevation of East Fifth Street;

(2) Between Fourth Street and Fifth Alley and Third and Fourth Avenues East where the height shall not exceed 58 feet above Fourth Street; and

(3) Between Fourth Street and Fifth Alley and Fourth and Fifth Avenues East where the height shall not exceed 88 feet above Fourth Street.

The areas between First Street and Second Alley between 11th and 12th Avenues East and between Second Alley and Second Street between Tenth and 11th Avenues East the height may reach up to 120 feet above First Street and Second Alley respectively subject to the planning commission's review and findings that adequate light, air and solar access is provided to the properties and residential structures located on the northerly side of Second Street and Second Alley;

(l) Parking requirements. Off street parking spaces shall be provided in the MC medical center district in accordance with the requirements for specific uses set forth in Article III of this Chapter. The planning commission may grant variances from the off street parking requirements based on the provision of greater than normal (for medical facilities) mitigating factors such as subsidized public transit, shared parking or car-pooling, provided, such variances shall be granted only if:

(1) The planning commission shall be provided with a binding commitment from the applicant together with sufficient security to guarantee that such mitigating factors shall be in place for at least ten years;

(2) Such variance shall not exceed 20 percent of the total required parking;

(3) That if such mitigating factors shall be eliminated, the property shall be in violation of the off street requirements and new off street parking shall be provided.

In the case of permits issued to an applicant or his or her assignee after July 1, 1994, for new parking structures, the net increase in such spaces shall be allowed to be counted toward the number of required off street parking spaces for future construction by the applicant or his or her assignee. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-168. Sign standards.

Signage shall be approved by the planning commission: The standards for signs shall be based on Section 44-26 of the Code, except that the total square footage of all signs on a wall shall not exceed the number of lineal feet of such wall. Excepting institutional informational and directional signs less than four square feet in area, the commission shall review and approve all signage, including public signs, and shall consider the relationships of the development and the surrounding uses with regard to size, texture and scale. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-169. Variance procedures.

Not withstanding the provisions of Section 50-47(c)(5), no variances shall be granted from use restrictions contained in Section 50-164 above. However, the planning commission may grant a variance from any height requirement upon a showing of hardship if the planning commission determines that the findings of Section 50-47(a) and (b) can be made. (Ord. No. 9213, 9-26-1994, § 9.)

Article XXVI. Medical Center Link District.

Sec. 50-170. Purpose.

The medical center link district is established in order to ensure orderly and attractive development connecting the two existing major medical districts of the city, and assuring positive relationships with the East Hillside and Central Hillside neighborhoods.

It is intended that the link will provide structured, medical related, parking in order to relieve parking pressure on the adjacent neighborhood, and housing to provide replace housing opportunities. The addition of supportive medical goods and services establishments will create a mix of uses which will energize and connect the two existing medical districts.

To accomplish this objective, the council determines that the detailed review of the design of development, as well as the type of specific uses in such area, is necessary in order to minimize blighting influences on surrounding uses and neighborhoods, provide for an appropriate (or compatible) mix of related uses, reduce adverse effects of development on the environment, enhance the visual and aesthetic quality of development, provide for appropriate housing needs and ensure the provision of adequate and cost efficient public facilities. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-171. Permitted uses within the medical center link district (MCL).

The following uses may be permitted following certification by the planning commission:

(a) Parking structures (not surface parking);

(b) Housing; except for one or two-family dwellings, such housing must provide public parking facilities as described in this Article;

(c) Commercial uses, which shall provide public parking facilities as described in this Article, and which are limited to the following:

(1) Clinic, medical, under 5,000 square feet on any one floor with a maximum total of 10,000 square feet;

(2) Personal service uses, including barber shops, beauty shops, photographic or art studios, messenger, taxicab, newspaper or telegraphic branch service stations, dry cleaning receiving stations, restaurants and other uses of a similar character;

(3) Retail stores less than 3,000 square feet in floor area;

(4) Nursing homes;

(5) Grocery stores less than 6,000 square feet in floor area;

(6) Florist shop or greenhouse;

(7) Accessory buildings and uses;

(8) Uses listed under Section 50-164 (c) of the Code;

(9) Churches and synagogues;

(10) Mortuaries. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-172. Activities requiring plan review and approval.

The permitted uses and activities described in Section 50-165 above in the MCL district shall be subject to the requirements of Section 50-166 of this Code. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-173. Plan review and approval procedures.

Plan review and approval procedures shall be as stated in Section 50-166 of this Code. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-174. Requirements of plan approval.

The requirements of plan approval under this Article shall be as stated in Section 50-167 of Article

XXV of this Code except as follows:

(a) Parking requirements: Public parking facilities shall be required in all developments. For the MCL district, the off street parking requirements shall be two times that of the stated requirement for specific uses set forth in Article III of this Chapter. A minimum of 50 percent of the gross parking area shall be provided for public parking;

(b) Height: Maximum height in the MCL district shall not exceed 55 feet. (Ord. No. 9213, 9-26-1994, § 9.)

Sec. 50-175. Sign standards.

All signage shall be approved in accordance with Section 50-168 of this Code. The total square footage of signage on a wall shall not exceed the number of lineal feet of such wall. (Ord. No. 9213, 9-26-1994, § 9.)

Article XXVII. Sky Harbor Airport Zoning.

Sec. 50-176. Purpose and authority.

The city of Duluth, pursuant to the provisions and authority of Minnesota Statute §360.063, hereby finds and declares that:

(a) An airport hazard endangers the lives and property of users of the Sky Harbor Municipal Airport, and property or occupants of land in its vicinity, and also if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Sky Harbor Municipal Airport and the public investment therein;

(b) The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Sky Harbor Municipal Airport;

(c) For the protection of the public health, safety, order, convenience, prosperity, and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards;

(d) The prevention of these airport hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation;

(e) The prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-177. Short title.

This ordinance shall be known as Sky Harbor Airport Zoning Ordinance. Those sections of land affected by this ordinance are indicated in Exhibit A which is Section 50-193 of the Duluth City Code, as amended. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-178. Definitions.

As used in this ordinance [Article], unless the context otherwise requires:

Airport. The Sky Harbor Municipal Airport located in Section 18 and 19 Township 49 North Range 13 West as shown on Exhibit A.

Airport elevation. The established elevation of the highest point on the usable landing area which elevation is established to be 610 feet above mean sea level.

Airport hazard. Any structure, tree or use of land which obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

Commissioner. The commissioner of the Minnesota department of transportation.

Dwelling. Any building or portion thereof designated or used as a residence or sleeping place of one or more persons.

Established residential neighborhood in a built-up urban area (ERN-BUUA). An area which, if it existed on or before January 1, 1978, (for low density structures and lots) and an area which, if it existed on or before July 2, 1979, (all other land uses) shall be considered a conforming use that shall not be prohibited except as provided below in Section 50-180(b)(5).

Exemptions-established residential neighborhoods. The following criteria shall be applied and considered in determining what constitutes an ERN-BUUA:

(a) Location of the airport;

(b) Nature of the terrain within safety zones A and B;

(c) Existing land uses and character of the neighborhood around the airport;

(d) Population of the community;

(e) That the average population density in all areas within one mile of any point on a runway be equal to or greater than one dwelling unit per acre;

(f) Population density near the airport compared with population density in other areas of the community;

(g) The age, and the economic, political, and social stability of the neighborhood and the community as a whole;

(h) The proximity of supporting school, commercial, religious, transportation and other facilities, and their degree of integration with residential land uses;

(i) Presence or absence of public utilities including, but not limited to, public sanitary sewer system, electric service and gas mains;

(j) Whether or not the factors listed in subparagraphs (h) and (i) above tend to make the community surrounding the airport a self-sufficient unit;

(k) Whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character;

(l) Other material factors deemed relevant by the governmental unit in distinguishing the area in question as established, residential, urban and built-up.

Height. For the purpose of determining the height limits in all zones set forth in this ordinance [Article] and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

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

Low density residential strusture. A single-family or two-family home.

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

Nonconforming use. Any preexisting structure, tree, natural growth, or use of land which is inconsistent with the provisions of this ordinance or an amendment hereto.

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

Person. An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

Planned, as used in this ordinance [Article], refers only to those proposed future airport developments that are so indicated on a planning document having the approval of the federal aviation administration, MnDOT, office of aeronautics, and Duluth airport authority.

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

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

Slope. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

(diagram)

slope = 3:1 = three feet horizontal to one foot vertical

Structure. An object constructed or installed by man, including, but without limitations, buildings, towers, smokestacks and overhead transmission lines.

Traverse ways, for the purpose of determining height limits as set forth in this ordinance [Article], shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it.

Tree. Any object of natural growth.

Utility runway. A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

Visual runway. A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an approved planning document.

Water surfaces, for the purpose of this ordinance [Article], shall have the same meaning as land for the establishment of protected zones. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-179. Air space obstruction zoning.

(a) Air space zones. In order to carry out the purpose of this ordinance, as set forth above, the following air space zones are hereby established: primary zone, horizontal zone, conical zone, approach zone, precision instrument approach zone, and transitional zone, and whose locations and dimensions are as follows:

(1) Primary zone. All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and:

(A) Extending 200 feet beyond each end of Runway 14-32;

(B) Coinciding with each end of Runway 14-32;

The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for Runway 14-32;

(2) Horizontal zone. All that land which lies directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 760 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 6,000 feet for Runway 14-32;

(3) Conical zone. All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface;

(4) Approach zone. All that land which lies directly under an imaginary approach surface longitudinally centered on the extended centerline at each end of a runway. The inner edge of the approach surface is at the same width and elevation as, and coincides with, the end of the primary surface. The approach surface inclines upward and outward at a slope of 40:1 for Runway 14-32. The approach surface expands uniformly to a width of 3,500 feet for Runway 14-32;

(5) Transitional zone. All that land which lies directly under an imaginary surface extending upward and outward at right angles to the runway centerline and centerline extended at a slope of 7:1 from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface;

(b) Height restrictions. Except as otherwise provided in this ordinance, and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow in any air space zone created in Section 50-179(a) so as to project above any of the imaginary air space surfaces described in said Section 50-179(a) hereof. Where an area is covered by more than one height limitation, the more restrictive limitation shall prevail;

(c) Boundary limitations. The air space obstruction height zoning restrictions set forth in this Section shall apply for a distance not to exceed 1-½ miles beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-180. Land use safety zoning.

(a) Safety zone boundaries. In order to carry out the purpose of this ordinance, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Sky Harbor Municipal Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following land use safety zones:

(1) Safety Zone A. All land in that portion of the approach zones of a runway, as defined in Section 50-179(a) hereof, which extends outward from the end of primary surface a distance equal to 2/3 of the planned length of the runway, which distance shall be 2,230 feet for Runway 14-32;

(2) Safety Zone B. All land in that portion of the approach zones of a runway, as defined in Section 50-179(a) hereof, which extends outward from Safety Zone A a distance equal to 1/3 of the planned length of the runway, which distance shall be 1,120 feet for Runway 14-32;

(3) Safety Zone C. All that land which is enclosed with in the perimeter of the horizontal zone, as defined in Section 50-179(a) hereof, and which is not included in Safety Zone A or Safety Zone B;

(4) Exceptions - established residential neighborhoods. The following described lands are designated as established residential neighborhoods in built-up urban areas, based upon the state of development of the areas on January 1, 1994. Land uses which were in existence in these areas on January 1, 1994, are exempt from the use restrictions of Section 50-180(b)(2) and (3) below, and are subject to the provisions of Section 50-180(b)(5) below:

areas indicated on attached plat;

(5) Exceptions - isolated, low density residential building lots and low density residential structures. The following properties in the aforesaid established residential neighborhoods are hereby designated as either isolated, low density residential building lots, or low density residential structures. A low density residential structure shall mean a single-family or two-family home, and an isolated, low density residential building lot shall mean a single lot located in an area which is zoned for single-family or two-family residences and in which the prominent land use is such type of residence. These low density uses which were in existence on January 1, 1994, are subject to special provisions set forth in Section 50-180(b)(5), exemptions, below:

none known;

(b) Use restrictions;

(1) General. Subject at all times to the height restrictions set forth in Section 50-179(b), no use shall be made of any land in any of the safety zones defined in Section 50-180(a), which creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft;

(2) Zone A. Subject at all times to the height restrictions set forth in Section 50-179(b) and to the general restrictions contained in Section 50-180(b)(1), areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above-ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of more than 100 persons for a period longer than two hours thereon. Permitted uses may include, but are not limited to, such uses as agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non spectator), cemeteries, and automobile parking;

(3) Zone B. Subject at all times to the height restrictions set forth in Section 50-179(b), and to the general restrictions contained in Section 50-180(b)(1), areas designated as Zone B shall be restricted in use as follows:

(A) Each use shall be on a site whose area shall not be less than three acres;

(B) Each use shall not create, attract, or bring together a site population that would exceed 15 times that of the site acreage;

(C) Each site shall have no more than one building plot upon which any number of structures may be erected;

(D) A building plot shall be a single, uniform, and noncontrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total

site area:

Site area at least (acres)	But less than (acres)	Ratio of site area to building plot area	Building plot area (sq. ft.)	Maximum site population (15 persons/A)
3		12:1	10,900	45
	4	12:1		
4		10:1	17,400	60
	6	10:1		
6		8:1	32,700	90
	10	8:1		
10		6:1	72,600	150
	20	6:1		
20	and up	4:1	218,000	300

(E) The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds, and other places of frequent public or semi-public assembly;

(4) Zone C. Zone C is subject only to height restrictions set forth in Section 50-179(b), and to the general restrictions contained in Section 50-180(b)(1);

(5) Exemptions - established residential neighborhoods;

(A) Land uses which existed as of January 1, 1994, in the established residential neighborhoods set forth in Section 50-180(a)(4) above, and as shown on the zoning map, are subject to the height restrictions of Section 50-179(b). Land uses which come into existence after January 1, 1994, are treated as though they were not in a designated established residential neighborhood and are subject to the Zone A or Zone B restrictions as the case may be;

(c) Boundary limitations. The land use zoning restrictions set forth in this Section shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in that portion of an airport hazard area under the approach zone for a distance not exceeding two miles from the airport boundary. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-181. Airport zoning map.

The several zones established are shown on the Sky Harbor Municipal Airport Zoning Map consisting of two sheets, prepared by Salo Engineering, and dated April 19, 1994, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries, and other information thereon, shall be and the same is hereby adopted as part of this ordinance. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-182. Nonconforming uses.

Regulations not retroactive. The regulations prescribed by this ordinance shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted and completed within two years thereof. (Ord. No. 9215,

9-26-1994, § 1.)

Sec. 50-183. Permits.

(a) Future uses. Except as specifically provided in paragraphs 1 and 2 hereunder, no material change shall be made in the use of land and no structure shall be erected, altered, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the zoning administrator, hereinafter, provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted;

(1) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend the height or land use limit prescribed for the respective zone;

(2) Nothing contained in this foregoing exception shall be construed as permitting or intending to permit any construction, alteration, or growth of any structure or tree in excess of any of the height limitations established by this ordinance as set forth in Section 50-179 and the land use limitations set forth in Section 50-180;

(b) Existing uses. Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this ordinance or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted;

(c) Nonconforming uses abandoned or destroyed. Whenever the zoning administrator determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this paragraph or not, the zoning administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his own expense, to lower, remove, reconstruct, or equip the same in the manner necessary to conform to the provisions of this ordinance. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of such order, the zoning administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed, or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of eight percent per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-184. Variances.

Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use his property not in accordance with the regulations prescribed in this ordinance may apply to the board of adjustment, hereinafter provided for, for a variance from such regulations. If a person submits an application for a variance by certified mail to the members of the board and the board fails to grant or deny the variance within four months after the last member receives the application, the variance shall be deemed to be granted by the board. When the variance is granted by reason of the failure of the board to act on the variance, the person receiving the variance shall notify the board and the commissioner, by certified mail, that the variance has been granted. The applicant shall include a copy of the original application for the variance with this notice to the commissioner. The variance shall be effective 60 days after this notice is received by the commissioner subject to any action taken by the commissioner pursuant to Statute §360.063, Subdivision 6a. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship, and relief granted would not be contrary

to the public interest but do substantial justice and be in accordance with the spirit of this ordinance provided any variance so allowed may be subject to any reasonable conditions that the board of commissioner may deem necessary to effectuate the purpose of this ordinance. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-185. Hazard marking and lighting.

(a) Nonconforming uses. The owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights, as shall be deemed necessary by the zoning administrator, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of the owner;

(b) Permits and variances. Any permit or variance deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, and granted by the zoning administrator or board, shall require the owner of the structure or tree in question, at his own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazard. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-186. Airport zoning administrator.

It shall be the duty of the city of Duluth building official to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the city of Duluth building official upon a form furnished by him. Permit applications shall be promptly considered and granted or denied by him in accordance with the regulations prescribed herein. Variance applications shall be forthwith transmitted by the building official for action by the board, hereinafter provided for. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-187. Board of adjustment.

(a) Establishment. The board of zoning appeals, which is established under Chapter 50 of the Duluth City Code, shall serve as the board of adjustment for the Sky Harbor Municipal Airport Zoning Ordinance;

(b) Powers. The board of adjustment shall have and exercise the following powers:

(1) Hear and decide appeals from any order, requirement, decision, or determination made by the zoning administrator in the enforcement of this ordinance;

(2) Hear and decide special exceptions to the terms of this ordinance upon which such board of adjustment under such regulations may be required to pass;

(3) Hear and decide specific variances;

(c) Procedures;

(1) The board of adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this ordinance. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All hearings of the board of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the zoning administrator and shall be a public record;

(2) The board of adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this ordinance;

(3) The concurring vote of a majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the zoning administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-188. Appeals.

(a) Any person aggrieved, or any taxpayer affected by any decision of the zoning administrator made in his administration of this ordinance may appeal to the board of adjustment. Such appeals may also be made by any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the zoning administrator is an improper application of this ordinance as it concerns such governing body or board;

(b) All appeals hereunder must be commenced within 30 days of the zoning administrator's decision, by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken. In addition, any person aggrieved, or any taxpayer affected by any decision of the zoning administrator made in his administration of this ordinance who desires to appeal such decision shall submit an application for a variance, by certified mail, to the members of the board of adjustment in the manner set forth in Minnesota Statutes §360.068, Subdivision 2;

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board of adjustment after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the board of adjustment on notice to the zoning administrator and on due cause shown;

(d) The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney;

(e) The board of adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances, and to that end shall have all the powers of the zoning administrator. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-189. Judicial review.

Any person aggrieved, or any taxpayer affected by any decision of the board of adjustment, or any governing body of a municipality, county, or airport zoning board, which is of the opinion that a decision of the board of adjustment is illegal may present to the district court of St. Louis County a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the board of adjustment. The petitioner must exhaust the remedies provided in this ordinance before availing himself of the right to petition a court as provided by this Section. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-190. Penalties.

Every person who shall construct, establish, substantially change, alter or repair any existing structure of use, or permit the growth of any tree without having complied with the provision of this ordinance or who, having been granted a permit or variance under the provisions of this ordinance, shall construct, establish, substantially change or substantially alter or repair any existing growth or structure or permit the growth of any tree, except as permitted by such permit or variance, shall be guilty of a misdemeanor and shall be punished as provided in Section 1-7 of this Code, or imprisonment for not more than 90 days or by both. Each day a violation continues to exist shall constitute a separate offense. The airport zoning administrator may enforce all provisions of this ordinance through such proceedings for injustice relief and other relief as may be proper under the laws of Minnesota Statute §360.073 and other applicable law. (Ord. No. 9215, 9-26-1994, § 1; Ord. No. 9611, 7-28-2003, § 60.)

Sec. 50-191. Conflicts.

Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of

structures or trees, the use of land, or any other matter, the more stringent limitation or regulation shall govern and prevail. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-192. Severability.

(a) In any case in which the provision of this ordinance, although generally reasonable, is held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of this ordinance as to other structures and parcels of land, and to this end the provisions of this ordinance are declared to be severable;

(b) Should any Section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the parts so declared to be unconstitutional or invalid. (Ord. No. 9215, 9-26-1994, § 1.)

Sec. 50-193. Affected sections of land.

This ordinance affects all or a portion of the following sections of land:

NAME AND NUMBER OF TOWNSHIP	AIR SPACE OBSTRUCTION ZONING: Sec. 50-166 of ordinance; page 2 of zoning map	LAND USE SAFETY ZONING: Sec. 50-167 of ordinance; pages(s) 1 and 2 of zoning map
Township: T49N, R13W	Sections: 18, 19, 20, 21, 28,29, 30, 31, 32	Sections: 18, 19, 20, 29, 30
Township: T49N, R14W	Sections: 11, 12, 13, 14, 23, 24, 25	Sections: 12, 13, 24

(Ord. No. 9215, 9-26-1994, § 1.)

Article XXVIII. I-T Industrial-Technology District.

Sec. 50-194. Generally.

In order to provide for light-industrial development of attractive, integrated design and function, the I-T industrial-technology district is hereby established. The intent of such district is to establish high quality individual properties protected through development standards. Because of varying characteristics of locations and adjacent areas, certain standards are intended to be flexible. To accomplish this objective the council determines that a detailed review of the design of each development in such districts is necessary in order to minimize blighting influences on surrounding uses and neighborhoods, reduce adverse effects of development on the natural environment, enhance the visual and aesthetic quality of development and ensure the provision of adequate and cost efficient public facilities. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-195. Plan review requirements.

The following activities in the I-T district shall be initiated and building permits shall be issued only after the director of the department of planning and development has certified in writing that the review and approval procedures specified in Section 50-197 have been completed:

(a) New building construction;

(b) Building expansions of more than 500 square feet in floor area;

(c) Grading or construction of parking areas of more than 3,000 square feet in area;

(d) Construction of driveways or other means of providing access to property from public streets or highways;

(e) Excavations of more than 50 cubic yards of earth or placement of more than 50 cubic yards of fill or other material. All excavations or fill placements in furtherance of a single project shall be considered

to be one excavation or fill placement for purposes of this Section;

(f) Removal of vegetation within wetlands as defined in Chapter 51. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-196. Permitted uses.

A building or premises in the I-T industrial-technology district shall be used only for the following purposes:

(a) Manufacturing, wholesaling, jobbing, warehousing, distributive, light industrial and administrative uses. Such uses shall not emit smoke, odor, dust or vibrations from the buildings. Such uses may include those listed below by example, but such listed uses shall not be deemed to be exclusive; however, permitted uses shall not include those uses listed under the M-2 manufacturing district:

(1) Business or commercial school, industrial vocational training school;
(2) Cosmetics and toiletries;
(3) Computer hardware, related parts or software;
(4) Financial services processing, office operation;
(5) Electronic components;
(6) Food and beverage manufacturing;
(7) Laboratories: research and development;
(8) Leather goods manufacture, but not including tanning operations;
(9) Metals and metal products;
(10) Motion picture production, film processing;
(11) Textiles, bedding and fibers;
(12) Offices and office building supportive to onsite manufacturing and warehousing activity;
(13) Pharmaceutical products;
(14) Pottery and porcelain products;
(15) Printing, publishing and engraving;
(16) Wholesale houses and distributors;
(17) Other uses similar to the above when approved;

(b) Commercial services and recreational uses which are incidental to and supportive of industrial uses if said uses are granted a special use permit under the procedures of Article IV of this Chapter. Such special use permit shall be granted only if a commercial service, retail or recreational use is found to be appropriate in terms of the specific industrial district character, size and location. Such supportive uses shall not include activities which are primarily retail in nature and devoted to the sale of consumer goods;

(c) Accessory buildings or uses customarily incidental and secondary in use and area to any of the above uses; provided, that any such accessory building shall be erected at the same time or after the construction of the building for the principal use. One wind energy conversion system shall be permitted as an accessory use, provided that the tower shall be set back from all property lines a distance equal to or greater than the tower height as measured from the base of the tower, but in no case shall tower height exceed 130 feet. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-197. Requirements of plan approval.

Plans for the activities specified in Section 50-196 of this Code shall be approved only after a finding that the following requirements will be satisfied. These provisions shall be applicable to all new developments and to the expansion portion of existing developments except that these provisions shall apply to the entirety of existing nonconforming developments where the proposed expansion or combination of expansions occurring after the effective date of this ordinance exceed an increase of 30 percent of the total area of the nonconforming use existing of the effective date of this ordinance:

(a) The development, as designed, will not be materially detrimental to present and future land uses of adjacent properties because of traffic congestion, noise, visual blight, glare or other nuisance characteristics;

(b) There shall be a landscaped or naturally vegetated setback area adjacent to all S and R

district boundaries. No parking or loading shall be permitted within such setback areas. Within the landscaped setback area natural vegetation shall be maintained to the maximum extent possible. Where natural vegetation is disturbed, it shall be replaced with materials that offer equivalent or superior visual screening effects;

(c) A minimum of five percent of all parking areas on the proposed site shall have landscaped islands. Islands shall have a minimum average width of four feet and shall include a minimum of one tree at least two inches in diameter at the time of planting. Parking areas shall include at least one tree within or at the edges of the parking areas for every ten parking spaces;

(d) The location, size and number of curb cuts shall be designed to minimize traffic congestion or hazard in the area. Any traffic control improvements determined by the city engineer to be reasonably necessary based on generally accepted traffic engineering principals as a result of the proposal, such as traffic signals, turning lanes, medians, signage and other types of improvements necessary to accommodate traffic flow to and from the proposed project shall be paid for by the developer/property owner. Any additional right-of-way or easements determined to be so needed shall be provided by the property owner at no cost to the city;

(e) Development of the land shall not increase the peak stormwater runoff from the development site from its existing condition based upon a storm of 100 year frequency and 24 hour duration;

(f) The proposed development shall be designed to minimize pollutants in stormwater runoff to the lowest level possible applying the best available technology;

(g) Any easements necessary for public access or utility purposes over the subject property shall be dedicated and any necessary improvements within such easements or other easements adjacent to the subject property shall be made;

(h) Wetlands, shorelands and floodplains shall be managed in accordance with Chapter 51 of this Code;

(i) Curbing shall be provided to define parking and landscaped areas and to direct stormwater runoff;

(j) Building height restrictions and building setback requirements shall be established for each development plan to ensure that the purposes of the Code are carried out. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-198. Loading requirements.

All loading, unloading and maneuvering operations shall occur off street and shall be located in the side yard or rear yard area and comply with the requirements for a specific use as set forth in Article III of this Chapter. No such loading or unloading shall be permitted in a location which interferes with ingress or egress of traffic to a street and no loading area shall be located so as to encourage vehicles to back into or out of such loading areas from the street. Loading areas shall be constructed with a durable, dust-free material having a smooth, hard surface and shall be defined on all sides by raised, cast-in-place concrete curbs. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-199. Outside storage.

Outdoor storage of materials, supplies, products, equipment, waste or company owned vehicles other than passenger cars shall be allowed in the side yards, rear yard and rear yard setback area only and in such cases shall be visually screened by fences, walls or planting which screen the view of storage from streets, freeways and adjacent properties. Decorative fences or walls shall screen the view of 75 percent of such yards to a point five feet in vertical height. Plantings shall consist of plantings of evergreen vegetation with individual plantings having a minimum height of four feet at the time of planting. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-200. Utility lines.

All utility lines shall be placed underground, including telephone lines, electrical and energy transmission lines and distribution lines. Exceptions to said requirement may be made by the city council upon recommendation of the planning commission only if it is conclusively shown that underground placement is

impractical. Transformers or terminal equipment shall be visually screened to obstruct views from streets and adjacent properties. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-201. Yards and building height.

Specific minimum yard setbacks and maximum building heights shall be determined depending upon individual characteristics of each site. However, in no case shall any front yard be less than 25 feet in depth, corner side yard be less than 25 feet, interior side yard be less than ten feet or rear yard be less than ten feet. Building heights shall not exceed 45 feet. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-202. Exterior building appearance.

Not less than 30 percent of the exterior walls of all buildings in the district shall be covered with finish grade brick, stone, concrete or masonry. No metal roofing materials shall be visible. All building equipment and services shall be screened in the same manor as provided in Section 50-199 above. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-203. Signage.

The following signs are permitted provided that a separate permit is required:

(a) Signs shall be restricted to advertising only the person, firm or corporation operating on a site. Neon signs with exposed tubing are not permitted;

(b) Signs necessary for directional or informational purposes shall be permitted but may not exceed four square feet in area and may not extend more than five feet above the ground;

(c) Spotlighting of signs is permissible but only if such lighting is shielded so as to direct light to the sign only and the light source is not visible from the property lines;

(d) Signs shall be limited to wall signs and monument type signs. The total square foot area of wall signs shall not exceed 1/20 of the total square foot area of the wall on which they are placed. Wall signs shall be flush mounted and shall not extend above the roof line. Monument signs, which are architecturally designed and located directly at grade, shall be limited to one such sign on each street frontage, shall be limited to 60 square feet in area and eight feet in height and shall be located no closer than 15 feet from the property lines;

(e) Direct and indirect illumination is permitted. Flashing and animated signs are not permitted. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-204. Parking requirements.

Except as provided in this Section, off street parking spaces shall be provided in the I-T district in accordance with the requirements for specific uses set forth in Article III of this Chapter. All vehicular parking whether customer, visitor or employee, shall be off street. The number of off street parking spaces shall comply with the following requirements:

(a) One parking space for each 1,000 square feet of gross floor area of buildings used for warehousing, jobbing and distributing;

(b) One parking space for each 500 square feet of gross floor area of buildings used for manufacturing;

(c) One parking space for each 250 square feet of floor area used for offices.

If there is a conflict between Article III and this Section, the greater requirement shall apply. Parking shall not be allowed within the required front and side yard setback areas unless a landscaped area is established on the street side of such parking and unless such parking is limited to passenger vehicles.

All parking areas shall be constructed with a durable, dust-free material, having a smooth, hard surface and shall be defined on all sides by raised cast-in-place concrete curbs. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-205. Landscaping.

Landscaping, including planting of grass by sodding and native trees and shrubbery, or equivalent landscaping, shall be the responsibility of the owner of the property to establish and maintain. The owner/developer of the property shall:

(a) Incorporate existing vegetation into the landscape plan wherever possible;

(b) Protect existing vegetation during construction whenever possible and thereafter maintain such vegetation;

(c) Generally incorporate large irregular groupings or massings of the same variety, avoiding rigid or repeated specimen planting, except for boulevard trees and introducing multiple varieties within one general area. No trees shall be planted within 30 feet of a public street intersection;

(d) Plant trees and shrubbery shall be established and maintained in large parking areas. Parking areas which contain more than ten adjacent parking spaces and which are located in the front yard between the building line and front yard setback line or between the building line and side yard setback line shall be separated by landscaped islands which have a minimum width of eight feet, lined by cast-in-place concrete curbs and containing at least two deciduous trees having a minimum trunk diameter of two inches at the time of placement;

(e) Boulevard trees which shall consist of coniferous trees having a minimum height of four feet at the time of placement and/or deciduous trees having a minimum trunk diameter of two inches at the time of placement; such trees to have a maximum average spacing from each other of 30 feet. No trees shall be planted within 30 feet of a public street intersection;

(f) Select climate tolerant plant materials;

(g) Grade, properly drain, sod and maintain open areas, reserved areas or potential land not used or held for potential future development;

(h) Totally landscape all building foundation areas that are oriented toward streets or public areas. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-206. Approval of plans for individual projects.

Before commencing the construction or alteration of any building, enclosure, fence, outdoor storage or display, loading dock, parking facility, storage yard, sign or landscaping or any other structure or improvement on any property within the district, the property owner, lessee or other occupant shall first submit plans and specifications to the city building official, city engineer and director of the department of planning and development, or designee, for written certification that these regulations have been complied with. If the project applicant or official is unclear as to the meaning, intent or applicability of the regulation, or if the applicant is aggrieved as to the interpretation of any of the above officials, said party may submit the matter to the planning commission's land use and zoning committee for clarification or determination. Said plans and specifications shall include:

(a) Landscape plan at a scale of not less than one inch = 50 feet and as defined in this Chapter, including all existing and proposed plant materials and sizes;

(b) Elevation drawings of all man-made landscaping devices such as tree pots, benches, etc., at a scale of not less than 1/8 inch = one foot;

(c) Elevation drawings of all outdoor storage screening devices, indicating color, materials and method of construction;

(d) A site plan as defined in this Chapter and including utilities serving the site;

(e) Building elevation drawings, including notations as to specific building materials and colors;

(f) Sign elevation drawings. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-207. Procedures.

(a) Plan review for the activities noted in Section 50-205 shall be performed by the director of the department of planning and development, subject to appeal to the city planning commission and city council. No plan will be approved unless a complete application including all required supporting information is submitted or submission of specified information is waived in writing by the director of planning and development;

(b) Applications for such review and approval shall be accompanied by the documents listed in Section 50-205, detailed stormwater management plans, detailed erosion and sedimentation control plans, detailed traffic analysis and plan for traffic control and improvements, a preliminary plat where the subject property is unplatted, involves the use of vacated and/or unimproved platted street right-of-way or involves the assemblage of multiple platted lots, a map and names and addresses of all property owners within 350 feet of the proposal site, and a written statement describing the proposed development or use. In the case of minor expansion of existing approved projects or in the case of new projects on sites of less than one acre, the director of the department of planning and development may waive these requirements when deemed to be inapplicable;

(c) Decisions of the director of the department of planning and development shall be final unless an aggrieved party appeals to the planning commission, with subsequent appeal to the city council, within ten days after written notification of the action is mailed to the applicant, by filing a notice of appeal with the city clerk. The filing of an appeal to the city planning commission, of any decision of the director of the department of planning and development, or to the city council, of any decision of the planning commission, shall stay all proceedings in furtherance of the decision appealed from. The city council may affirm, modify or reverse the decision of the commission, but shall approve development plans only if it first finds that the requirements specified in Section 50-208 of this Code will be satisfied;

(d) After the director of the department of planning and development, city planning commission or the city council has approved specific plans, all construction or other activities so approved shall be in accordance with the specific approved plans and shall thereafter be maintained in accordance with such plans. Subsequent changes or modifications in the plans or project shall be subject to review as initially required. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-208. Surety requirements.

In addition to the above cited requirements, the city council may subsequently require the provision of a performance bond or other form of security to insure the completion of construction of the public and/or private improvements included in the plan. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-209. Limitations on variances.

Notwithstanding the provisions of Section 50-47 of this Code, no variance from the strict application of the requirements established in this Article shall be granted except a variation of not more than ten percent from any dimensional requirement and 20 percent from any off street parking requirement. (Ord. No. 9371, 5-11-1998, § 1.)

Sec. 50-210. Severability.

If any paragraph in these regulations or part thereof shall be invalid, illegal or inoperative for any reason, the remaining part so far as possible and reasonable shall be effective and fully operative. (Ord. No. 9371, 5-11-1998, § 1.)

Article XXIX. Traditional Neighborhood District.

Sec. 50-211. Intent.

The Traditional Neighborhood District is provided for the revitalization or extension of existing neighborhoods, which are structured upon a network of interconnecting pedestrian oriented streets and other public spaces. The intent is to minimize traffic congestion, urban sprawl, infrastructure costs, and environmental degradation. Provisions are to adapt urban conventions which were normal in the United States from colonial times until the 1940's and historically were based on the following design principles; neighborhoods have identifiable centers and edges; edge lots are readily accessible to retail and recreation by nonvehicular means (a distance not greater than 1/4 mile); uses and housing types are mixed and in close proximity to one another; street networks are interconnected and blocks are small. Traditional Neighborhood Districts (TNDs)

offer a mixture of housing types and prices, prominently sited civic or community buildings, and stores/ offices/ workplaces to provide a balanced mix of activities. Church and preschool/elementary facilities are encouraged. A TND may be established by zoning ordinance map amendment for a Traditional Neighborhood District with completed TND plan including a detailed development plan to include; a regulating plan; thoroughfare standards and urban standards and other supporting material. A TND is not to be used as a vehicle for speculative zoning. (Ord. No. 9503, 9-24-2001, § 1).

Sec. 50-212. Generally.

In order to provide for traditional neighborhood development of integrated design and function, the TND Traditional Neighborhood District is hereby established. The intent of such districts is to establish development according to an approved overall plan in which the quality of individual properties are protected through development standards. Because of varying characteristics of such neighborhoods and adjacent areas, certain standards are intended to be flexible and determined at the time of establishment of individual TNDs. Due to the nature of traditional neighborhood districts, consideration for creation of TNDs may only be considered for areas of the city located within the following census tracts: 12, 13, 14, 16, 17, 18, 19, 20, 24, 25, 26, 27, 28, 31, 32, 33, 34, 37 and that portion of Census Tract 36 located between Grand Avenue and the St. Louis River, or other traditional neighborhood areas in the city with similar characteristics which the planning commission, after a public hearing, and the city council, have determined are suitable for consideration under the criteria of this ordinance. (Ord. No. 9503, 9-24-2001, § 1).

Sec. 50-213. Review and approval of neighborhood plan.

As part of any city council ordinance to establish a TND, the following shall be included, when applicable, after discussion, public hearing and recommendation of the city planning commission:

(a) An approved general or master plan including (if applicable):
- (1) Functional street classifications;
- (2) Buffers at periphery (if deemed appropriate);
- (3) General utility plan;
- (4) Stormwater drainage plan; and
- (5) General lot configuration;

(b) A regulating plan including:
- (1) Specifications for the contents of the general or master plan;
- (2) List of permitted uses;
- (3) List of conditional uses (if applicable):
  - (A) Standards for conditional uses;

(c) A thoroughfare plan:
- (1) Thoroughfare standards;

(d) Building types:
- (1) Architectural styles;

(e) Urban standards building types:
- (1) Setbacks and building heights;
- (2) Parking requirements;

(f) Architectural standards:
- (1) Building surface materials allowances or limitations. (Ord. No. 9503, 9-24-2001, § 1).

Sec. 50-214. Permitted uses.

A building or premises in the district shall be used only for the purposes as provided for in the master plan and the regulating plan:

(a) Accessory buildings or uses incidental and secondary uses shall be addressed. Such accessory building shall be erected at the same time or after the construction of the principal building. (Ord. No. 9503, 9-24-2001, § 1).

Sec. 50-215. Approval of plans for individual construction projects.

Before commencing with the construction or alteration of any building, or other structure or improvement on or to any parcel, the applicant shall first submit plans and specifications to the city building inspector for written certification that these regulations have been complied with. If the applicant or inspector are unclear as to the meaning, intent or applicability of the regulations, or if the applicant is aggrieved as to the interpretation of any official, the matter shall be submitted to the planning commission or committee thereof for clarification or determination.

(a) A site plan as defined in this Chapter and including utilities serving the site;
(b) Building elevation drawings, including notations as to specific building materials;
(c) Sign elevation drawings (if applicable). (Ord. No. 9503, 9-24-2001, § 1).

Sec. 50-216. Appeals.

(a) Appeals from administrative determinations. Any person aggrieved by an order or determination made pursuant to this Section who alleges that there has been an error made by any city administrative official in the enforcement or interpretation of this section may appeal such order or determination to the board of zoning appeals by filing written notice of appeal with the building official within 20 days after receiving notice of such order or determination. The notice of appeal shall recite the alleged error and shall set forth all other grounds for the appeal. If, after the hearing, the board of zoning appeals determines that an error has been made, it shall grant appropriate relief which is not inconsistent with the intent of this Section;

(b) Appeal to the city council. Any person aggrieved by a decision of the board of zoning appeals may appeal such decision to the city council by filing written notice of appeal with the city clerk within ten days after such decision is rendered. (Ord. No. 9503, 9-24-2001, § 1).

Sec. 50-217. Variances.

Due to the intent, nature and standards adopted within a TND, no variances are permitted. (Ord. No. 9503, 9-24-2001, § 1).

Sec. 50-218. Severability.

If any paragraph in these regulations or part thereof shall be invalid, illegal or inoperative for any reason, the remaining part so far as possible and reasonable shall be effective and fully operative. (Ord. No. 9503, 9-24-2001, § 1).

CHAPTER 51.

WATER RESOURCE MANAGEMENT.

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§ 51-31. Wetlands--lands affected.
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§ 51-33. Standards for permits for permitted uses in wetlands.
§ 51-34. Special uses in wetlands.
§ 51-35. Standards for special use permits or variances in wetlands.

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Article I. General; Permits and Administration.

Sec. 51-1. Findings of fact and statement of purpose.

The city council hereby finds that protection of the water resources found within the city is necessary for the public good. These water resources relate strongly to other valuable natural resources which include, but are not limited to, air, soil, plants, animals and scenic and aesthetic values. Uncontrolled and inadequately planned use of natural resources adversely affects the public health, safety and general welfare by contributing to pollution, erosion, flooding and other environmental problems, and by creating nuisances, impairing other beneficial uses of environmental and natural resources or destroying the resources themselves, impairing the quality of life of the community, impairing the local tax base, and hindering the ability of the city to provide adequate water, flood and fire protection and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in areas which may be affected by unplanned land usage. The purpose of this Chapter is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development by regulating developments that would have an adverse or potentially irreversible impact on unique and fragile land, by minimizing conflicts and encouraging compatibility between environmentally sensitive lands, and by requiring detailed review standards and procedures for developments proposed for such areas, thereby achieving a balance between urban growth and development and protection of natural areas. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-2. Definitions.

For the purposes of this Chapter the following words and phrases shall have the meaning herein ascribed to them.

Accessory building or use. A building or use subordinate in use, area or purpose to the principal building or use on the same lot and serving a purpose naturally and normally incidental to such principal building or use. Where an accessory building is attached to the principal building in a substantial manner by a wall or a roof, it shall be considered part of the principal building.

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

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

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

Clear-cutting. The removal of an entire stand of trees.

Commissioner. The commissioner of the Minnesota state department of natural resources.

Elevation. As used in this Chapter refers to the National Geodetic Datum of 1929.

Encroachment lines. The lateral limits or lines drawn along each side and generally parallel to a stream or another body of water, which delineates the floodway and within which the flood carrying capacity of the stream or other body of water is to be preserved. Their location, if along a stream, should be such that the floodway between them will effectively carry and discharge a flood not less than the regional flood.

Equal degree of encroachment. A method of determining the location of encroachment lines so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

Flood. A temporary increase in stream flow or stage which results in partial or complete inundation of normally dry land areas from either the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.

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

Flood fringe. That portion of the flood plain outside of the floodway.

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

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

Flood plain. The areas adjoining a watercourse which has been or hereafter may be covered by a regional flood.

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

Floodproofing. A combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

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

Floodway. The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

Hardship. The property in question cannot be put to reasonable use under the conditions allowed by the regulations set forth in this Chapter; the plight of the landowner is due to circumstances unique to his property, not created by the landowner. Economic considerations alone shall not constitute a hardship.

Impervious surface. Nonporous and impermeable surfaces including roofing materials, wood, concrete, asphalt, brick, stone and compacted gravel when such surfaces are applied in such a manner that at least 50 percent of the rain falling on such surface in one hour run off of it.

Lot. A parcel of land designated by metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation thereof. For the purposes of these regulations, a lot shall be considered to be an individual building site which shall be occupied by no more than one principal structure equipped with sanitary facilities.

Nonconforming use. Any structure or land lawfully occupied by a use at the time of passage of this Chapter or amendment thereto which does not conform after the passage of this Chapter or amendment thereto with the use regulations specified in this Chapter.

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

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

Person. Any individual, firm, corporation, partnership, association or other private or governmental entity.

Planned unit development. A community unit plan as authorized by sections 50-37 through 50-37.3 of this Code or a low density planned development authorized by sections 50-36.1 through 50-36.3 of this Code.

Principal use or structure. All uses or structures that are not accessory uses or structures.

Reach. The hydraulic engineering term used to describe longitudinal segments of a stream or river influenced by a natural or man made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

Regional flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval. The term regional flood is synonymous with the term base flood used in the Flood Insurance Study.

Shoreland. Land located within the following distances from the protected waters as inventoried by the commissioner and any other waters indicated as subject to shoreland regulations on the Official Floodplain and Shoreland Map:

Class I; Lands within the immediate shoreline area of Lake Superior and on Park Point;

Class II; Lands within:

(a) 1,000 feet from the ordinary high water mark of Lake Superior, (excluding Class I shoreland); and

(b) 300 feet from a river, stream, pond, flowage or the landward extent of a flood plain designated by this Chapter on such a river, stream, pond or flowage whichever is greater.

The limits of shorelands may be less than the above limits whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

Site. Any parcel of land upon which work requiring a permit under this Chapter is to be performed, and includes any adjacent lands owned by the owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel which were owned by the same person owning the subject parcel as of January 1, 1980.

Solid land. Any land which is neither a wetland nor located in a floodway.

Special use. A specific type of structure or land use listed in these regulations that may be allowed, but only after an indepth review procedure and with appropriate conditions or restrictions as provided in these regulations.

Structure. Anything manufactured, constructed or erected, the use of which requires a permanent location on the ground, or which is attached to something having a permanent location on the ground, including, but not limited to buildings, sheds, manufactured homes, travel trailers/vehicles, signs, backstops for tennis courts, and fences and includes portable structures that are maintained continuously at one location for more than 30 days.

Subdivision. Improved or unimproved land or lands which are divided for the purpose of sale or lease into two or more lots or parcels of less than five acres each, contiguous in area and which are under common ownership or control.

Trees. A deciduous or coniferous plant over ten feet in height.

Variance. Affirmative relief from the strict application of the provisions of this Chapter.

Water management district. Land which by definition in this Chapter is a flood plain district, a shoreland district or a wetland.

Watercourse. A channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

Wetlands and wetlands district. Areas described herein that are permanently or seasonally covered with shallow water including marsh, swamp, bog, wet meadow, slough or intermittent lake and which are defined and classified as types 2 through 8 in the U. S. Fish and Wildlife Circular No. 39 (1971 Edition). All types 3, 4 and 5 wetlands regardless of size, and all types 2, 6, 7 and 8 wetlands over one acre in size shall be considered wetlands for the purposes of this Chapter, except that no land having a slope of eight percent or more, and no wetland less than 20 feet in width or 1,000 square feet in area shall be considered a wetland under this Chapter. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-3. Permits required for work in flood plains, shorelands and wetlands.

(a) No person shall perform any of the following activities within flood plains, shorelands or wetlands without having first obtained a permit under the terms of this Chapter:

(1) The erecting or placement or causing the erection or placement of any structure;

(2) Excavation, filling or grading in shorelands or flood fringe involving more than a total of ten cubic yards of earth for the entire project site, provided that no separate excavation, filling or grading permit need be taken out for activities done in conjunction with the construction of a structure for which a permit has been issued;

(3) Paving or covering of land with 100 square feet or more of an impervious surface;

(4) The removal of more than 20 percent of the trees and shrubs on a site containing more than 20 trees;

(5) The placement of any fill in a floodway or wetlands;

(6) The overturning of topsoil totalling over 300 square feet on any lot within 200 feet of a stream or lake;

(7) Any construction activity which removes or disturbs natural beach grasses on Park Point;

(b) If a permit is issued for a structure that is the primary use on the site, such permit shall address all water management district regulations for the site, including sidewalks and driveway placement, removal of vegetation, and excavating, filling and grading;

(c) All work done pursuant to such permits shall be limited to, and accomplished fully in accordance with, the drawings, specifications and conditions which are approved as a part of said permit. Upon completion, such site shall thereafter be maintained in accordance with the terms of such permit;

(d) All permits issued pursuant to this Chapter, including special use permits and those which involve the granting of a variance, may contain any conditions or special requirements that the building official, city engineer or planning commission may impose to insure compliance with the provisions of this Chapter. Conditions in such permits may, among other things, limit the size, kind or character of the proposed work; require the construction of other structures, including but not limited to, stormwater retention basins, dikes, levees, and pollution control devices; require replacement of vegetation; establish required monitoring procedures and maintenance activity, stage the work over time; limit the period(s) of use; require floodproofing measures; require a performance bond; and require the conveyance to the city or another public entity of certain lands or an interest therein. All permit applications shall be reviewed and approved by the building official and the city engineer, who shall consult with state hydrologists and soil technicians and/or the city director of planning and development in appropriate cases;

(e) All permits issued pursuant to this Chapter shall be conditioned upon the applicants obtaining all required permits from county, state and federal authorities and failure to secure such permits automatically voids any permit issued under this Chapter. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-4. Applications.

(a) All applications for use permits, special use permits or variances under this Chapter shall be made to the city building official on forms provided by the building official. Any application, except those made by the state of Minnesota or any of its political subdivisions, shall be accompanied by a nonrefundable fee, set in accordance with Section 31-6(a) of this Code;

(b) Before accepting any application for any permit, special use permit or variance required by this Chapter, the building official shall require the applicant to submit in duplicate site plans including landscape plans as defined in Chapter 50 of the City Code. In addition, the building official or, in the case of variances, or special use permits the planning commission may require such applicant to submit any other data they deem pertinent. Such data may include, but shall not be limited to, plat maps, sketch maps, surveys and engineering certifications. All applications for work in flood plains and shorelands shall include site elevations and lowest floor elevations for all new structures and additions to existing structures. The building official shall maintain a record of the elevations of such structures and additions;

(c) The applicant shall be required to submit certification by a registered professional engineer, registered architect, registered land surveyor or other qualified individual, that the finished fill and building elevations were accomplished in compliance with the provisions of this Chapter. Floodproofing measures shall be certified by a registered professional engineer or registered architect;

(d) Certificate of occupancy in floodplains. It shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered or enlarged in its use or structure until a certificate of occupancy has been issued by the building official stating that the use of the building or land conforms to the requirements of this Chapter. Where a nonconforming use or structure is extended or substantially altered, the certificate of occupancy shall specifically state the manner in which the nonconforming structure or use differs from the provisions of this Chapter. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9118, 1-11-1993, § 46; Ord. No. 9128, 2-22-1993, § 1; Ord. No. 9611, 7-28-2003, § 61.)

Sec. 51-5. Official maps.

The official maps designating the boundaries of the various districts provided for in this Chapter are as follows:

(a) For flood plains, the Flood Boundary and Floodway Map for Duluth, Minnesota, published with an effective date of February 1, 1980, by the U. S. department of housing and urban development and subsequent amendments to said map, all of which are set forth in the Official Floodplain and Shoreline Map as currently amended, provided that the February 1, 1980, map shall be used for Lake Superior shores;

(b) For shorelands, boundaries shall be based on waters shown as protected on the map and inventory of protected waters in Duluth done by the commissioner pursuant to Chapter 199, Laws of Minnesota, 1979, and also shall be based on selected waters which the city has added to the commissioner's survey as being worthy of shoreland protection. All of these waters are shown on the Official Floodplain and Shoreland Map as currently revised as of the effective date of this ordinance and as may be amended thereafter;

(c) For wetlands:

(1) The map and inventory of wetlands in Duluth done by the commissioner pursuant to Chapter 199, Laws of Minnesota, 1979, said map and inventory having been published in the March 29, 1983, Duluth News-Tribune and Herald and subsequent amendments of said map and inventory;

(2) Wetlands as defined in this Chapter shown as plates numbered 22, 23, 26, 27, 28, 32, 33 and 40 of the Map of Known Wetlands produced by the city planning department and dated February 1, 1982;

(3) Because the maps listed above do not show all wetlands throughout the city, the Map of Known Wetlands shall be completed in accordance with methods approved by the city engineer and standards set in the U. S. Fish and Wildlife Circular No. 39, 1971 Edition.

The Official Floodplain and Shoreland Map produced by the planning department, dated March 2, 1980, revised March 1987, and filed as Public Document Nos. 80-0128-28 and 87-0323-20, and all subsequent amendments thereto, shall be the official map which establishes shoreland and flood plain boundaries on lots and sites within the city. The boundaries of each such district shall be determined by the use of said maps by scaling distances thereon. Where interpretation is needed as to the exact location of any boundary as shown on an official map, the city engineer shall make the necessary interpretation based on available technical data, and, in the case of flood plains, based particularly on elevations on the regional flood profile. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-6. Enforcement of Chapter.

(a) It shall be the duty of the building official to enforce this Chapter;

(b) Penalties for violation. Refer to Section 1-7 of the Duluth City Code. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-7. Continuation of nonconforming uses.

A structure or the use of a structure or premises which was lawful before February 1, 1980, or applicable amendment of this Chapter but which is not in conformity with the provisions of this Chapter may be continued subject to the following conditions:

(a) No such use or building in a floodway or wetlands shall be expanded, changed, enlarged or altered in a way which increases its nonconformity;

(b) Any alteration or addition to a nonconforming use which is in a flood plain and which would result in substantially increasing the flood damage potential of that use shall be floodproofed in accordance with the State Building Code;

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

(d) Any alteration or addition to a nonconforming structure/use which would result in increasing the flood damage potential of that structure/use shall be floodproofed in accordance with the State Building Code. Alterations or additions which equal or exceed 50 percent of the market value of the structure shall meet the specific flood protection standards allowable in Article II of this Chapter;

(e) If any nonconforming use is destroyed by any means, including floods, to an extent of 50 percent or more if its market value, it shall not be reconstructed except in conformity with the provisions of this Chapter. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-8. Discontinuance of nonconforming use.

(a) If any nonconforming use is discontinued for 12 consecutive months, any future use of the premises shall conform to this Chapter;

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

(c) Any existing well or private sanitary sewer septic system may be repaired and maintained in accordance with standards prescribed by the applicable state or county agencies;

(d) The city building official shall document instances of nonconforming uses which have been discontinued for a period of 12 months. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-9. Special use permits.

The city planning commission, subject to appeal to the city council, shall process and approve special use permits which are required by this Chapter; provided, however, that the commission shall approve a special use permit only if the findings specifically required in this Chapter for special permits are made and such use is otherwise in conformance with the requirements of this Chapter.

The commission shall establish procedures for the review of special use permit applications. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-10. Variances and appeals.

(a) Appeals from administrative determinations. Any person aggrieved by an order or determination made pursuant to this Chapter who alleges that there has been an error made by any city administrative official in the enforcement or interpretation of this Chapter may appeal such order or determination to the planning commission by filing written notice of appeal with the building official within 20 days after receiving notice of such order or determination. The notice of appeal shall recite the alleged error and shall set forth all other grounds for the appeal. If, after the hearing, the planning commission determines that an error has been made, it shall grant appropriate relief which is not inconsistent with the intent of this Chapter;

(b) Whenever any person alleges that the boundaries of a wetlands or shorelands map are in error, the alleged error may be appealed to the planning commission. On appeal, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence;

(c) Variances. The planning commission shall hear and determine requests for variances. Variances shall be granted only in accordance with standards set forth in Articles II, III and IV for each respective district and shall not compromise the purposes of this Chapter;

(d) Appeal to the city council. Any person aggrieved by a decision of the planning commission may appeal such decision to the city council by filing written notice of appeal with the city clerk within ten days after such decision is rendered. No relief shall be granted which violates the limitations on variances in this Chapter. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-11. Subdivisions, land suitability.

No land shall be subdivided for building purposes which is found unsuitable for the proposed use by the city planning commission because of flooding, inadequate drainage, soil and rock formation with severe limitations for development, erosion potential, unfavorable topography, inadequate water supply, infringement on wetlands, harm or disturbance to the natural environment, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community. Flood plains, floodways and known flood fringe areas shall be clearly labeled on all plats as shall base flood elevation data. Before any subdivision is approved in a general flood plain district as provided in Section 51-25, the city engineer shall make a determination as to which areas constitute floodway and which areas constitute flood fringe. In making such a determination, the city engineer shall use information and procedures as set forth in Section 51-25. No plat shall be approved by the planning commission until such a determination is made and recorded on such plat.

All lots within the flood plain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this Chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-12. State commissioner of natural resources review and approval.

(a) Applications. Upon receipt of applications from the building official, the secretary of the planning commission shall submit by mail to the commissioner notice of hearing dates and copies of all applications for text or official map changes to this Chapter which decrease public regulation of water resources, for special use permits, and for plats and variances which are either inconsistent with shoreland regulations of this Chapter or are within shoreland areas, and for planned unit developments in shorelands. Such mailing shall be accomplished sufficiently in advance so that the commissioner will receive at least ten days notice of any hearing;

(b) Approval of commissioner. Variances from the provisions of Article III of this Chapter relating to planned unit developments in shorelands shall be approved by the commissioner prior to approval by the city;

(c) Copies of actions. The secretary of the planning commission shall submit by mail to the commissioner a copy of all decisions of the planning commission and city council regarding the actions noted in Section 51-12(a) within seven days of such actions. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-13. Amendment of chapter.

Any proposed amendment of this Chapter shall be submitted to the planning commission for its review and recommendations to the city council. The planning commission, within 45 days after receiving any proposed amendment, shall conduct a study of the amendment and submit the results of said study along with the proposed amendment, to the city council.

The flood plain designation on the Official Flood Plain and Shoreland Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the commissioner of natural resources and by FEMA if it is determined that, through other measures, lands are adequately protected for the intended use.

All amendments to this ordinance [Chapter] including amendments to the Official Flood Plain and Shoreland Map must be submitted to and approved by the commissioner of natural resources prior to adoption. Changes in the Official Flood Plain and Shoreland Map also require prior approval by the federal emergency management agency. The commissioner of natural resources and the federal emergency management agency must be given at least ten days written notice of all hearings to consider an amendment to the written text of this Chapter (said notice shall include a draft of the ordinance amendment under consideration).

The removal of property from the flood hazard area by the use of fill may not meet FEMA's standards for exemption from the insurance purchase requirements. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Article II. Flood Plain Management.

Sec. 51-14. Flood plains--lands affected.

This Article shall apply to all lands within the city which are shown as flood plains on the Flood Boundary and Flood Way Map for Duluth, Minnesota, published February 1, 1980, by the U. S. department of housing and urban development and subsequent map amendments, provided the February 1, 1980, map shall be used for flood plains on Lake Superior shores. All lands within flood plains shall be divided into floodway districts and flood fringe districts or into general flood plain districts. For purposes of relating said districts to plats and lots within the city, the Official Floodplain and Shoreland Map, filed as Public Document No. 80-0128-28, shall be used as a working map in the administration of this Article in all cases except those where it is clearly shown that there is an inconsistency between said Flood Boundary and Floodway Map and said Official Floodplain and Shoreland Map, where said Flood Boundary and Floodway Map shall control. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-15. General compliance.

(a) Within any flood plain, no vacant land shall be occupied or used and no structure shall be hereafter erected, altered or moved except in compliance with the provisions of this Article;

(b) Warning and disclaimer of liability. Because known flood plains are limited to those identified in a federal flood insurance study and certain other detailed studies, this Article shall not be taken to imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages;

(c) Existing buildings and structures. Notwithstanding anything in this Chapter to the contrary, alterations and additions to existing buildings or structures located in flood plains are permitted if the same will decrease the flood damage potential of the building or structure, will not increase the degree of obstruction to flood water flowage, is in compliance with Article III of this Chapter, and will provide for adequate protection of the building or structure to flood protection elevations where applicable and will not endanger human life;

(d) Sanitary regulations. In addition to all applicable state and county rules, regulations, requirements and laws and local laws, the following sanitary regulations shall apply in flood plain districts:

(1) Water supply systems in flood plain areas shall function to prevent entry of flood waters and shall be floodproofed consistent with Section 51-21 of this Code and any applicable state regulations;

(2) All newly constructed buildings to be served by a sewage disposal system shall be connected to a public or municipal collection and treatment facility if feasible. If such connection is not feasible, such structure shall be connected to a septic system and drain field lying outside of the flood plain, or to a septic system and drain field that has been floodproofed or to another form of sewage disposal system, subject to the standards and procedures of the St. Louis County health department and applicable state agencies, which will prevent the pollution of any public waters during a regional flood. This paragraph shall not apply to presently existing sewage disposal systems that were lawful at the time of their construction. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-16. Floodway district--permitted uses.

(a) Subject to the standards set forth in this Article, only the following uses shall be permitted within the floodway:

(1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting;

(2) Uses accessory to industrial or commercial uses such as loading areas, parking areas, and airport landing strips, which shall not require fill in excess of ten cubic yards;

(3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, fishing areas, docks and single or multiple purpose recreational trails, including accessory structures not designed for human habitation and not exceeding 1,500 cubic feet in volume;

(4) Residential uses such as lawns, gardens, parking areas and play areas, which shall not require fill in excess of ten cubic yards;

(b) The building official and city engineer shall impose any requirements or conditions they deem necessary to insure standards set forth in this Article and the purpose of this Chapter are carried out. In addition, no such use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream or any drainage ditch, or any other drainage facility or system, and no such use shall be construed to authorize the erection of any structure unless such authority is specifically granted in (a) above. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-17. Same--special uses.

The following uses requiring accessory structures or fill or storage of materials or equipment, may be permitted in the floodway district only after the issuance of a special use permit as provided in Section 51-9 of this Code, subject to the provisions of sections 51-22 and 51-23 of this Code:

(a) Structures accessory to open space uses, other than as permitted in Section 51-16 of this Code;

(b) Placement of fill in excess of ten cubic yards in volume; provided, however, that no special use permit shall be required for routine filling done only to maintain, but not exceed, grades and levels as they existed at the time of the adoption of this ordinance;

(c) Extraction of sand, gravel and other materials;

(d) Marinas, boat rental facilities, docks, piers, wharves and water control structures;

(e) Railroads, streets, bridges, utility transmission lines and pipelines;

(f) Storage yards for equipment, machinery or materials;

(g) Public utility facilities and water oriented industries which must be located adjacent to watercourses, provided that such development is located in such a manner that it will not significantly alter flood flows, heights or velocities of regional floods;

(h) Other uses similar in nature to uses described in this Section and in Section 51-19 of this Code which are consistent with the stated purposes and provisions of this Article. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-18. Same--Standards for special use permits in floodways.

The following standards shall apply to the granting of any special use permit in a floodway:

(a) No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials, or equipment or other uses may be allowed as a special use which, acting alone or in combination with existing or reasonably anticipated future uses, adversely affects the capacity of the floodway or increases flood heights;

(b) Any fill deposited in the floodway shall be no more than the minimum amount necessary for a project. Fill shall be limited to that needed to grade or landscape, and shall not in any way obstruct the flow of flood waters and shall be protected from erosion by the planting of vegetative ground cover, the use of rip-rap, or other approved method;

(c) Accessory structures shall not be designed for human habitation, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters, shall be constructed whenever possible with the longitudinal axis parallel to the direction of flood flow, shall be placed approximately on the same flood flow lines as those of adjoining structures, and shall be floodproofed to the flood protection elevation in accordance with the State Building Code. All floodproofed accessory structures must meet the following additional standards, as appropriate:

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

(d) The storage or processing of materials that are, in time of flooding, flammable, explosive or injurious to human, animal or plant life is prohibited; and all materials or equipment stored shall be of a type that is readily removable from the area within the time available after a flood warning;

(e) Structural works for flood control. Levees, dikes and floodwalls shall not be constructed within the limits of the floodway district. Other structural works for flood control such as dams and channel enlargements that will change the course, current or cross section of a public water shall be subject to the provisions of Minnesota Statutes, Chapter 105, and any applicable federal law. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-19. Permitted uses and special uses in flood fringes.

Subject to the standards set forth in this Article, permitted uses and special uses in a flood fringe district shall be the same as those specified for such area in the applicable zoning district in Chapter 50 of this Code. The building official and city engineer shall impose any requirements or conditions they deem necessary on permits for permitted uses to insure standards and the purposes of this Article are carried out. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-20. Standards for permits and special use permits in all flood fringes.

The following standards shall apply to the granting of a special use permit in a flood fringe:

(a) Flood fringe developments shall not significantly affect the efficiency or unduly restrict the capacity of channels or floodways of any tributaries to the mainstream, drainage ditches and any other drainage facilities or systems in the storage or removal of flood waters;

(b) Residential uses:

(1) Finished surface of the first floor or basement floor of any residential building or structure, accessory structure or manufactured home to be erected, constructed, reconstructed, altered or moved into a flood fringe district shall be placed on fill at a level which is at or above the flood protection elevation. If placed on fill, the fill shall extend at such flood protection elevation for a distance of at least 15 feet beyond the limits of any structure or building erected thereon. All manufactured homes shall be anchored with tiedowns conforming to the provisions of the manufactured housing regulations of the State Building Code.

Residences that have vehicular access at or more than an elevation two feet below the regulatory flood protection elevation shall not be permitted unless granted a variance by the city council. In granting a variance, the city shall specify limitations on the period of use or occupancy of the structure(s) for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist;

(2) In any AO zone found on the official flood insurance rate map for Duluth, promulgated by the Federal Emergency Management Flood Insurance Study for the city of Duluth dated August 1979 and filed with the city clerk as Public Document No. 80-0128-29, no permit for the construction or substantial improvement of a residential structure shall be issued unless the lowest floor of such structure, including the basement, is elevated two feet above the depth number for that location specified on said flood insurance rate map;

(c) Commercial uses. Commercial buildings or structures or accessory structures in flood fringes shall be constructed on fill with no first floor or basement floor below the flood protection elevation; provided, however, that accessory land uses such as yards, railroad tracks and parking lots may be below said flood protection elevation. No area intended to be used or which is actually used by the public shall be subject to inundation to a depth of greater than two feet or flood velocities of greater than four feet per second upon the occurrence of a regional flood;

(d) Manufacturing or industrial uses. Manufacturing and industrial buildings, structures and appurtenant works in flood fringe districts shall either be placed on fill at or above the flood protection elevation or shall be protected by floodproofing, as provided for in Section 51-21 of this Code, to or above said elevation. Accessory land uses such as yards, railroad tracks and parking lots may be at lower elevations

subject to the requirements of Subsection (c) above for areas used by the public. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas;

(e) Public utilities, roads, etc. Public utility facilities, roads, railroad tracks and bridges within a flood fringe district shall be designed to minimize increases in flood elevations. In addition, public utility facilities shall either be placed on fill to a level equal to or higher than the flood protection elevation or shall be floodproofed as provided for in Section 51-21 of this Code to a level at or above said flood protection elevation;

(f) Fill shall be properly compacted and the slopes shall be properly protected by the use of rip-rap, vegetative cover or other acceptable method. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-21. Same--Storage of materials in flood plains regulated; standards.

Materials that in times of flooding are buoyant, flammable, explosive or could be toxic to human, animal or plant life shall be stored at or above the flood protection elevation, floodproofed to said elevation or protected by structural measures to said elevation consistent with the standards set forth herein. Furthermore, storage of materials likely to cause pollution of waters if subjected to flooding is prohibited unless adequate safeguards approved by the Minnesota pollution control agency are provided.

Materials stored at or above the regulatory flood protection elevation must be formally removed from the flood plain through a letter of map revision (LOMR) that has been formally approved by FEMA and DNR. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-22. Floodproofing.

(a) Where floodproofing is incorporated into new buildings or structures and into alterations or additions to existing structures, floodproofing measures shall be provided to the flood protection elevation and designed to withstand flood velocities, depths, durations, forces and any other factors associated with a regional flood. A plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequately designed to withstand regional flood conditions shall be submitted to the building official for approval before authorization is granted for the proposed work. Authorized floodproofing measures may include anchorage of structures to prevent flotation, installation of watertight barriers over openings, reinforcement of walls to resist water pressures, use of materials which will reduce wall seepage, construction or modification of water supply and waste disposal systems to prevent entry of flood waters, placement of essential utilities above the flood protection elevation, and an installation of pumping facilities for internal and subsurface drainage. However, in all cases structures shall be floodproofed to FP-1 or FP-2 classification as defined in the State Building Code. The use of dams, dikes, levees and floodwalls to meet floodproofing standards shall not be permitted;

(b) In any AO zone found on the Official Flood Insurance Rate Map for Duluth, promulgated by the Federal Emergency Management Insurance Rate Study for the city of Duluth dated August 1979 and filed with the city clerk as Public Document No. 80-0128-29, no permit for the construction or substantial improvement of any nonresidential structure shall be issued unless:

(1) The lowest floor, including the basement of such structure is elevated above the crown of the street nearest to such structure to or above the depth number for that location specified on said flood insurance rate map; or

(2) Floodproof such structure together with attendant utilities and sanitary facilities so that any space below such applicable depth number or street crown elevation is watertight with walls substantially impermeable to the passage of water, and that the structural components of such structure have the capacity to resist applicable hydrostatic and hydrodynamic loads and the effects of buoyancy. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-23. Limitations on variances in flood plains.

The planning commission or city council shall not grant any variances in flood plains contrary to the provisions of this Section. No variances shall be granted without a showing of good and sufficient cause.

(a) In a floodway:

(1) No variance shall be granted that would result in any increase in flood levels during the base flood discharge;

(2) No variance shall be issued authorizing the placement of a manufactured home, dwelling unit or any structure designed for human habitation;

(3) No variance shall be granted authorizing a lesser degree of floodproofing or flood protection than is required by this Chapter;

(4) Variances shall be granted only upon a showing of exceptional hardship, and shall be limited to giving the applicant a minimal reasonable use of the site;

(b) In flood fringes:

(1) No variance shall authorize a lesser degree of floodproofing or flood protection than is required by this Chapter;

(2) Variances shall be granted only upon a showing of exceptional hardship and shall not produce any adverse effects to the flood capacity or efficiency of the watercourse;

(c) Flood insurance notice and recordkeeping. The city building official shall notify the applicant for a variance that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(2) Such construction below the 100 year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-24. General considerations for granting variances and determining conditions attached to permits and variances in flood plains.

All administrative officials and boards of the city shall consider the following factors in granting variances in imposing conditions on permits and variances in flood plains:

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

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

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

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

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

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

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

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

(i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area;

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

(k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-25. Procedures in general flood plain districts.

Areas are designated as general flood plain districts primarily because sufficient data is not available to divide the flood plain into floodways and flood fringes. Because of this the city engineer shall determine whether the proposed use is in the floodway or flood fringe using procedures established in this Section.

(a) Upon receipt of an application for a permit in a general flood plain district, the applicant shall provide to the building official the following information which shall be transmitted to the city engineer who shall determine the regulatory flood protection elevation and whether the proposed use is within a floodway or a flood fringe:

(1) A typical valley cross section drawing showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development and high water information;

(2) Plan drawing (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of trees; photographs showing existing land uses and vegetation upstream and downstream; and soil type;

(3) Profile drawing showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development;

(b) The city engineer shall:

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

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

(3) Compute the floodway necessary to convey a regional flood without increasing flood stages more than 0.5 feet. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries;

(c) Based upon said technical evaluation, the city engineer shall certify in writing to the building official whether the proposed use is in a floodway or a flood fringe and the flood protection elevation at the site. The city, prior to official action, must submit the application and all supporting data and analysis to the FEMA and DNR for review and comment. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Article III. Shoreland Management.

Sec. 51-26. Shorelands--lands affected.

Pursuant to Minnesota Statute Section 105.485, the commissioner of natural resources of the state of Minnesota inventoried and has classified the protected waters in the city. Said waters have been classified as natural environment waters (NE), recreational development waters (RD) or general development waters (GD). The regulations in this Article shall apply to all lands designated on the city's official flood plain and shoreland map, as amended. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-27. Compliance.

Within any shoreland area, no person shall do any activity which, under the terms of this Article, requires a permit, without first securing such a permit, nor shall any person do or cause to be done any act prohibited by this Article. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-28. Same--Permitted uses and special uses.

Subject to the standards set forth in this Article, permitted and special uses in any shoreland area shall be the same as those specified for such area in the applicable zoning district in Chapter 50 of this Code, except that grading, filling and excavating of more than 50 cubic yards of earth shall require a special use

permit. The building official and city engineer shall impose any requirements or conditions they deem necessary on permits for permitted uses to insure the standards and the purposes of this Article are carried out. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-29. Standards for shoreland permits and special use permits.

(a) Removal of natural vegetation. The removal of natural vegetation shall be restricted to prevent erosion into public waters, to enhance consumption of nutrients in the soil and to preserve shoreland aesthetics. Such work is subject to the following provisions:

(1) A plan drawing, to scale, shall be presented, indicating the amount and type of natural vegetation existing prior to any work, as well as the proposed amount and type of natural and planted vegetation upon completion of said work. If found to be necessary, the building official may require additional information;

(2) Selective removal of natural vegetation shall be allowed, provided that sufficient vegetative cover remains to screen cars, dwellings and other structures when viewed from the water;

(3) Clear cutting of natural vegetation shall be prohibited;

(4) Natural vegetation shall be restored insofar as feasible after any construction project is complete in order to retard surface runoff and soil erosion;

(b) Grading and filling. Grading, filling and excavating in shoreland areas are subject to the following provisions:

(1) A grading and/or filling and/or excavating plan, including cross sections and contours, specific work methodology, time factors relating to specific work elements, specific erosion prevention methods, and other information deemed applicable to these provisions by the building official, shall be presented along with applications for permits and all such activities shall be done in conformance with standards contained in this Section, in Chapter 70 of the State Building Code and in any other applicable law or regulation;

(2) The smallest amount of bare ground shall be exposed for as short a time as feasible;

(3) Temporary ground cover, such as mulch, shall be used and permanent ground cover, such as sod, planted as soon as possible;

(4) Methods to prevent erosion and trap sediment shall be employed;

(5) Fill shall be the minimum necessary for the project, and shall not adversely affect adjacent properties;

(c) Placement of roads and parking areas. Roads and parking areas on any parcel or group of parcels shall be located insofar as possible to retard the runoff of surface water and excess nutrients. No impervious surface shall be placed within 50 feet of the ordinary high water mark in any shoreland area. Roads and parking areas shall comply with the setbacks for buildings set forth in Subsection (e) of this Section unless it is not feasible to do so, and natural vegetation or other natural materials shall be placed and maintained to screen parking areas when viewed from the water;

(d) Sewage and waste disposal. Structures shall be connected to public sewage systems as required by Chapter 43 of this Code. If septic systems or other alternative sewage systems are allowed by the St. Louis County department of health, such facilities shall be constructed and maintained in strict compliance with all applicable setback and technical standards of the Minnesota department of health, pollution control agency and the department of natural resources;

(e) Area, setback, etc., standards. The following standards shall apply to the development of shoreland areas, except as provided in (3) of this Subsection, and further provided that any more stringent requirements in Chapter 50 of this Code shall supersede requirements set forth herein:

(1) Sewered areas;

	NATURAL ENVIRONMENTAL WATERS	RECREATIONAL DEVELOPMENTAL WATERS	CLASS I GENERAL DEVELOPMENTAL WATERS	CLASS II GENERAL DEVELOPMENTAL WATERS
Minimum lot area (square feet)				
waterfront lots	40,000	20,000	15,000	same as Chapter 50
other lots	20,000	15,000	10,000	same as Chapter 50
Minimum water frontage and lot width at building line (feet)	125	75	75	same as Chapter 50
Minimum building setback from ordinary high water mark (feet)	150	75	50	50
Minimum elevation of lowest floor above highest known water level (feet)	3	3	3	3
Maximum total lot area covered by impervious surface (percent)	30	30	30	60
Maximum building height (except in approved community unit plans)	35	35	35	same as Chapter 50

(2) Unsewered areas;

	NATURAL ENVIRONMENTAL WATERS	RECREATIONAL DEVELOPMENTAL WATERS	CLASS I GENERAL DEVELOPMENTAL WATERS	CLASS II GENERAL DEVELOPMENTAL WATERS
Minimum lot area (square feet)	80,000	40,000	20,000	same as Chapter 50
Minimum water frontage and lot width at building line (feet)	200	150	100	same as Chapter 50
Minimum building setback from ordinary high water mark (feet)	200	100	75	75
Minimum elevation of lowest floor above highest known water level (feet)	3	3	3	3
Maximum total lot area covered by impervious surface (percent)	30	30	30	60
Maximum sewage system setback from ordinary high water mark (feet)	150	75	50	50
Minimum sewage system elevation above highest groundwater level or bedrock (feet)	3	3	3	3
Maximum structure height (except in approved community unit plans)	35	35	35	same as Chapter 50

(3) The following are exceptions to the foregoing requirements:

(A) Boathouses may be located on the landward side of the ordinary high water mark providing that they are not used for habitation and they do not contain sanitary facilities;

(B) Minimum building setback from ordinary high water mark shall vary from that indicated above where existing development has already established a basic setback line as provided herein. When 40 percent or more of a 600 feet length of water frontage which contains a proposed building site is

improved with buildings which have observed, with a variation of 20 feet or less, a building setback from ordinary high water mark which is greater or less than the minimum building setback from the high water mark or when development exists on the lots on both sides of the proposed building site, such minimum building setback shall be the average building setback from ordinary high water mark so established; provided, however, that said minimum building setback shall not be required to exceed 300 percent of the minimum building setback otherwise required, nor shall it be greater than the maximum setback of the structures on the two adjoining lots;

(C) Where a lot of record on February 1, 1980, has less lot area, less water frontage and less lot width than the minimum specified in this Section and was on said date in separate ownership from any abutting lands, said lot may be allowed as a building site provided that all other sanitary and dimensional requirements are complied with;

(D) Smaller lot sizes, water frontages and lot widths may be allowed but only under the procedures and requirements of community unit plans in Chapter 50 of this Code. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-30. Standards for variances in shorelands.

Variances shall be granted only upon a showing of hardship. No variance shall be granted that compromises the general purposes or intent of this Article or results in adverse consequences to the environment. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Article IV. Wetland Management.

Sec. 51-31. Wetlands--lands affected.

(a) This Article shall apply to all wetlands, as defined within this Chapter, within the city of Duluth. A map of known wetlands shall be completed by the city engineer as provided in Section 51-5(c)(3) and maintained in the office of building inspection. Partial inventory and mapping of city wetlands has been completed and the following lands shall be subject to the provisions of this Article:

(1) Wetlands indicated on the map and inventory of wetlands in Duluth done by the commissioner pursuant to Chapter 199, Laws of Minnesota, 1979, published in the March 29, 1983, Duluth News-Tribune;

(2) Wetlands as defined in this Chapter indicated on plates numbered 22, 23, 26, 27, 28, 32, 33 and 40 of the Map of Known Wetlands produced by the city planning department and dated February 1, 1982;

(b) In unmapped areas, the building official shall require each permit applicant to specify on the permit application whether or not the proposed site contains wetlands as defined herein. Regardless of the answer given, if the building official has reasonable grounds to believe the site does contain wetlands, he shall, in making his determination:

(1) Require the applicant to submit additional information such as soil analysis, surveys of vegetation and engineering or hydrological data, all certified by competent professionals, to aid in the determination; and/or

(2) Conduct a site inspection and evaluation; and/or

(3) Consult with the city engineer, state hydrologists and soil technicians, and other available experts; and/or

(4) Use any other reasonable method to determine if the site contains wetlands. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-32. Permitted uses in wetlands.

Subject to the standards set forth in this Article, only the following uses shall be permitted in wetlands: parks, nature and wildlife preserves, harvesting of wild crops, lawns, residential play areas, recreational trails, objects or improvements made in conjunction with and necessary to public parks, public nature and wildlife

preserves, and to meet open space and lot area requirements, including the lot area requirements of low density planned developments and community unit plans. The building official and city engineer shall impose any requirements or conditions they deem necessary on permits for permitted uses to insure the standards and purposes of this Article are carried out. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-33. Standards for permits for permitted uses in wetlands.

No permit for a permitted use shall be issued for a wetlands which authorizes:

(a) Dredging, ditching, excavating or any other activity which results in increasing or decreasing the rate of water drainage from the wetland;

(b) Placement of fill;

(c) Placement of a structure. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-34. Special uses in wetlands.

The following special uses may be permitted in type 3, 4 and 5 wetlands up to one acre in size only after the issuance of a special use permit as provided in Section 51-9 of this Code: dredging, ditching, excavating, placement of fill and/or structures. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

Sec. 51-35. Standards for special use permits or variances in wetlands.

(a) When applying for a special use permit or a variance from the provisions of this Article, the applicant shall accompany his application, in addition to other required documents, with a proposed plan for utilization of the site;

(b) Special use permits or variances from the provisions of this Article may allow filling, dredging or other activities on the site, but only if it is demonstrated that the special use or variance will not result in increasing the water temperature in a receiving trout stream, or in increasing the peak stormwater runoff from the applicable watershed based upon a storm of 100 year frequency and one hour duration and only in accordance with detailed site, grading and landscaping plans approved by the commission. Except in the case of variances issued pursuant to Subsection (c) of this Section, variances shall permit the above-mentioned activities only to the minimal extent necessary to give the applicant a reasonable use of said site and shall be issued only upon a showing of hardship. Any wetlands filled or drained shall be replaced with wetlands on the same site or immediate watershed of equal or greater public value in terms of water retention, water purification and wildlife habitat;

(c) Variances may be issued permitting the construction of roads, utility services and accessory structures or improvements to such roads or utilities in wetlands, but such variances may be issued only if:

(1) It is shown that there is a serious need for the proposed road or utility;

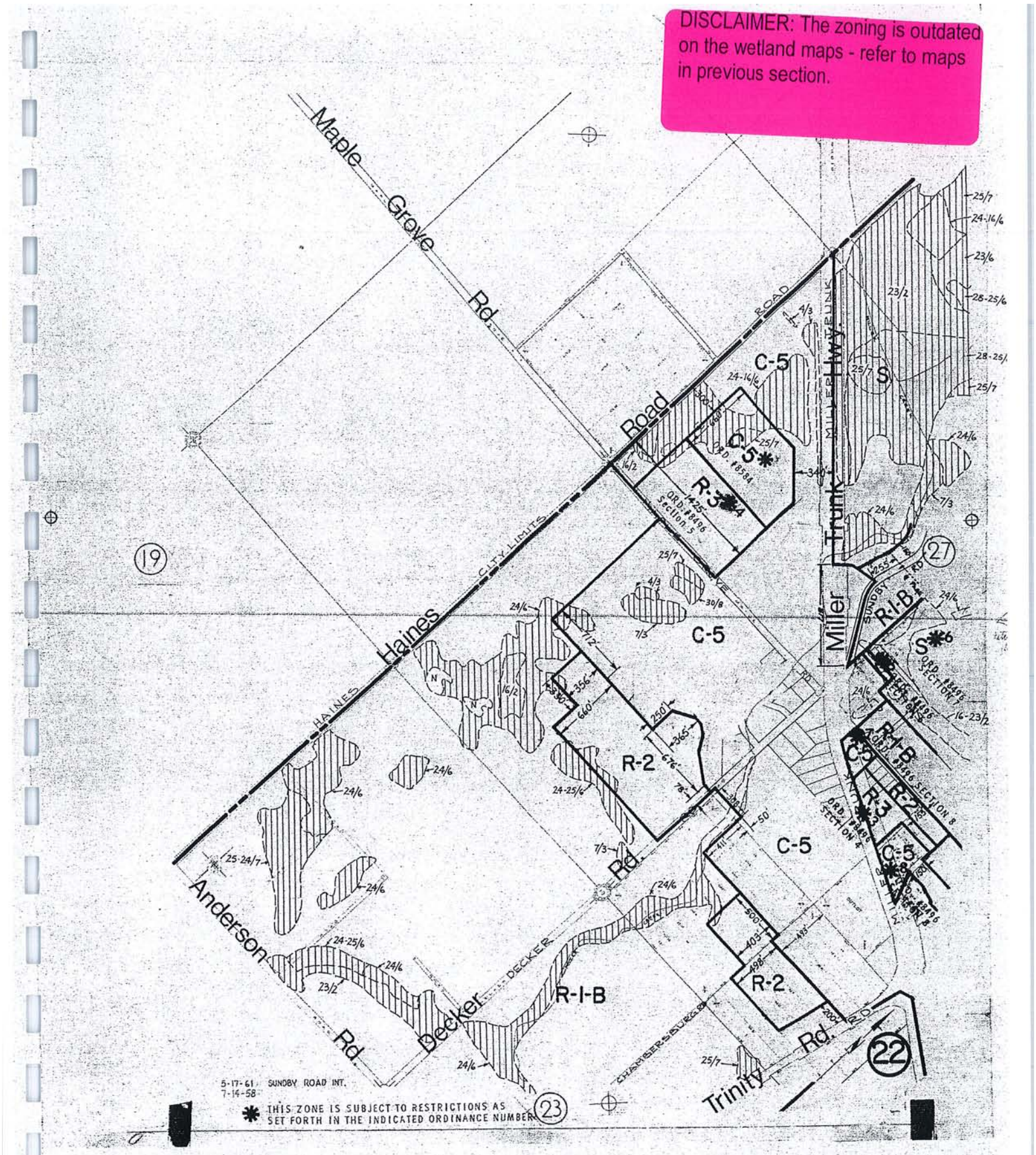
(2) It is shown that there is no reasonable alternative to constructing such road or utility in a wetland;

(3) The proposal incorporates all reasonable construction techniques to minimize harmful effects to the wetland environment and its water-retention and purification capacity;

(4) Any wetlands filled or drained are replaced with wetlands on the same site or immediate watershed of equal or greater public value.

At a minimum the replacement wetlands shall be natural in character and shall not be for the single purpose of stormwater retention. (Ord. No. 8501, 1-28-1980, § 1; Ord. No. 8828, 3-23-1987, § 1; Ord. No. 9128, 2-22-1993, § 1.)

DISCLAIMER: The zoning is outdated on the wetland maps - refer to maps in previous section.



MAP OF KNOWN WETLANDS

As Certified By The Secretary Of The City Planning Commission, Based Upon Technical Data Supplied By Others.

The Fact A Wetland Is Not Shown On This Map Does Not Mean That Such Wetland Is Not Subject To City Of Duluth Ordinances.

City Of Duluth Feb.1,1982

Scale 0 200 400 600 800ft

WETLAND DETERMINATION SOURCE

Barr Engineering Study, 1979

Source as Noted

28 | 1

Wetland Type Types 2 Through 7 Are Regulated By The City Of Duluth Legislative Code, Chapter 51 (Water Resource Management Ordinance) See Description In The Front Of This Book.

Vegetative Type, If Available. See Description In Front Of This Book.

Note: Zoning Shown On This Map May Be Out Of Date.

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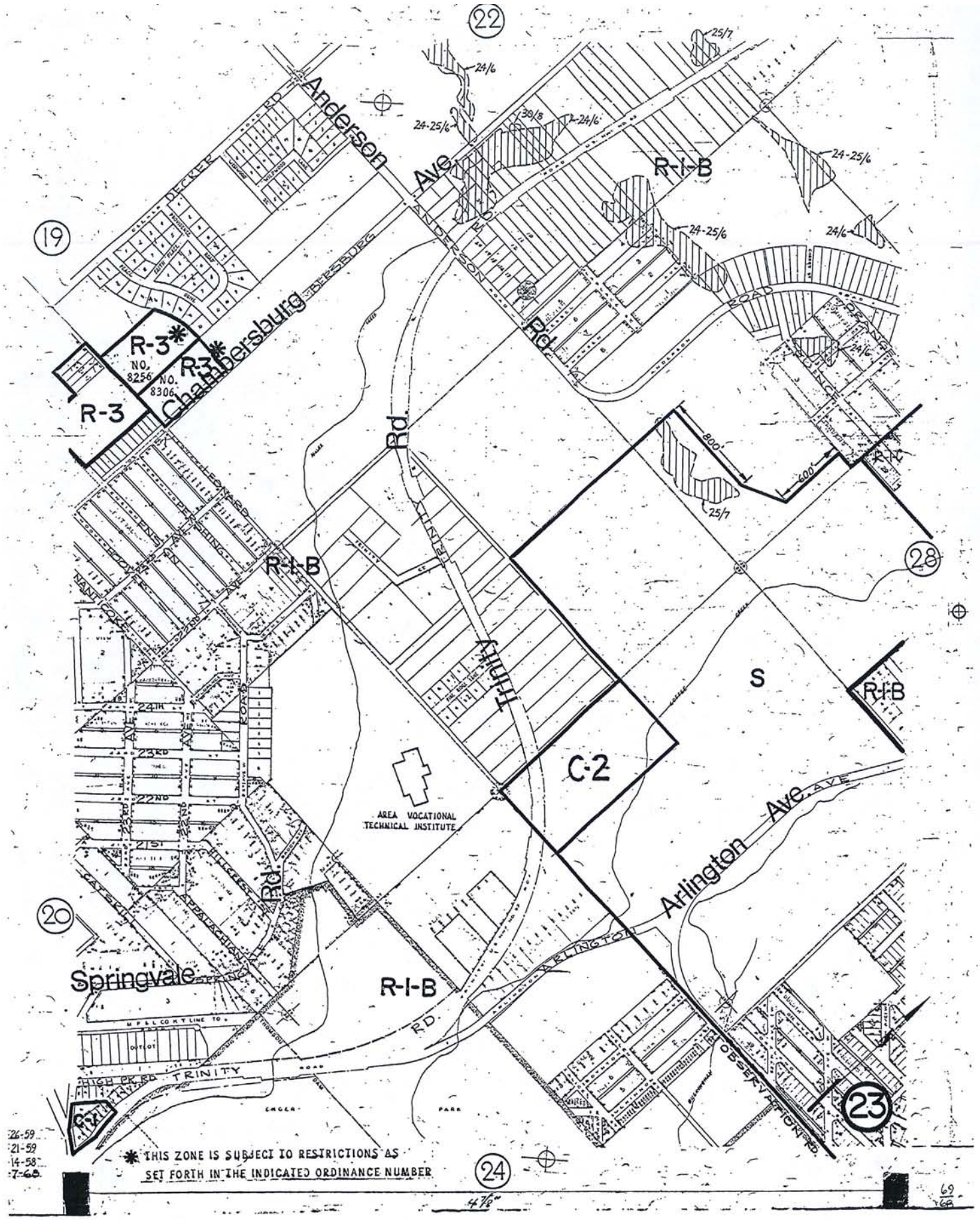

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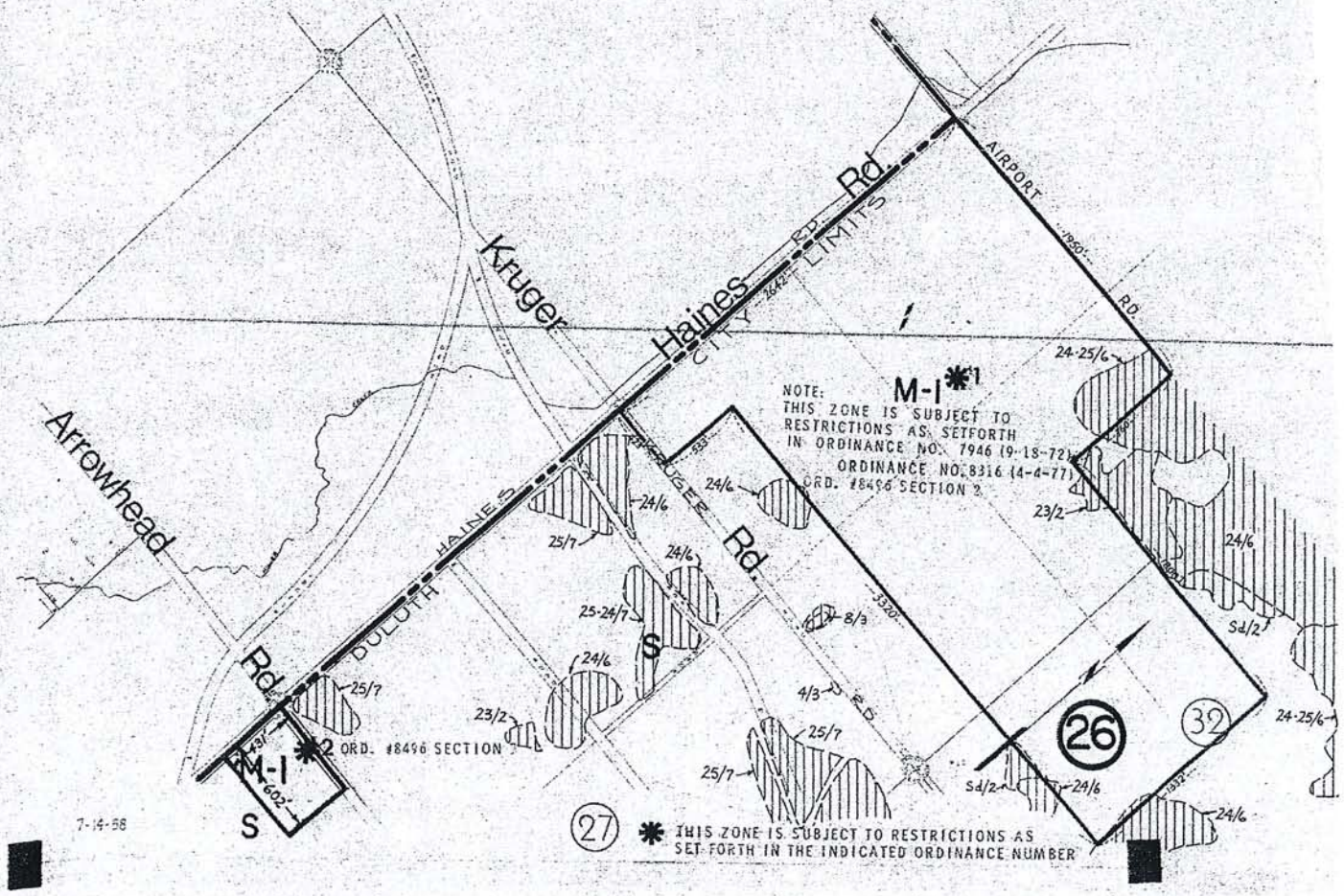

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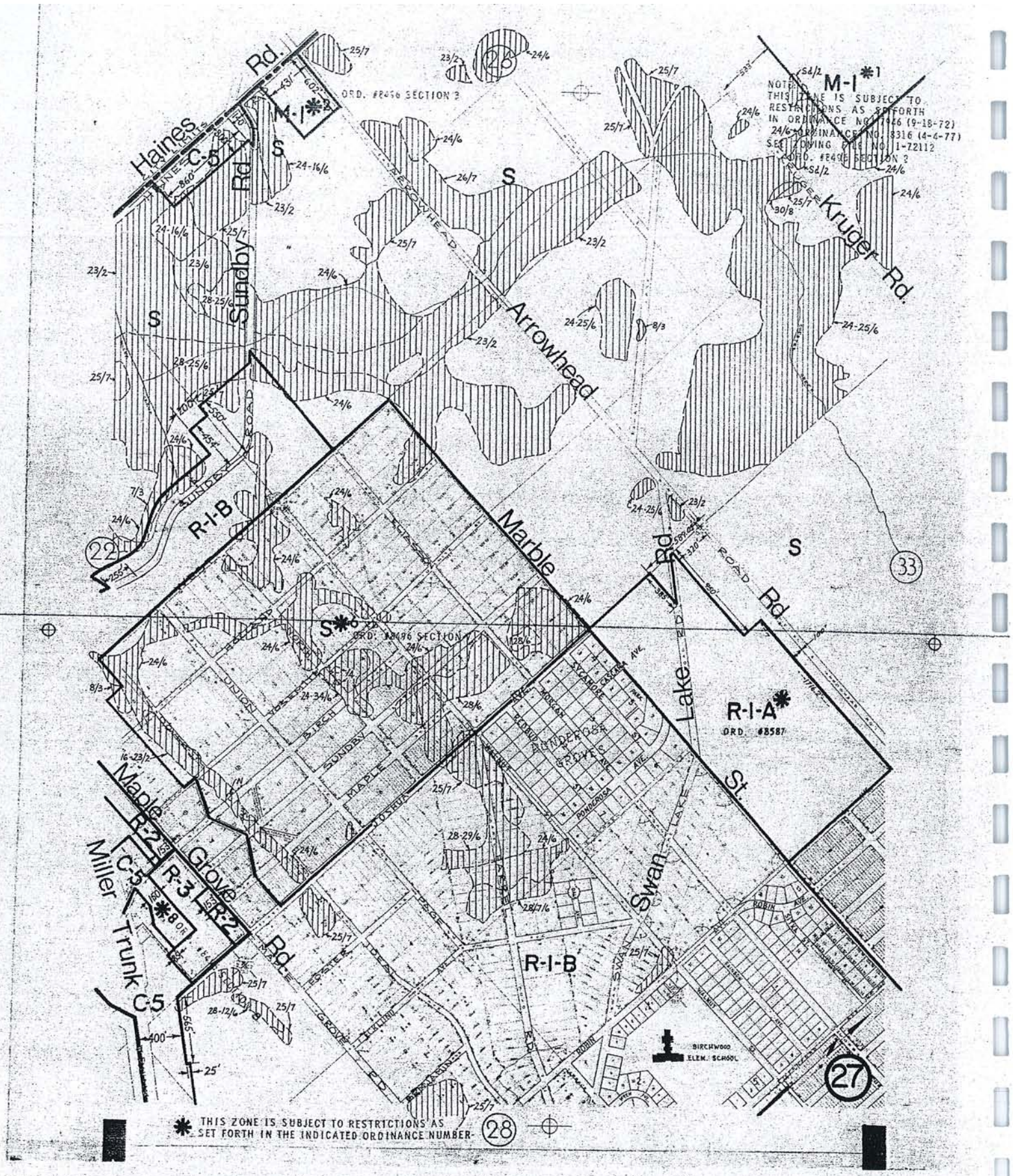

* THIS ZONE IS SUBJECT TO RESTRICTIONS AS SET FORTH IN THE INDICATED ORDINANCE NUMBER-

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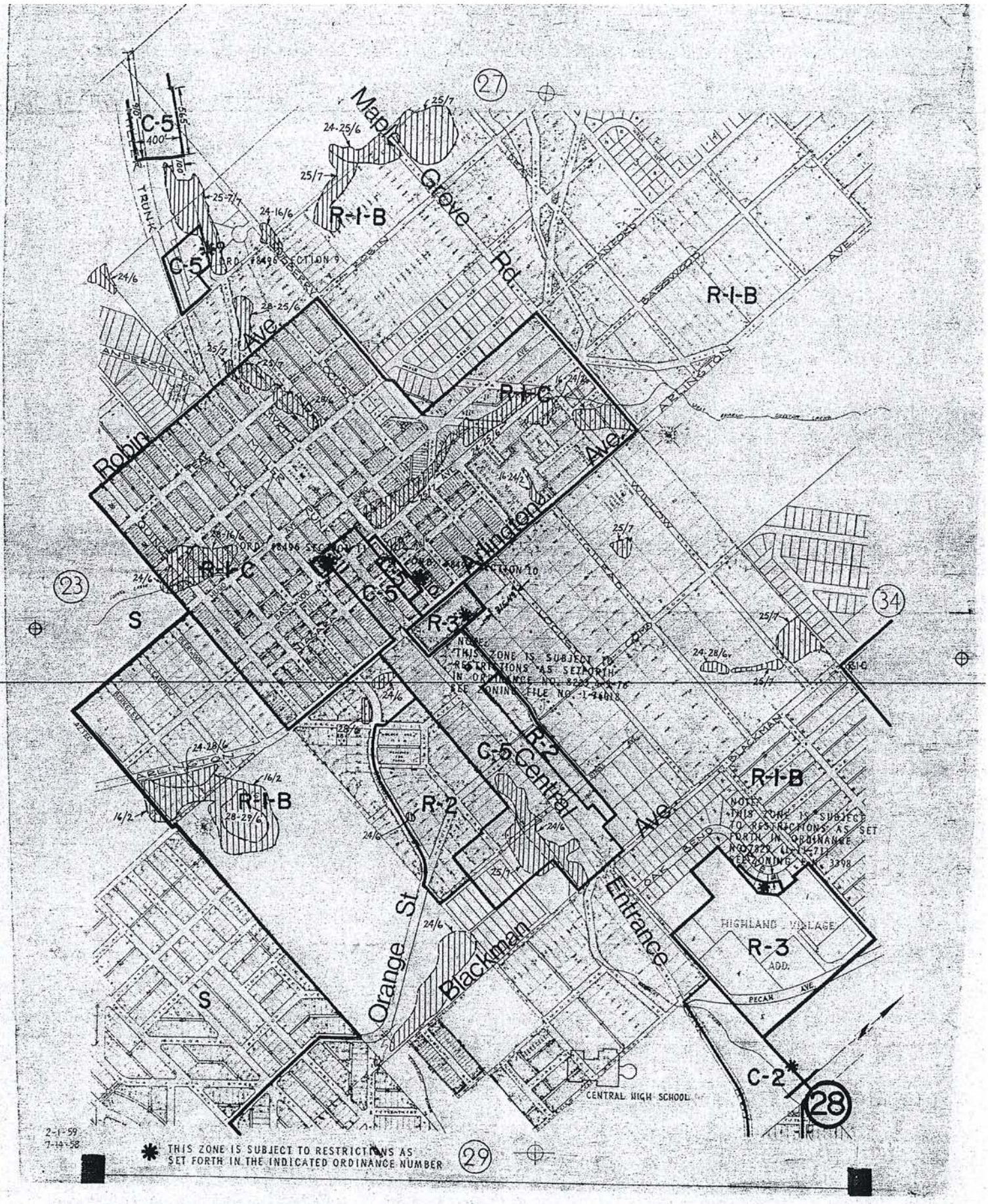

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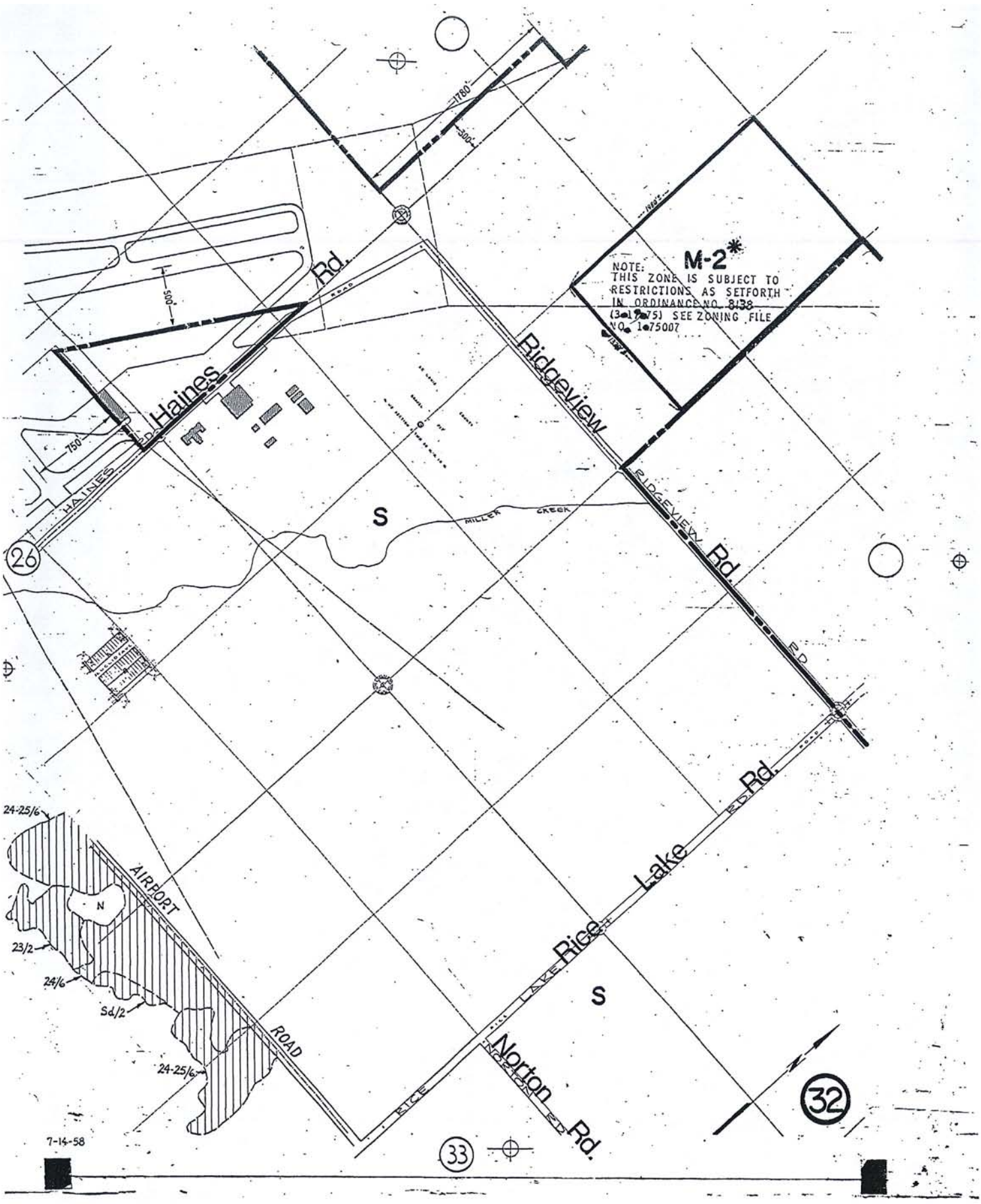

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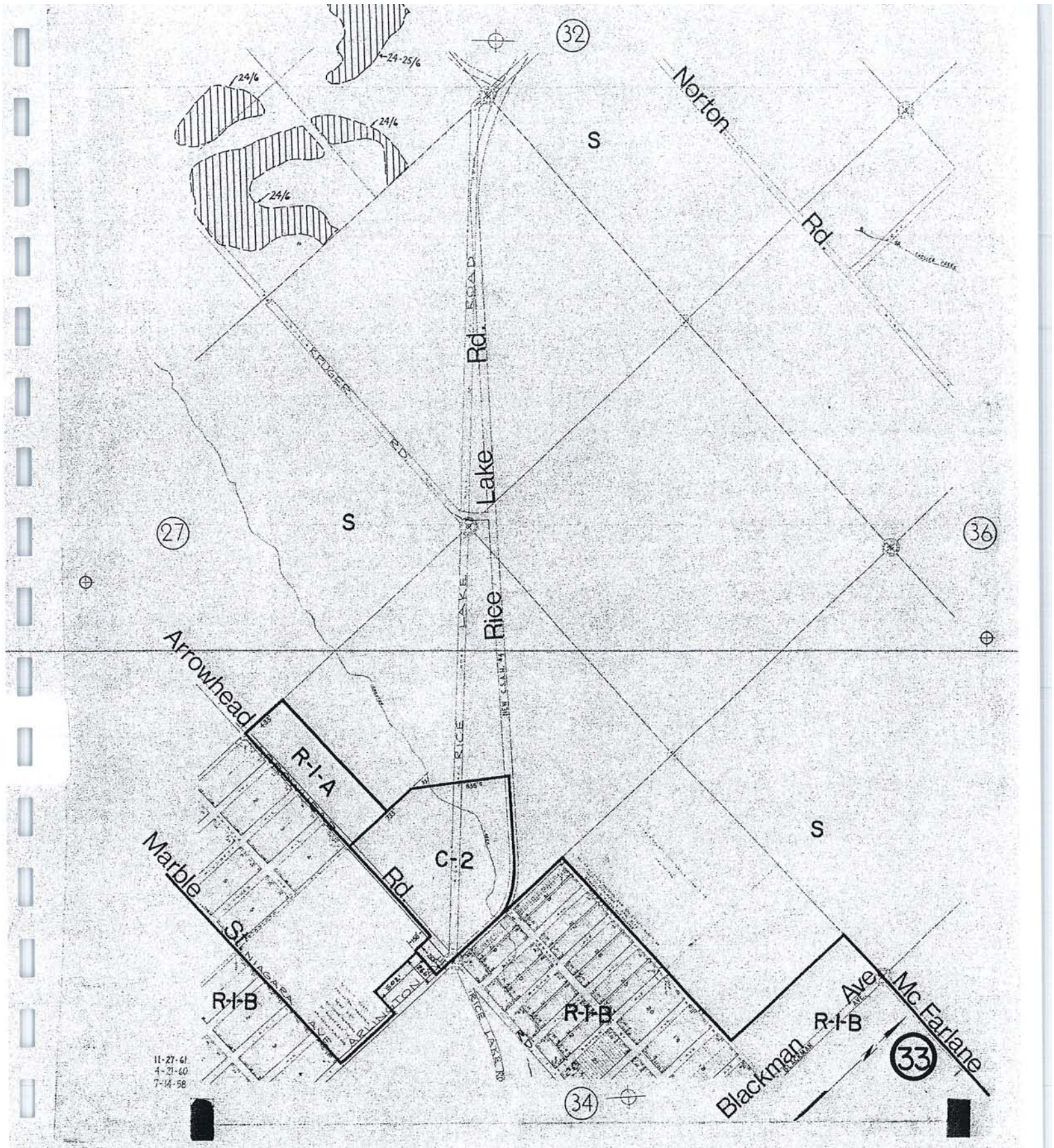

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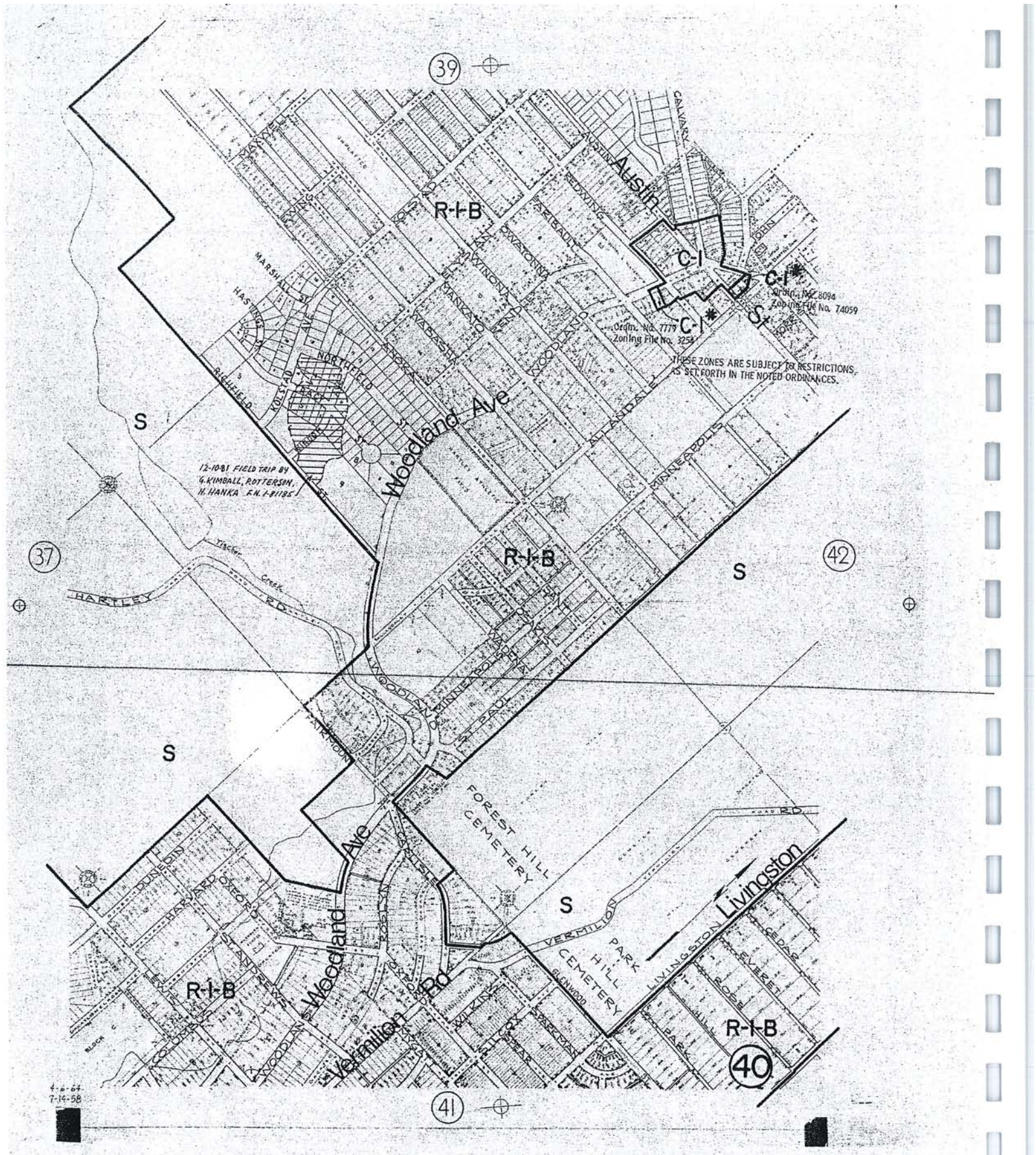

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OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

City of Duluth

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- Flood Fringe District — FF
- Floodway District — FW

SHORELANDS

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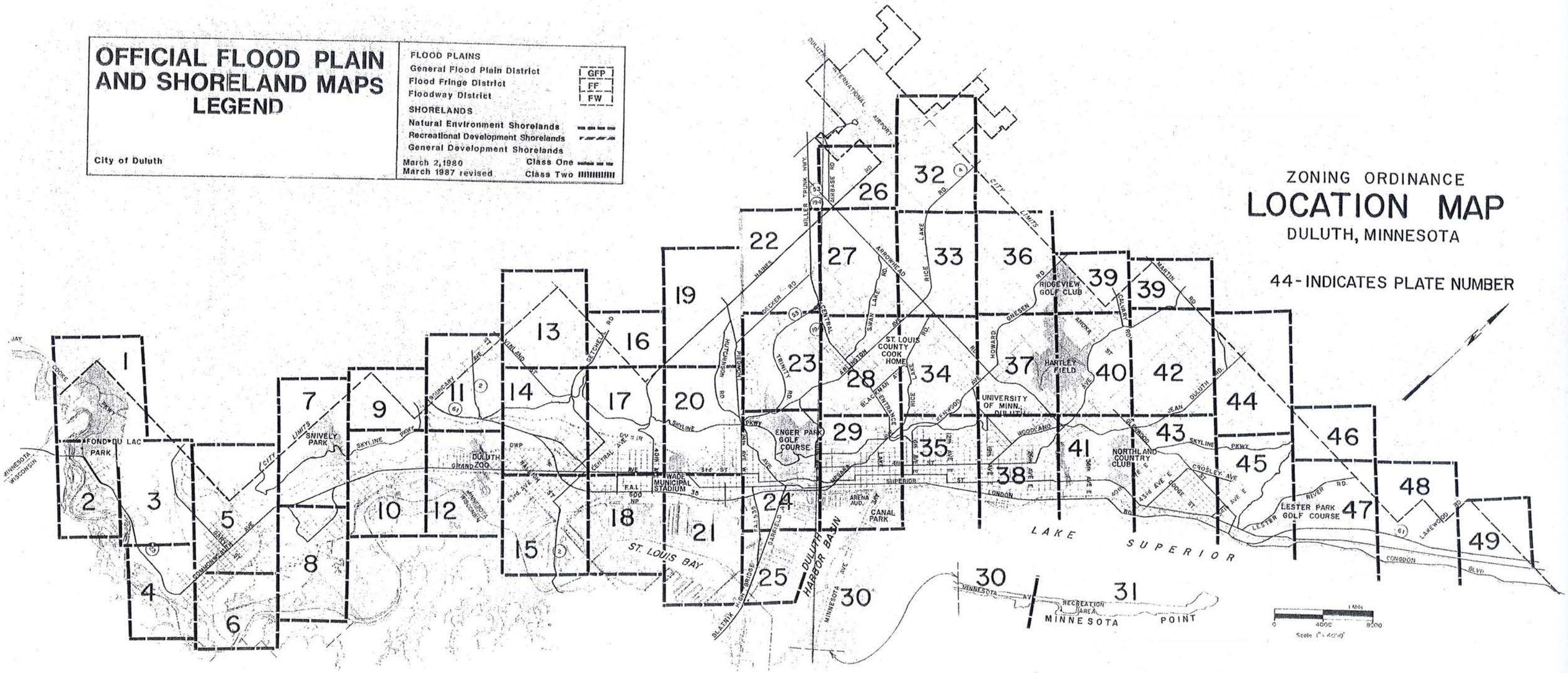
- Recreational Development Shorelands
- General Development Shorelands
- Class One
- Class Two

March 2, 1980
March 1987 revised



OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

City of Duluth

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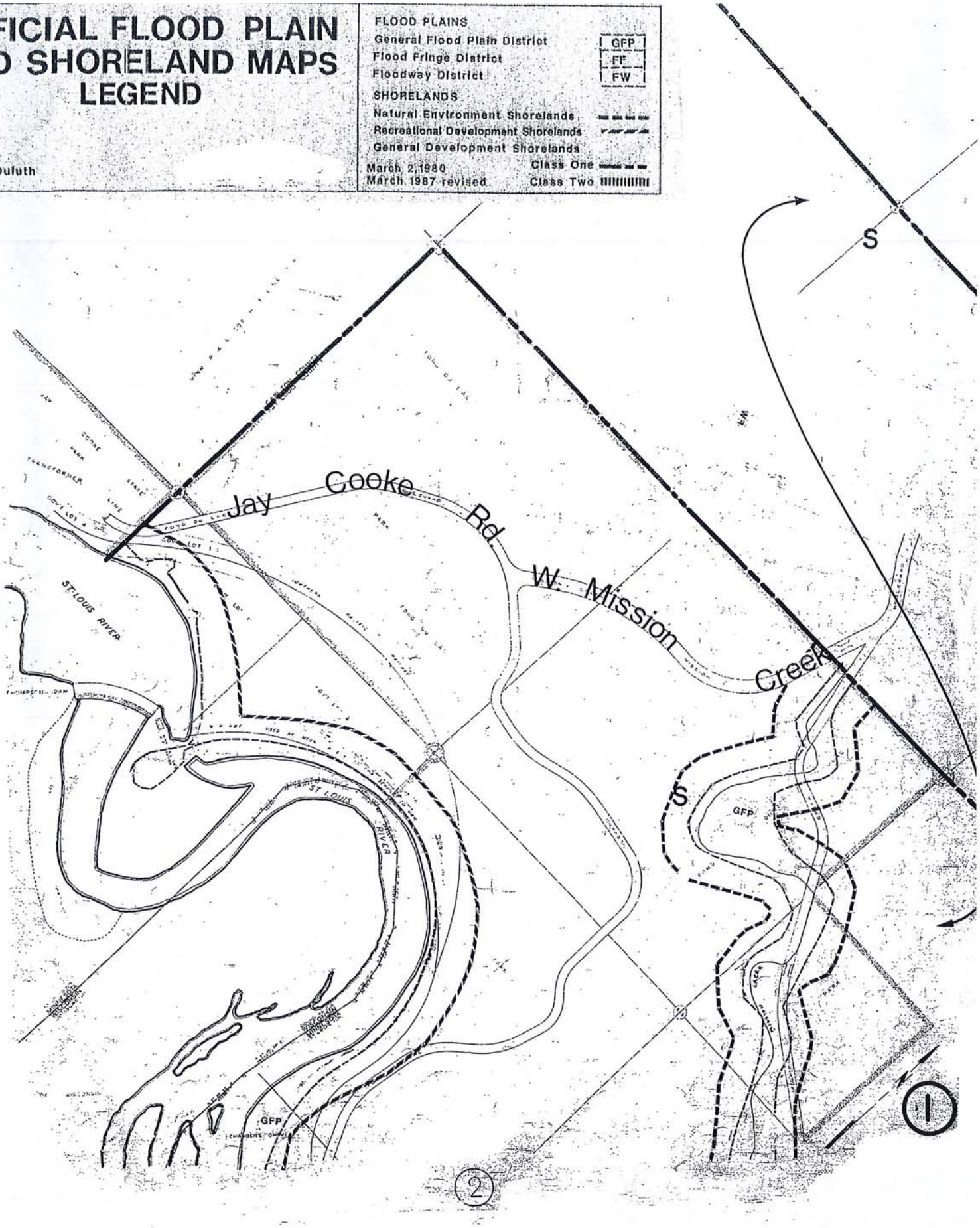

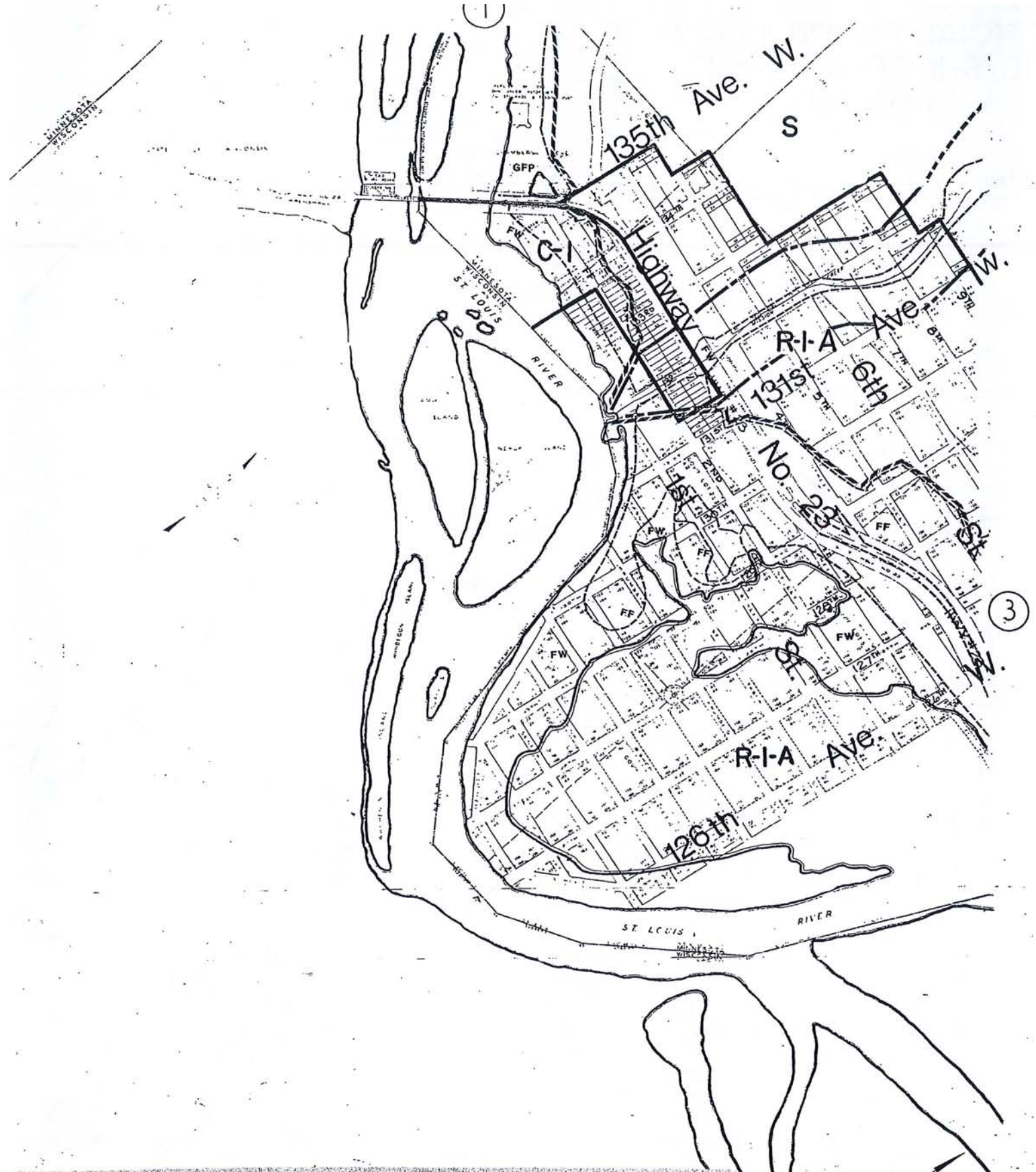

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March 2, 1980
March 1987 revised

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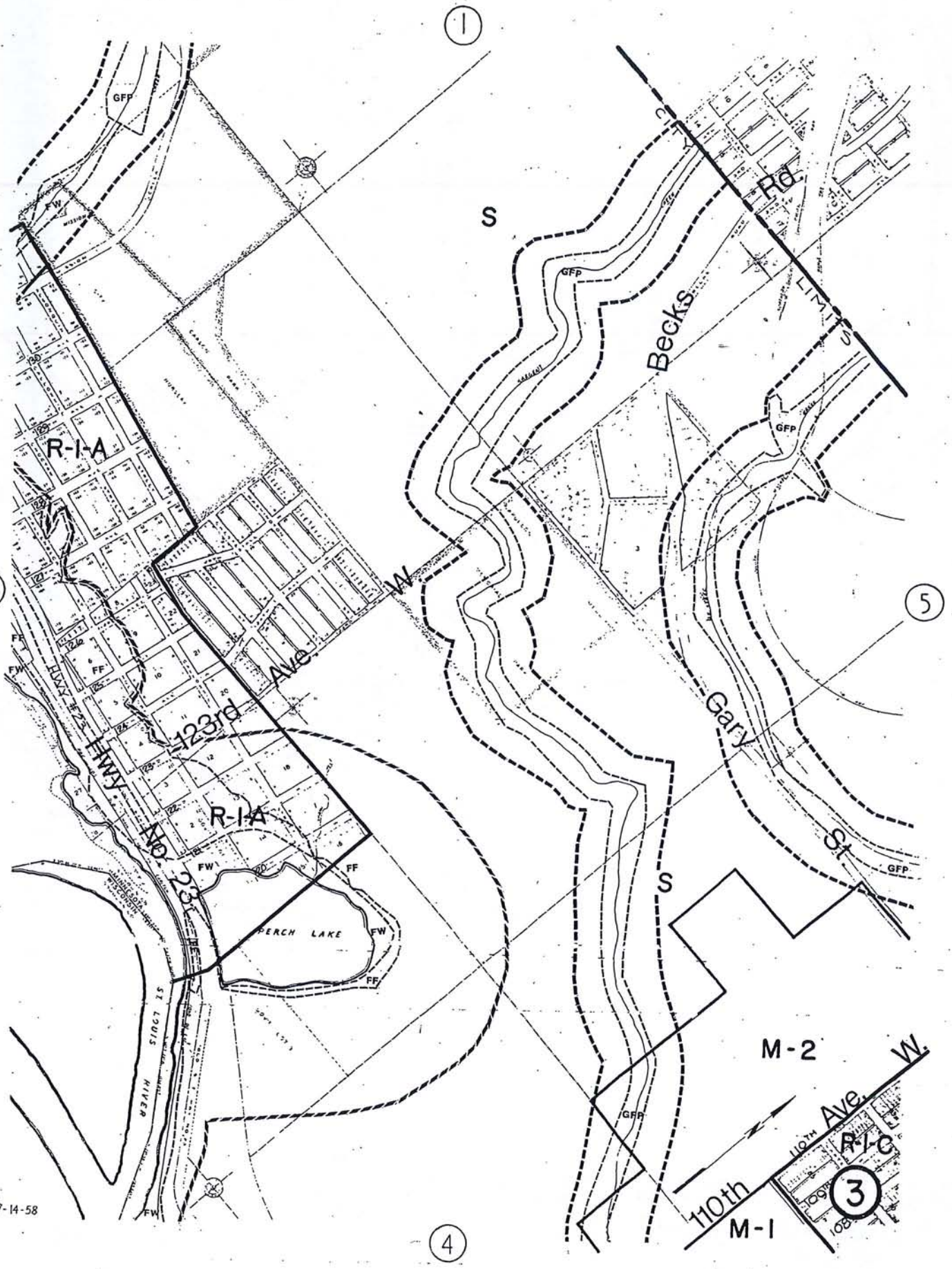
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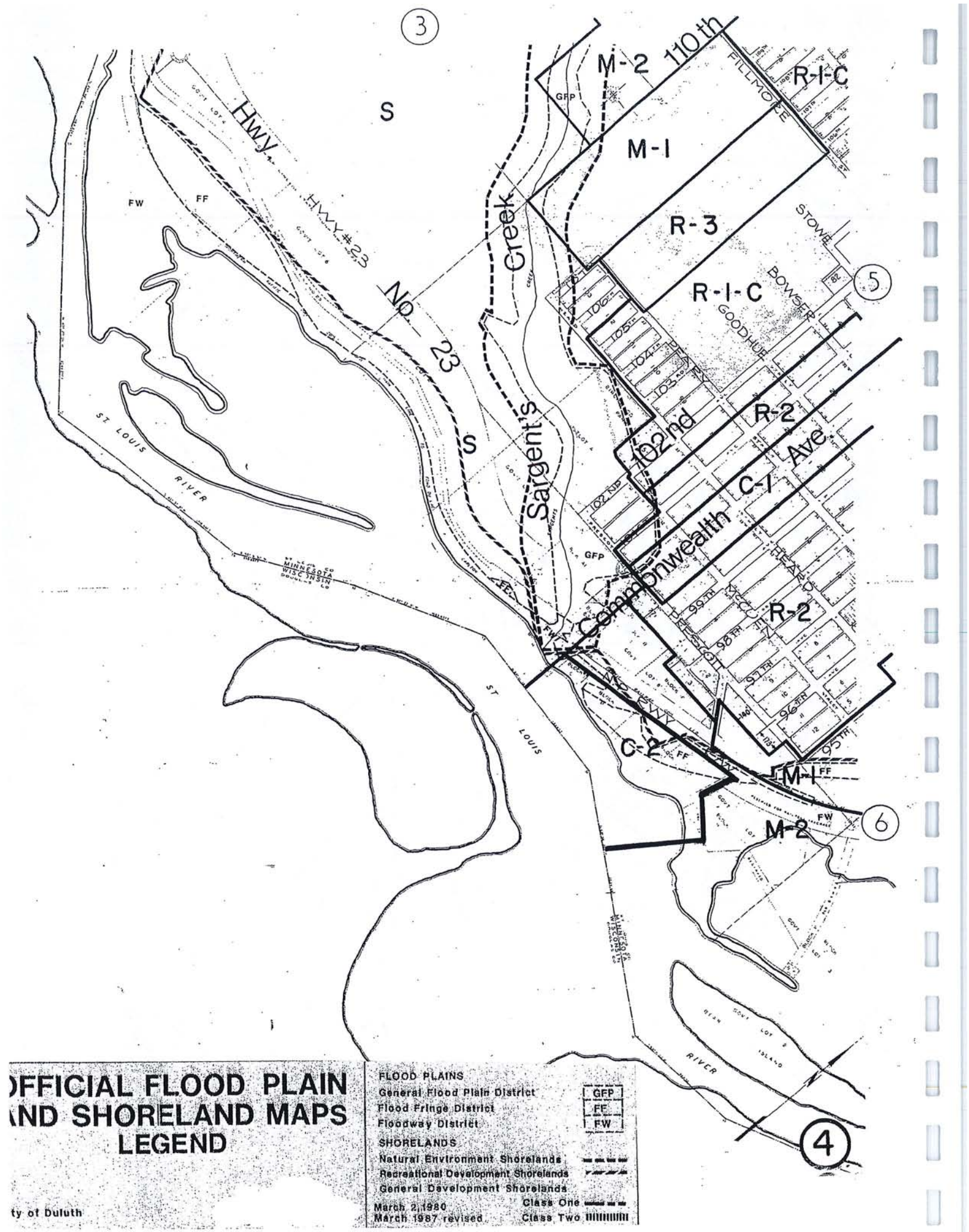

OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

ty of Duluth

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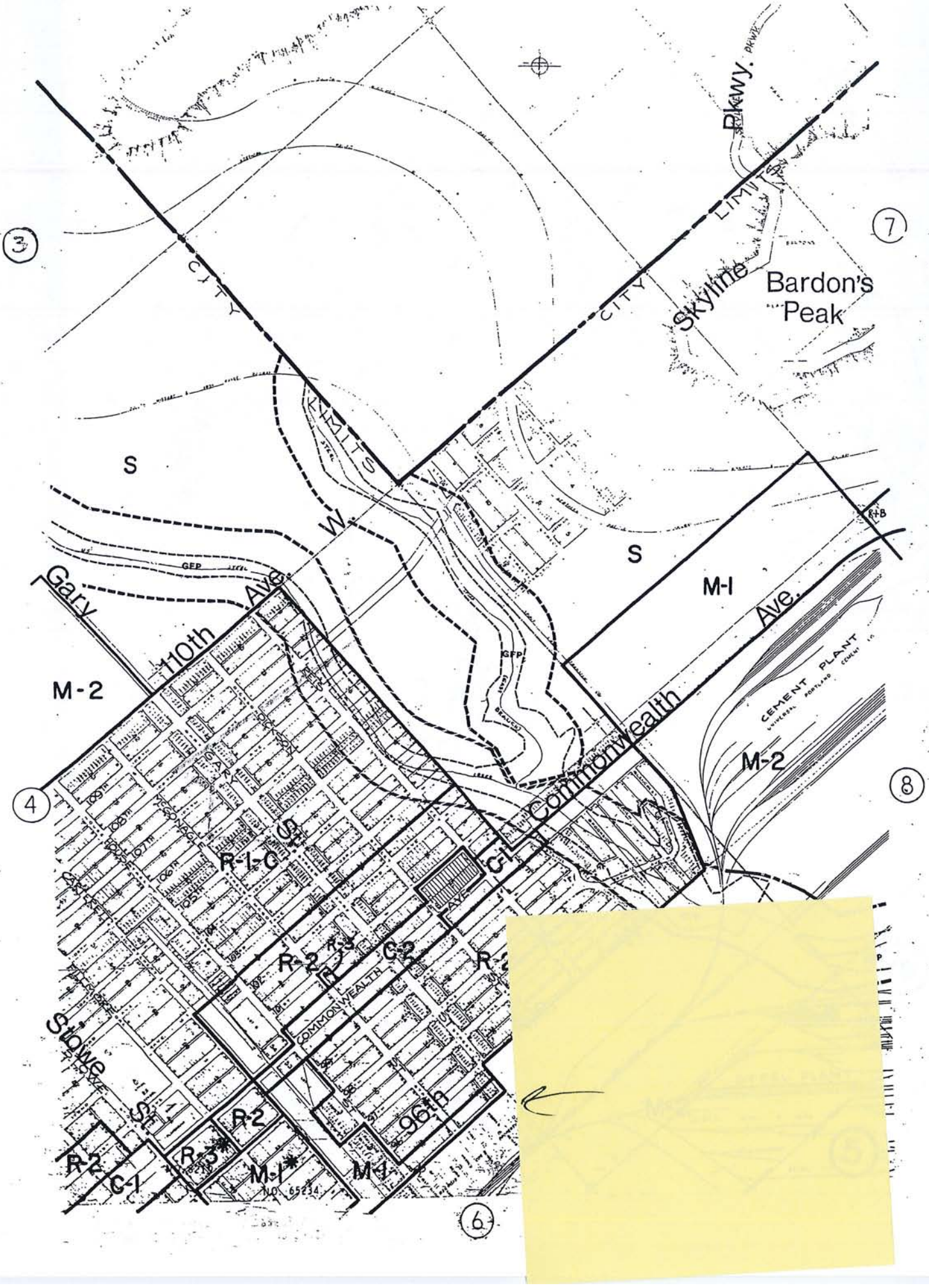
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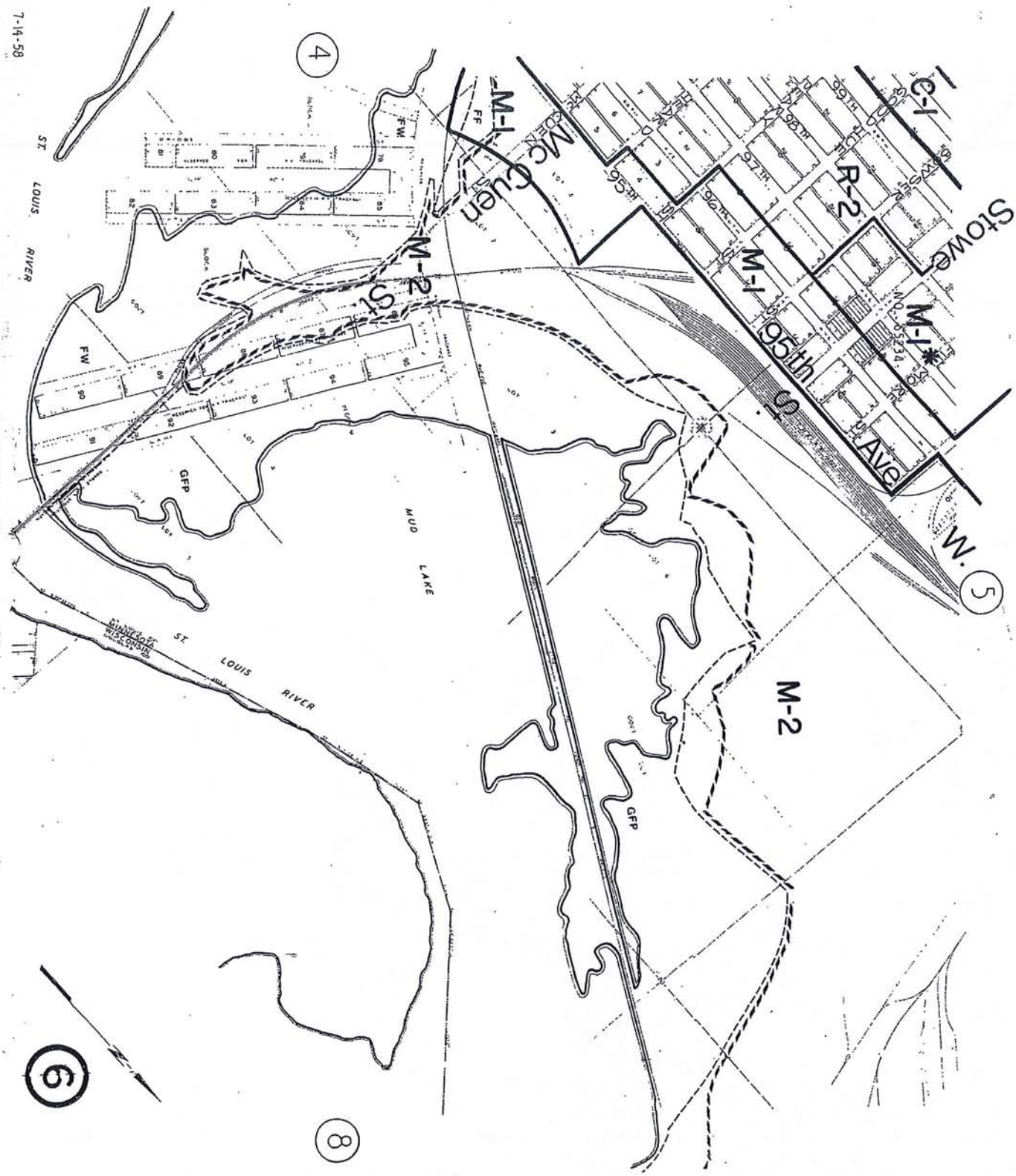

OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

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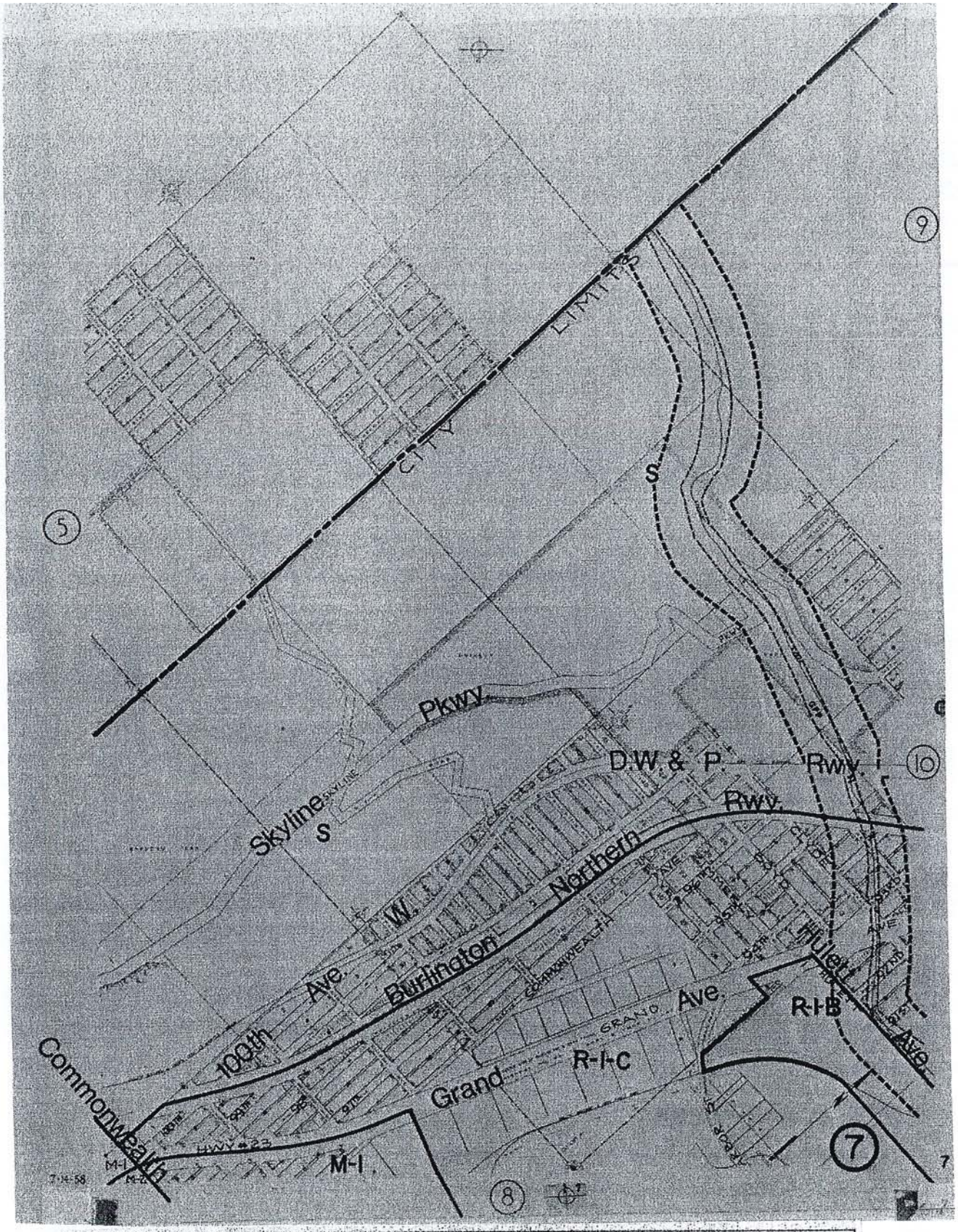

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City of Duluth

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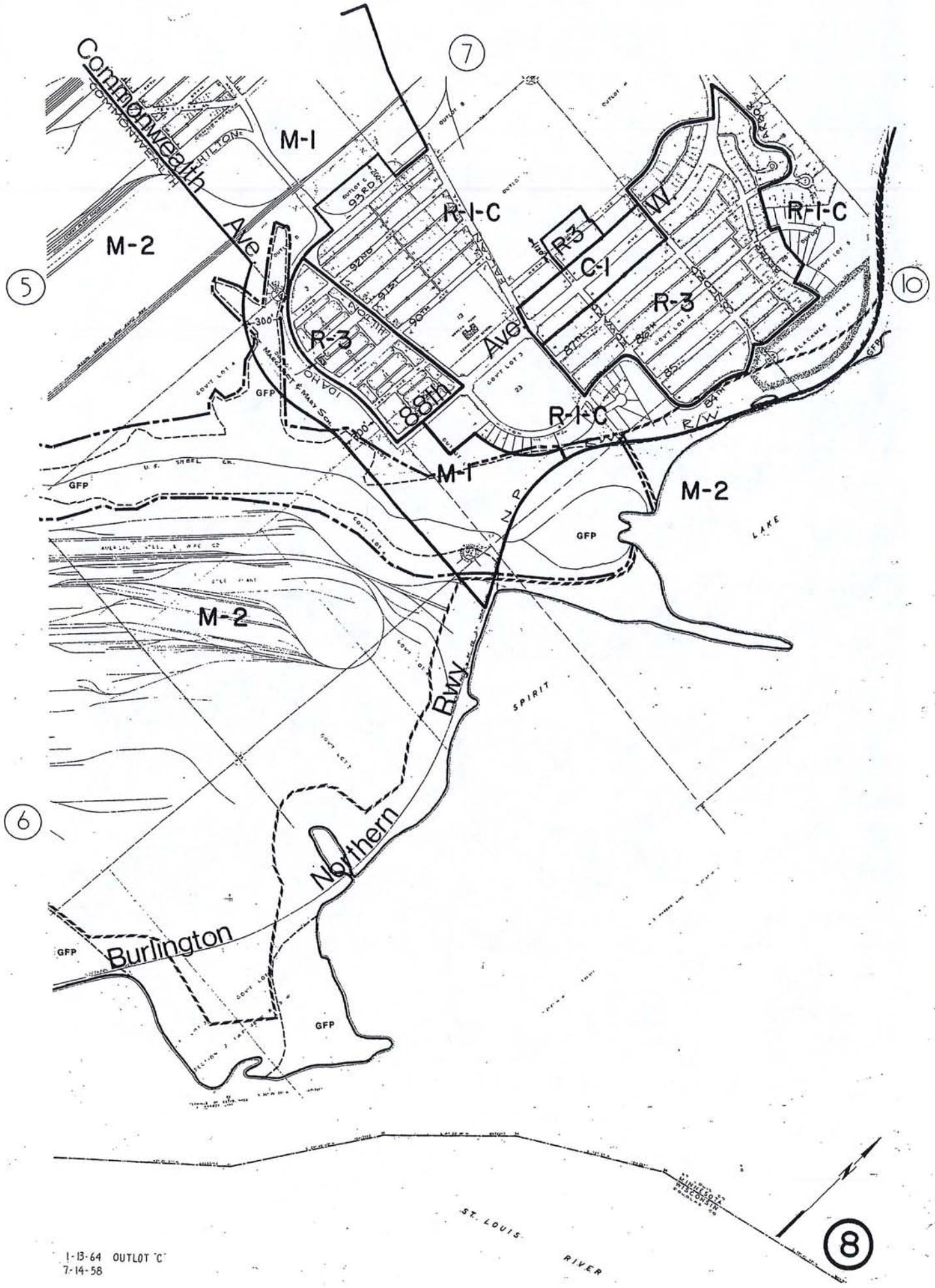

1-13-64 OUTLOT "C"
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City of Duluth

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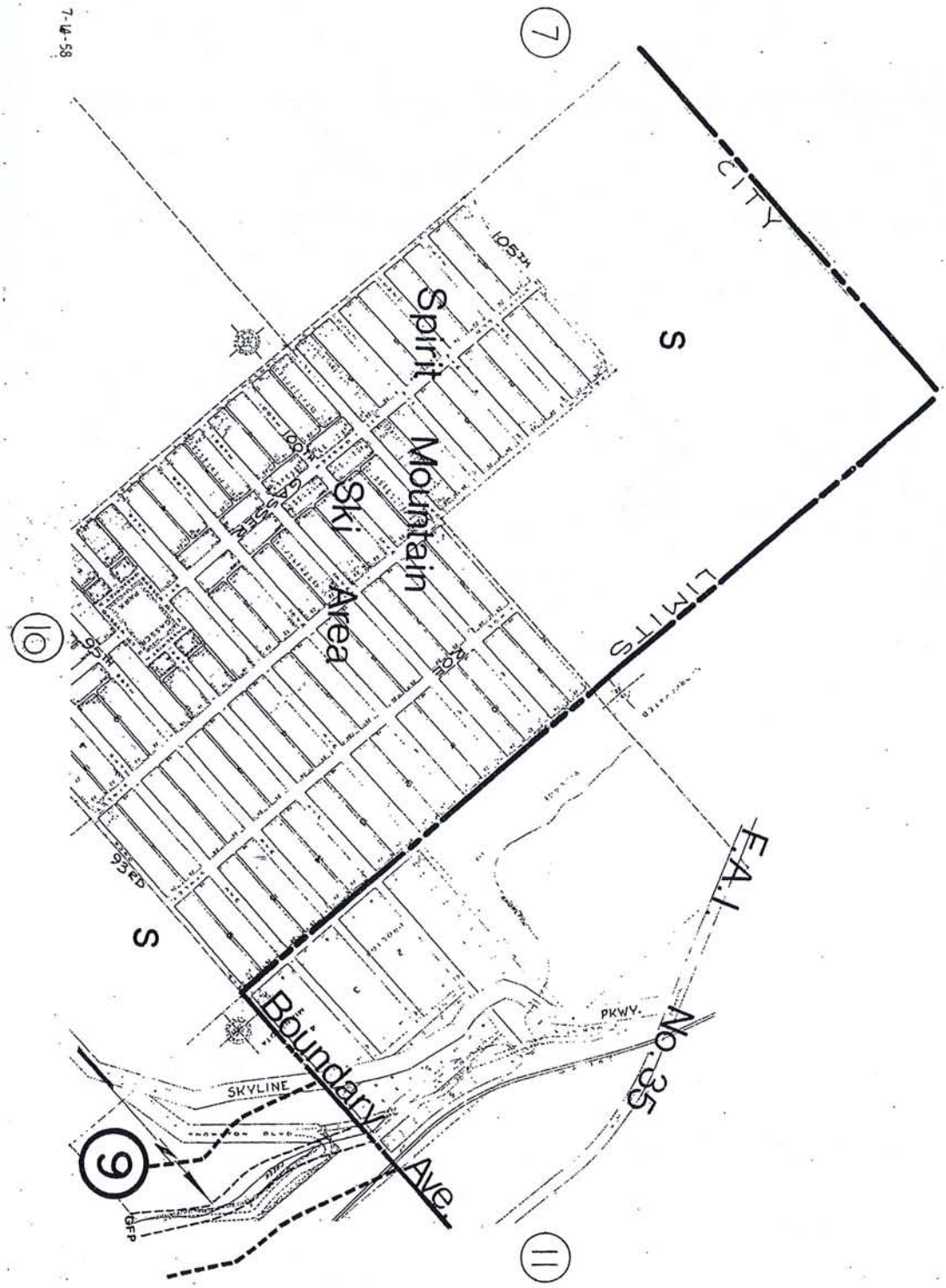

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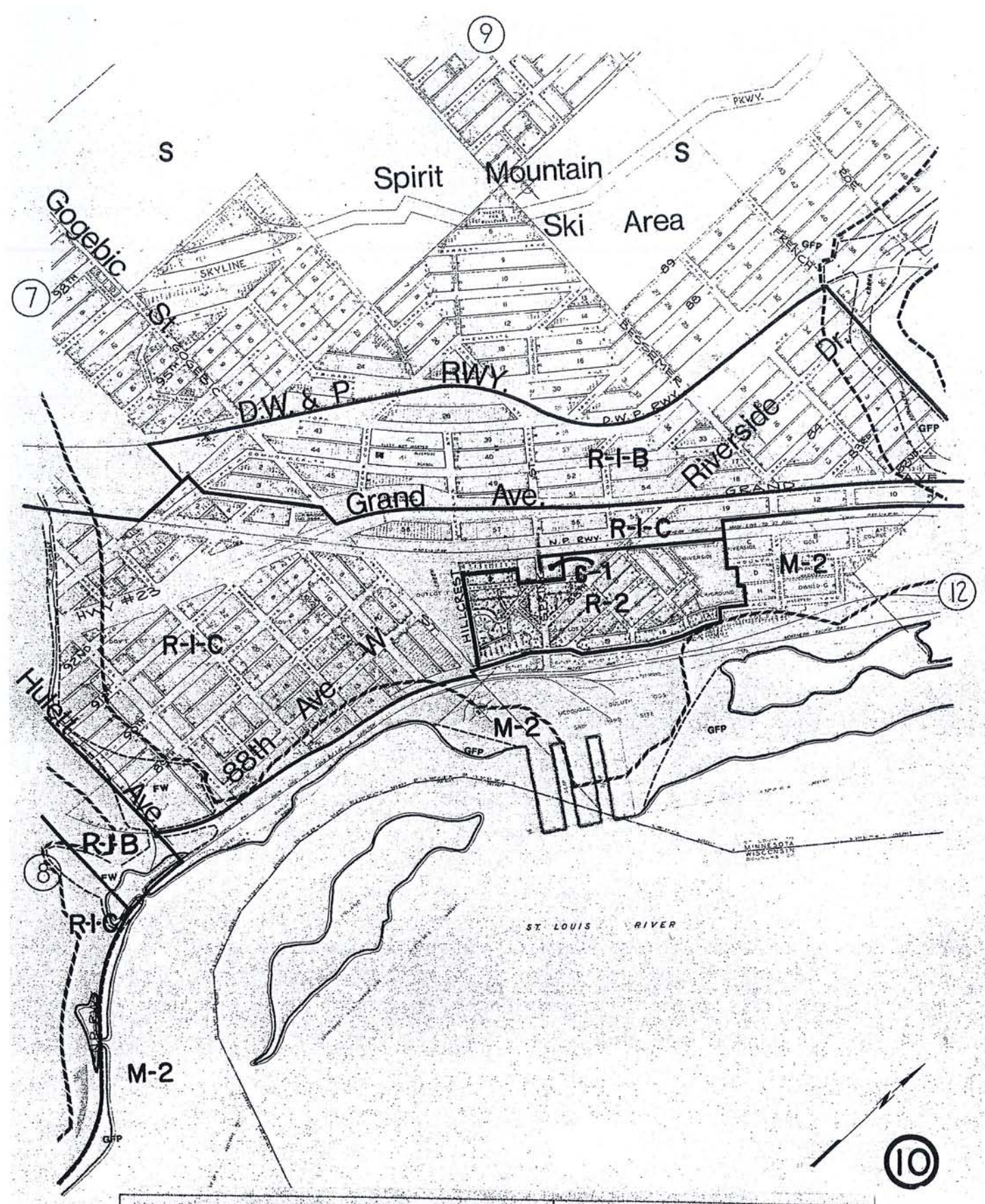

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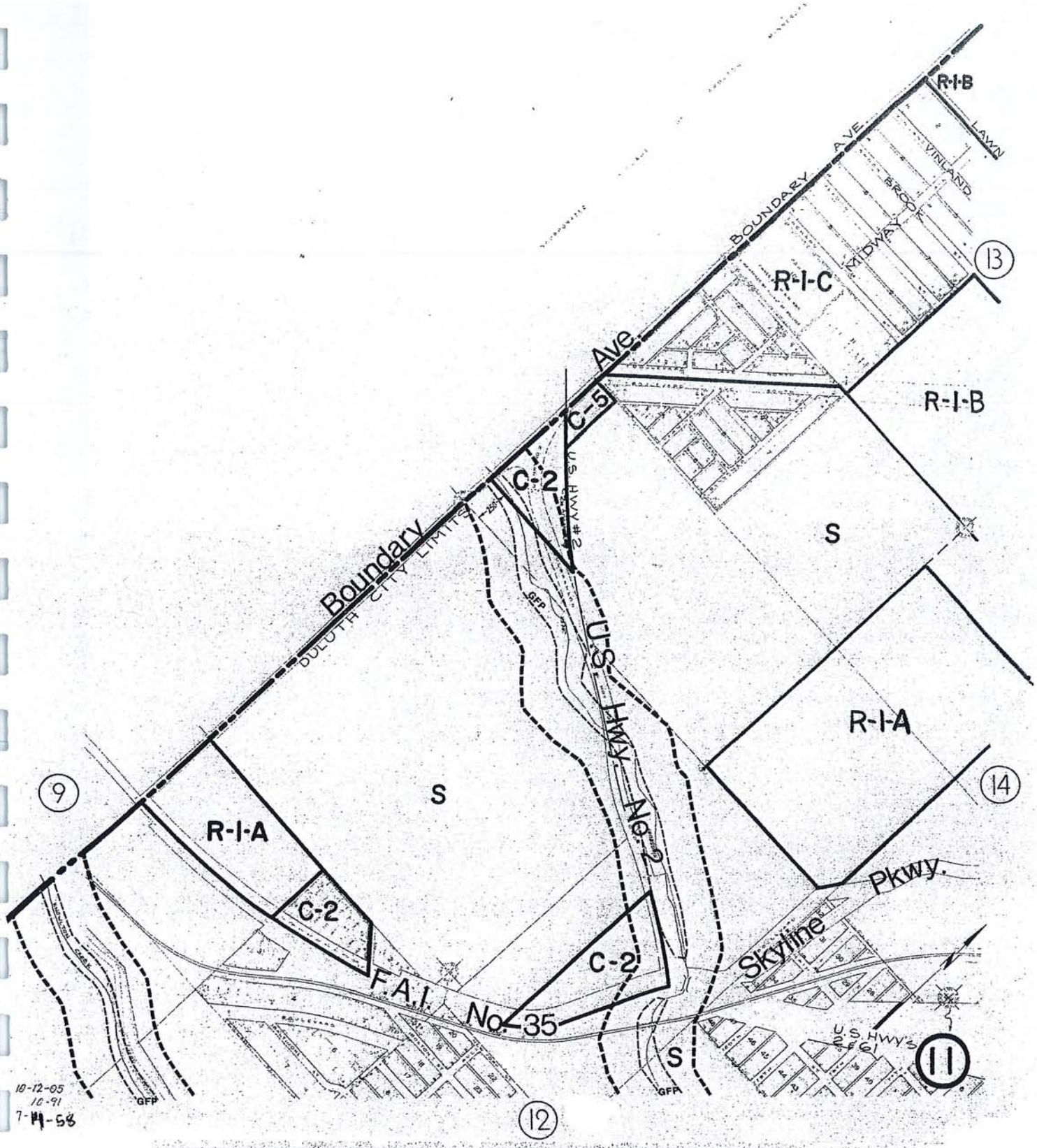

10-12-05
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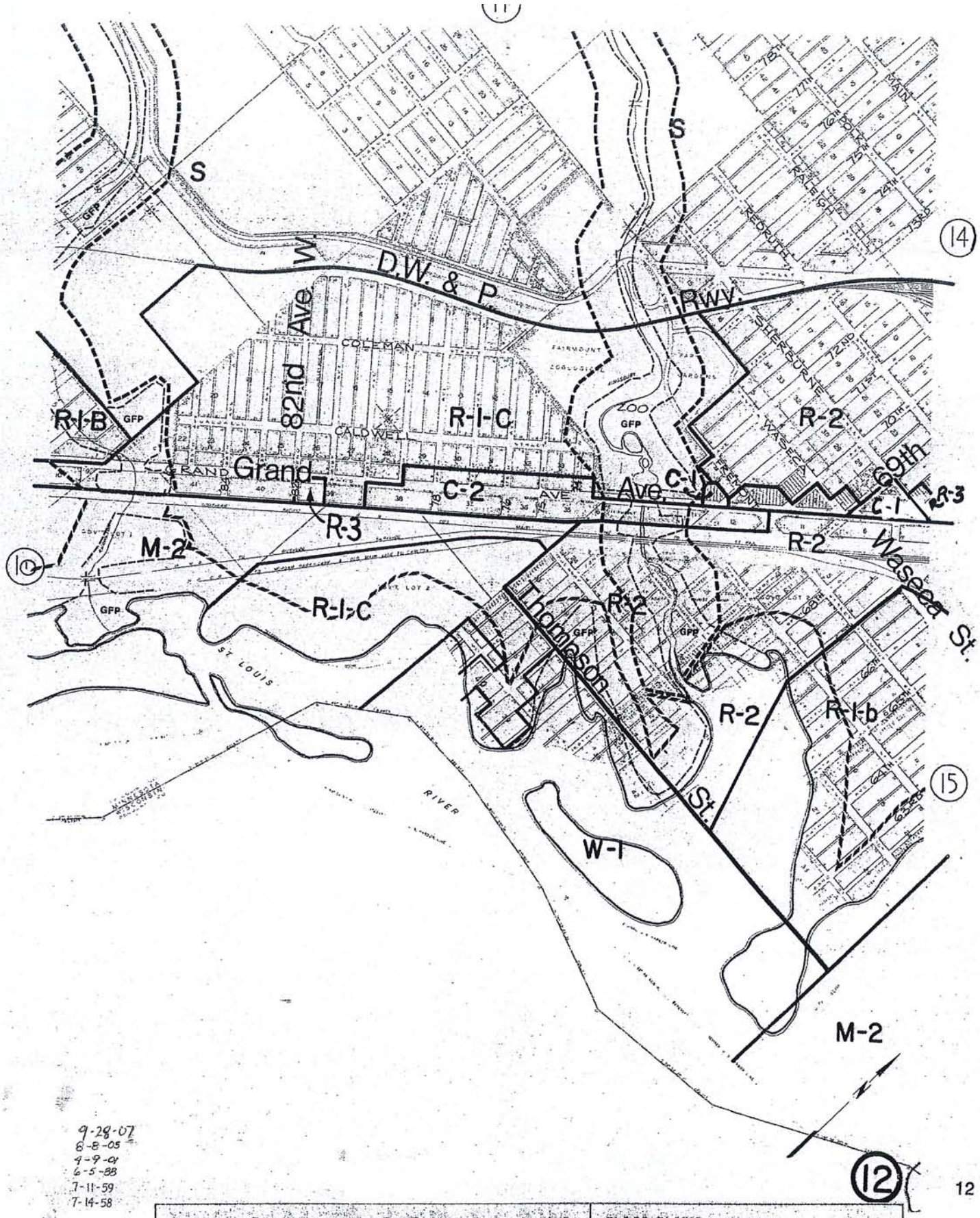

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7-14-58

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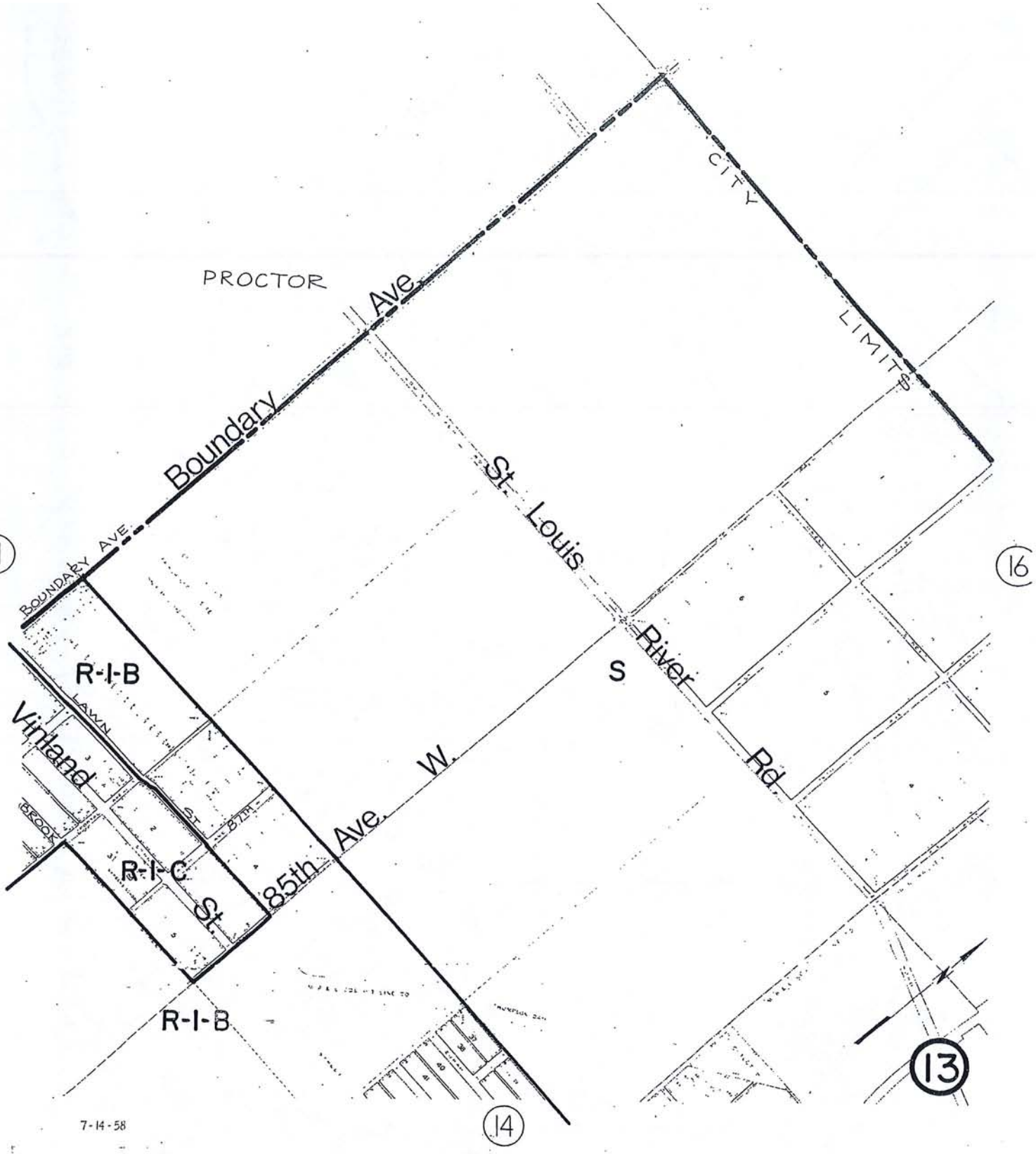

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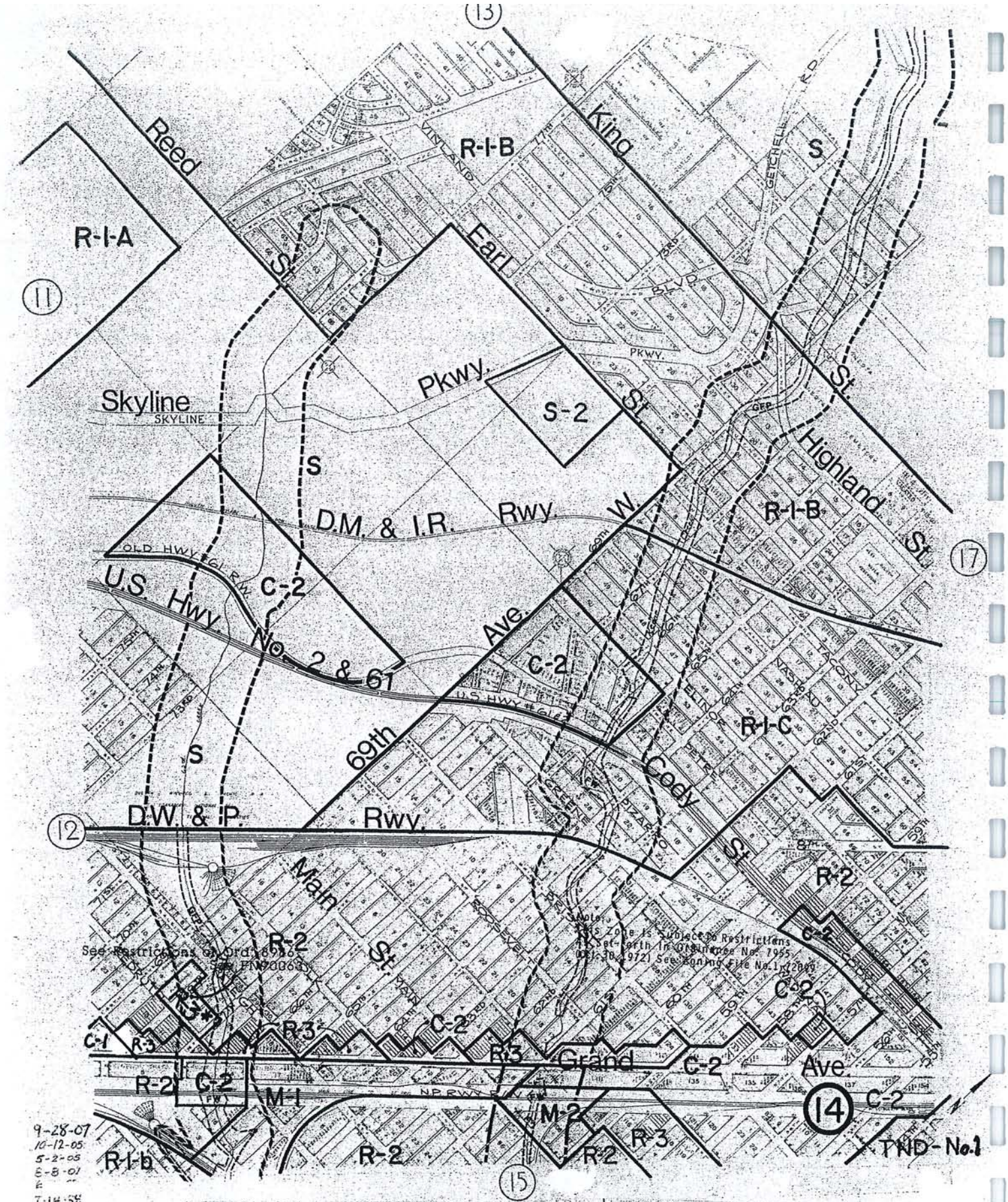

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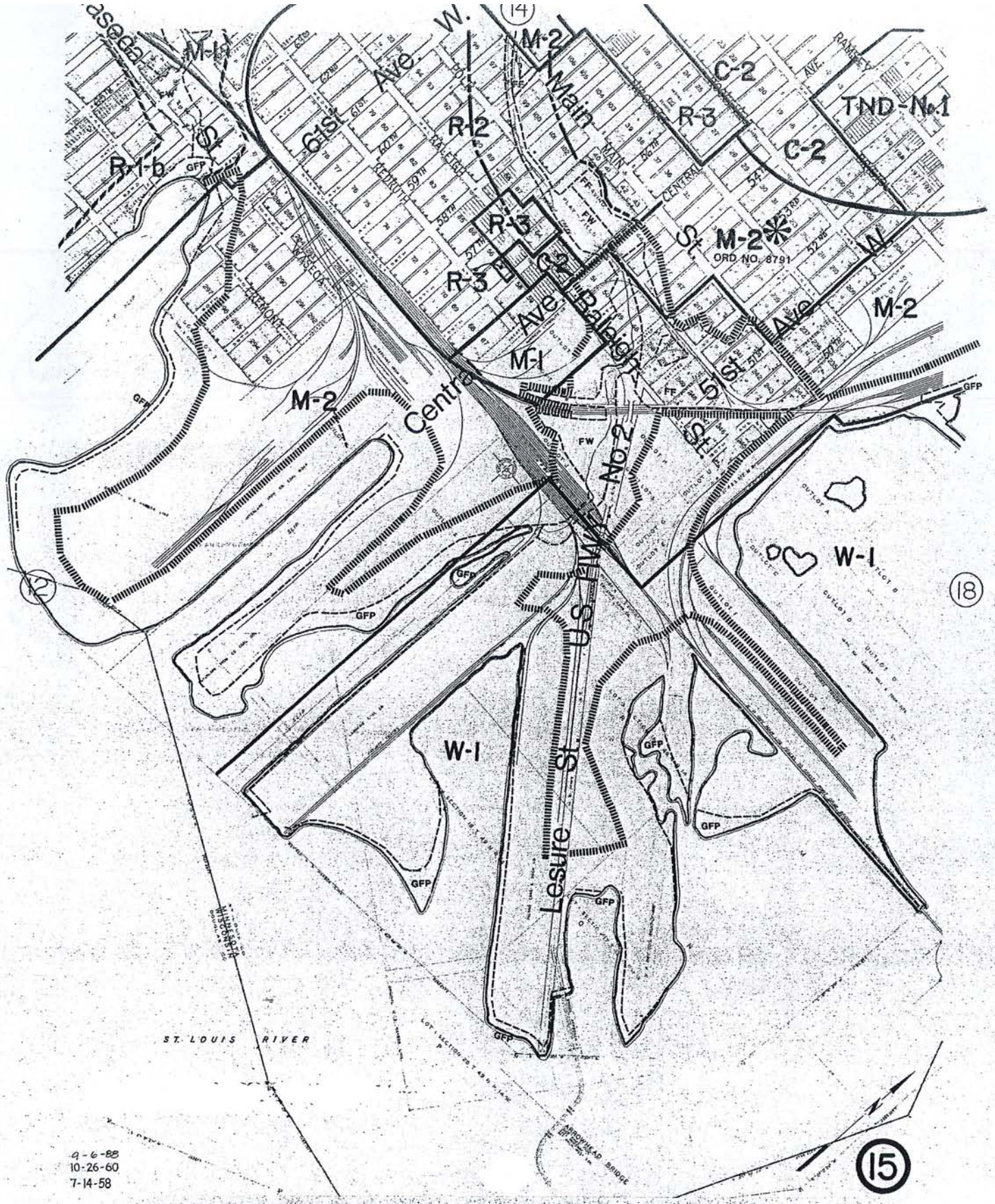

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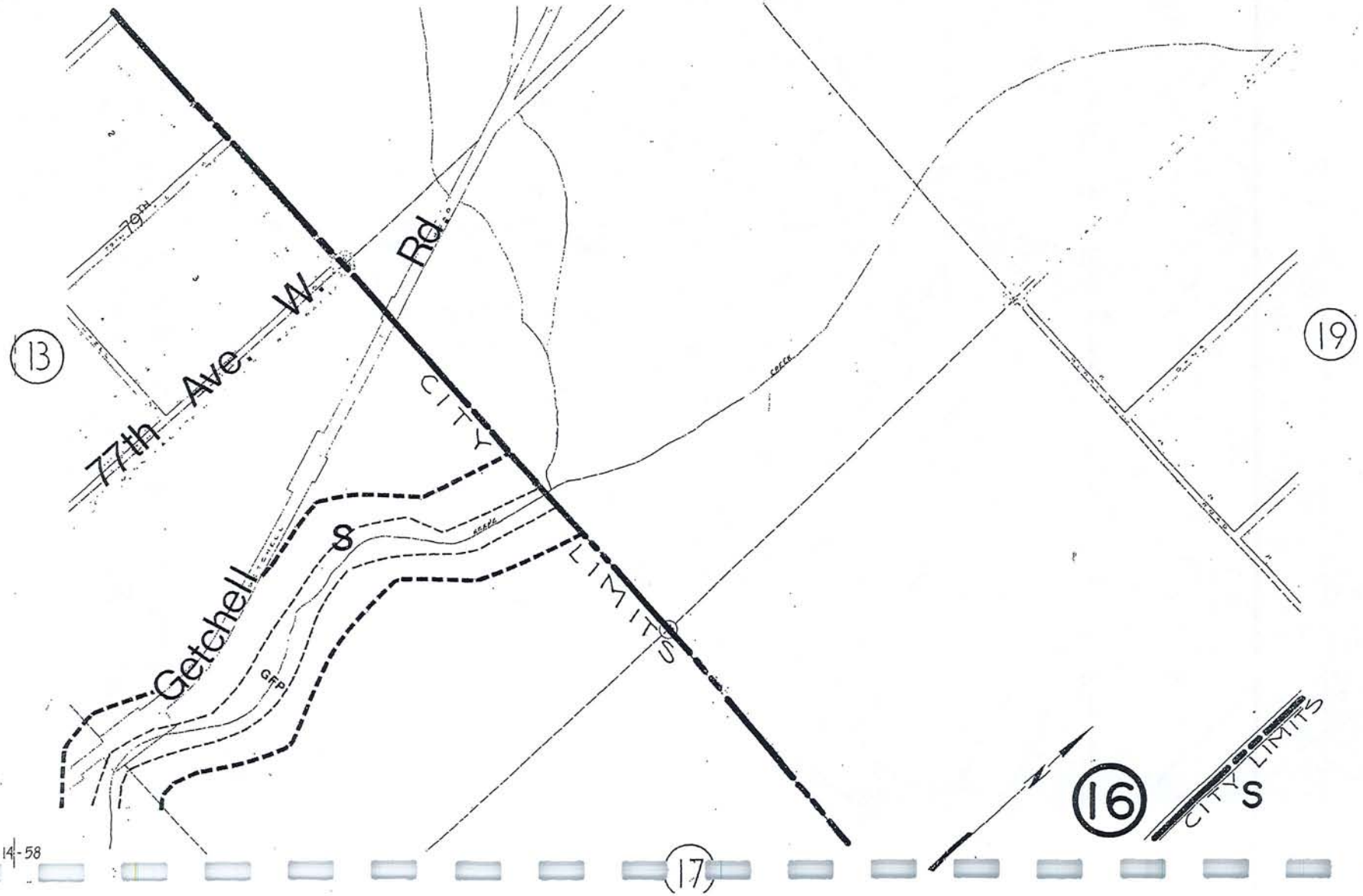

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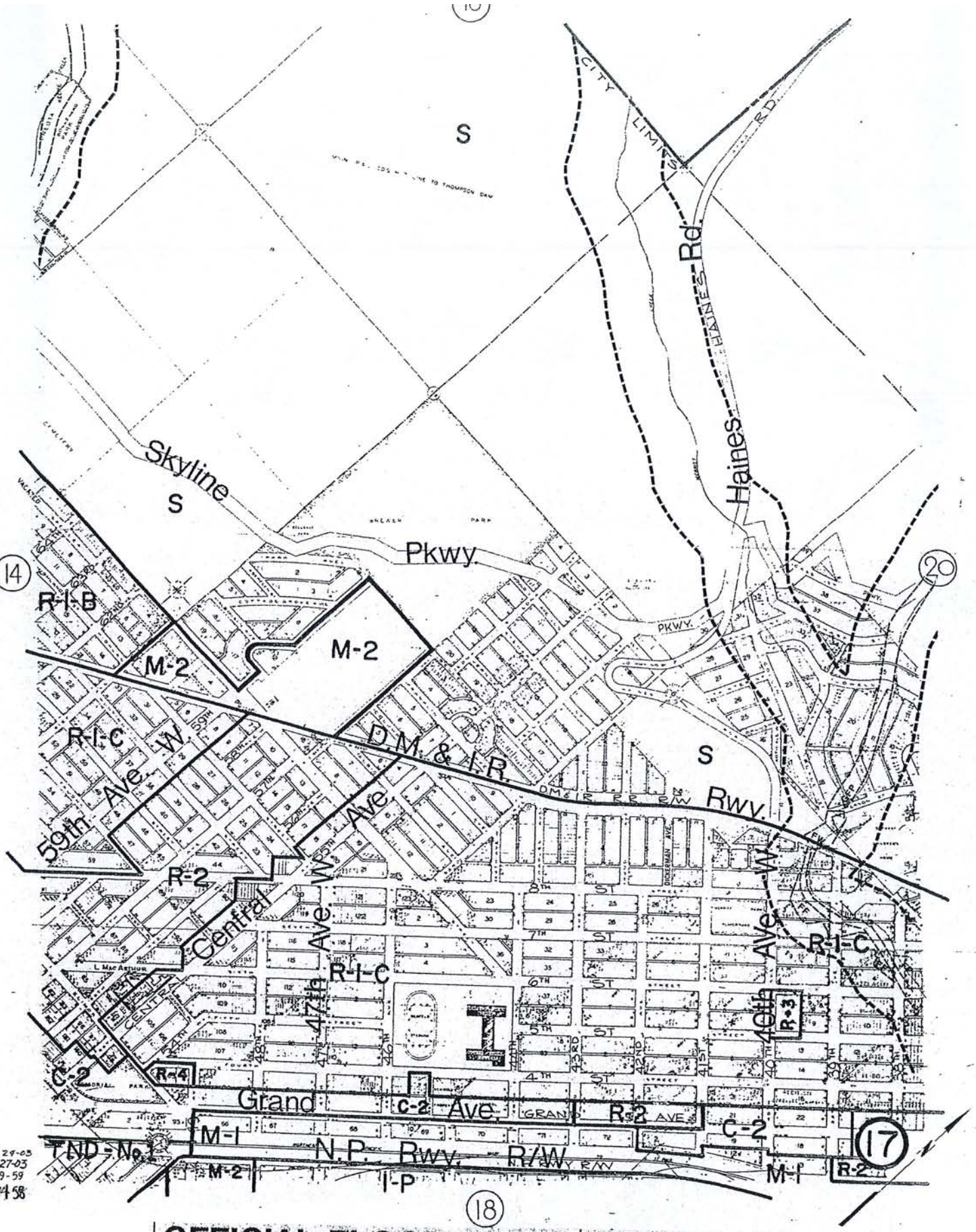

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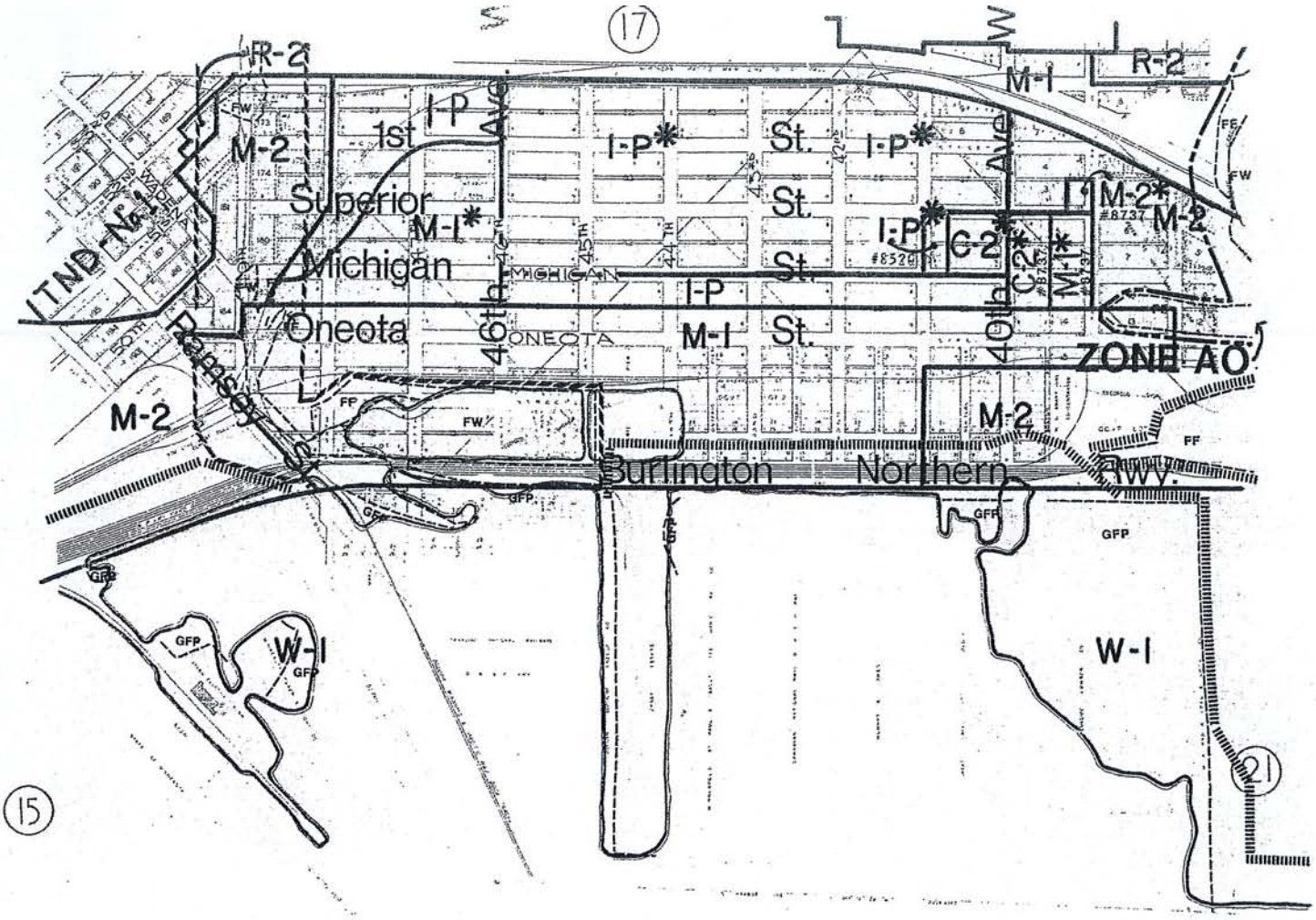
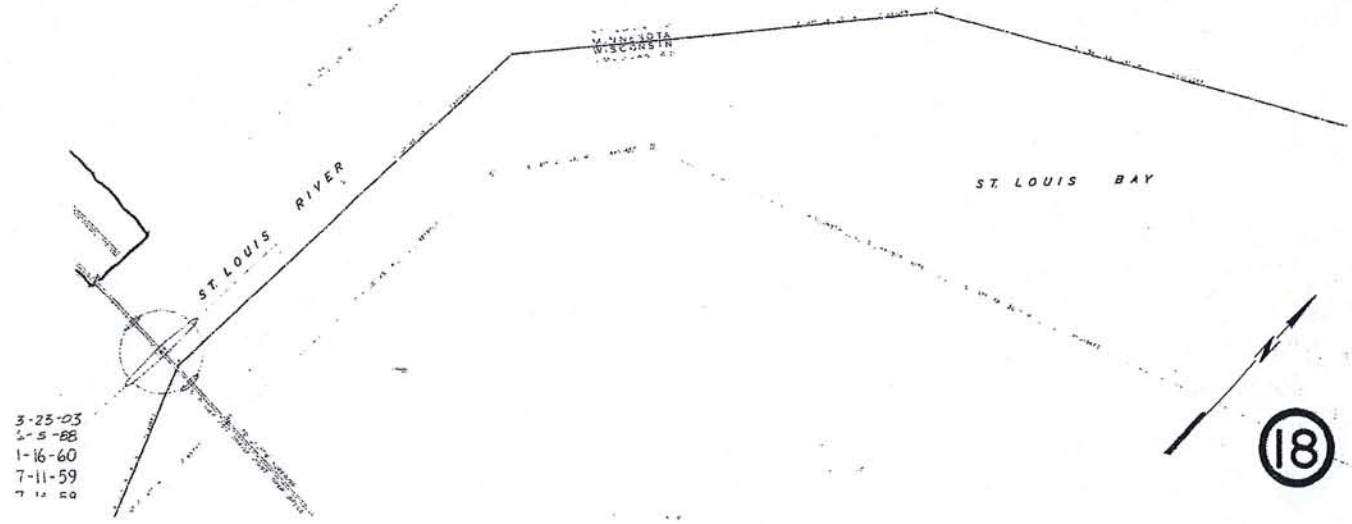
March 2, 1980
March 1987





3-25-03
2-5-88
1-16-60
7-11-59

OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

City of Duluth

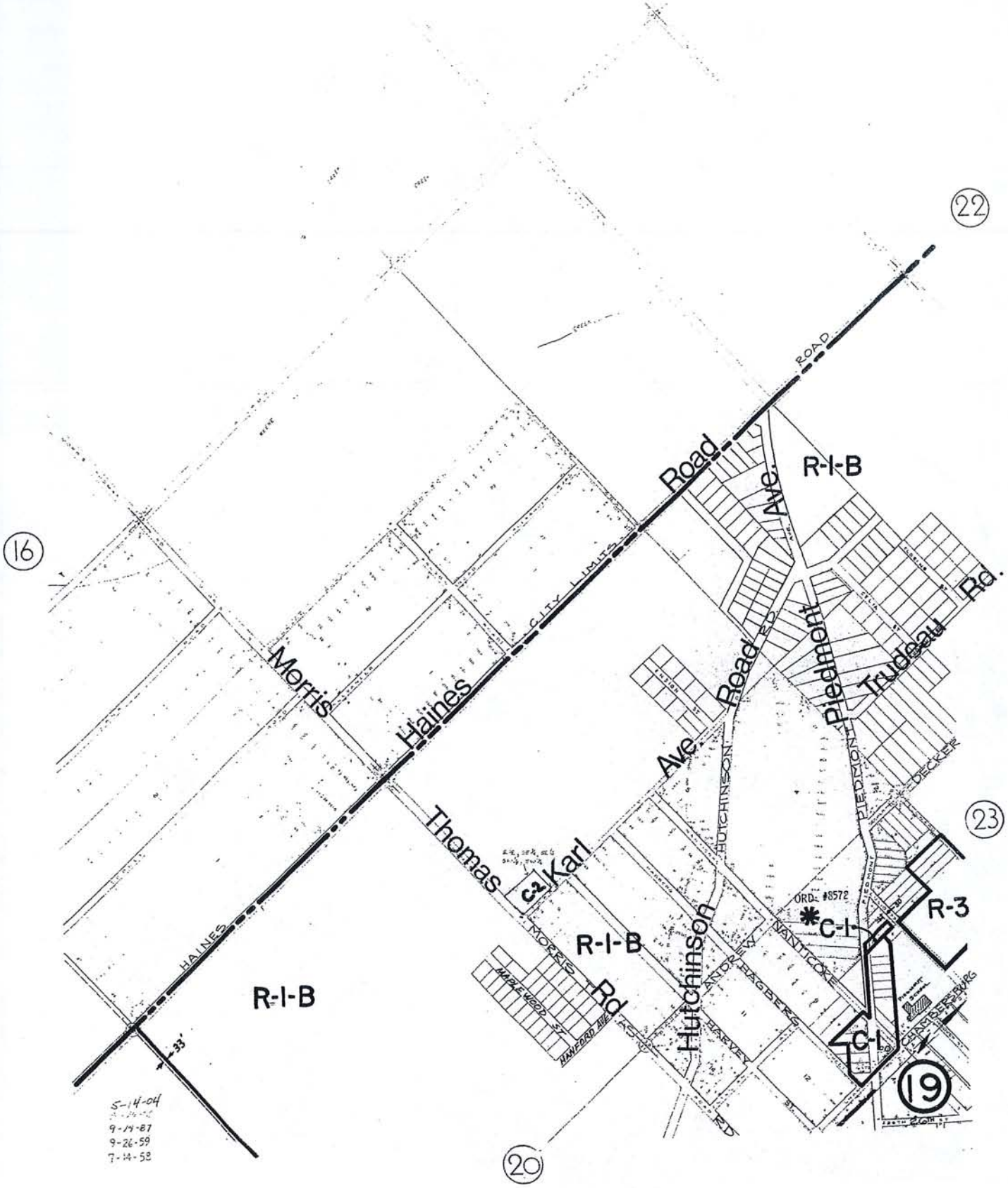
FLOOD PLAINS

- General Flood Plain District — GFP
- Flood Fringe District — FF
- Floodway District — FW

SHORELANDS

- Natural Environment Shorelands
- Recreational Development Shorelands
- General Development Shorelands
- Class One
- Class Two

March 2, 1980
March 1987 revised



OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

City of Duluth

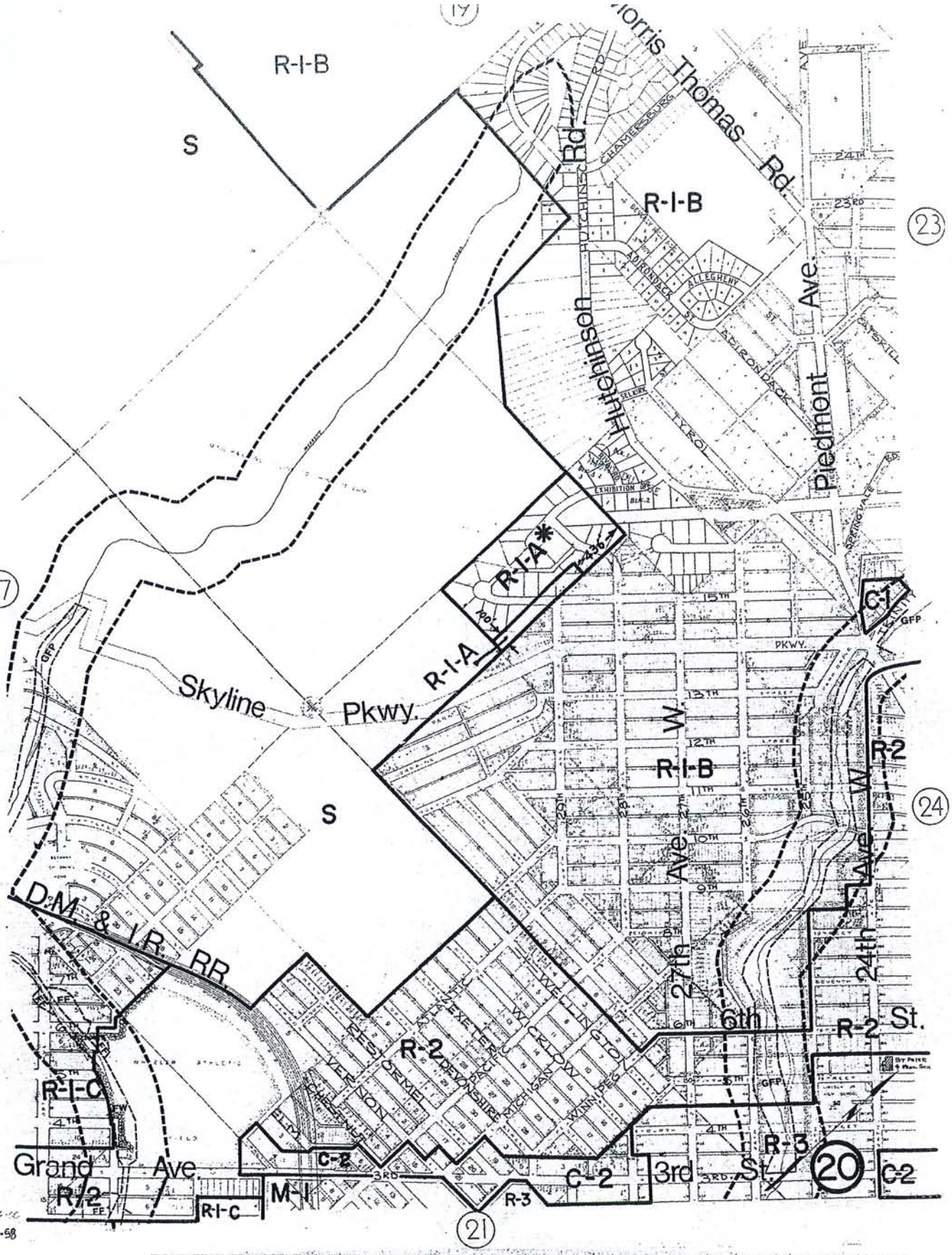
FLOOD PLAINS

General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

SHORELANDS

Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	
Class One	
Class Two	

March 2, 1980
March 1987 revised



7 14-58

OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

FLOOD PLAINS

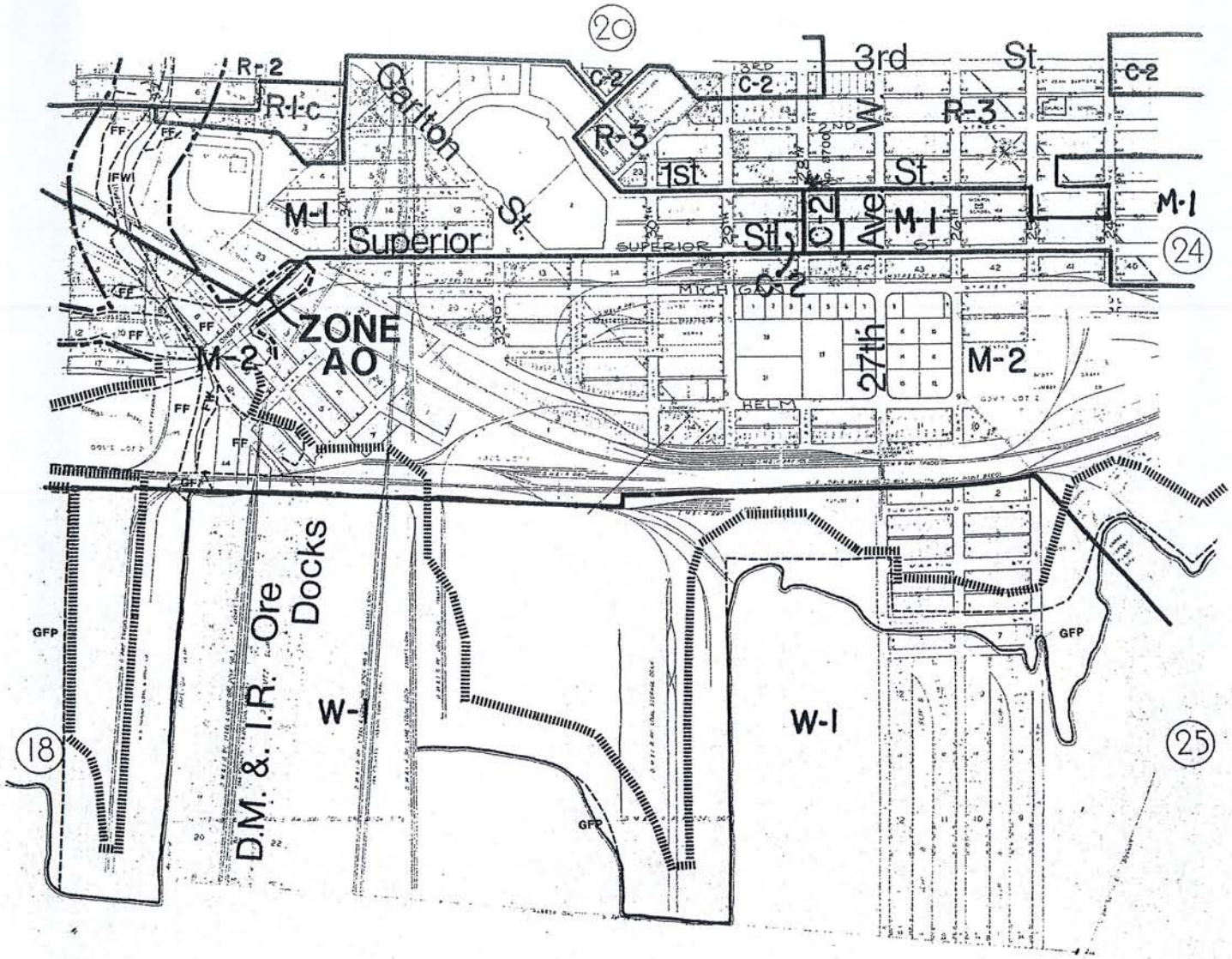
General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

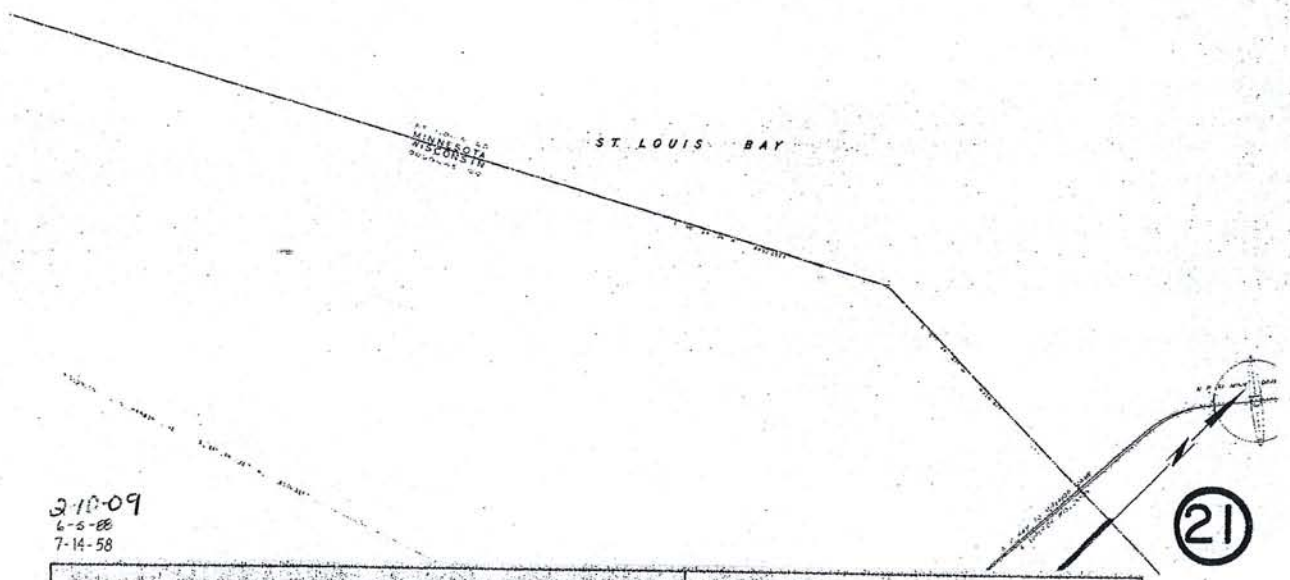
SHORELANDS

Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	
Class One	

City of Duluth

March 2, 1980





2-10-09
6-5-88
7-14-58

OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

City of Duluth

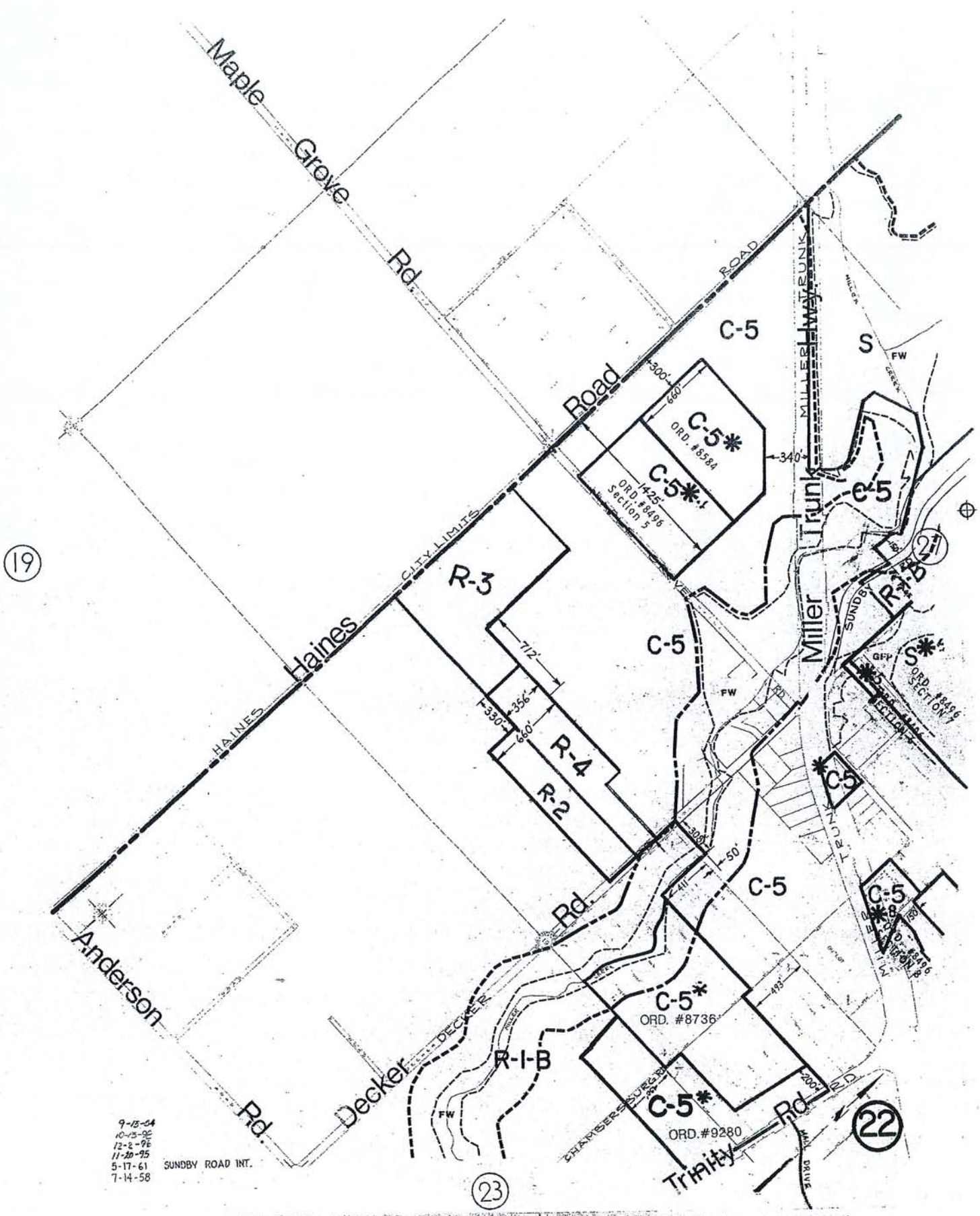
FLOOD PLAINS

General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

SHORELANDS

Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	
Class One	
Class Two	

March 2, 1980
March 1987 revised



OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

City of Duluth

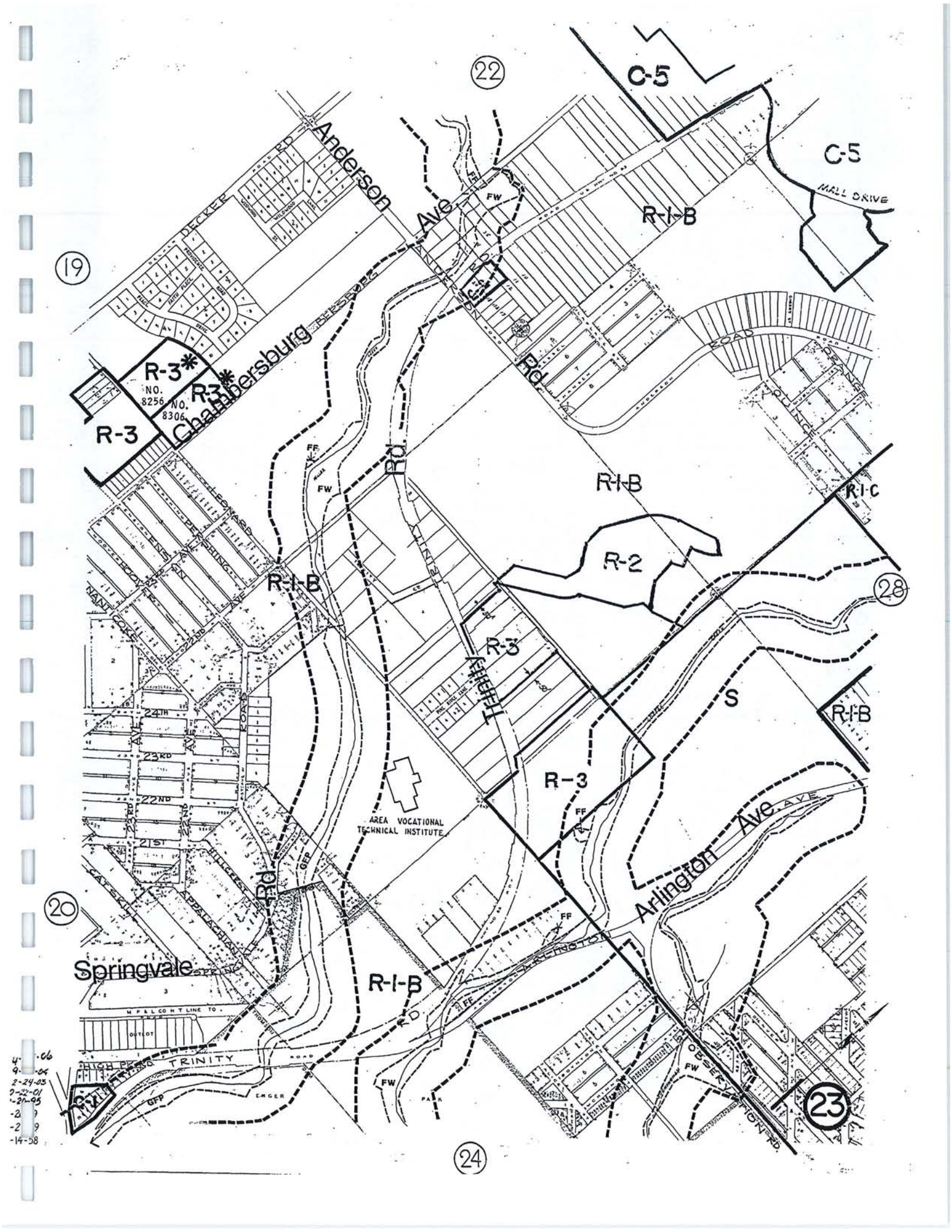
FLOOD PLAINS

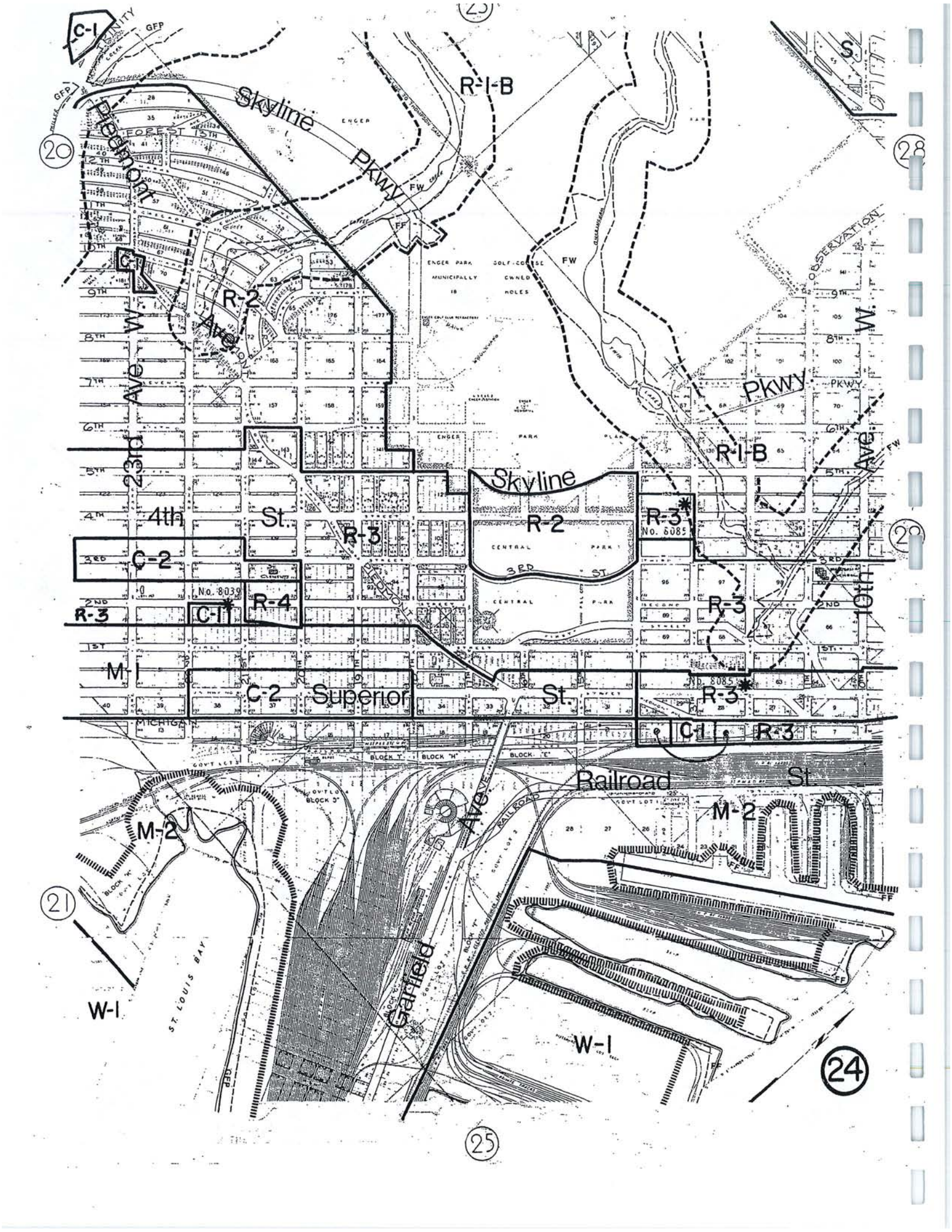
- General Flood Plain District — GFP
- Flood Fringe District — FF
- Floodway District — FW

SHORELANDS

- Natural Environment Shorelands
- Recreational Development Shorelands
- General Development Shorelands
  - Class One
  - Class Two

March 2, 1980
March 1987 revised


22
C-5
C-5
MALL DRIVE
Anderson Ave
R-1-B
19
DECKER
R-3*
NO. 8256
R-3*
NO. 8306
R-3
Chambersburg
R-1-B
R-1-C
R-2
28
R-1-B
R-3
S
R-1-B
R-3
Arlington Ave
AREA VOCATIONAL TECHNICAL INSTITUTE
20
Springvale
R-1-B
TRINITY
23
24


C-1
R-1-B
Skyline
Pkwy
Piedmont
Ave
R-2
23rd Ave W
4th
St.
R-3
C-2
R-3
C-1
R-4
M-1
C-2
Superior
St.
R-2
R-3
R-3
R-1-B
Pkwy
10th Ave W
R-3
C-1
R-3
Railroad
St
M-2
M-2
Garfield
Ave
W-1
W-1
ST. LOUIS BAY
20
21
24
25
28
29

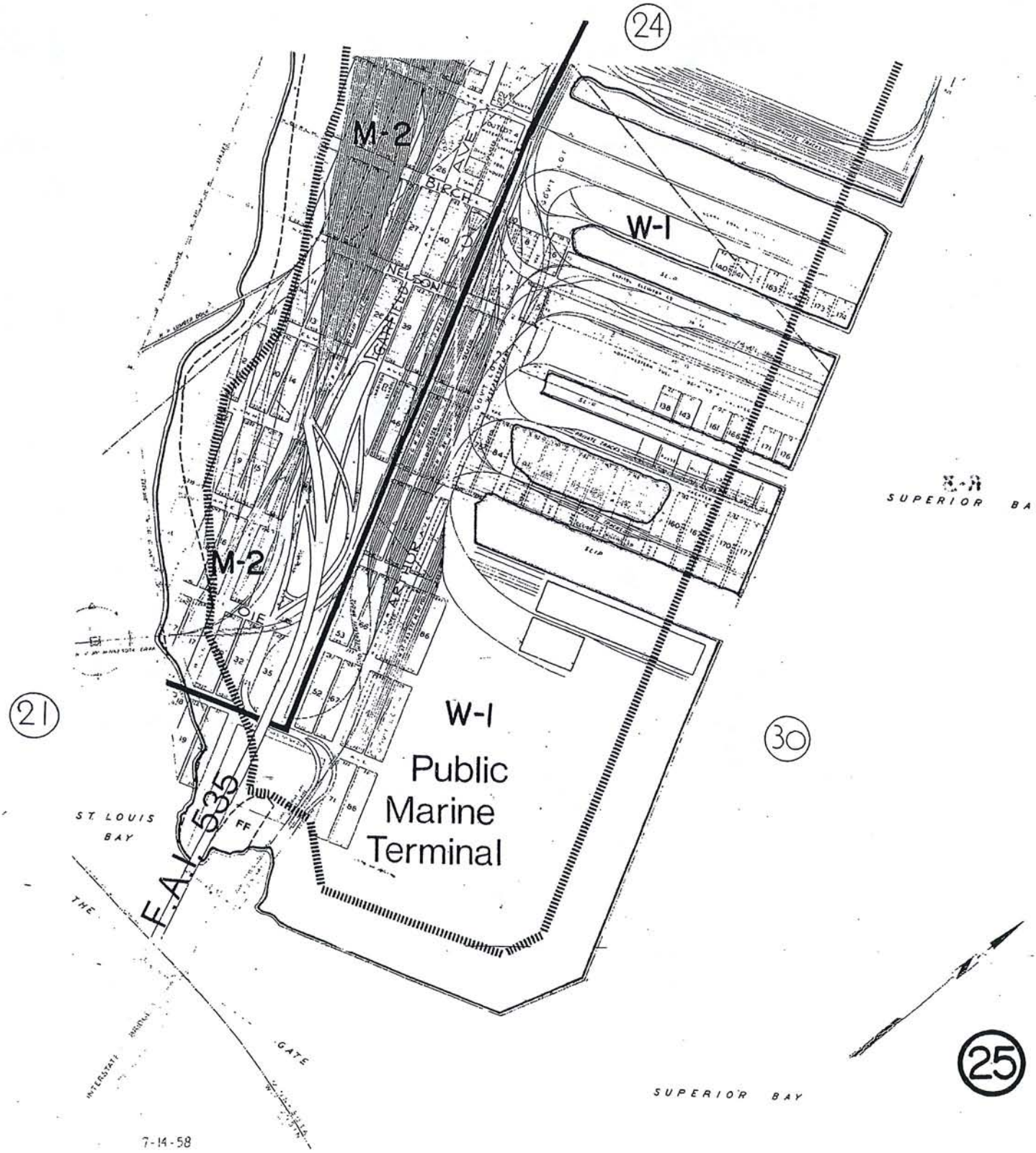
OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

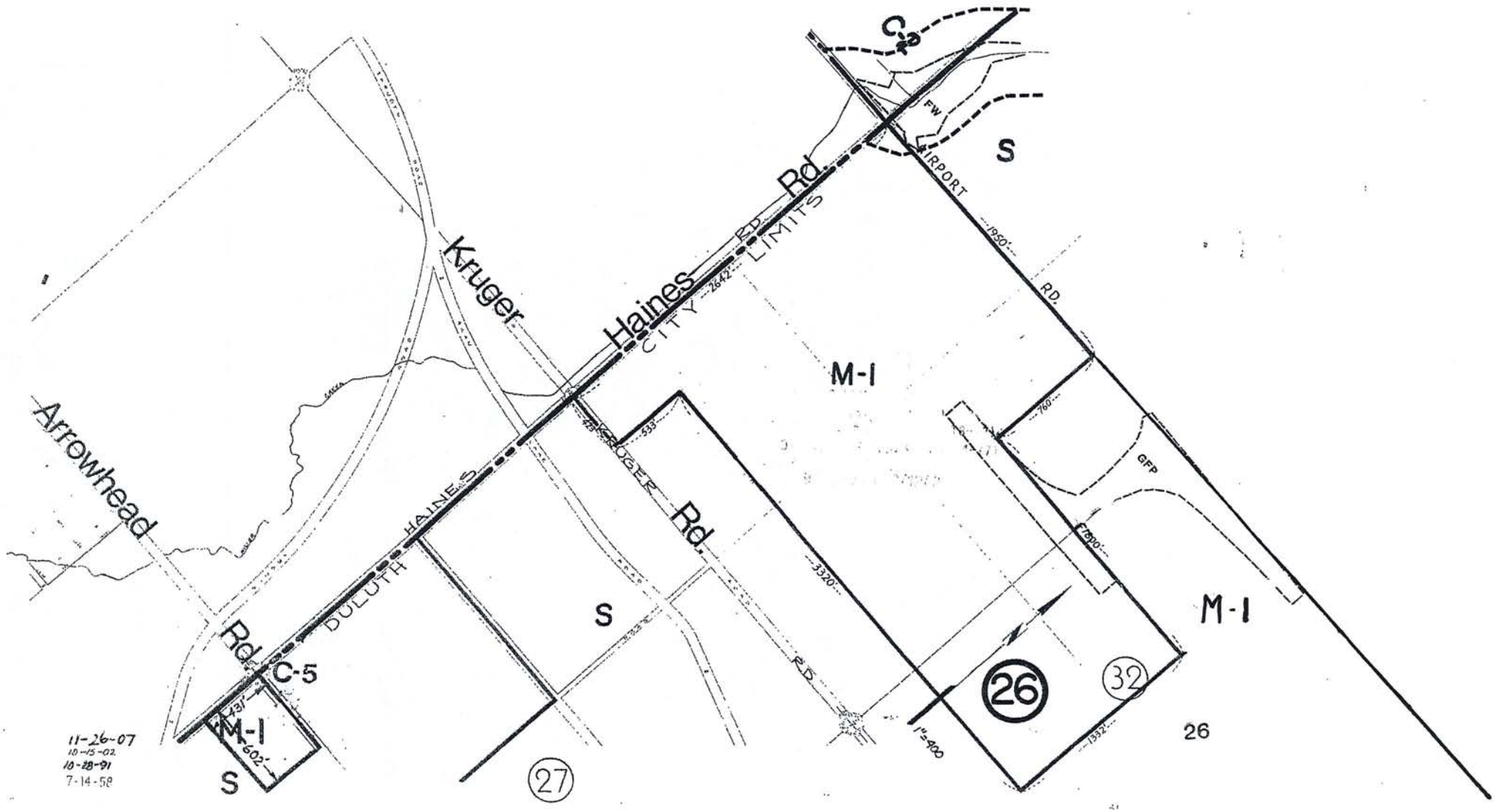
City of Duluth

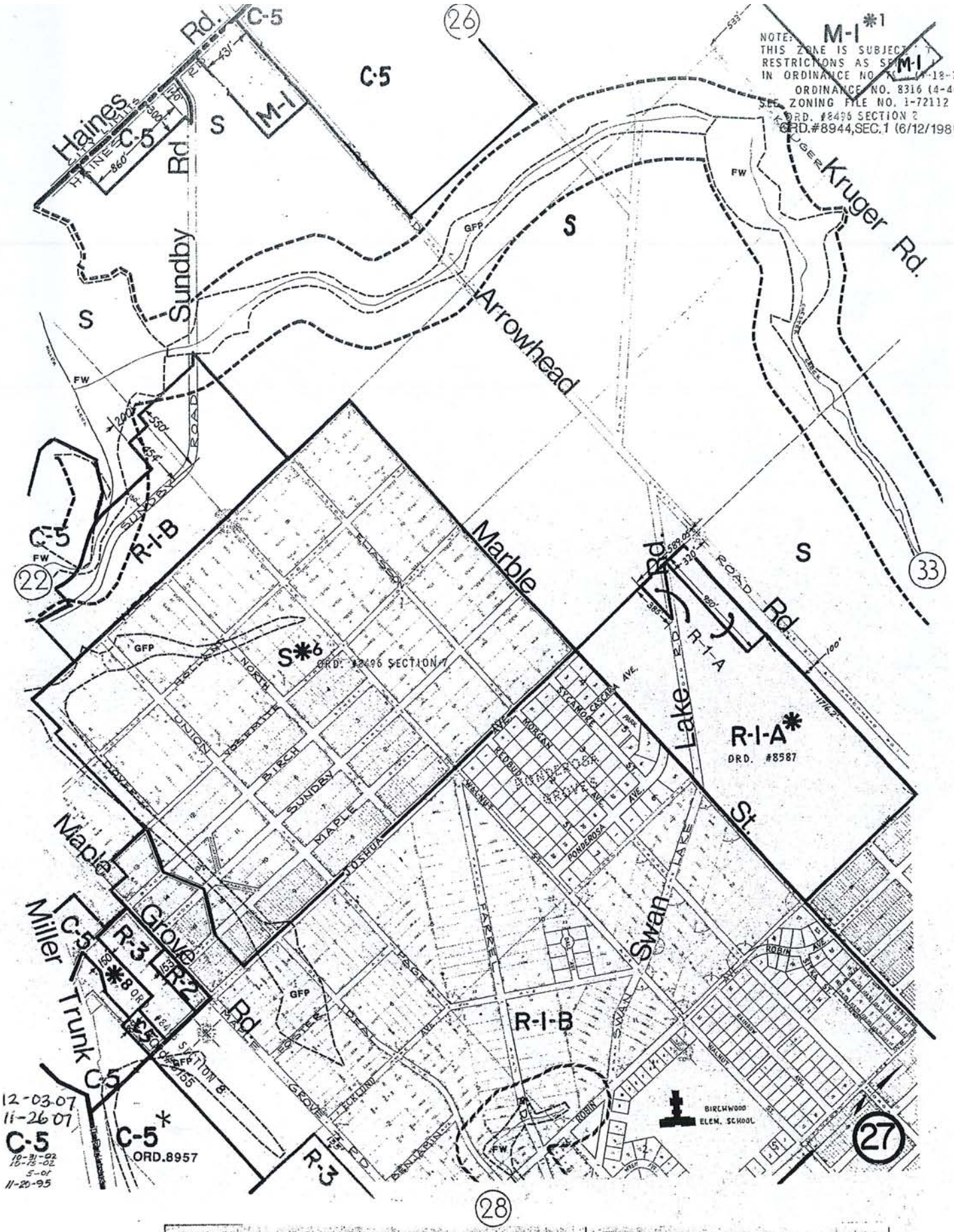
March 2, 1980
March 1987 revised

FLOOD PLAINS
General Flood Plain District — GFP
Flood Fringe District — FF
Floodway District — FW

SHORELANDS
Natural Environment Shorelands
Recreational Development Shorelands
General Development Shorelands
Class One
Class Two




Arrowhead
Rd.
Kruger
Haines
Rd.
DULUTH
HAINES
KRUGER
Rd.
CITY
LIMITS
AIRPORT
RD.
FW
GFP
C-5
M-1
S
27
26
32
1"=400
11-26-07
10-15-02
10-28-91
7-14-58



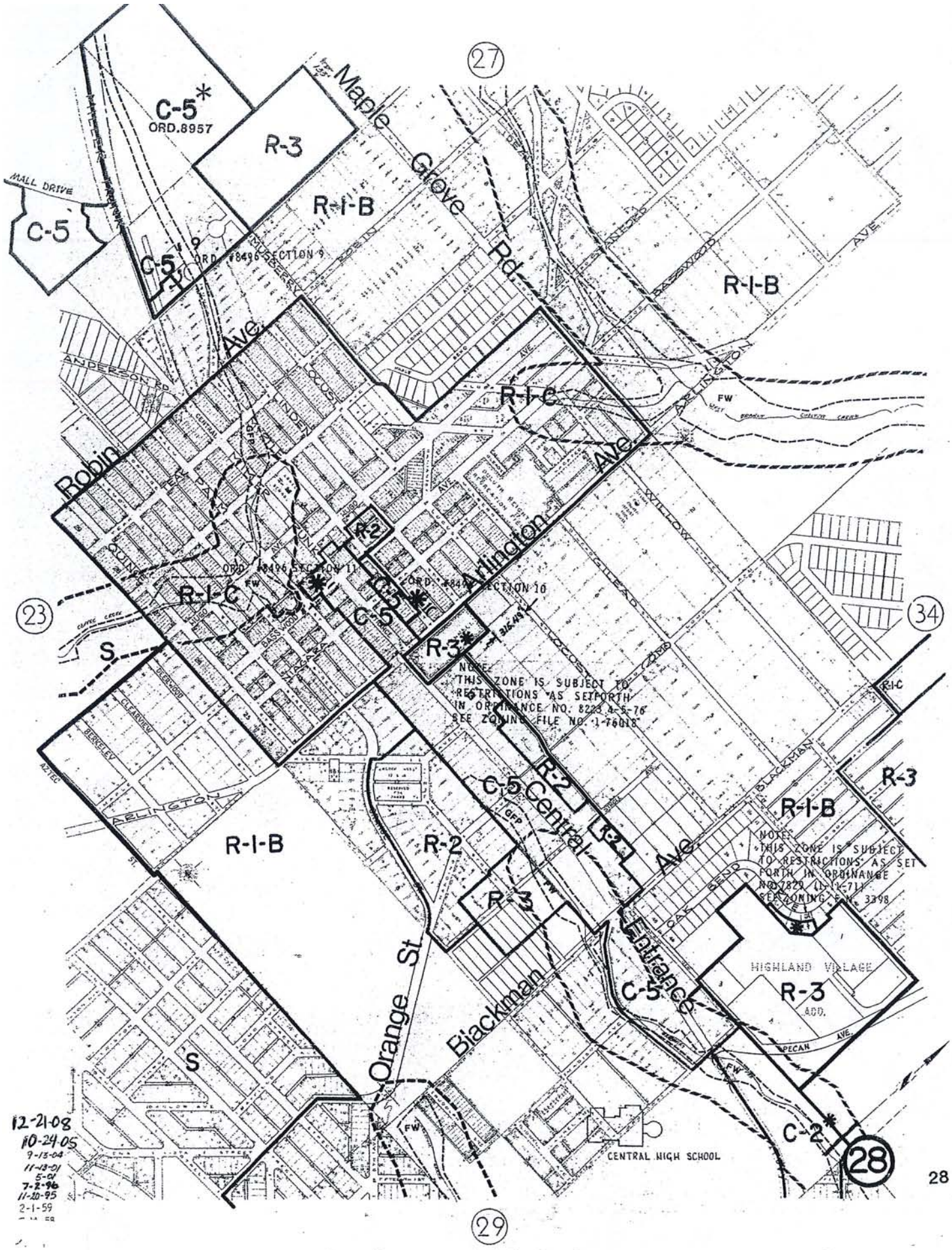
OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

FLOOD PLAINS

General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

SHORELANDS

Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	
Class One	



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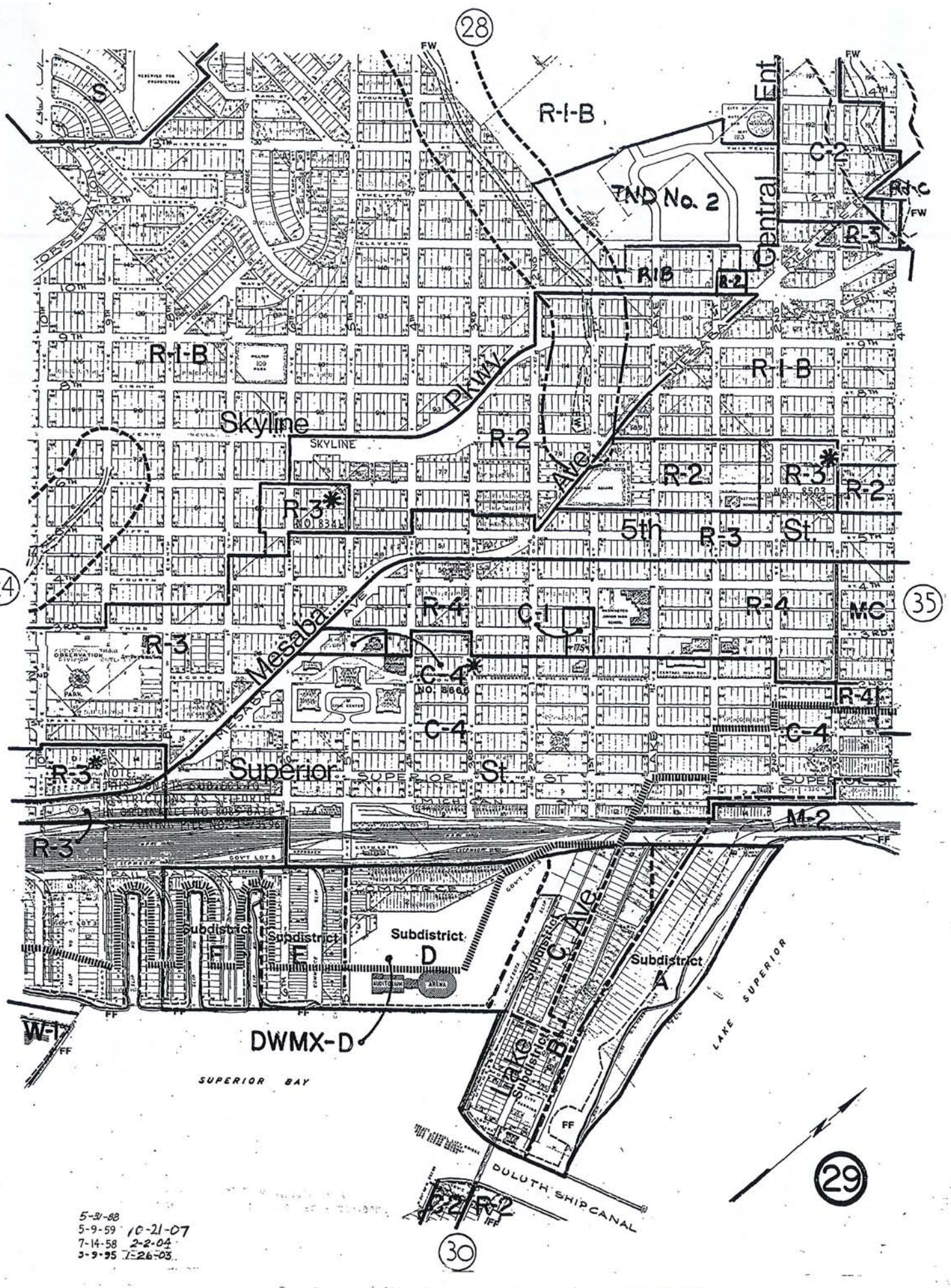
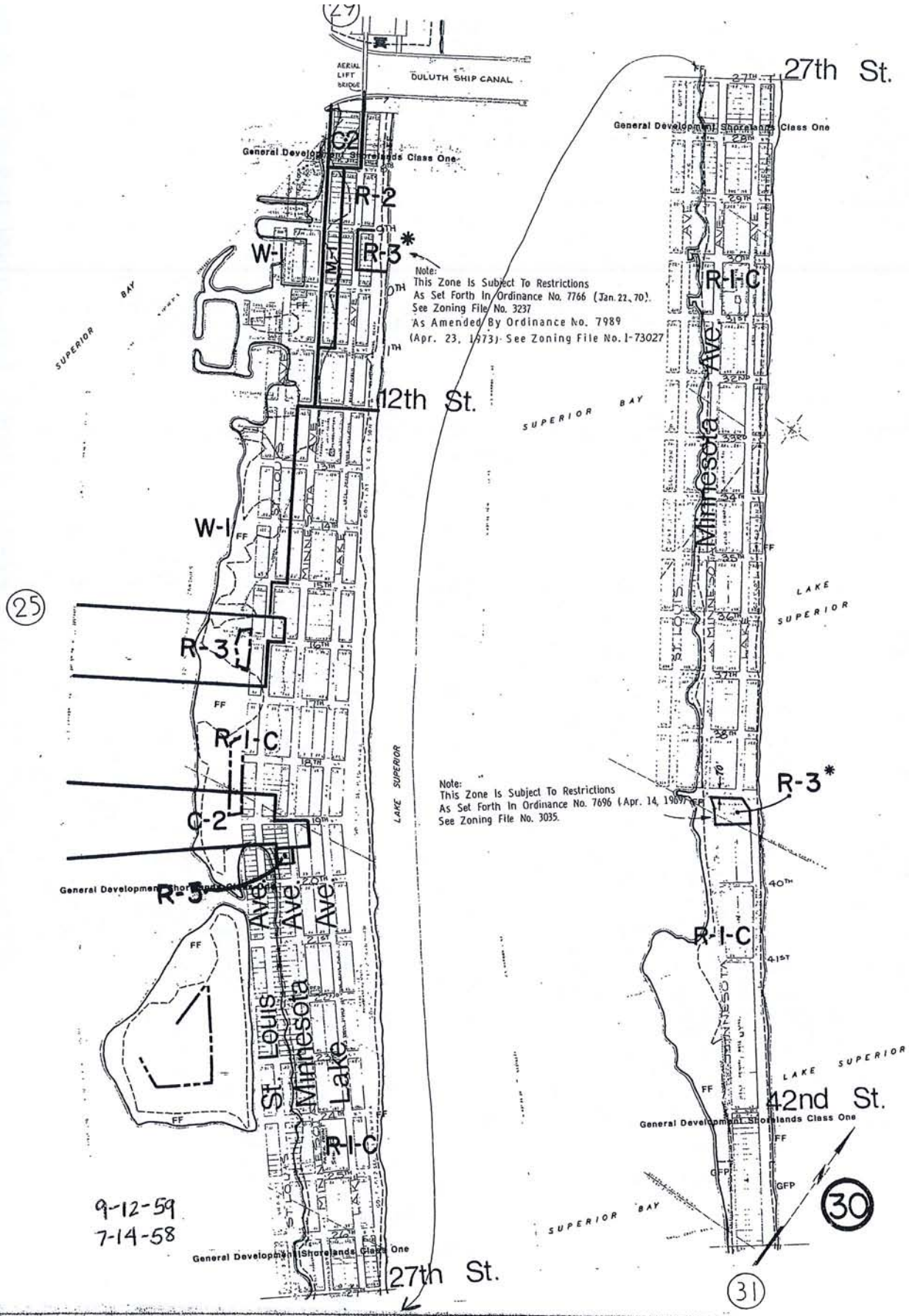
10-24-05
9-13-04
11-13-01
5-01
7-2-96
11-20-95
2-1-59



5-31-88
5-9-59 10-21-07
7-14-58 2-2-04
3-9-95 7-26-03



OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

City of Duluth

Scale
0 200 400 600 800ft

March 2, 1980
March 1987 revised

FLOOD PLAINS

General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

SHORELANDS

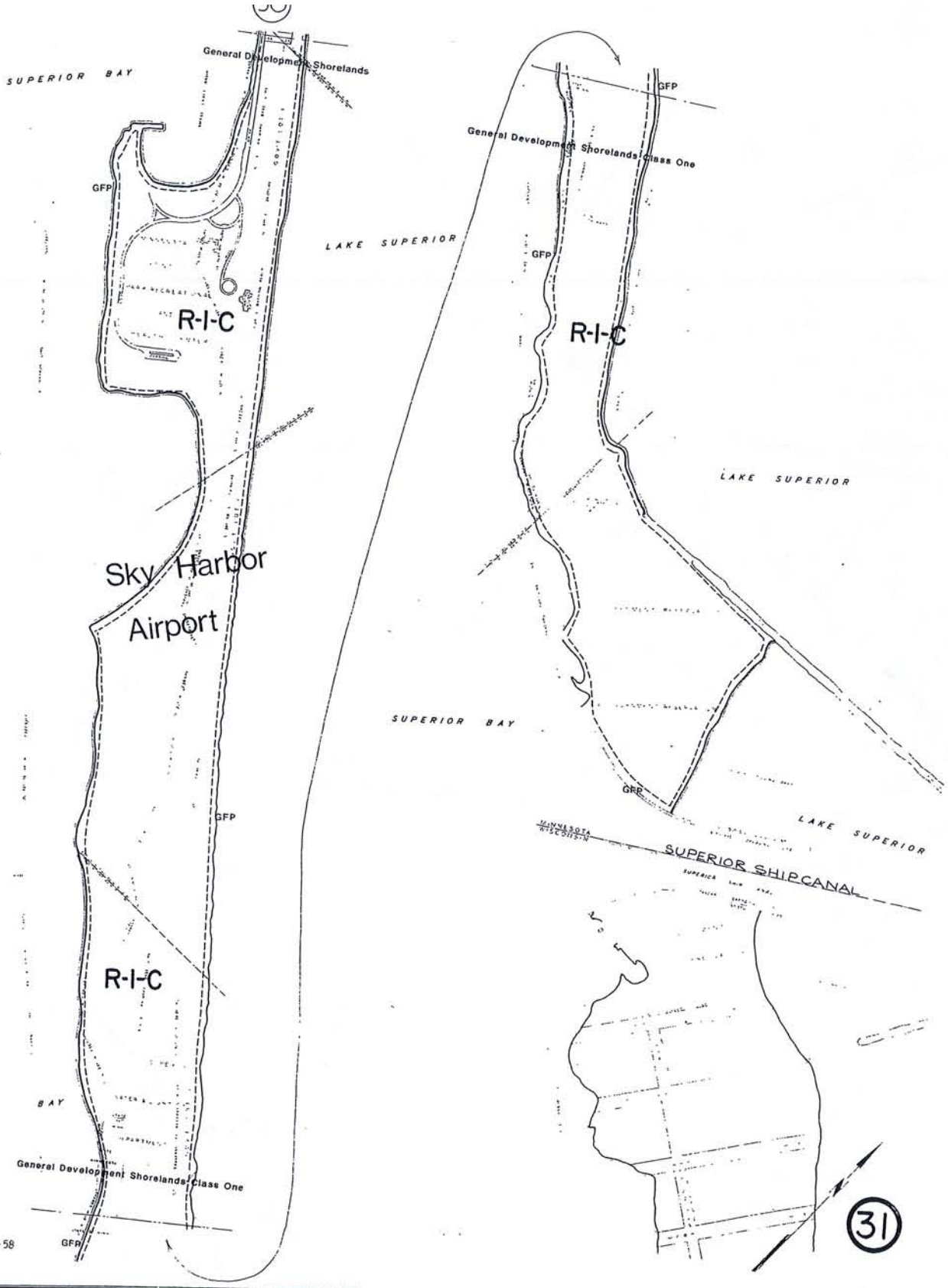
Natural Environment Shorelands

Recreational Development Shorelands

General Development Shorelands

Class One

Class Two



OFFICIAL FLOOD PLAIN AND SHORELAND MAP

City of Duluth

March 2, 1980

PLAINS

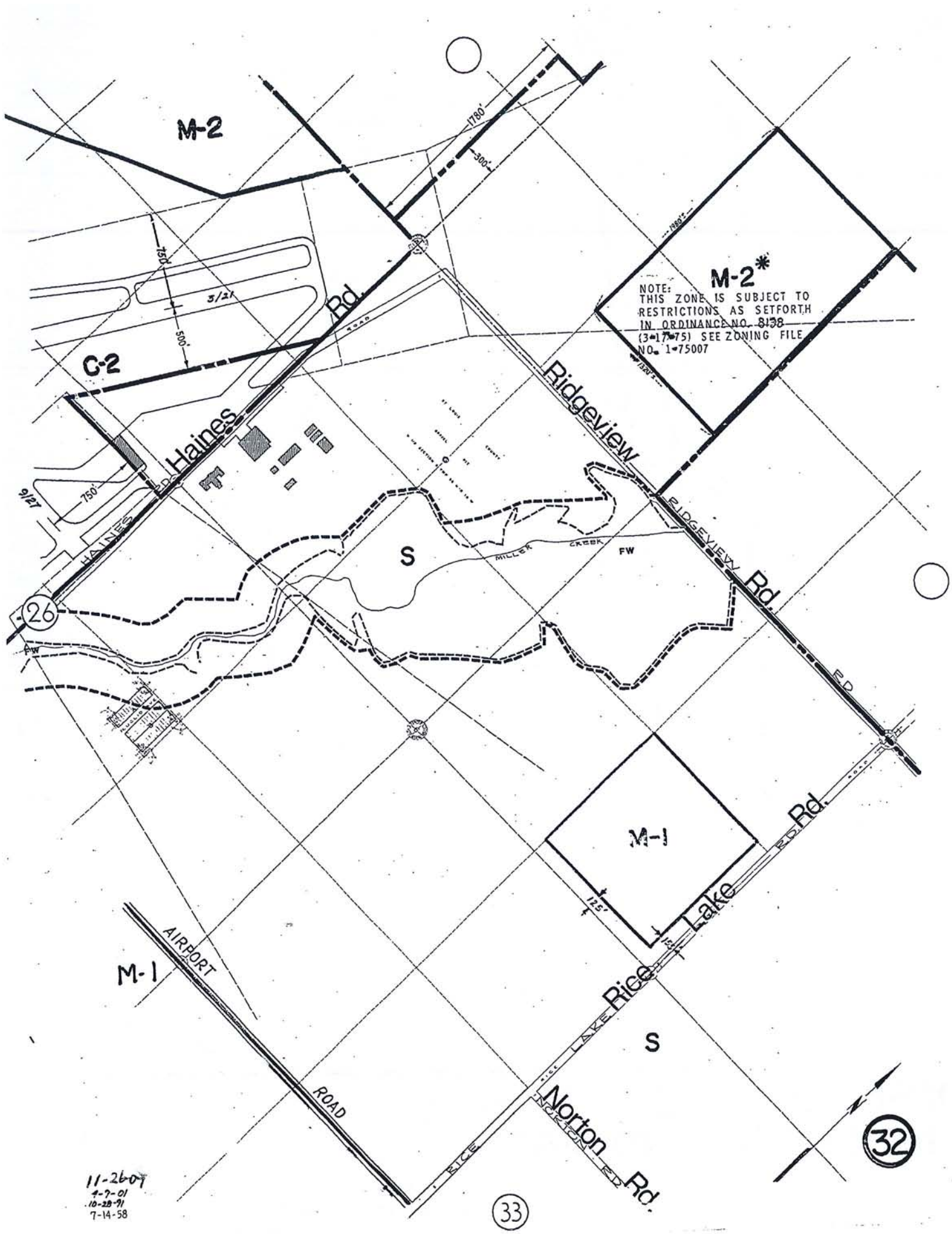
General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

SHORELANDS

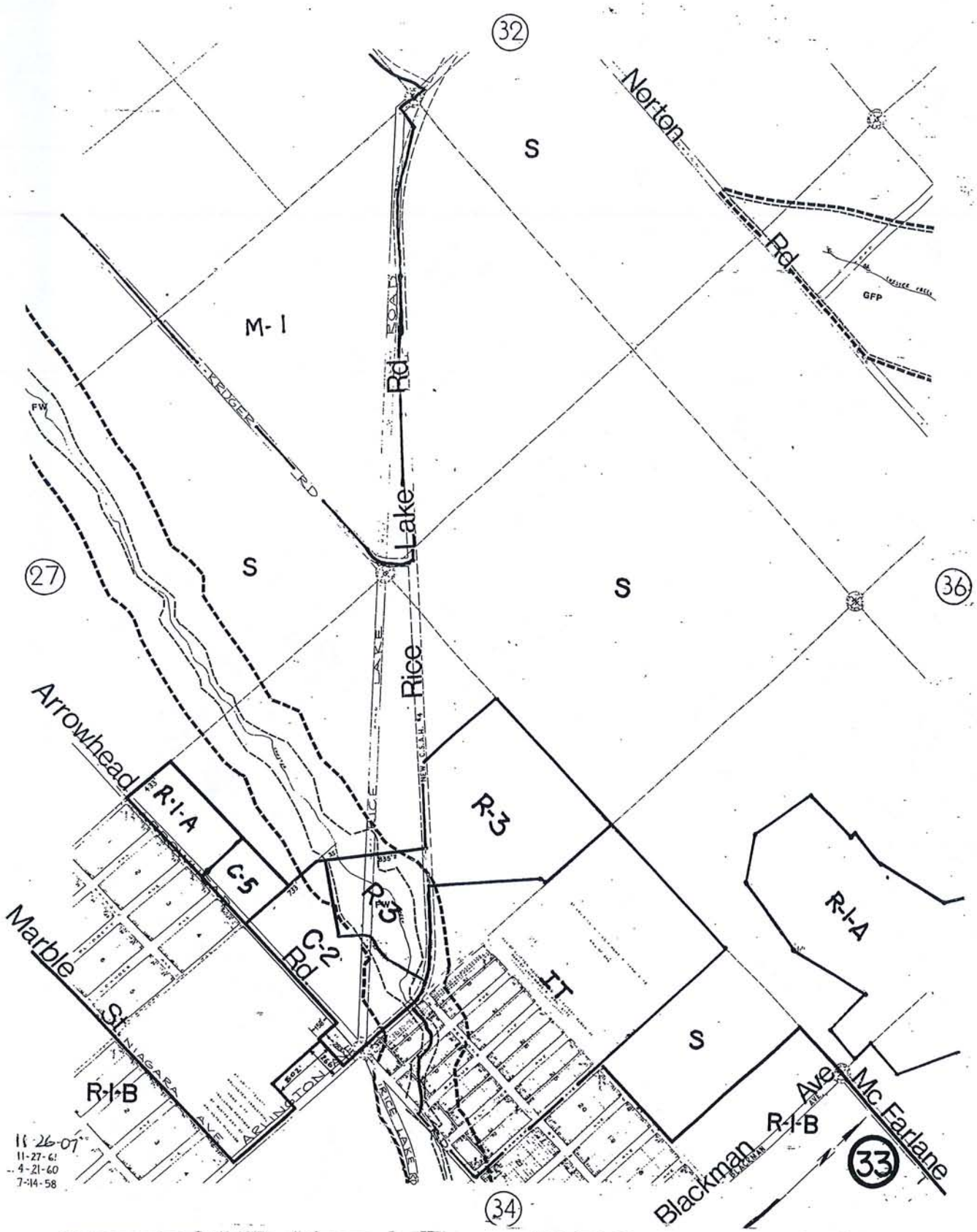
Natural Environment Shorelands

Recreational Development Shorelands

General Development Shorelands



11-2609
4-7-01
10-28-91
7-14-58



OFFICIAL FLOOD PLAIN AND SHORELAND MAP

City of Duluth

March 2, 1980

PLAINS

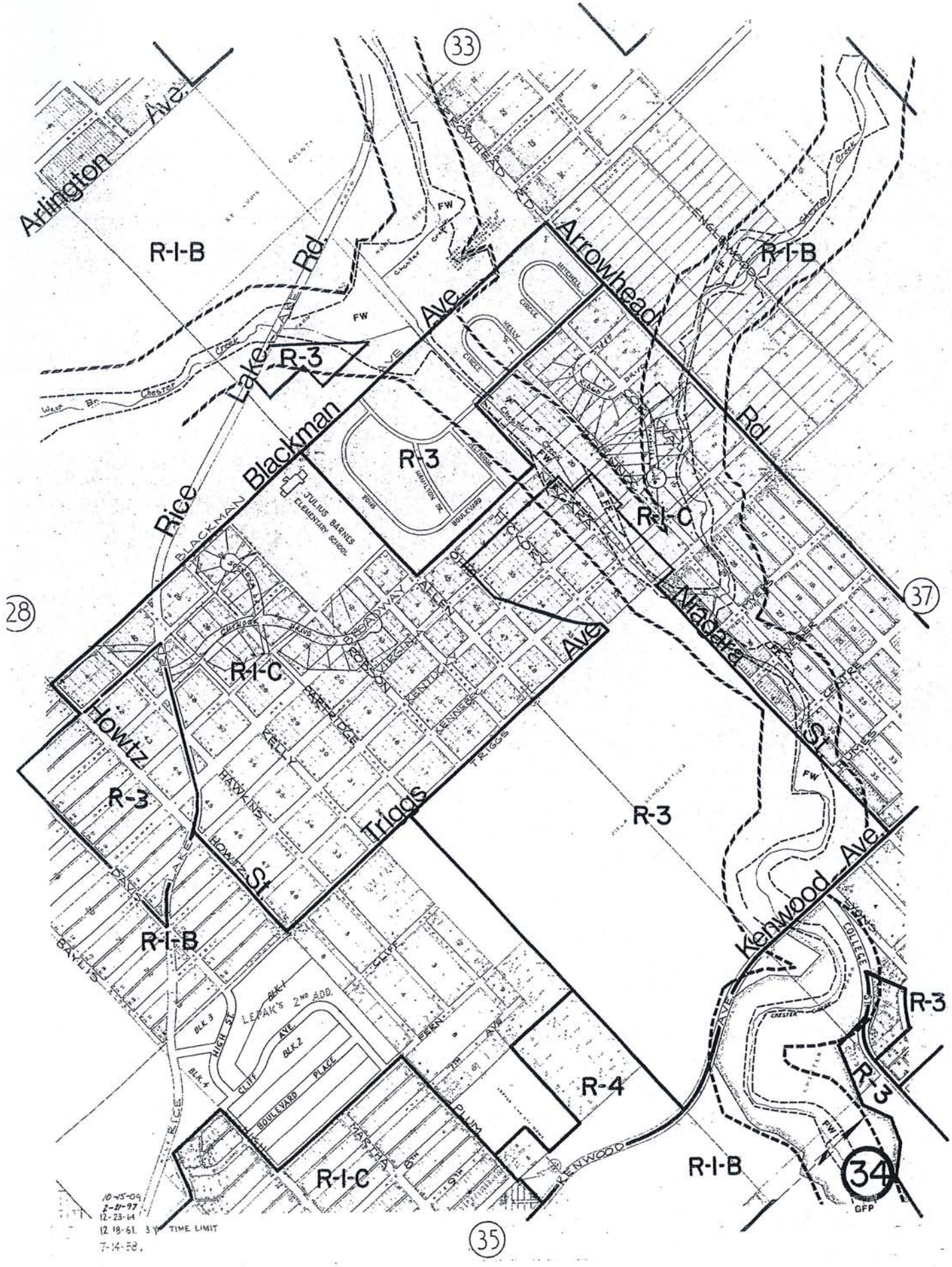
General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

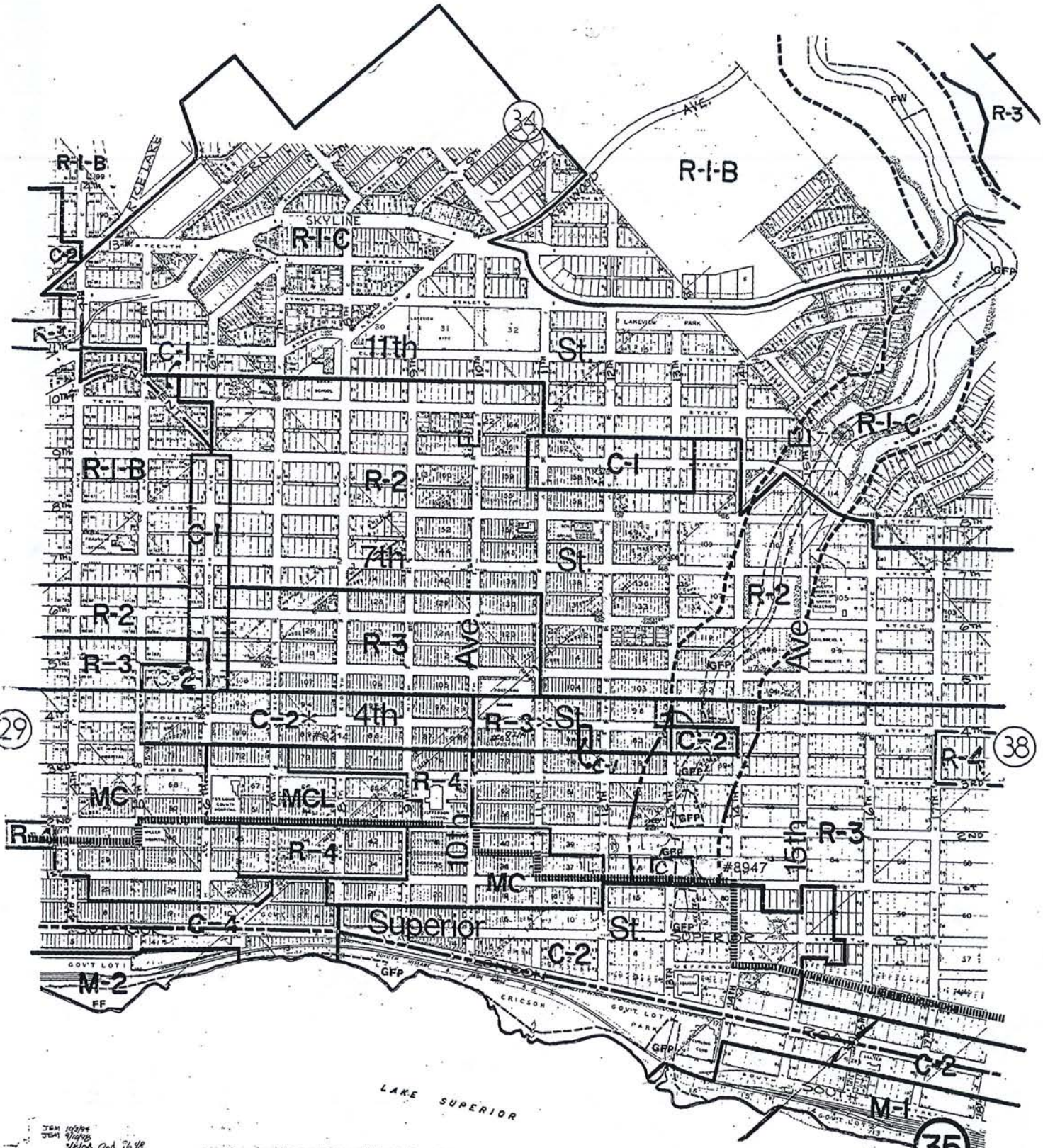
SHORELANDS

Natural Environment Shorelands

Recreational Development Shorelands

General Development Shorelands


33
Arlington Ave.
R-I-B
Lake Rd.
R-3
Arrowhead Rd.
R-I-B
Lake Ave.
R-3
Blackman
Rice
BLACKMAN
JULIUS BARNES ELEMENTARY SCHOOL
R-3
R-I-C
Niagara St.
37
28
R-I-C
Howitz
R-3
Triggs
R-3
Kenwood Ave.
R-I-B
R-3
R-3
R-4
R-I-B
R-I-C
34
35
10-15-09
2-21-97
12-23-64
12-18-61 3 Y TIME LIMIT
7-14-58.



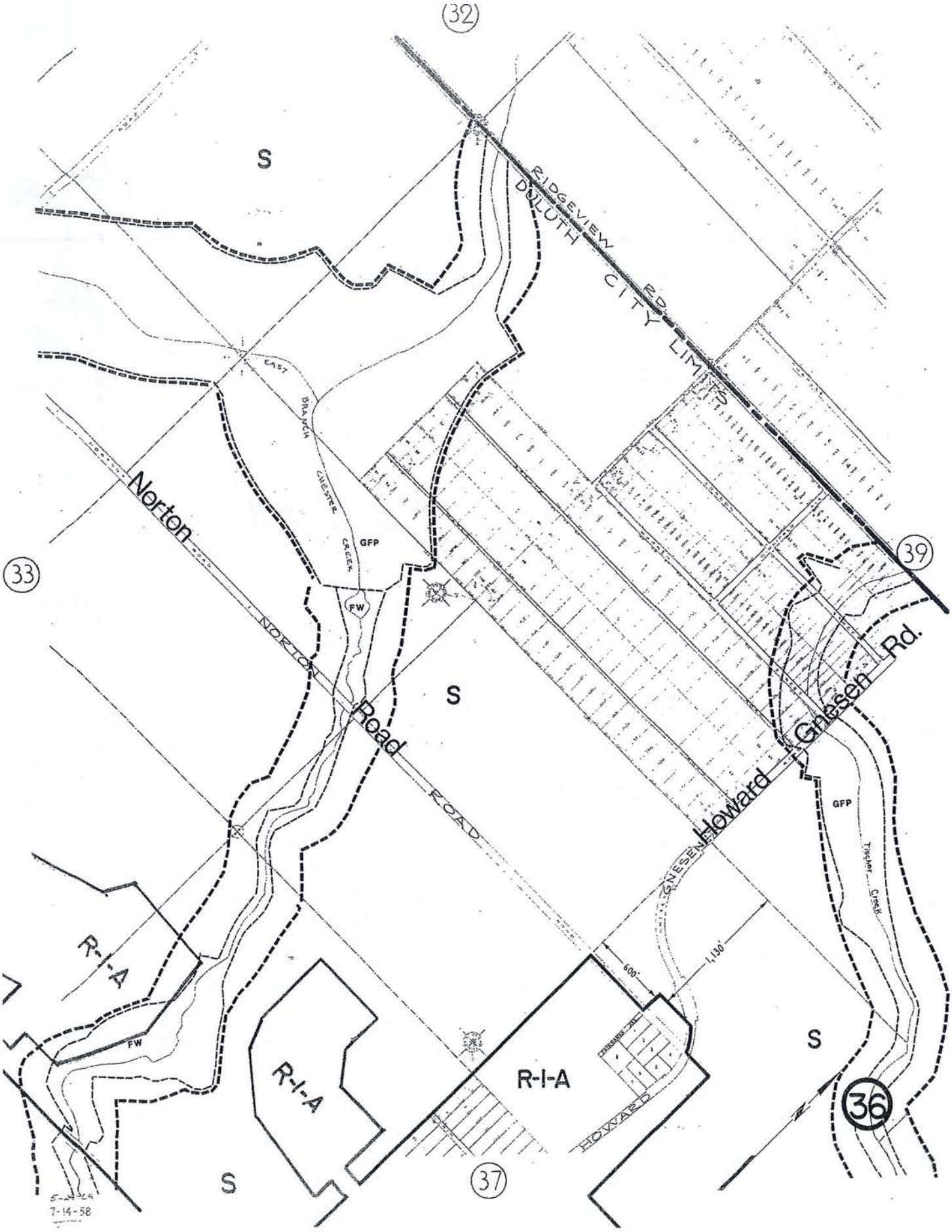
JEM 10/8/96
JEM 9/16/98
CEF 8/14/06 ord 06-024-0

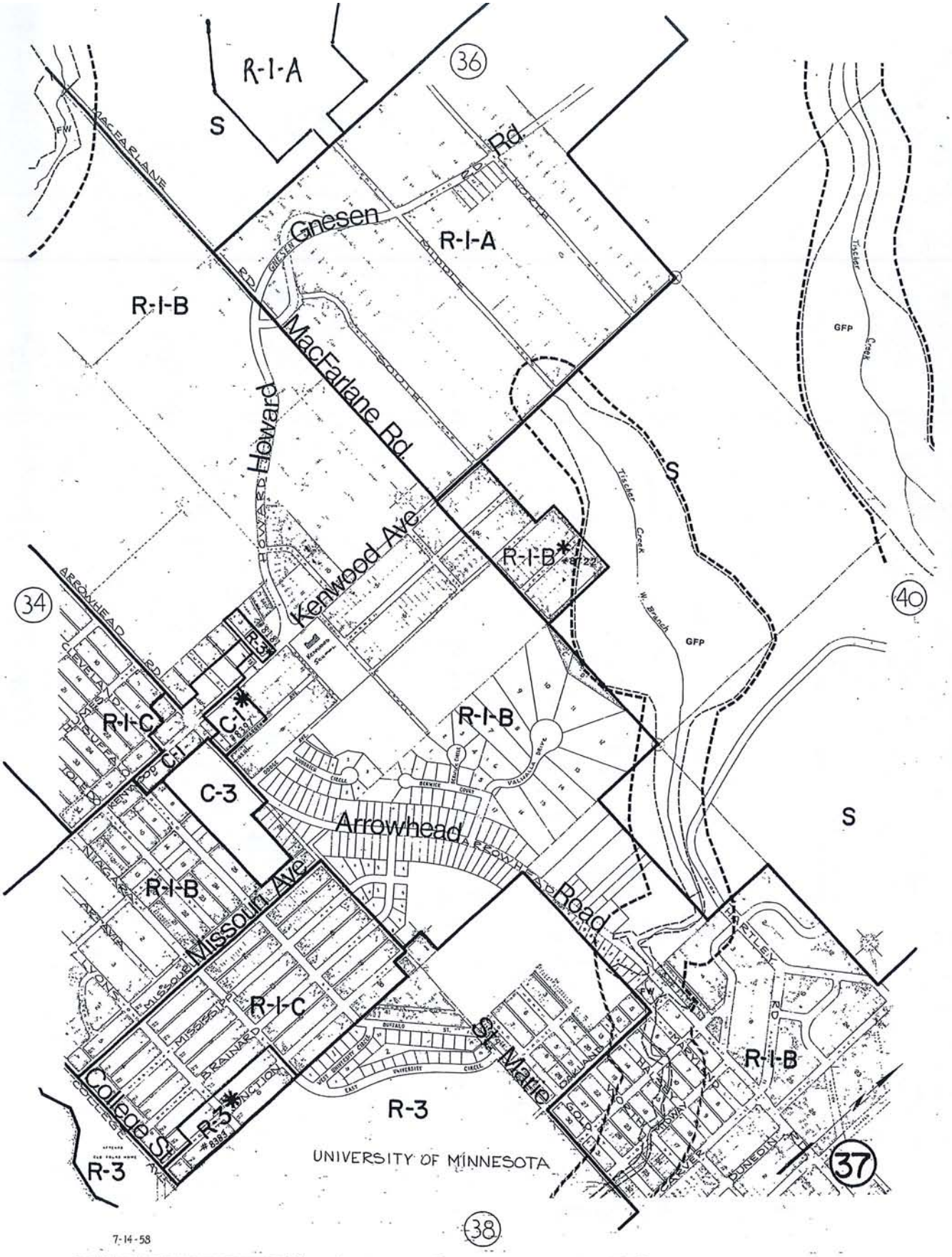
OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

City of Duluth

FLOOD PLAINS	
General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW
SHORELANDS	
Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	
Class One	
Class Two	

March 2, 1980
March 1987 revised


32
S
RIDGEVIEW RD.
DULUTH CITY LIMITS
EAST BRANCH CHESTER CREEK
GFP
FW
Norton
33
NORTON ROAD
S
39
Howard Gnesen Rd.
GNESEN ROAD
GFP
Tischer Creek
600'
1,130'
R-I-A
FW
R-I-A
R-I-A
HOWARD
S
36
S
37
7-14-58



7-14-58

OFFICIAL FLOOD PLAIN AND SHORELAND MAP

City of Duluth

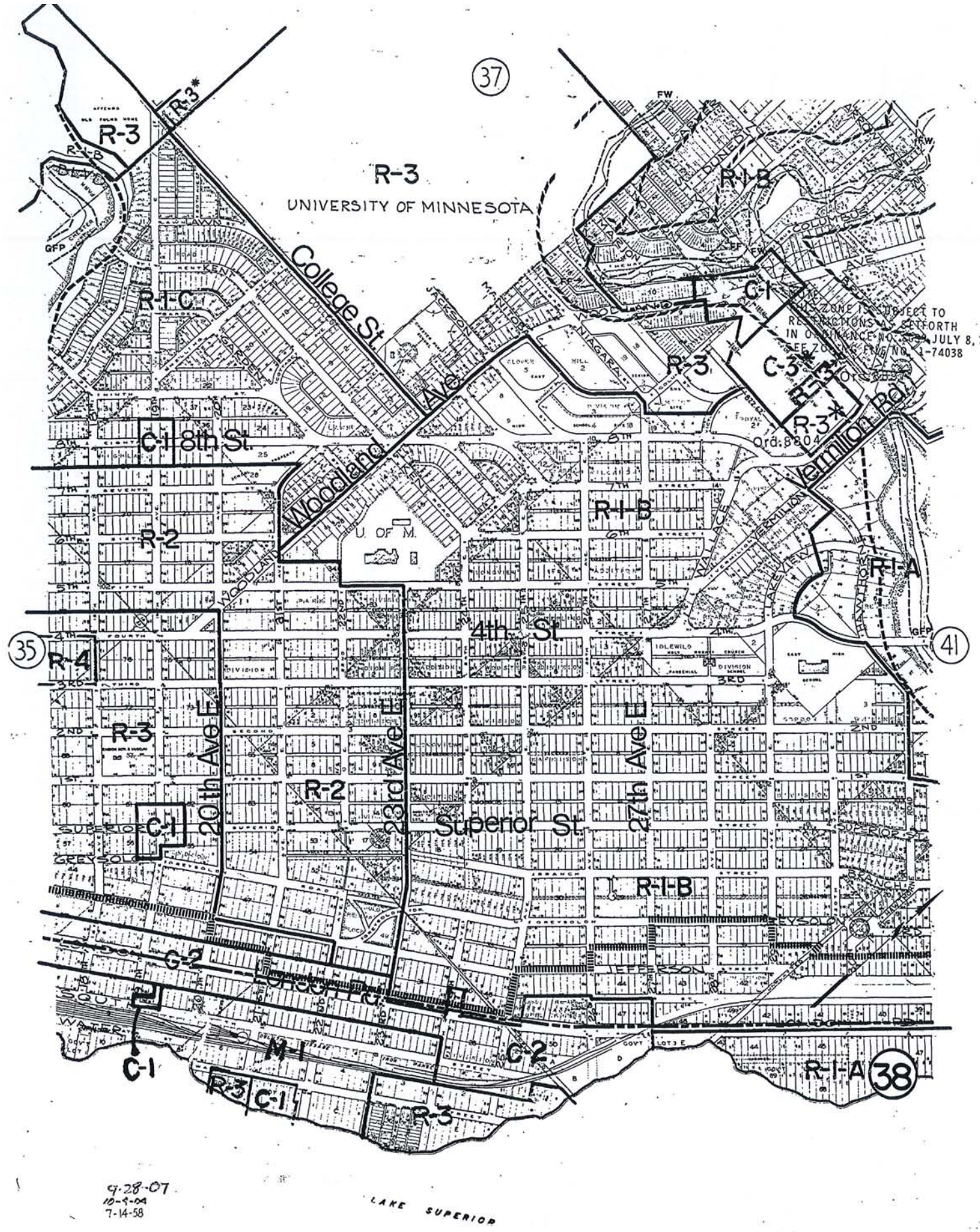
March 2, 1980

PLAINS

General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

SHORELANDS

Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	

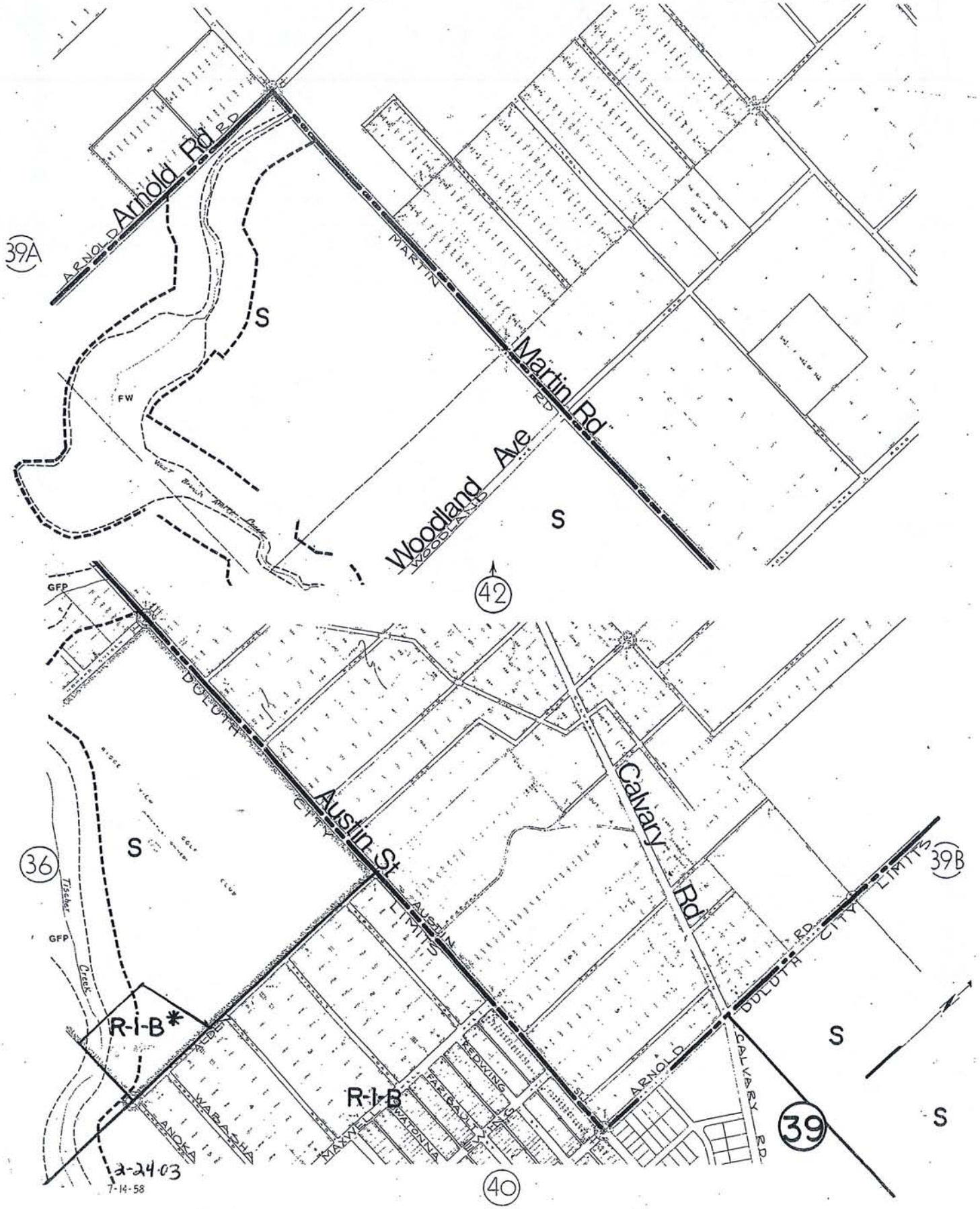

37
R-3
UNIVERSITY OF MINNESOTA
R-3*
R-3
R-1-B
R-1-C
College St
Woodland Ave
C-1
C-3*
R-3
R-3*
Ord. 8804
Vermilion Boul
C-1 8th St
R-1-B
U. OF M.
R-2
R-1-A
35
R-4
4th St
41
R-3
20th Ave E
23rd Ave E
27th Ave E
R-2
C-1
Superior St
R-1-B
G-2
C-2
M-1
C-1
R-3
C-1
R-3
R-1-A
38
9-28-07
10-5-04
7-14-58
LAKE SUPERIOR

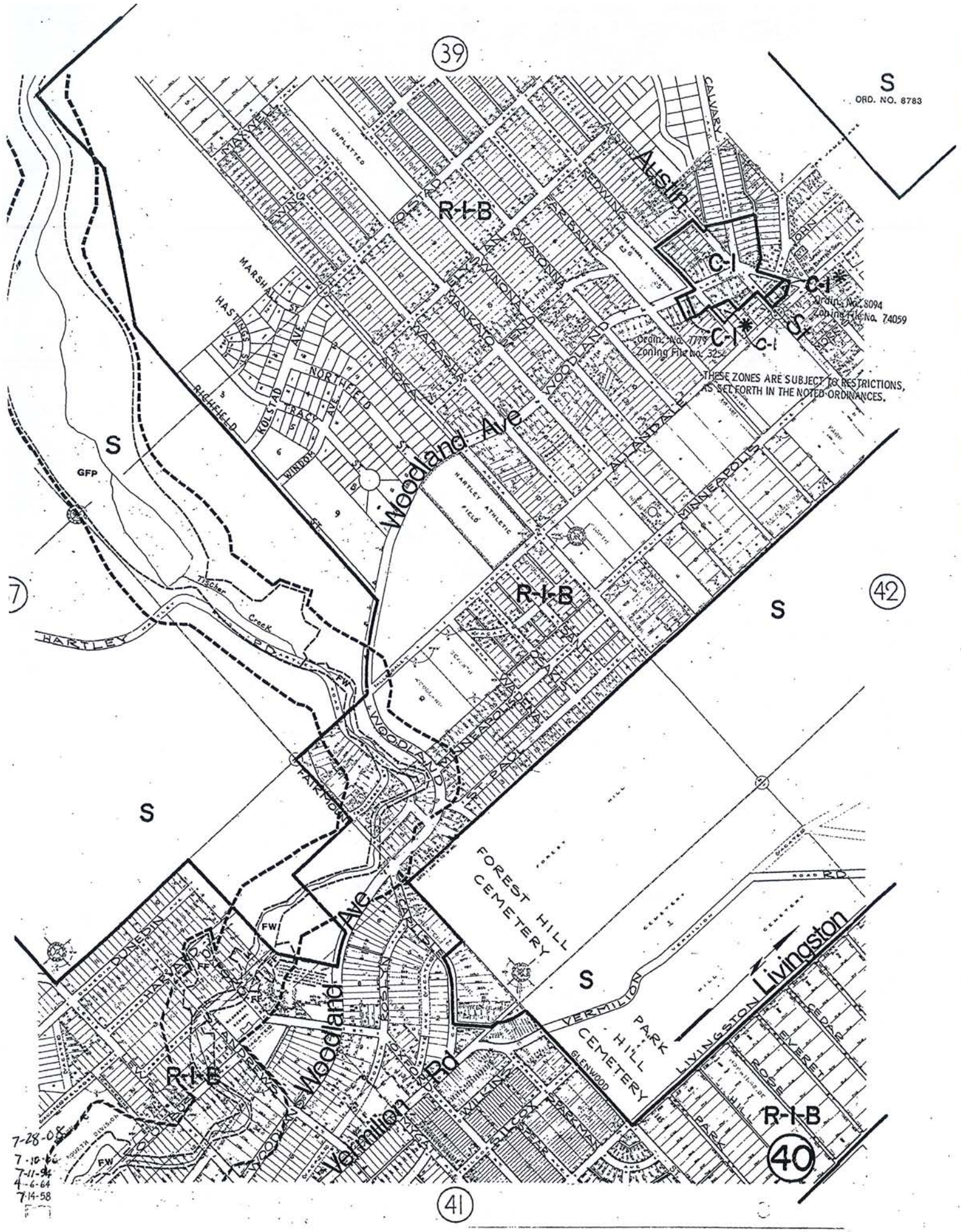
OFFICIAL FLOOD PLAIN AND SHORELAND MAPS LEGEND

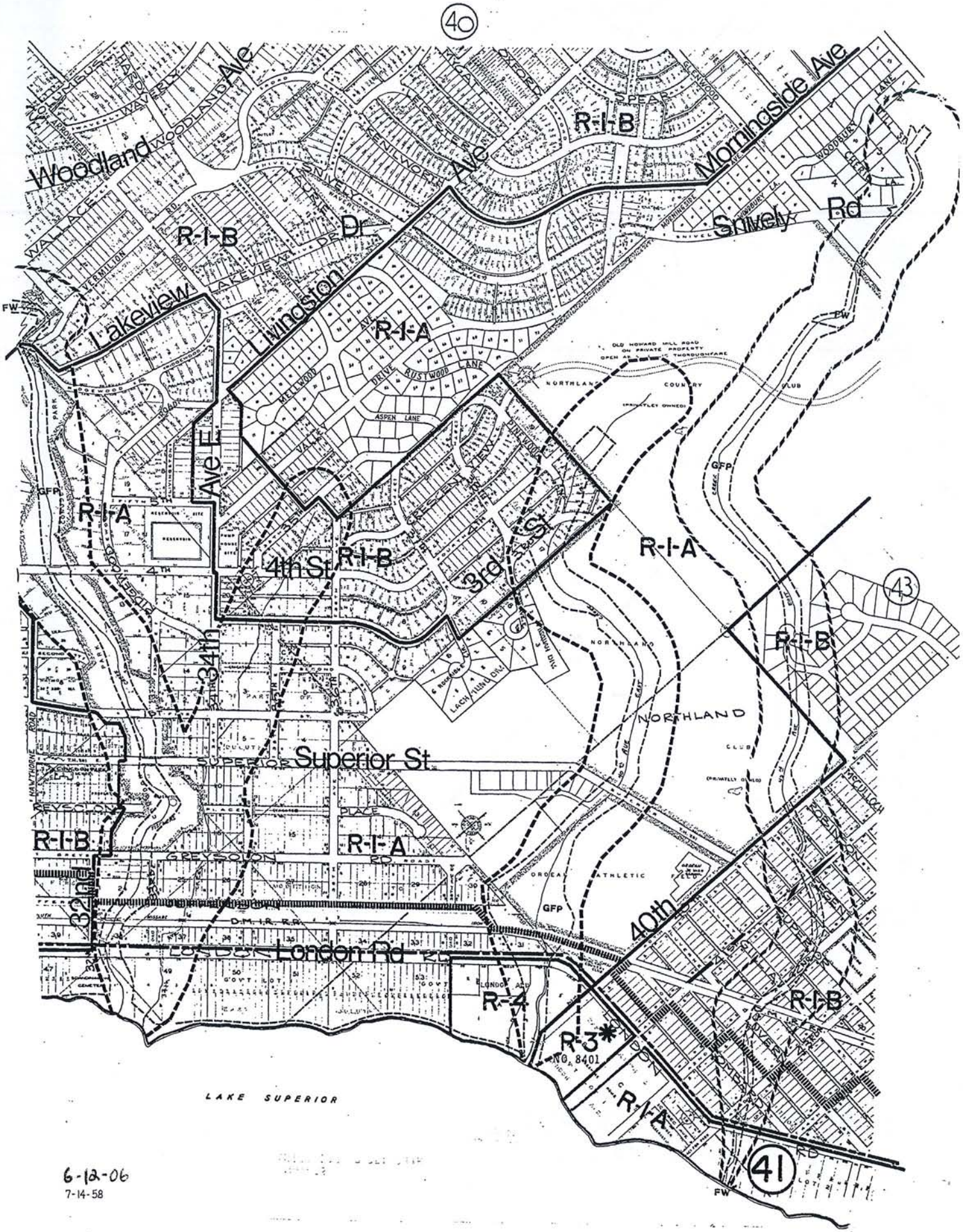
City of Duluth

General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW
SHORELANDS	
Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	
Class One	
Class Two	

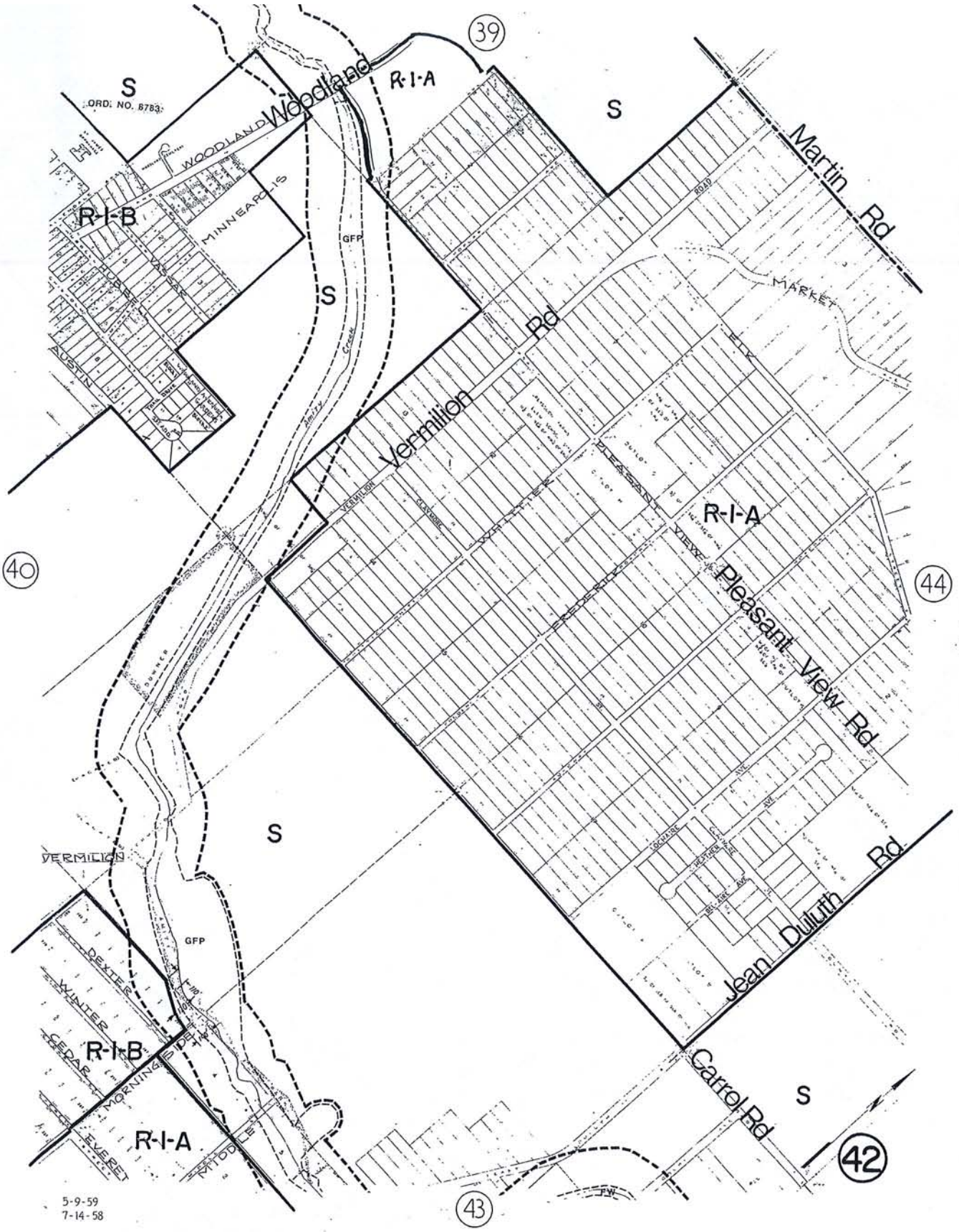
March 2, 1980
March 1987 revised




39
S
ORD. NO. 8783
R-1-B
C-1
C-1*
Ordin. No. 8094
Zoning File No. 74059
Ordin. No. 7779
Zoning File No. 325
THESE ZONES ARE SUBJECT TO RESTRICTIONS, AS SET FORTH IN THE NOTED ORDINANCES.
Austin
Woodland Ave
MARSHALL ST
HASTINGS ST
NORTHFIELD
TRACY AVE
RICHFIELD
KOLSTAD
WINDOM ST
HARTLEY ATHLETIC FIELD
MINNEAPOLIS
ALLANDALE
GFP
Tischer Creek
HARTLEY RD
FW
WOODLAND
MINNEAPOLIS
FAIRVIEW
FOREST HILL CEMETERY
PARK HILL CEMETERY
VERMILION
GLENWOOD
LIVINGSTON
Livingston
EVERETT
CEDAR
ROSE
PARK
Woodland Ave
Vermilion Rd
DUNDAS
HARVARD
WOODLAWN
WILKINS
RICKER
PARKWAY
7
42
40
41
7-28-08
7-10-66
7-11-94
4-6-64
7-14-58


40
Woodland Ave
Morningside Ave
Snively Rd
Lakeview Dr
Livingston Ave
R-1-B
R-1-A
Ave E
4th St
3rd St
34th
Superior St
London Rd
40th
R-4
R-3*
NO. 8401
R-1-A
R-1-B
NORTHLAND
LAKE SUPERIOR
43
41

6-12-06
7-14-58



OFFICIAL FLOOD PLAIN AND SHORELAND MAP

City of Duluth

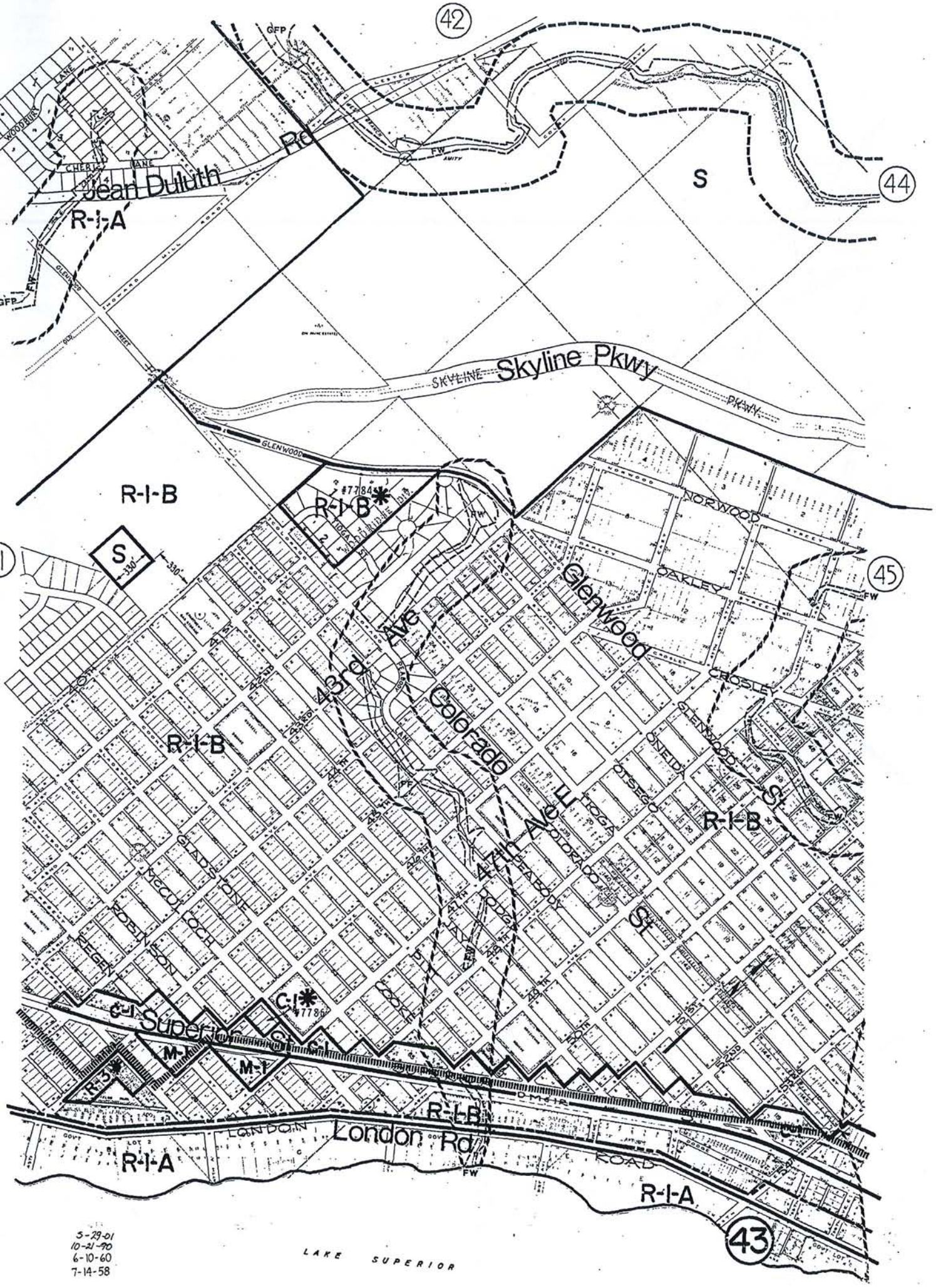
March 2, 1980

PLAINS

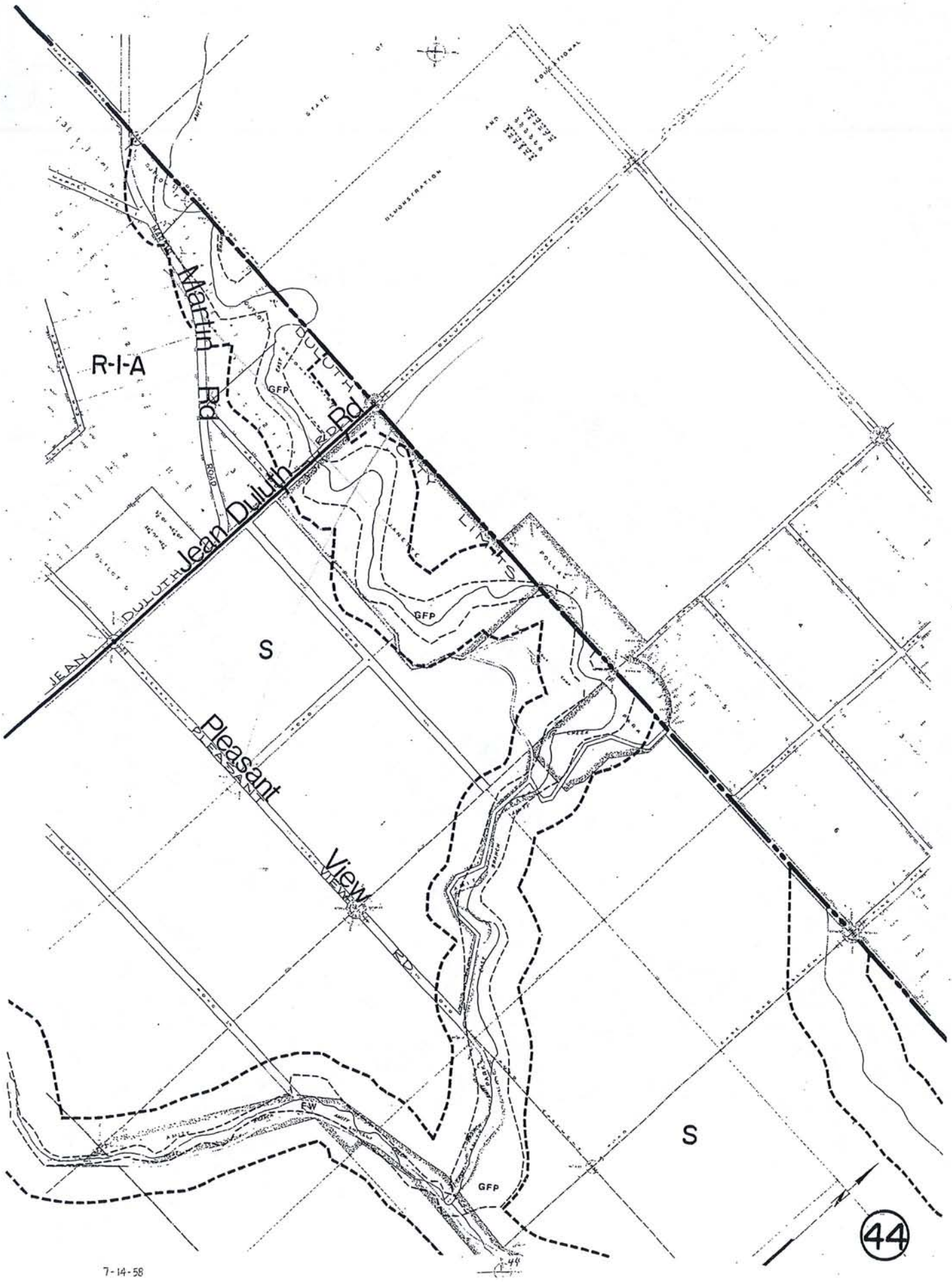
General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

SHORELANDS

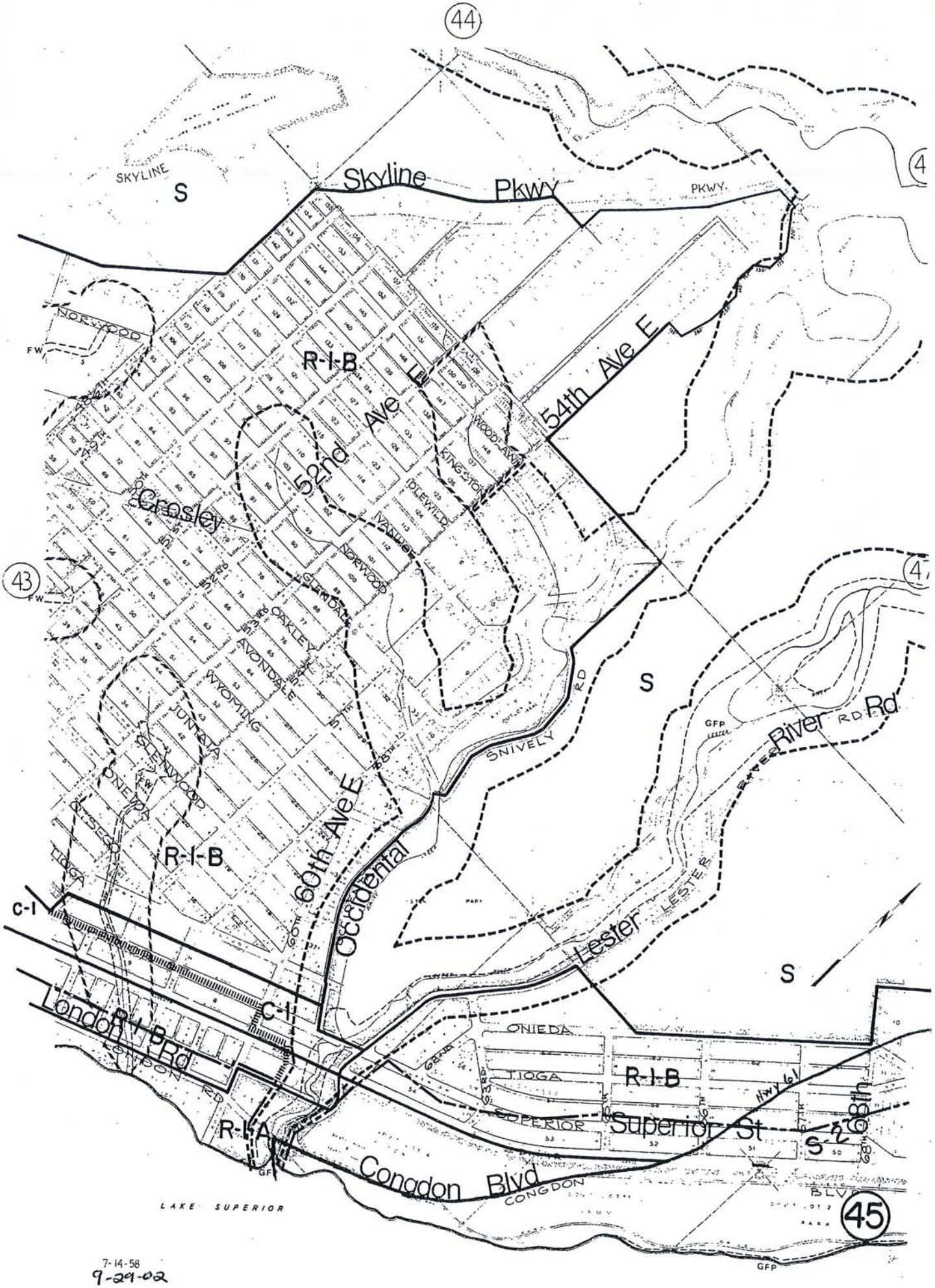
Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	



5-29-01
10-21-90
6-10-60
7-14-58


R-I-A
Martin Rd
Jean Duluth Rd
DULUTH
CITY LIMITS
S
Pleasant View Rd
GFP
S
44

7-14-58


44
43
45
Skyline Pkwy
SKYLINE
PKWY.
S
54th Ave E
52nd Ave E
R-1-B
Crosley
NORWOOD
KINGSTON
DELEWILD
NAMUR
OAKLEY
AVONDALE
WYOMING
JUNIATA
GLENWOOD
ONEIDA
OTSEGO
TIOGA
SNIVELY RD
River Rd
Lester
LESTER
60th Ave E
Occidental
C-1
London Rd
LONDON RD
R-1-A
ONIEDA
TIOGA
SUPERIOR
Superior St
Hwy 61
68th
Congdon Blvd
CONGDON
LAKE SUPERIOR
GFP

7-14-58
9-29-02

OFFICIAL FLOOD PLAIN AND SHORELAND MAP

City of Duluth

March 2, 1980

PLAINS

General Flood Plain District — GFP

Flood Fringe District — FF

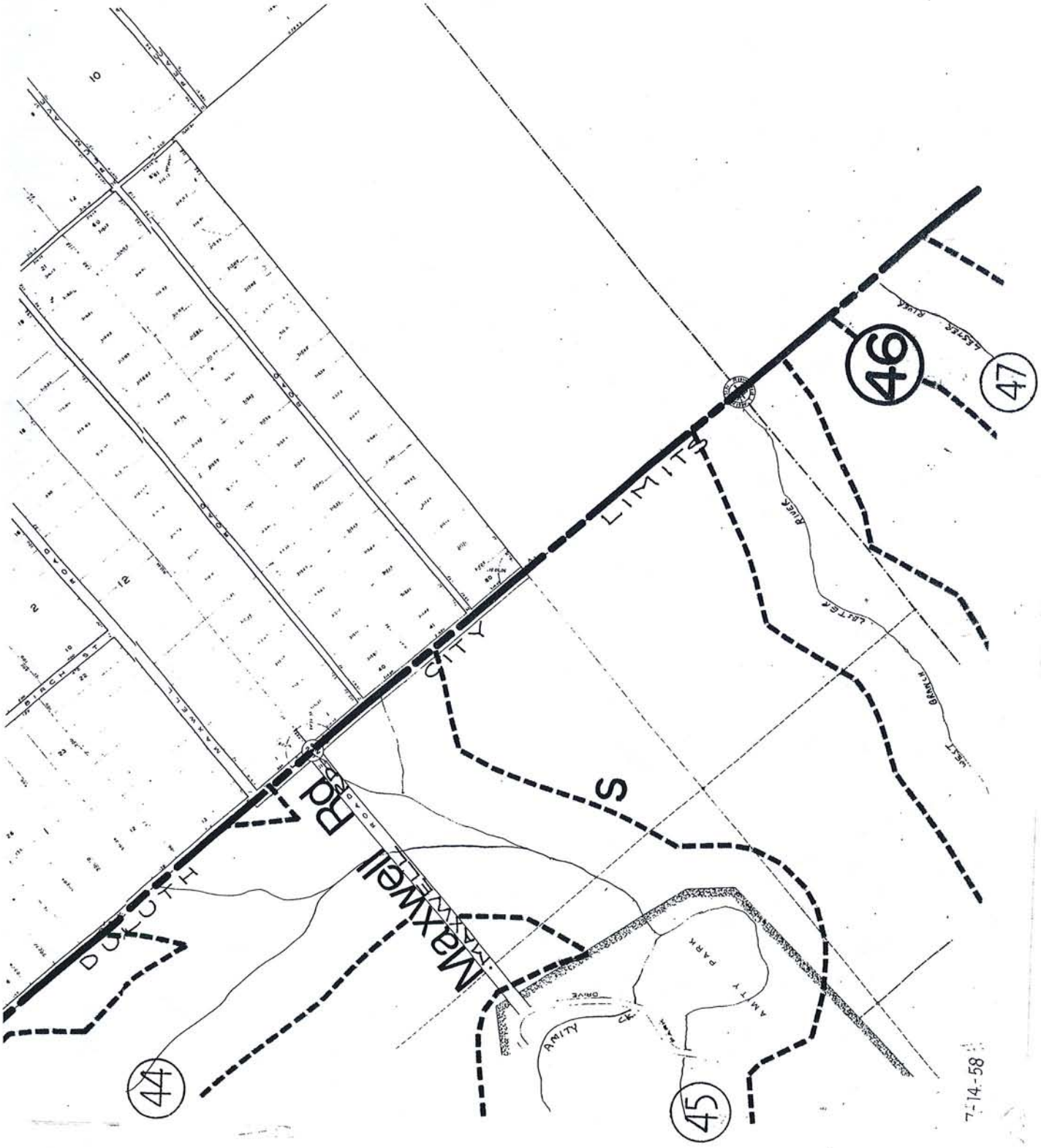
Floodway District — FW

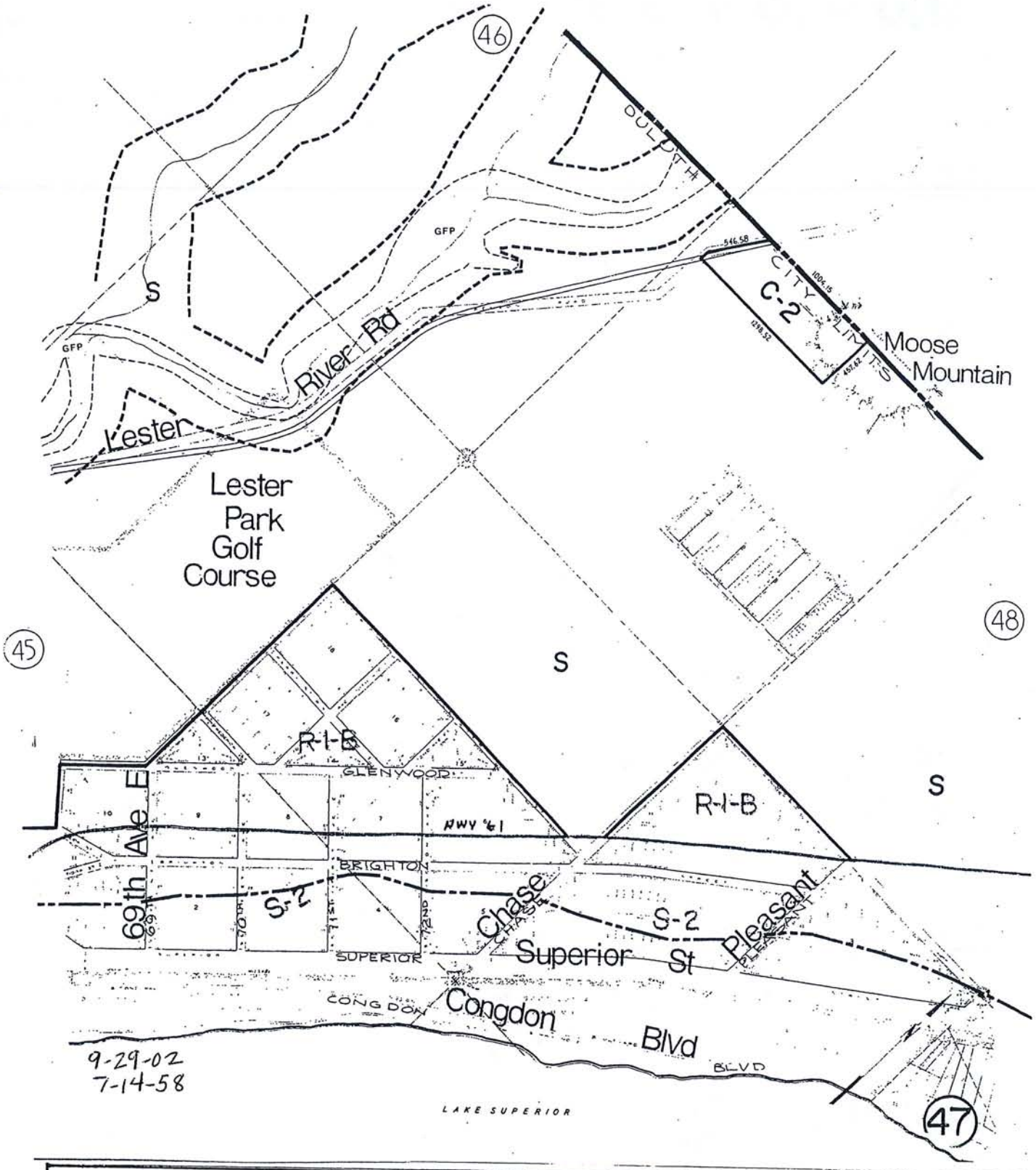
SHORELANDS

Natural Environment Shorelands

Recreational Development Shorelands

General Development Shorelands





OFFICIAL FLOOD PLAIN AND SHORELAND MAP

City of Duluth

March 2, 1980

PLAINS

General Flood Plain District	GFP
Flood Fringe District	FF
Floodway District	FW

SHORELANDS

Natural Environment Shorelands	
Recreational Development Shorelands	
General Development Shorelands	

OFFICIAL FLOOD PLAIN AND SHORELAND MAP

City of Duluth

March 2, 1980

PLAINS

General Flood Plain District — GFP

Flood Fringe District — FF

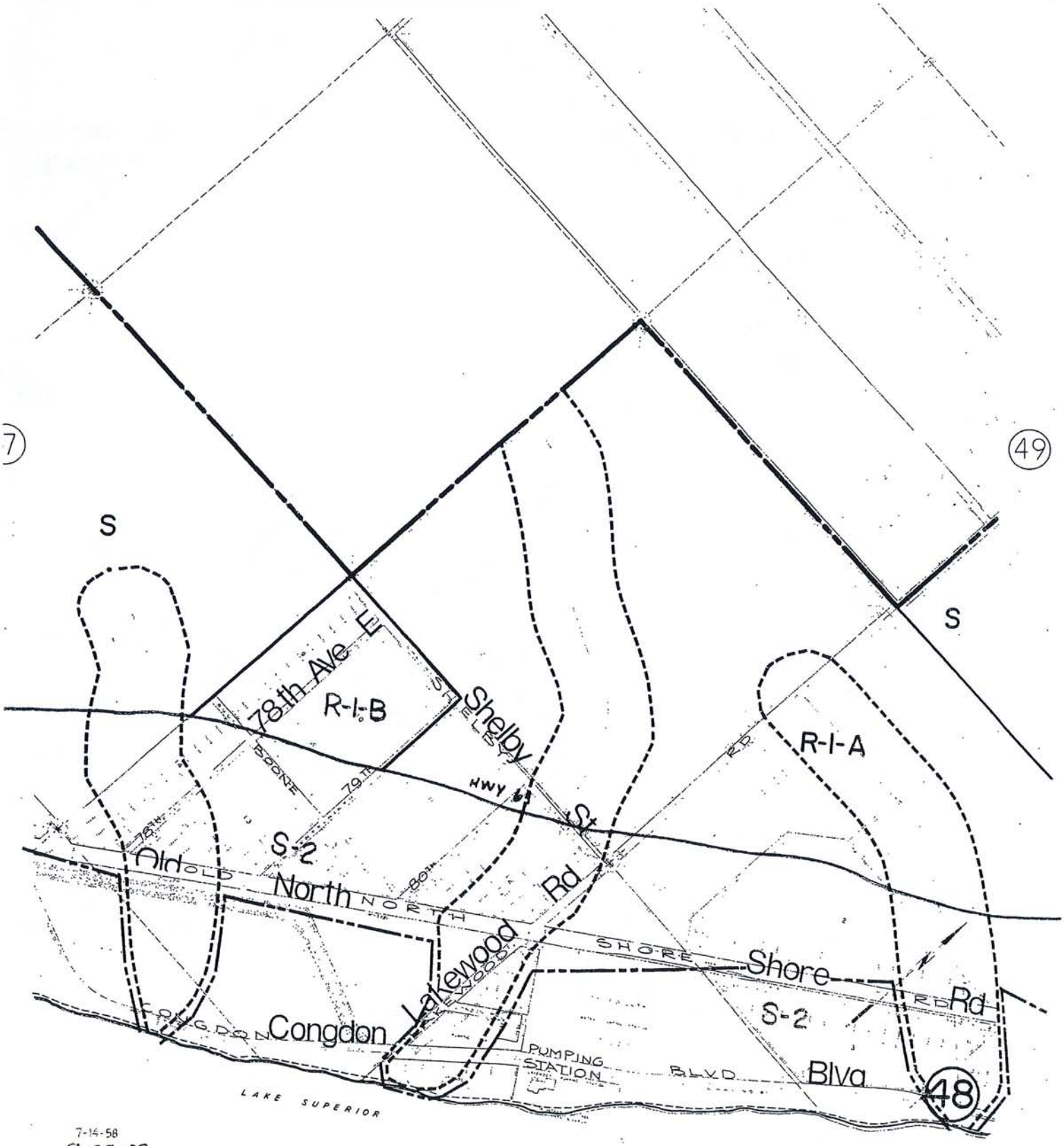
Floodway District — FW

SHORELANDS

Natural Environment Shorelands

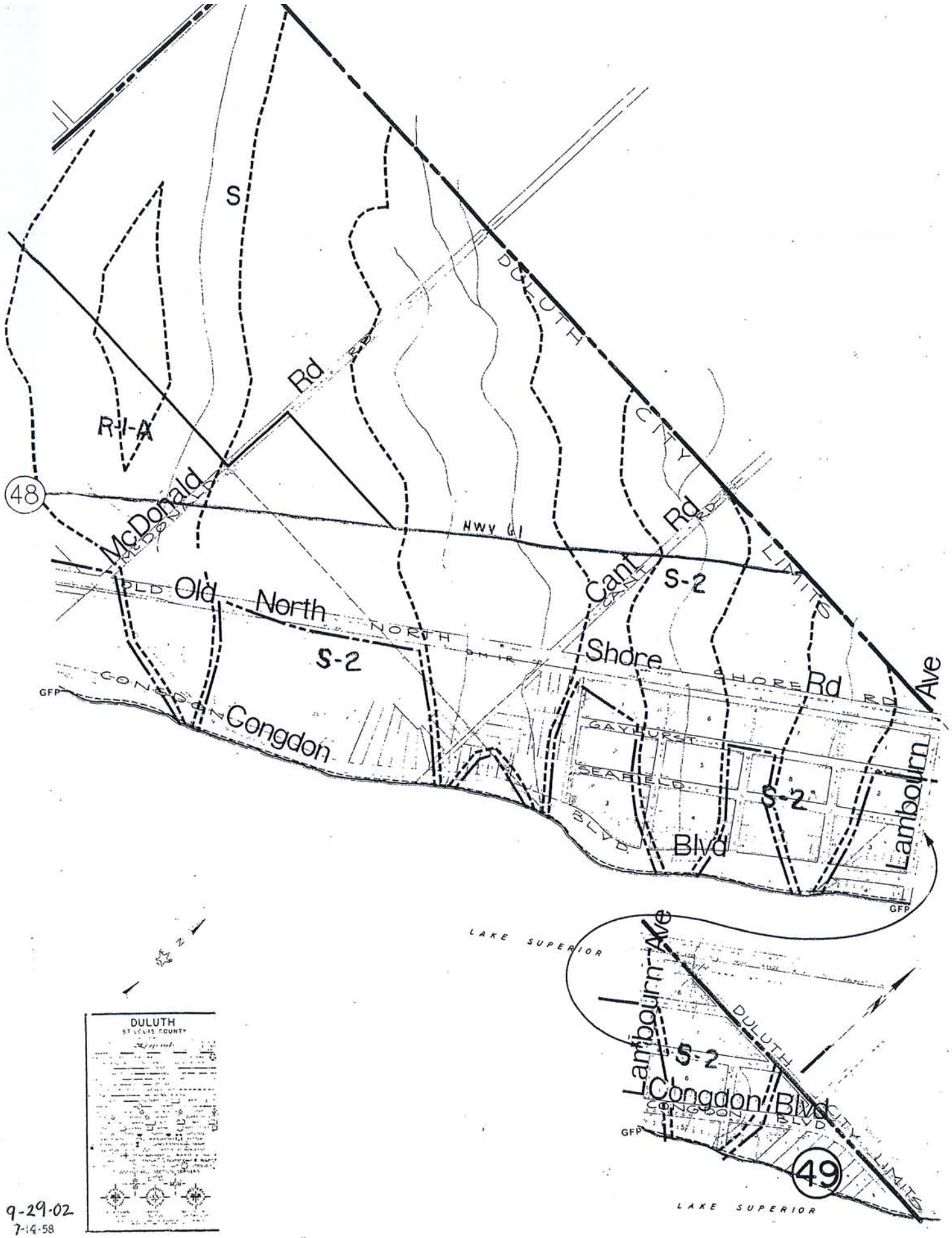
Recreational Development Shorelands

General Development Shorelands



7-14-58

9-29-02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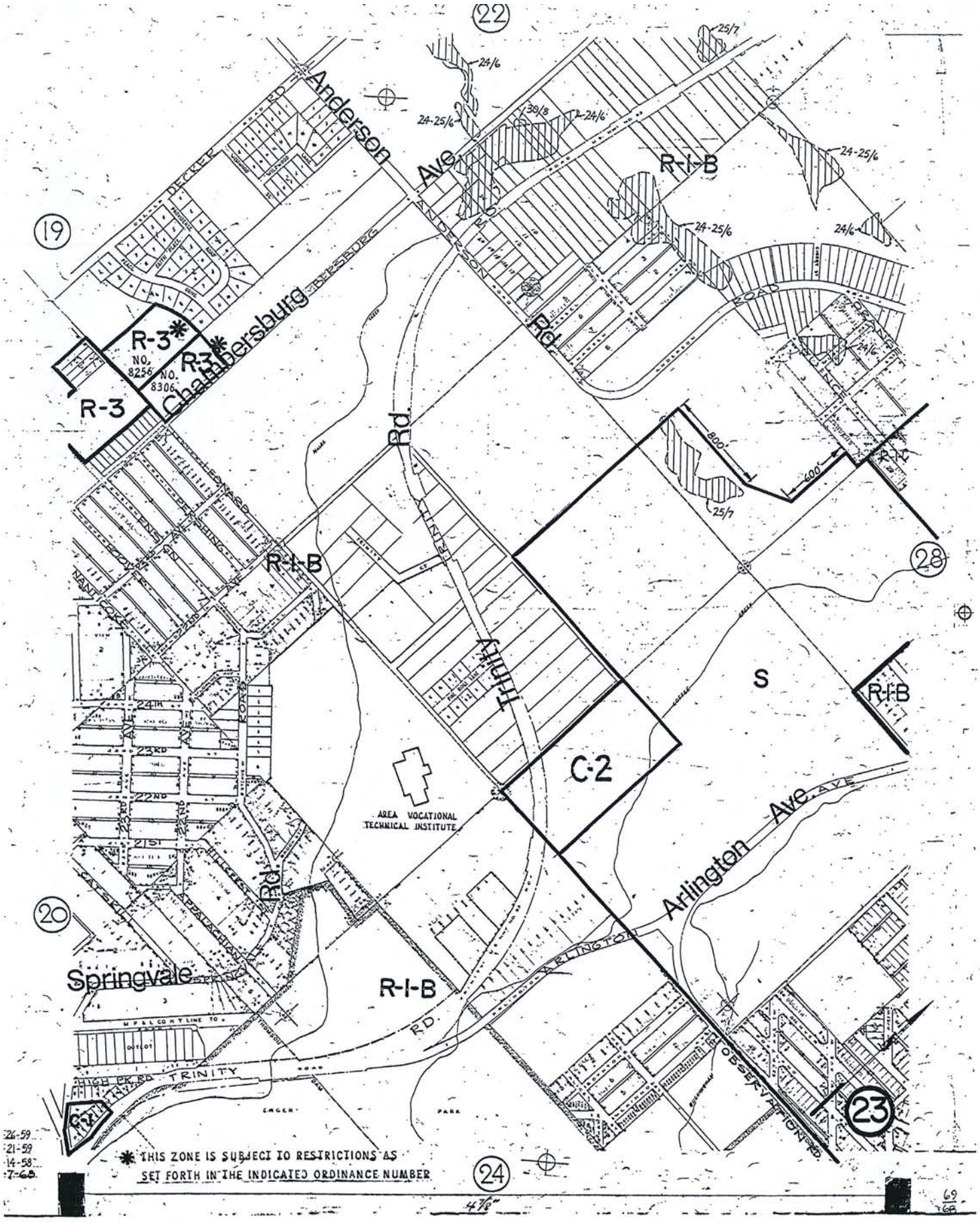

MAP OF KNOWN WETLANDS

As Certified By The Secretary Of The City Planning Commission, Based Upon Technical Data Supplied By Others.

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City Of Duluth Feb.1,1982

Scale 0 200 400 600 800ft

WETLAND DETERMINATION SOURCE

Barr Engineering Study,1979

Source as Noted

28 | 1

Wetland Type Types 2 Through 7 Are Regulated By The City Of Duluth Legislative Code, Chapter 51 (Water Resource Management Ordinance) See Description In The Front Of This Book.

Vegetative Type, If Available, See Description In Front Of This Book.

Note: Zoning Shown On This Map May Be Out Of Date:

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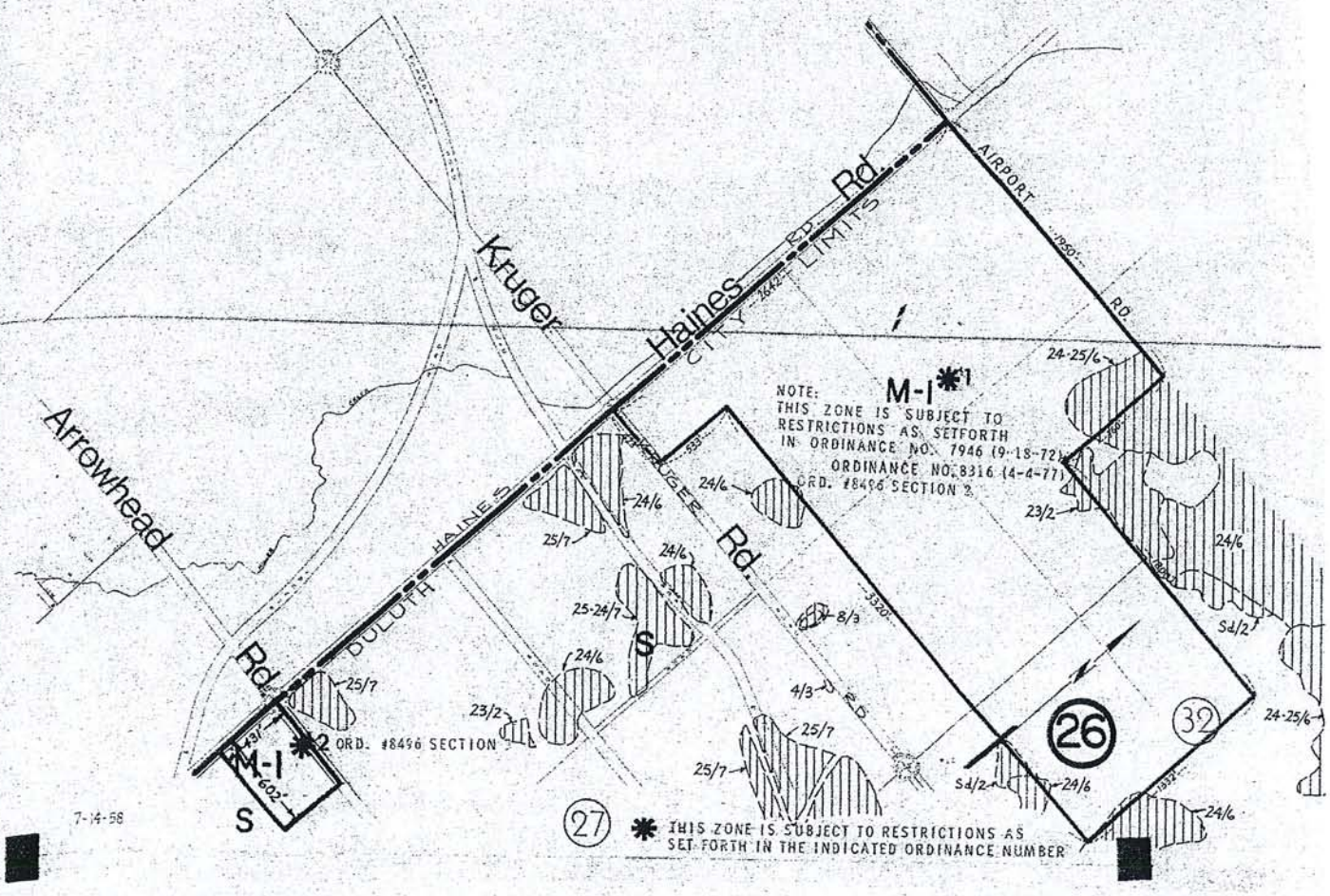

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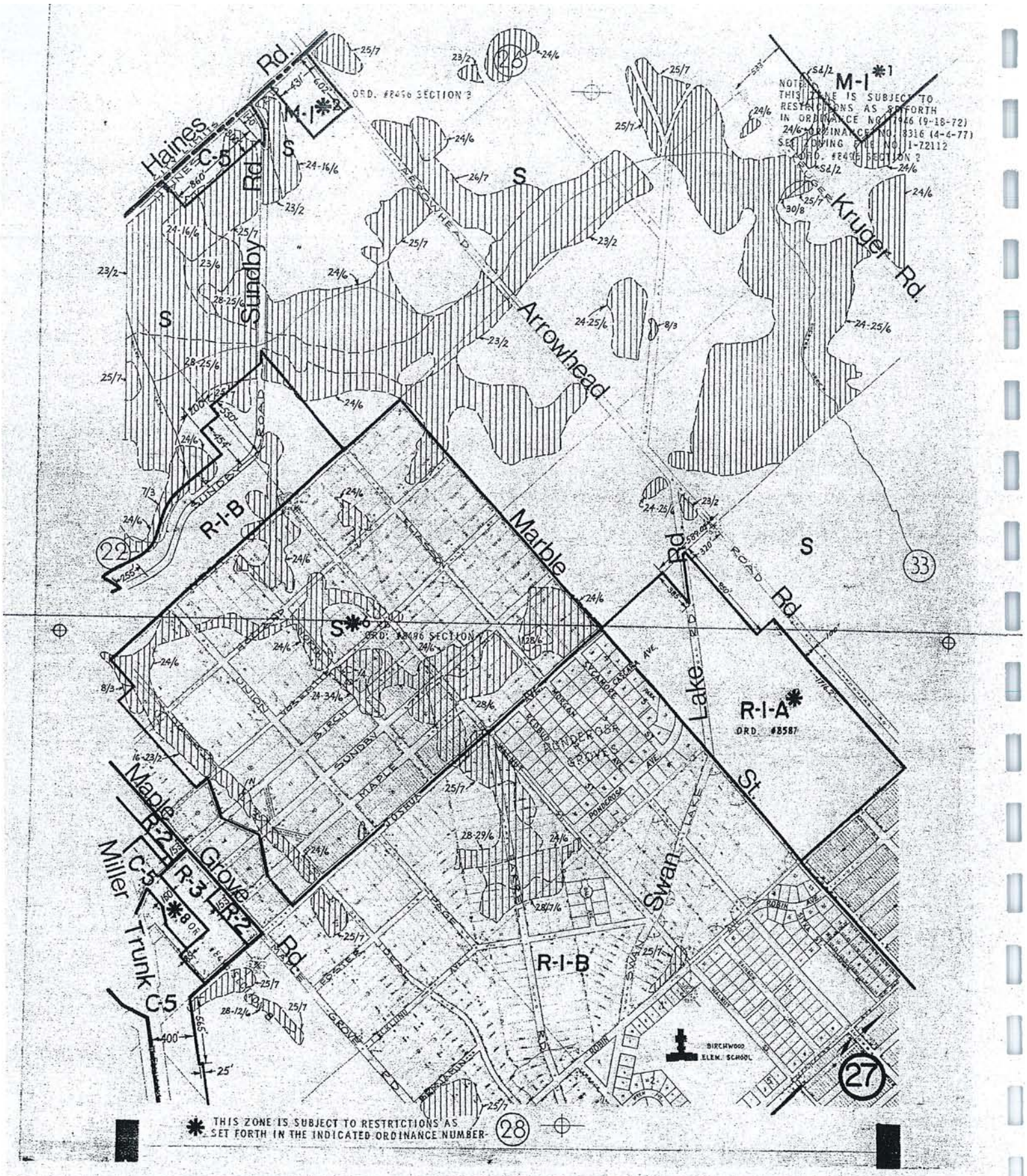

* THIS ZONE IS SUBJECT TO RESTRICTIONS AS SET FORTH IN THE INDICATED ORDINANCE NUMBER-

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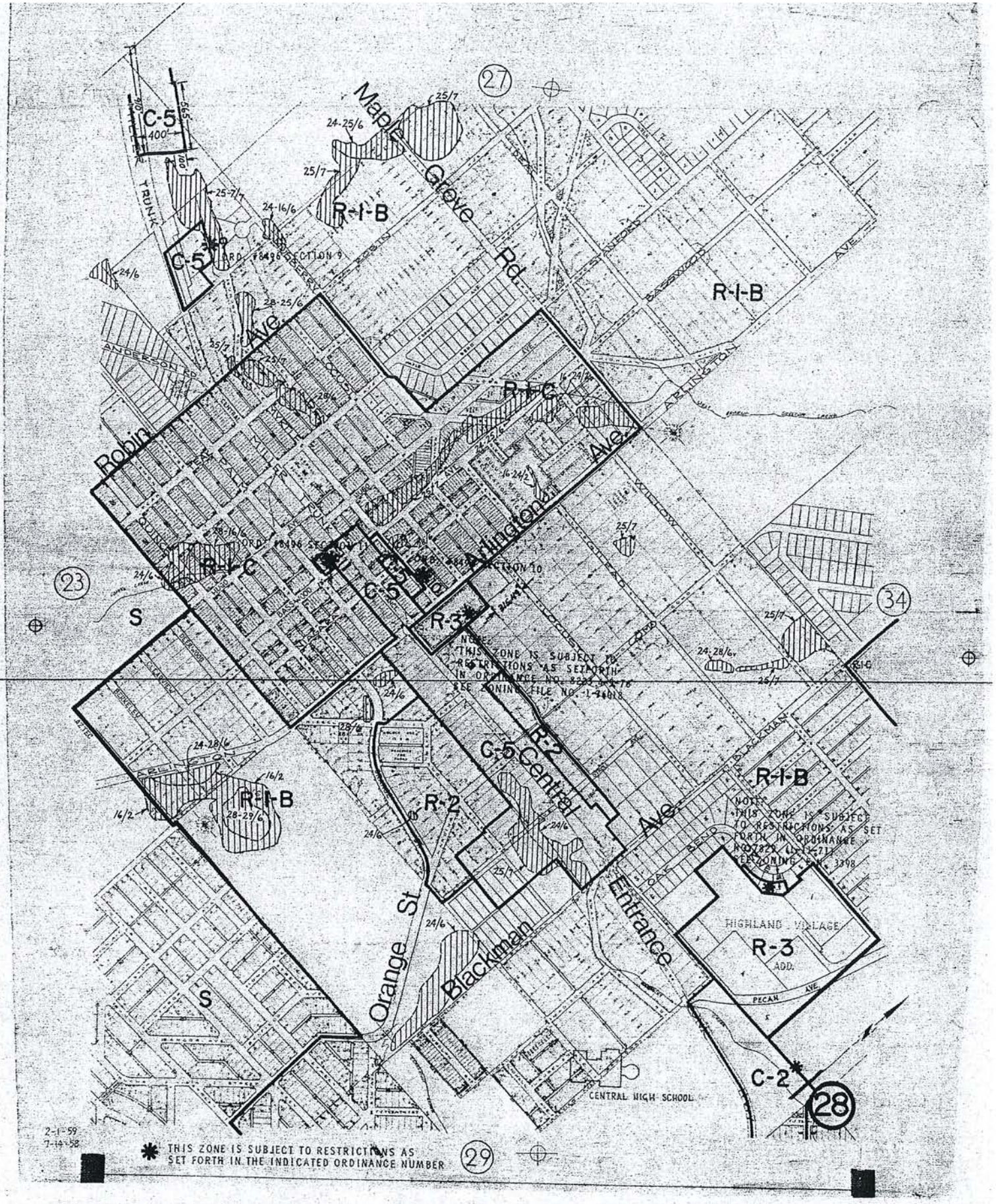

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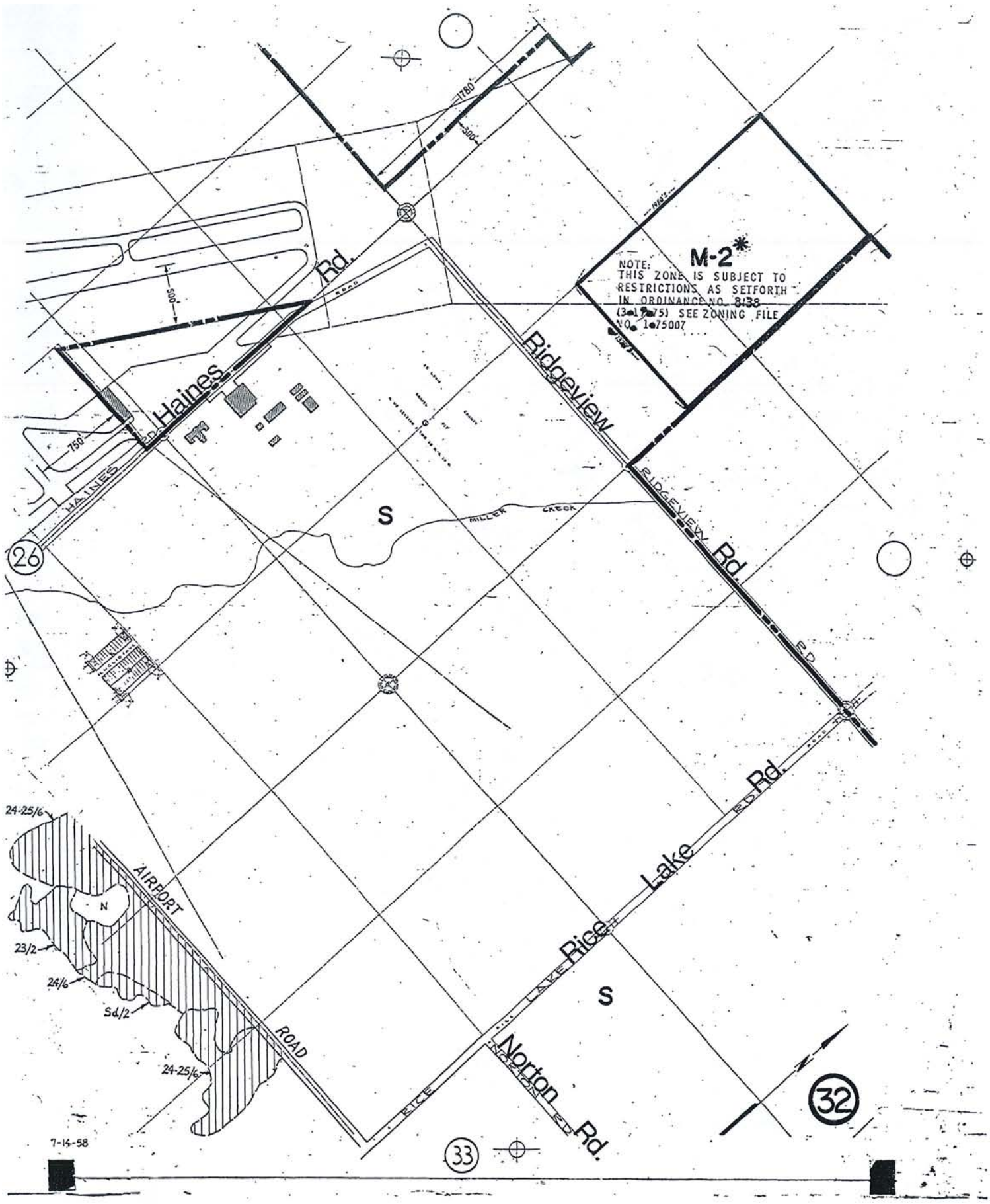

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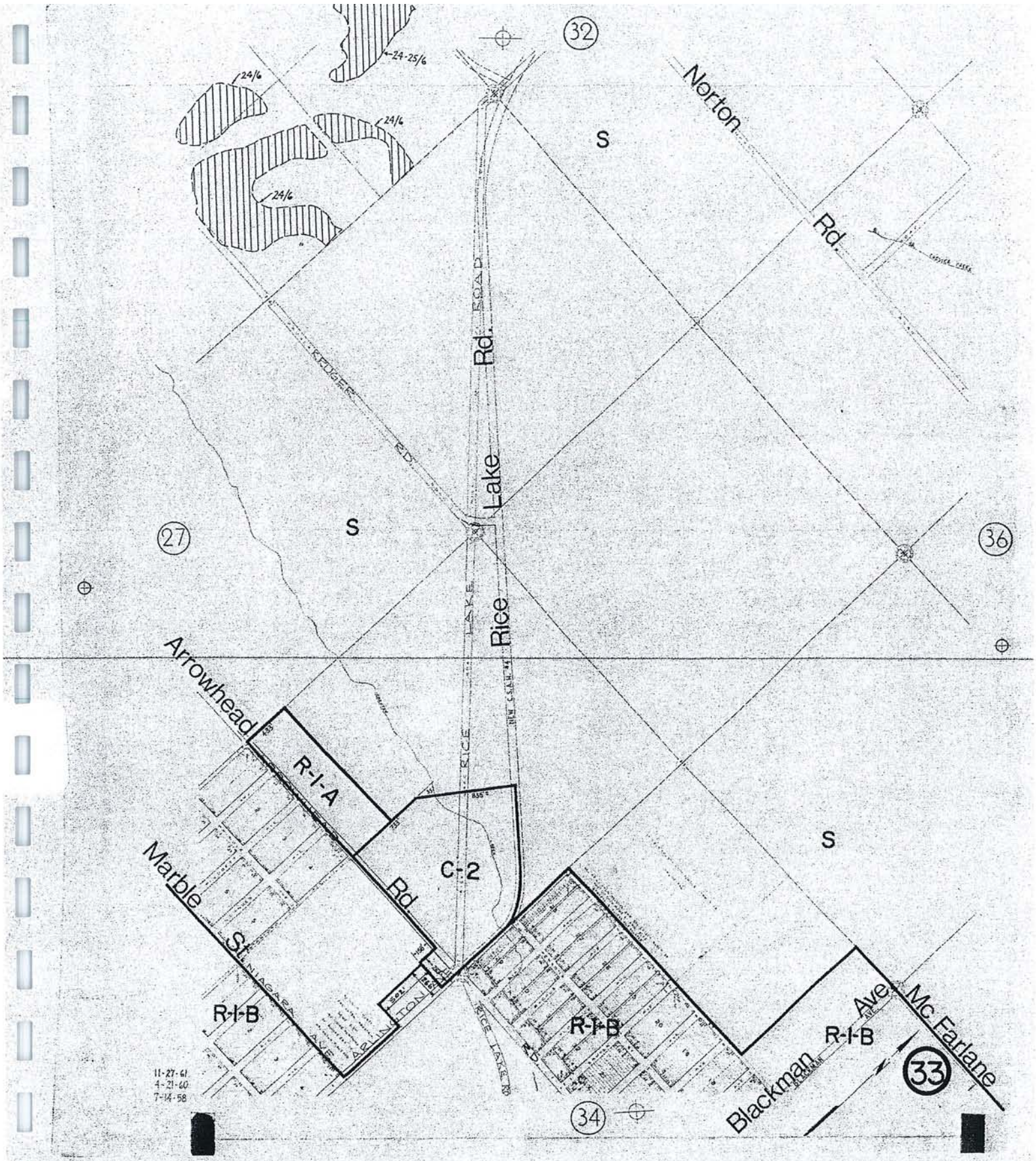

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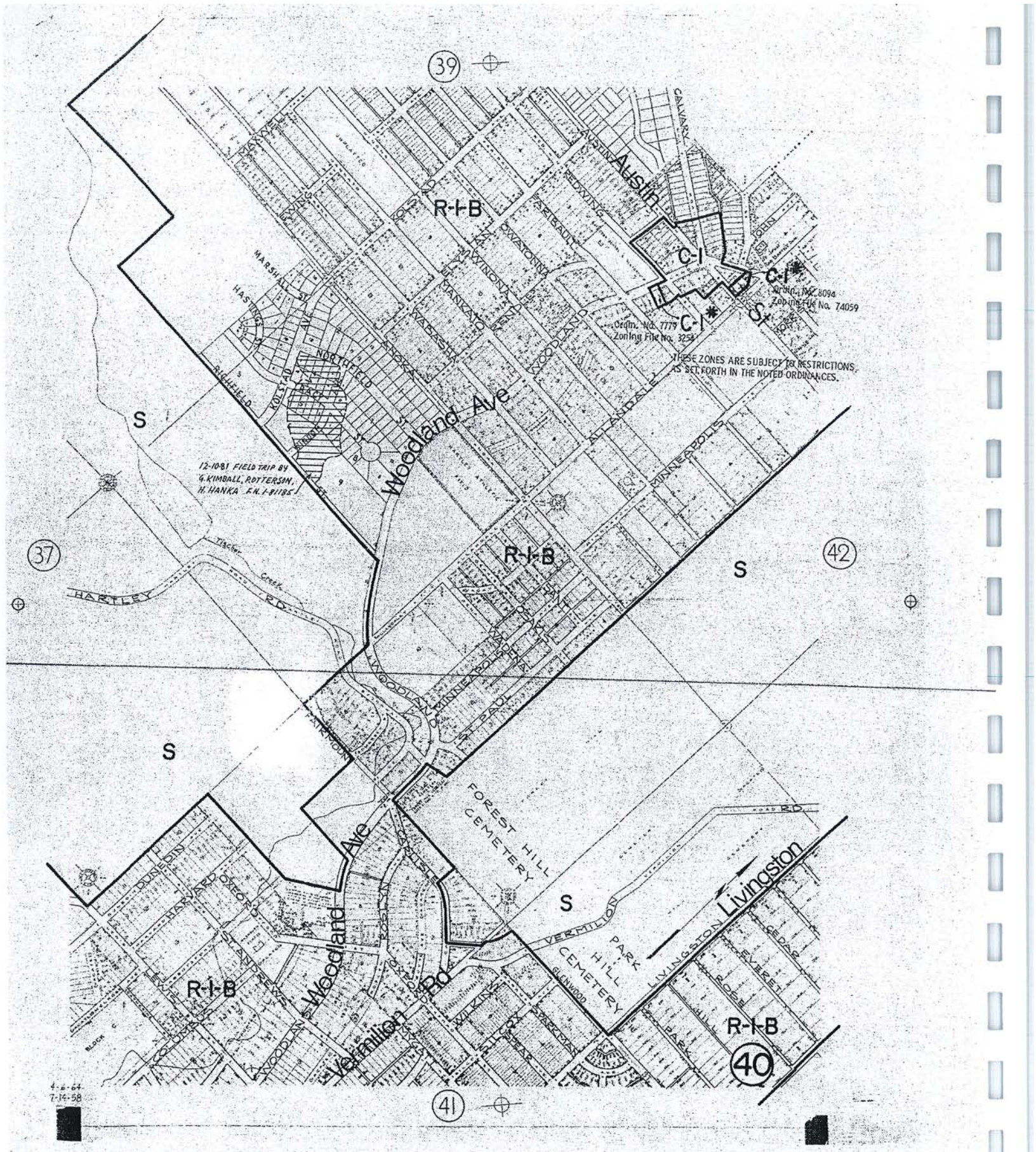

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