



# CITY OF DULUTH PROCEEDINGS OF THE CITY COUNCIL 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 14, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

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## ELECTION OF OFFICERS

Councilor Boyle was elected as president of the Duluth City Council for the year 2013, upon a unanimous vote.

Councilors Krug and Stauber commented as to their reasons for being elected to the office of vice president of the Duluth City Council for the year 2013.

Councilor Krug was elected as vice president of the Duluth City Council upon the following vote:

Yeas: Councilors Boyle, Julsrud, Krug, Larson and President Hartman -- 5

Nays: Councilors Fosle, Gardner, Krause and Stauber -- 4

Outgoing President Hartman made his comments about his past year as president, noting his goals of: allowing for a very transparent council, being fair to all political points of view as much as possible and making the council more efficient. He also reviewed the council accomplishments of the year.

Incoming President Boyle commented on: the successful accomplishments of President Hartman; his goals of the street funding program; continuing the transparency of information and civility between councilors.

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The minutes of council meetings held on August 10 and 27 and September 10 and 24, 2012, were approved upon a unanimous vote.

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### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0114-17 U.S. Army Corps of Engineers communication regarding proposed Aerial Lift Bridge lighting policy (13-0023R). -- Received

13-0014-18 The following communications regarding proposed sign regulations (12-070-O(b)): (a) Holiday Stationstores, by Harold A. Frederick, attorney; (b) Todd Signs. -- Received

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At this time, 7:31 p.m., President Boyle opened the public hearing on the proposed University of Minnesota-Duluth (UMD) resident permit parking zone.

Dick Florey reviewed the history of this issue and requested council approval.

At this time, 7:33 p.m., President Boyle closed the public hearing and returned to the regular order of business.

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### REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reviewed that the city and the police union have agreed to a contract, which will be coming to the city council if it is approved by union's membership.

City Attorney Gunnar Johnson reviewed the details of the decision that the city received from the eighth circuit court of appeals panel on the city's casino litigation appeal.

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### REPORTS FROM OTHER OFFICERS

13-0114-01 Clerk application for exempt permit to the Minnesota gambling control board from Lake of the Woods Chapter of Whittails Unlimited on February 17, 2013 (raffle). -- Received

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### REPORTS OF BOARDS & COMMISSIONS

13-0114-02 Commission on disabilities minutes of November 7, 2012, meeting. -- Received

13-0114-03 Duluth housing and redevelopment authority minutes of November 28, 2012, meeting. -- Received

13-0114-04 Duluth human rights commission minutes of October 10, 2012, meeting. -- Received

13-0114-05 Duluth public utilities commission minutes of November 20, 2012, meeting. -- Received

13-0114-06 Duluth transit authority: (a) Minutes of October 31, 2012, meeting; (b) October 2012 income statement. -- Received

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Bevan Schraw expressed his opposition to the proposed natural gas rate increase, noting the reasons of: on the Comfort System bills there are many line items of additional fees

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that citizens have not voted on; it takes a super majority to overrule their decisions and rates are being continuously raised.

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Loren Martel commented on the Duluth School District, noting: he has put together a very detailed report that addresses the lack of a full story from the school district about their financial status; a former school board superintendent applicant felt that the paying of debt obligations out of the general fund is a serious problem; developing a marketing plan for a proposed operating referendum will be most difficult; a current board member noted that over \$7 million was pulled out of the general fund to pay for the red plan last year and that the red plan is hurting the district's budget.

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### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are authorized to execute a renewal of Agreement 21491 with BMO Harris Bank, N.A., formerly M&I Marshall & Ilsley Bank, with no change in banking services, for an estimated total of \$90,000 in year 2013, payable as follows:

\$23,400	Water Fund 510, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services);
\$35,100	Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services);
\$20,700	Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services);
\$10,800	Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2400 (customer accounts), Object 5310 (contract services).

Resolution 13-0005 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the city acting through the city treasurer, shall make available to the Spirit Mountain recreation area authority (authority) a revolving line of credit not to exceed \$600,000 on a calendar year basis, to be drawn as needed to assist in the management of its cash flow within the annual operating budget as approved by the city council. The revolving line of credit shall be repaid in full (to a zero balance) by December 31st of any given year. Interest at a rate of 2.5 percent per annum shall be charged on drawn funds.

Resolution 13-0024 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with Local 101 International Association of Firefighters, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 13-0114-07, covering the years 2012 through 2014.

Resolution 13-0025 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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WHEREAS, the city council previously approved the following actions concerning its contract with Northland Constructors of Duluth, LLC, for the purchase of hot mix fines in year 2012:

\$521,500.00	File No. 12-0309 - annual	12-0251R
\$176,050.91	File No. 12-0543 - flood projects	12-0466R (increase)
\$150,000.00	File No. 12-0543 - flood projects	12-0537R (increase); and

WHEREAS, the city requires an additional \$132,946 to cover hot mix fines for pothole and permanent patching, community center parking lots and flood repair projects in year 2012.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to execute a third increase of \$132,946 to the 2012 purchase order issued to Northland Constructors of Duluth, LLC, for hot mix fines payable as follows:

\$80,388.05 General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5222 (blacktop);

\$19,178.29 Parks Fund 205, Department/Agency 130 (community resources), Division 1221 (parks maintenance), Object 5225 (landscape materials);

\$33,379.66 Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5222 (blacktop), Project Flood-073.

Resolution 13-0006 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to contract with Como Lube & Supplies, Inc., for the purchase of oil, lubricants, and supplies as needed in year 2013 by the fleet services division for an estimated amount of \$60,000, based on past usage, the vendor's price list, and a favorable comparison with Minnesota State Contract Release L-245(5) pricing as shown in documents on file in the office of the city clerk as Public Document No. 13-0114-08, and payable from the Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5221 (equipment repair supplies).

Resolution 13-0012 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to renew the annual contract with Aramark Uniform Services, Inc., the fourth year of a potential five-year contract, for laundry services and the rental of uniforms and other miscellaneous items in year 2013 for

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various city of Duluth users at various locations for an estimated total of \$81,650, terms net 30, pickup and delivery service, payable from various funds.

Resolution 13-0014 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to contract with MacQueen Equipment, Inc., for the purchase and delivery of OEM (original equipment manufacturer) replacement parts used by the fleet services division for Elgin and Vactor equipment in year 2013 for a total of \$68,000, terms net 30, Minnesota State Contract 16700, Release R646(5), discount of 15 percent off current price list, and payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5221 (equipment repair supplies).

Resolution 13-0015 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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WHEREAS, the Duluth City Council approved an annual contract with Holiday Stationstores for the purchase and delivery of service station fuels in year 2012 with passage of Resolution 12-0079 on February 13, 2012, and the city desires to exercise its option to renew said contract in year 2013.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are authorized to renew the annual contract with Holiday Stationstores, the second year of a potential five-year contract, for the purchase and delivery of service station fuels as needed during year 2013 for an amount not to exceed \$1,200,000, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5212 (motor fuels).

Resolution 13-0016 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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WHEREAS, the Duluth City Council approved an annual contract with Inter-City Oil Company, Inc., for the purchase and delivery of bulk fuels in year 2012 with passage of Resolution 12-0080 on February 13, 2012, and the city desires to exercise its option to renew said contract in year 2013.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to renew the annual contract with Inter-City Oil Company, Inc., the second year of a potential five-year contract, for the purchase and delivery of bulk fuels as needed during year 2013 for an amount not to exceed \$200,000, payable from Fleet Services Fund 660, Department/Agency 015 (administrative services), Object 5212 (motor fuels).

Resolution 13-0017 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Essentia Health Foundation and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

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RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0026 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of street maintenance worker, which were approved by the civil service board on November 13, 2012, and which are filed with the city clerk as Public Document No. 13-0114-09, are approved. Council approval was delayed during wage negotiations with the union. Said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 27. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0031 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of building maintenance person II, which were approved by the civil service board on June 5, 2012, and which are filed with the city clerk as Public Document No. 13-0114-10, are approved. Council approval was delayed during wage negotiations with the union. Said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 28. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0032 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of finance office coordinator, which were approved by the civil service board on December 4, 2012, and which are filed with the city clerk as Public Document No. 13-0114-11, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 133. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0033 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0114-12, with the housing and redevelopment authority of Duluth (HRA), pursuant to which the HRA will administer a CDBG program to assist income-eligible homeowners to repair or replace lateral sewer lines and provide housing rehabilitation; payable from Fund 261

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(housing revolving loan fund), Agency 020 (community development), Object 5434.  
Resolution 13-0029 was unanimously adopted.  
Approved January 14, 2013  
DON NESS, Mayor

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WHEREAS, several local organizations have expressed interest in altering the lighting of the Aerial Lift Bridge to recognize and support charitable causes; and

WHEREAS, while the city recognizes that the bridge is a visible symbol that can help raise the profile of worthy causes, the bridge is foremost a piece of working equipment that is vital to the local shipping industry and the lighting of the bridge is both aesthetic and necessary for the safety of pedestrians, vehicles and vessels.

THEREFORE, BE IT RESOLVED, that the council hereby requests city administration establish a policy for the review and implementation of requests by organizations to alter the lighting of the Aerial Lift Bridge.

FURTHER RESOLVED, that such policy should include the following:

- (a) Requests should be made to the department of public works at least 30 days prior to the proposed date and shall be subject to city council approval;
- (b) Any lighting work and alterations should be done by qualified lighting professionals with limited assistance from city employees;
- (c) Any sponsoring organization and company doing lighting alteration work shall enter into a written agreement accepting city indemnification, insurance and site access requirements.

Resolution 13-0023 was unanimously adopted.  
Approved January 14, 2013  
DON NESS, Mayor

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WHEREAS, the Duluth City Council previously approved Resolution 09-0061 on January 26, 2009, authorizing Contract 20814 with Northern Energetics for energy consulting services and audits; and

WHEREAS, the city desires to continue its relationship with Northern Energetics by extending the contract for three years, beginning January 1, 2013, and ending December 31, 2015.

RESOLVED, that the proper city officials are authorized to execute a three-year extension of Contract 20814 with Northern Energetics, said extension to be substantially in the form of Public Document No. 13-0114-13 on file in the office of the city clerk, to provide energy consulting services and audits for \$50,100 in year 2013, \$51,300 in year 2014, and \$52,500 in year 2015; with \$50,100 in year 2013 to be paid from Home Energy Fund 555, Department/Agency 500 (public works and utilities), Object 5441 (other services and charges).

Resolution 13-0001 was unanimously adopted.  
Approved January 14, 2013  
DON NESS, Mayor

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THE CITY COUNCIL FINDS:

- 1) That the city of Duluth is under consent decree orders to eliminate sanitary sewer overflows; and

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2) Flow from sanitary sewer basins no. 23, 19 and 18 contributes to one of the overflow points that the city is mandated to eliminate; and

3) The estimated cost to rehabilitate sanitary sewers in basins 23, 19 and a portion of 18 by CIPP lining is estimated to be \$4,100,000, and the public facilities authority (PFA) may have loan and grant monies available to finance the project costs; and

4) To receive this money, the city must submit required information to enter into a loan/grant agreement with the Minnesota public facilities authority.

RESOLVED, that the proper city officials are hereby authorized to submit an application to enter into a loan/grant agreement with the Minnesota public facilities authority for funding to rehabilitate sanitary sewers in basins 23, 19 and a portion of 18 as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for its design life.

FURTHER RESOLVED, that the city of Duluth estimates the loan/grant amount to be \$4,100,000 or the as-bid costs of the project, payable from Clean Water Fund 532, Department 500 (public works and utilities), Object 5532 (capital improvements - bond), City Project No. 1072.

FURTHER RESOLVED, that the city hereby expresses its official intent to use the proceeds of this loan to reimburse engineering and construction expenditures made prior to the issuance of its general obligation bond to the public facilities authority.

Resolution 13-0007 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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### THE CITY COUNCIL FINDS:

1) That Emergency Purchase Order 2012-00532 was issued to Billman Construction, Inc., for Coleman Street flood repairs in the amount of \$31,509.50;

2) That the project was amended to include debris removal for an additional \$10,826.20 for a new total of \$42,335.70;

3) That a second amendment to incorporate additional work in the amount of \$15,556.45, for a new total of \$57,892.15, is necessary;

4) That the new total reflects an increase of greater than 25 percent and a total beyond the \$50,000 threshold, necessitating council approval.

RESOLVED, that Billman Construction, Inc., be and hereby is awarded an amended contract for Coleman Street flood repairs in the amount of \$57,892.15, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1157.

Resolution 13-0008 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that Resolution 12-0479 awarding a contract to Billman Construction, Inc., for construction of ditching and storm sewer improvements to Gogebic Street and Lanigan Boulevard be amended to increase the amounts as follows:

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Increase attributable to storm sewer construction is \$39,898.78, payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street maintenance), for a new total of \$99,897.78.

Resolution 13-0009 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to renew the annual contract with InfoSend, Inc., the second year of a potential four-year contract, for mailing services (\$48,000) and postage (\$141,000) during year 2013 in the amount of \$189,000, payable as follows:

	Dept./Agency (Public Works & Utilities)	Div./Cost Ctr. (Customer Services/ Customer Accounts)	Object (Contract Services)	
<b>Mailing Services - \$48,000</b>				
\$12,480	510 Water	500	1940-2400	5310
\$18,720	520 Gas	500	1940-2400	5310
\$11,040	530 Sewer	500	1940-2400	5310
\$5,760	535 Stormwater	500	1940-2400	5310
<b>Postage - \$141,000</b>				
\$36,660	510 Water	500	1940-2400	5322
\$54,990	520 Gas	500	1940-2400	5322
\$32,430	530 Sewer	500	1940-2400	5322
\$16,920	535 Stormwater	500	1940-2400	5322

Resolution 13-0013 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that Contract C20859 with MSA Professional Services, Inc. for professional services for design and construction services for east interceptor sanitary sewer overflow storage facility phases I, II and III be and hereby is amended for additional construction services associated with water, sewer and gas reroutes in Michigan Street, geotechnical testing, rock removal and vibration monitoring, property exhibits for Endion Depot, concrete beam design, and architectural modifications for the Sister Cities Park. The estimated amount of increase is \$39,206.55, for a new total of \$2,230,988.78, payable from Clean Water Fund 532, Division 500 (public works and utilities), Object 5532 (capital improvements - bond), city project numbers 0802SN, 0519SN and 0819SN.

Resolution 13-0019 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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THE CITY COUNCIL FINDS:

- 1) That under the provisions contained in Minnesota Laws 2012, First Special Session, Chapter 1, Article 1, Section 6, the 2012 legislature appropriated the funds for Northeast Minnesota 2012 flood relief; and

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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2) To receive this money, the city must submit required information and enter into a grant agreement with the Minnesota public facilities authority.

RESOLVED, that the proper city officials are hereby authorized to enter into a grant agreement with the Minnesota public facilities authority for an estimated grant of \$299,050 for the funding of Lift Station No. 39 improvements.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for its design life.

FURTHER RESOLVED, that the working fund for this project will be Disaster Recovery Fund 225, Department 125 (finance), Division 1806 (utilities), Object 5401 (building/structure repair and maintenance), City Project No. 1167, Flood Site No. 429.

Resolution 13-0022 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with Kovatch Mobile Equipment Corporation for the tax-exempt purchase and delivery of a fire truck with aerial apparatus (quint) in accordance with city-approved specifications and the option to buy a second one, and the vendor's bid of \$907,944, payable as follows:

(a) \$462,056 - Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project No. CE250-V1201;

(b) \$445,888 - Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2013 (fiscal year), Object 5580 (capital equipment), Project No. CE2501-V1301.

Resolution 13-0011 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zones are established:

in front of 2206 West Fourth Street;

in front of 1312 East Fourth Street;

in front of 1918 Jefferson Street.

Resolution 13-0018 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with St. Louis County, by and through its sheriff's office, to share the cost of providing a public safety grant coordinator, said agreement to be substantially in the form of Public Document No. 13-0114-14 on file in the office of the city clerk, reimbursement funds payable from Fund No. 110-160-1610-4260 (general, police, administration and investigation - St. Louis County).

Resolution 13-0020 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 13-0028, a joint resolution of township of Midway and city of Duluth designating township in need of annexation and approving an orderly annexation agreement, was introduced by Councilor Gardner for discussion.

Councilor Gardner moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Jake Benson, Proctor city councilor, felt that: the city of Duluth should take a step back and consider a mediated resolution, or at least discuss this issue; Duluth could have the various properties that the city owns in Midway and Proctor and the city of Proctor is concerned about Duluth City Council knowledge about Proctor. He continued at length to talk about the history of Duluth, Proctor and Midway working together.

Mr. Johnson reviewed how this action was the result of Midway Township coming to the city of Duluth requesting this and the process that would happen if this resolution passes.

Councilors commented at length about: the processes that are stated in this agreement; the three long term stages of implementation and what the intent of Proctor is.

Councilor Fosle expressed the concern that Duluth does not have the financial resources to take care of itself right now as it is, with streets, police and fire resources.

Resolution 13-0028 was adopted as follows:

RESOLVED, that pursuant to the provisions of Minnesota Statutes Section 414.0325, the board of supervisors of the township of Midway (the "Township") and the city council of the city of Duluth hereby designate the township of Midway, as the same is described in the Orderly Annexation Agreement between said Township and said city, a copy of which is on file in the office of the City Clerk as Public Document No. 13-0114-15, to be in need of orderly annexation; and

RESOLVED, that the proper Township and the proper city officials are hereby authorized to enter into the said Orderly Annexation Agreement governing the conditions for and the timing of the annexation of property in the township by the city and governing other issues pertaining to property in the township during the interim; and

RESOLVED, that the Township clerk and the city clerk are hereby requested and directed to send copies of this resolution and of the executed Orderly Annexation Agreement to the chief administrative judge of the Minnesota state office of administrative hearings as provided for in Minnesota Statutes Chapter 414; and

RESOLVED, that this resolution shall go into effect only after its approval by both the Township and the city council of the city of Duluth.

Resolution 13-0028 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved January 14, 2013

DON NESS, Mayor

- - -

Resolution 13-0037, approving city membership in the Coalition of Greater Minnesota Cities for 2013 in the amount of \$42,370, was introduced by Councilor Gardner for discussion.

Councilor Gardner moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and carried unanimously.

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Bruce Ahlgren, mayor of Cloquet and president of the coalition, encouraged support for the resolution for the reasons of: Duluth, like many other cities, is highly dependent upon local government aid (LGA); without this coalition, there might not be LGA; non-metro cities from all across the state are members of the coalition and this is a bipartisan entity.

Councilors Fosle and Stauber expressed their concerns of: the city already has a lobbyist who works in the city's behalf; that one governmental entity needs to lobby another governmental entity, when we have elected representatives to be sure we are heard; this expenditure is for a second city lobbyist; this expenditure is not specifically listed in the budget; our roads need attention and today the city received bad news on the casino litigation.

Councilors supporting the resolution noted: other large outstate cities participate and Duluth should; this is a wise expenditure; LGA is 37 percent of the budget and is critical to the city; this group brings the impact from a large number of cities; this entity also addresses other important issues that affect the greater Minnesota cities and this entity has the technical knowledge on LGA that is needed.

Resolution 13-0037 was adopted as follows:

WHEREAS, the Coalition of Greater Minnesota Cities (CGMC) unites greater Minnesota cities with similar concerns and provides tools to give cities an effective voice at the state capitol; and

WHEREAS, there are several policy and funding issues being addressed in the coming legislative session that have direct implications for the city of Duluth, including changes in the local government aid formula and general tax reform; and

WHEREAS, the CGMC provides needed tools for the city to effectively participate in the coming legislative debate including, policy research and positions, fiscal analysis and lobbying services.

THEREFORE, BE IT RESOLVED, that the city council hereby approves city membership in the Coalition of Greater Minnesota Cities for 2013 and authorizes payment of the membership fee in the amount of \$42,370, funds to be paid from Fund 110-700-1401-5433 (general, transfers and other functions, citywide dues and lobbying).

Resolution 13-0037 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved January 14, 2013

DON NESS, Mayor

- - -

Resolution 13-0002, awarding a contract to Hawkins, Inc., for the purchase and delivery of 110 tons of hydrofluorosilicic acid in year 2013 for \$70,537.50, was introduced by Councilor Julsrud for discussion.

Councilor Fosle expressed concerns regarding the safety sheets provided since they show that if there is a spill it could be hazardous and there are other, safer ways to treat water.

Resolution 13-0002 was adopted as follows:

RESOLVED, that city officials are hereby authorized to contract with Hawkins, Inc., for the purchase and delivery of 110 tons of hydrofluorisilicic acid in year 2013 in accordance with specifications and the vendor's low bid of \$600.00 per ton, for a total of \$66,000 plus 6.875 percent sales tax of \$4,537.50, for a combined total of \$70,537.50, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1955 (water treatment and pumping), Object 5216-03 (chemicals

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hydrofluorosilicic acid).

Resolution 13-0002 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved January 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to contract with Thunder Bay Chemicals, Ltd., for the purchase and delivery of 125,000 gallons of liquid aluminum sulfate in year 2013 in accordance with specifications and the vendor's low bid of \$1.2376 per gallon, for a total of \$154,700 plus 6.875 percent sales tax of \$10,635.63 for a combined total amount of \$165,335.63, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1955 (water treatment and pumping), Object 5216-04 (chemicals liquid aluminum sulfate).

Resolution 13-0003 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved January 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with K.A. Steel Chemicals, Inc., for the purchase and delivery of 85,000 gallons of caustic soda in year 2013 in accordance with specifications and the vendor's low bid of \$1.98 per gallon, for a total of \$168,300 plus 6.875 percent sales tax of \$11,570.63 for a combined total amount of \$179,870.63, terms net 30, FOB destination, payable from the Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1955 (water treatment and pumping), Object 5216-05 (chemicals - liquid caustic soda).

Resolution 13-0004 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved January 14, 2013

DON NESS, Mayor

- - -

WHEREAS, Resolution 89-0885, adopted by the city council on October 30, 1989, designated portions of certain streets in the vicinity of the University of Minnesota-Duluth as a resident permit parking zone pursuant to Section 33-125 of the Duluth City Code, 1959, as amended; and

WHEREAS, the residents of East Clover Street between East Eighth Street and East Seventh Street submitted a petition requesting to be included in this zone; and

WHEREAS, a public hearing was held on January 14, 2013, and after review of this matter, the city council has determined that the addition of such street to the resident permit parking zone is appropriate.

THEREFORE, BE IT RESOLVED, that Resolution 89-0885 is hereby amended by designating the parking areas on both sides of East Clover Street between East Eighth Street

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

and East Seventh Street as resident permit parking, as manifested by the map on file in the office of the city clerk as Public Document No. 13-0114-16.

Resolution 13-0027 was unanimously adopted.

Approved January 14, 2013

DON NESS, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**ORDINANCE TABLED**

INTRODUCED BY COUNCILOR STAUBER

12-070(b) - AN ORDINANCE CREATING SECTIONS 50-27, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS, NONCONFORMING SIGNS AND DEFINITIONS.

Councilor Stauber moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to suspend the rules to hear form a speaker on the ordinance which motion was seconded and unanimously carried.

Todd Johnson, Todd Signs, expressed concerns: that there have been changes, almost weekly; that the consultants the city hired give a “dog and pony show,” without getting input and that the definitions contradict what is in the ordinance.

Councilor Krause moved to amend Table 50-27-1: *Exempt Permanent Sign Regulations*, of the ordinance to add a “Day Care Facility” exemption as follows:

<b>TABLE 50-27-1: EXEMPT PERMANENT SIGN REGULATIONS</b>						
<b>SIGN</b>	<b>PERMITTED DISTRICT OR USE</b>	<b>PERMITTED SIGN TYPE</b>	<b>MAXIMUM SIZE</b>	<b>MAXIMUM HEIGHT (FREE-STANDING SIGNS)</b>	<b>REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)</b>	<b>NUMBER PER LOT</b>
Day Care Facility	Residential Zone Districts	Freestanding or wall	6 sf	7'	5' from any lot line	1 per lot

which motion was seconded, discussed and carried as follows:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Councilor Stauber moved to retable the ordinance, as amended, which motion was seconded and carried as follows:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRAUSE

13-001 - AN ORDINANCE AMENDING THE CHARITABLE GAMBLING REQUIREMENTS AT ESTABLISHMENTS LICENSED FOR ALCOHOL SALES.

- - -

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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INTRODUCED BY COUNCILOR STAUBER

13-002 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN CANAL PARK TO OLD CITY HALL, LLC FOR \$300,000.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-003 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON PARK POINT TO ROBERT A. AND LAURA A. GOEWY FOR \$235,000.

- - -

The meeting was adjourned at 9:05 p.m.

JEFFREY J. COX, City Clerk

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, January 28, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Absent: Councilor Krause -- 1

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0128-02 Holiday Stationstores, by Harold A. Frederick, attorney, communication regarding proposed sign regulations (12-070-O(b)). -- Received

- - -

## REPORTS FROM OTHER OFFICERS

13-0128-03 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Essentia Health Foundation on April 12, 2013; (b) Minnesota Quilters, Inc., on June 15, 2013. -- Received

- - -

## REPORTS OF BOARDS AND COMMISSIONS

13-0128-04 Duluth public utilities commission minutes of December 18, 2012, meeting. -- Received

13-0128-05 Entertainment and convention center authority minutes of: (a) June 26; (b) July 31; (c) August 28; (d) September 25; (e) October 30; (f) November 20, 2012, meetings. -- Received

- - -

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Bob Sherman, member of the Duluth Rotary, and TJ Lind, representing the Minnesota and Proctor DECA (Delta Epsilon Chi and Distributive Education Clubs of America) informed the city council about an event being held at the University of Minnesota-Duluth (UMD) on February 9. Mr. Lind noted that the event is a joint effort between UMD and the Proctor DECA to raise funds for clean water in Ethiopia. They noted that their project is called "Make Your Mark" and they will be trying to break the Guinness world record of having 9,000 individuals make snow angles.

- - -

Sister Edith Bogue highlighted in detail the service additions to the library due to the referendum passed by Duluth voters.

- - -

Loren Martell felt that school board member Art Johnston is the only one bringing out the true facts about the red plan.

- - -

Dan D'Allaird noted the good works that have happened due to the passage of the parks referendum, which also allowed money to go to libraries to restore their full hours and function. He reviewed the services and improvements to many of the city parks.

- - -

Shawna MullenEardley stressed the unintended consequences of plastic bags and noted the upcoming showing of the film "Bag It" at Teatro Zuccone.

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

Councilor Hartman moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to enter into a potential five-year agreement with Essentia Health, said agreement to be substantially in the form of Public Document No. 13-0128-06 on file in the office of the city clerk, to administer a variety of confidential occupational medical tests and services related to city employment for an annual amount not to exceed \$52,000 in each contract year of 2013, 2014, 2015, 2016 and 2017, a total contract amount not to exceed \$260,000; with \$52,000 for year 2013 to be paid from General Fund 110, Department/Agency 700 (transfers and other functions), Division 1431 (benefits administration/citywide human resources), Object 5310 (contract services).

Resolution 13-0021 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to renew the third and final year of a three-year contract with Duluth Ready Mix, Inc., for the purchase and delivery of Class 5 gravel, 3/4-inch crushed washed rock, rip rap, and bedding sand for public works and utilities in year 2013 for \$142,000 plus \$9,762.50 sales tax for a total estimated amount of \$151,762.50, terms net 30, FOB destination, payable as follows:

- |             |  |
|-------------|--|
| \$65,455.59 | Water Fund 510, Department/Agency 500 (public works and utilities), Division 1945 (utility operations), Object 5224 (gravel and other maintenance materials);      |
| \$14,759.44 | Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1945 (utility operations), Object 5224 (gravel and other maintenance materials);        |
| \$45,026.44 | Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1945 (utility operations), Object 5224 (gravel and other maintenance materials); and  |
| \$26,521.03 | Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1945 (utility operations), Object 5224 (gravel and other maintenance materials). |

Resolution 13-0041 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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RESOLVED, that the proper city officials are authorized to contract with Pomp's Tire Service, Inc., for the purchase and delivery of vehicle and equipment tires and repair services as requested by the city's fleet services division in year 2013 in accordance with Minnesota State Contract 43185, Release T-740 (5) specifications and pricing for an estimated total amount of \$58,000, payable as follows:

(a) \$52,000, from Fleet Services Fund 660, Department/Agency 015 (public administration), Object 5221 (equipment repair supplies);

(b) \$6,000, from Fleet Services Fund 660, Department/Agency 015 (public administration), Object 5404 (equipment/machinery repair and maintenance).

Resolution 13-0045 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council approves of the Minnesota gambling control board issuing a premise permit to the following organization.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Licensee	Gambling site
Duluth Softball Players Association	Alpine Bar, 1308 Commonwealth Avenue

Resolution 13-0053 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Holy Family Catholic Church and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0054 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute documents necessary to extend the third addendum to the administrative services agreement with RTW, Inc., said addendum which is on file in the office of the city clerk as Public Document No. 12-0130-05, for third-party administration of the city's self-funded workers' compensation program for one additional year, effective February 1, 2013, through February 1, 2014, and authorizing payment to RTW, Inc., in an amount not to exceed \$53,300 for said year; payable from Fund 605, Agency 036, Organization 1651, Object 5441 (self-insurance-workers' compensation, insurance accounts, insurance – general city).

Resolution 13-0059 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proposed amendments to the specifications for the civil service classification of utility radio dispatcher, including a title change to utility services dispatcher, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0128-07, are approved. This classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 26. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0030 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of administrative information specialist, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0128-08, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 129.

Resolution 13-0034 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of information technician, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0128-09, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 126.

Resolution 13-0035 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of clerical support technician, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0128-10, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 121.

Resolution 13-0036 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council objects to the sale of the following tax forfeited parcel by the board of county commissioners of Saint Louis County. The land use supervisor is authorized to submit the necessary paperwork to request that the parcel be retained through free conveyance for an authorized public use as identified below:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

Parcel ID	Location	Reason
010-0280-00940	Adjacent to East Superior Street	State Statute 282.01, Subd. 1a.(e)  Public service facilities such as fire halls, police stations, lift stations, water towers, sanitation facilities, water treatment facilities, and administrative offices

Resolution 13-0050 was unanimously adopted.  
 Approved January 28, 2013  
 DON NESS, Mayor

- - -

WHEREAS, the Duluth City Council approved a three-year contract with Venture Fuels for the purchase and delivery of coal to the Duluth steam plant with passage of Resolution 10-0495 on September 27, 2010; and

WHEREAS, the city has since issued payments to Venture Fuels in the amount of \$2,672,664.94 from November 2010 through October 2011, and \$2,584,362.53 from November 2011 through October 2012; and

WHEREAS, the city now requires an increase to fully cover the November 2012 through October 2013 season due to price adjustments as provided in Contract C21251 and increased fuel consumption.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to implement an increase of \$250,000 to Contract C21251 with Venture Fuels for the purchase and delivery of coal, for a new estimated contract total of \$7,890,640; said increase of \$250,000 to be paid from Steam Fund 540, Department/Agency 920 (steam department), Organization 1490 (steam production), Object 5387 (coal).

Resolution 13-0040 was unanimously adopted.  
 Approved January 28, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the construction of a sanitary sewer in Lawn Street beginning at North Boundary Avenue and extending 250 feet easterly, and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board, together with a recommendation as to what portion of the cost should be paid by special assessment, the number of installments in which assessments may be paid, and the properties which should include the special assessment:

- 9221 Lawn Street
- 9229 Lawn Street
- 9231 Lawn Street

Resolution 13-0042 was unanimously adopted.  
 Approved January 28, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the following portions of the streets named below to be improved as part of the city's 2013 street preservation project, and hereby requests that the mayor

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board, together with a recommendation as to what portion of the costs should be paid by special assessment and what portion of the costs should be a general obligation of the city, the number of installments in which assessments may be paid, and the lands which should be included in the special assessment:

Carver Avenue from St. Marie Street to Arrowhead Road;

Skyline Parkway/West Seventh Street from Observation Road to Mesaba Avenue.

Resolution 13-0047 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into a lease agreement, a copy of which is on file in the office of the city clerk as Public Document No. 13-0128-11, with the Northwoods League, Inc., for use of Wade Stadium by said league for professional baseball through 2015, the payments provided will be deposited in the Special Leagues Fund 210-030-3190-4625-04 (special projects, finance, special league, rent of athletic fields baseball field).

Resolution 13-0048 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0060, approving budget and cost sharing formula of Minneapolis-Duluth/Superior passenger rail alliance and authorizing payment of city's cost share of \$12,500, was introduced by Councilor Hartman.

Councilor Hartman moved that the resolution be removed from the agenda to be added at a future meeting, which motion was seconded and unanimously carried.

- - -

Resolution 13-0061, by Councilor Hartman, requesting city administration provide information comparing city operations to the operations of Bloomington, Rochester, St. Cloud, Minneapolis and St. Paul, was introduced for discussion.

Councilor Fosle expressed concerns that this information can already be secured through the Internet by councilors and opposed this resolution.

Resolution 13-0061 was adopted as follows:

BY COUNCILOR HARTMAN:

WHEREAS, the city council approves the budget of the city of Duluth; and

WHEREAS, the council has the duty and responsibility to make a well informed decision when approving proposed city budgets; and

WHEREAS, comparing operational statistics from similar Minnesota communities would be useful for budgetary discussions and considerations; and

WHEREAS, the council seeks to compare city department staffing levels and verify that taxpayers are receiving an adequately staffed and efficient government.

THEREFORE, BE IT RESOLVED, that the city council hereby requests that city administration provide the council with operational comparison statistics for the Minnesota

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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cities of Bloomington, Rochester, St. Cloud, Minneapolis, and St. Paul to include the following data (in real data and in per capita terms based on the size of each city's population):

- (a) General fund expense and revenue comparisons;
- (b) Staffing levels and overall expense for departments such as police, fire, legal, parks, etc.;
- (c) Overall system of taxation and tax base comparisons;
- (d) Mean income of population;
- (e) Number of square miles contained in each municipality.

FURTHER RESOLVED, that the council requests that the data be provided by July of 2013.

Resolution 13-0061 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilor Fosle -- 1

Absent: Councilor Krause -- 1

Approved January 28, 2013

DON NESS, Mayor

- - -

Resolution 13-0039, authorizing a contract with Ziegler, Inc., for the purchase and delivery of a Caterpillar 930H articulating wheel loader in the amount of \$101,501.75, was introduced by Councilor Krug.

Councilor Fosle reviewed the mileage, hours and maintenance costs on the equipment being replaced and felt that it does not need to be replaced at this time.

Resolution 13-0039 was adopted as follows:

RESOLVED, that the proper city officials are authorized to contract with Ziegler, Inc., for the purchase and delivery of a 930H articulating wheel loader for public works and utilities in accordance with Minnesota State Contract 538885, Release L-331(5) specifications and pricing in the amount of \$91,080 plus \$6,261.75 sales plus \$4,160 tax-exempt extended warranty, for a combined total of \$101,501.75, terms net 30, FOB destination, payable from:

\$40,600.70 - Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1905 (capital), Object 5580 (capital equipment);

\$20,300.35 - Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1905 (capital), Object 5580 (capital equipment);

\$20,300.35 - Sewer Fund 530, Department/Agency 500 (public works and utilities), Organization 1905 (capital), Object 5580 (capital equipment); and

\$30,300.35 - Stormwater Fund 535, Department/Agency 500 (public works and utilities), Organization 1905 (capital), Object 5580 (capital equipment).

Resolution 13-0039 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle and Stauber -- 2

Absent: Councilor Krause -- 1

Approved January 28, 2013

DON NESS, Mayor

- - -

At this time, Councilor Fosle left his seat.

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0046, authorizing a renewal of a software maintenance agreement for a period of five years with New World Systems Corporation for an annual amount not to exceed \$169,925.79 in 2013, and increasing by five percent annually thereafter until 2017, was introduced by Councilor Krug.

Councilor Stauber opposed the resolution because of his concerns about financial transfers from the utilities to the general fund for MIS services and now this additional charge.

Resolution 13-0046 was adopted as follows:

RESOLVED, that city officials are hereby authorized to enter into a renewal of a software maintenance agreement for a period of five years with New World Systems Corporation, said agreement to be substantially in the form of Public Document No. 13-0128-12 on file in the office of the city clerk, for an annual amount not to exceed \$169,925.79 in year 2013, \$178,422.03 in year 2014, \$187,343.03 in year 2015, \$196,710.08 in year 2016, and \$206,545.48 in year 2017 with a total contract amount not to exceed \$938,946.41; said annual amount of \$169,925.79 (including sales tax) in year 2013 to be paid from the following accounts:

\$123,205.50 - General Fund 110, Department/Agency 125 (finance), Division 1214 (auditor), Object 5309 (technology services);

\$12,147.28 - Water Fund 510, Department/Agency 500 (public works and utilities), Division 1915 (utility general expense), Object 5201 (computer supplies/software);

\$18,220.91 - Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1915 (utility general expense), Object 5201 (computer supplies/software);

\$10,745.67 - Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1915 (utility general expense), Object 5201 (computer supplies/software);  
and

\$5,606.43 - Stormwater 535, Department/Agency 500 (public works and utilities), Division 1915 (utility general expense), Object 5201 (computer supplies/software).

Resolution 13-0046 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, and President Boyle -- 6

Nays: Councilor Stauber -- 1

Absent: Councilors Fosle and Krause -- 2

Approved January 28, 2013

DON NESS, Mayor

- - -

At this time, Councilor Fosle returned to his seat.

- - -

Resolution 13-0057, approving proposed specifications for the civil service classification of property and facilities manager and specifying contract benefits for same, was introduced by Councilor Gardner.

Councilors Gardner and Stauber expressed concerns and discussed at length about seeing where this position fits into an organizational chart and where positions are being eliminated.

Councilor Fosle suggested having a real estate company perform these services.

Resolution 13-0057 was adopted as follows:

RESOLVED, that the proposed specifications for the new civil service classification of property and facilities manager, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0128-01, are approved; that said classification shall be subject to the city's collective bargaining agreement

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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with its supervisory unit employees; and that pay range for said classification shall be Range 1115-1130. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0057 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle and Julsrud -- 2

Absent: Councilor Krause -- 1

Approved January 28, 2013

DON NESS, Mayor

- - -

Resolution 13-0044, amending the comprehensive plan - future land use map from North Eighth Avenue East to North Ninth Avenue between East First Street to East First Street Alley (city of Duluth), was introduced by Councilor Stauber for discussion.

Councilor Stauber moved to table the resolution, which motion was seconded and carried as follows:

Yeas: Councilors Fosle, Hartman, Julsrud, Larson, Stauber and President Boyle -- 6

Nays: Councilors Gardner and Krug -- 2

Absent: Councilor Krause -- 1

- - -

Resolution 13-0062, by President Boyle, appointing \_\_\_\_\_ to the Duluth public utilities commission, replacing Patrick Boyle, was introduced for discussion.

President Boyle moved to amend the resolution by inserting the name of "Sharla Gardner," which motion was seconded and unanimously carried.

Resolution 13-0062, as amended, was adopted as follows:

BY PRESIDENT BOYLE:

RESOLVED, that the city council hereby appoints Sharla Gardner (city councilor) to the Duluth public utilities commission for a term expiring on March 31, 2014, replacing Patrick Boyle.

Resolution 13-0062, as amended, was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth ("city") act as the legal sponsor for the safe routes to school project as contained in the 2012 infrastructure grant application to be submitted prior to February 15, 2013, and that the mayor and clerk are hereby authorized to apply to the Minnesota department of transportation, federal highway administration for a grant not to exceed \$300,000 for funding of this project.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate project administration.

FURTHER RESOLVED, that the city hereby commits to provide funds in excess of the approved amount in the application. No match contribution is required.

FURTHER RESOLVED, that upon approval of its application by the state, the mayor and clerk may enter into a grant agreement with the state of Minnesota for the above referenced project and receive said grant payable into Permanent Improvement Fund 411,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Department 035 (capital project accounts), Object 5530 (improvements other than buildings), and that the city certifies that it will comply with all applicable laws and regulations.

FURTHER RESOLVED, that the mayor and clerk are hereby authorized to execute such documents as are necessary to implement the project on behalf of the city.

Resolution 13-0049 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from the Friends of the Duluth Public Library during 2013 and 2014 for the use by the Duluth public library, said gifts to be deposited in library special gifts, Friends of Library Fund 240-300-SG50-4660.

FURTHER RESOLVED, that the city hereby thanks the Friends of the Duluth Public Library for their generous gifts and continued support.

Resolution 13-0051 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from the Duluth Library Foundation during 2013 and 2014 for use by the Duluth public library, said gifts to be deposited in library special gifts, Miscellaneous Fund 240-300-SG80-4660.

FURTHER RESOLVED, that the city hereby thanks the Duluth Library Foundation for their generous gifts and continued support.

Resolution 13-0052 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

- - -

Resolution 13-0055, authorizing an agreement between the city of Duluth and Duluth Community Garden Program for implementation of an impact service initiative, Let's Grow Lincoln Park, was introduced by Councilor Larson for discussion.

Councilor Larson moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Janet Gibbs commented on how grateful their organization is to partner with the city to bring neighbors together.

Resolution 13-0055 was adopted as follows:

RESOLVED, that the proper city officials are authorized to enter into an agreement with Duluth Community Garden Program for the purpose of implementation of the Let's Grow Lincoln Park Initiative. Duluth Community Garden Program was approved to facilitate the Lincoln Park program by Cities of Service. Fund for Cities of Service, Inc. awarded a \$25,000 grant to the city of Duluth for the purpose of increasing residents' access to affordable fresh and healthy food by developing community gardens. The Lincoln Park neighborhood was selected because the park/neighborhood is considered a food desert. Funds are to be paid from fund 205-130-1220-4270 (parks fund, community resources, parks capital, other grants).

Resolution 13-0055 was unanimously adopted.

Approved January 28, 2013

DON NESS, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**TABLED ORDINANCE**

INTRODUCED BY COUNCILOR STAUBER

12-070(b) - AN ORDINANCE CREATING SECTIONS 50-27, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS, NONCONFORMING SIGNS AND DEFINITIONS.

Councilor Stauber moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to return the ordinance to the administration, which motion was seconded and unanimously carried.

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The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

13-004 - AN ORDINANCE AUTHORIZING DEDICATION OF A STREET AND UTILITY EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL PARK AREA TO THE GENERAL PUBLIC.

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INTRODUCED BY COUNCILOR STAUBER

13-005 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N) AND RESIDENTIAL-URBAN (R-2) TO MIXED USE-INSTITUTIONAL (MU-I), PROPERTIES LOCATED BETWEEN NORTH NINTH AVENUE EAST AND NORTH 12TH AVENUE EAST AND BETWEEN EAST SUPERIOR STREET AND EAST THIRD STREET (ST. LUKE'S MEDICAL CAMPUS AREA).

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRUG

13-001 (10197) - AN ORDINANCE AMENDING THE CHARITABLE GAMBLING REQUIREMENTS AT ESTABLISHED LICENSED FOR ALCOHOL SALES.

Councilor Krug moved passage of the ordinance and the same was adopted upon a unanimous vote.

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INTRODUCED BY COUNCILOR STAUBER

13-002 (10198) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN CANAL PARK TO OLD CITY HALL, LLC FOR \$300,000.

Councilor Larson stated that she would be abstaining from voting due to her husband's professional services involvement.

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Stauber and President Boyle -- 7

Nays: None -- 0

Abstention: Councilor Larson -- 1

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Absent: Councilor Krause -- 1

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INTRODUCED BY COUNCILOR STAUBER

13-003 (10199) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON PARK POINT TO ROBERT A. AND LAURA A. GOEWY FOR \$235,000.

Councilor Stauber moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Penny Clark urged support of the sale of the property to the winning bidders as they will be adapting the historical building into a living space instead of tearing it down.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 8:20 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10197**

AN ORDINANCE AMENDING THE CHARITABLE GAMBLING REQUIREMENTS AT ESTABLISHMENTS LICENSED FOR ALCOHOL SALES.

The city of Duluth does ordain:

Section 1. That Section 8-24 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-24. Gambling devices, prostitution, etc., prohibited.

(a) Except as provided below, no licensee shall keep, possess, operate or permit the keeping, possession or operation of any roulette wheel, football boards or other sports score betting boards, slot machine, dice or other gambling device or apparatus designed to facilitate betting on the premises or in any room adjoining the licensed premises controlled by him, permit any gambling therein, or permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under his control, to be used as a resort for prostitutes or other disorderly persons;

(b) A charitable organization licensed by the state of Minnesota to conduct lawful gambling may conduct such gambling on premises for which an intoxicating or 3.2 malt liquor license has been issued. The operation of lawful gambling in establishments licensed to sell alcoholic beverages shall be subject to the regulations set forth herein and no licensee or other person shall violate any of said regulations. In addition to criminal penalties, the city council shall disapprove of the issuance of any lawful gambling premises permit by the Minnesota gambling control board if the issuance would violate these regulations. The regulations are as follows:

(1) Only one organization may operate lawful gambling on each premises licensed to sell alcoholic beverages. This limitation shall not apply to the Duluth Entertainment Convention Center;

(2) No licensee of a liquor establishment licensed pursuant to this Chapter shall accept lease payments in excess of any lawful limit;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(c) Minnesota state lottery tickets authorized by Minnesota Statutes, Chapter 349A, may be sold on premises licensed to sell alcoholic beverages;

(d) Gambling equipment may be kept or operated and raffles conducted on licensed premises and adjoining rooms when the use of the gambling equipment is authorized by:

(1) A tribal ordinance in conformity with the Indian Gaming Regulatory Act, Public Law Number 100-497; or

(2) A tribal-state compact authorized under Minnesota Statutes, Section 3.9221.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2013)

Councilor Krug moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Absent: Councilor Krause -- 1

Passed January 28, 2013

Approved January 28, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10198**

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN CANAL PARK TO OLD CITY HALL, LLC FOR \$300,000.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the Code), the city council finds that:

(a) The manager of the city's physical planning division has reviewed this proposed conveyance and found conveyance thereof to be in conformity with the city's comprehensive land use plan;

(b) The city assessor has provided an estimate of the market value of the property in the amount of \$200,000;

(c) The property described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale.

Section 2. That as provided for in Section 2-177.2 of the Code, the property described in Section 3 below was advertised in the Duluth News Tribune during the 30 days prior to being offered at public auction on October 5, 2012, at which auction Old City Hall, LLC, bid \$300,000 for the property which was the highest bid.

Section 3. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Old City Hall, LLC, a Minnesota limited liability company, for the amount of \$300,000 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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That part of Lots 30 and 31, Block 1, INDUSTRIAL DIVISION OF DULUTH, according the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southwest corner of said Lot 30; thence on an assumed bearing of North 15 degrees 55 minutes 39 seconds West, along the Southwest line of said Block 1, a distance of 25.63 feet; thence North 15 degrees 55 minutes 39 seconds West, along said Southwest line of Block 1, a distance of 50.00 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 42.65 feet to the point of beginning of the property to be described; thence North 75 degrees 01 minutes 17 seconds East, a distance of 85.07 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 8.47 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 10.71 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 13.88 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 11.52 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 27.65 feet; thence South 75 degrees 01 minutes 43 seconds West, a distance of 130.11 feet; thence North 10 degrees 58 minutes 48 seconds West, a distance of 24.77 feet; thence North 24 degrees 50 minutes 11 seconds East a distance of 32.92 feet to the point of beginning and there terminating.

Section 4. That this ordinance shall be null and void if the closing of closing of this transaction does not take place on or before April 1, 2013.

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Stauber and President Boyle -- 7

Nays: None -- 0

Abstention: Councilor Larson -- 1

Absent: Councilor Krause -- 1

Passed January 28, 2013  
Approved January 28, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10199**

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON PARK POINT TO ROBERT A. AND LAURA A. GOEWEY FOR \$235,000.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the Code), the city council finds that:

(a) The manager of the city's physical planning division has reviewed this proposed conveyance and found conveyance thereof to be in conformity with the city's comprehensive land use plan;

(b) The city assessor has provided an estimate of the market value of the property in the amount of \$175,000;

(c) The property described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Section 2. That as provided for in Section 2-177.2 of the Code, the property described in Section 3 below was advertised in the Duluth News Tribune during the 30 days prior to being offered at public auction on December 14, 2012, at which auction Robert A and Laura A. Goewey bid \$235,000 for the property which was the highest bid.

Section 3. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Robert A. and Laura A. Goewey, husband and wife, as joint tenants, for the amount of \$235,000 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

Lots 59 and 60, Lake Avenue, LOWER DULUTH.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 1, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Absent: Councilor Krause -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed January 28, 2013  
Approved January 28, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 11, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

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The minutes of council meetings held on October 4, 8, 22, November 8, 13 and 26, 2012 were approved upon a unanimous vote.

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0211-01 Todd Signs communication regarding proposed sign regulations (13-009-O). -- Received

13-0211-02 The following communications regarding proposed pawnbroker hours of operation (13-006-O): (a) Charles Bullock; (b) Lincoln Park Pawn. -- Received

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## REPORTS FROM OTHER OFFICERS

13-0211-03 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Lincoln Park Business Group on June 22, 2013 (raffle, tipboards), (b) Minnesota Bluegrass & Old-Time Music Association on March 23, 2013 (raffle), (c) Ridgeview Country Club on April 20, 2013 (raffle); (d) United Northern Sportmen Club on April 12, 2013 (raffle). -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-0211-04 Duluth public utilities commission January 15, 2013: (a) Minutes; (b) Public hearing regarding natural gas rates. -- Received

13-0211-05 Housing and redevelopment authority minutes of: (a) November 27, (b) December 18, 2012, meetings. -- Received

13-0211-19 Library board minutes of November 27, 2012, meeting. -- Received

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## OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martel commented on the school district's policy of maintaining their public file of communications received, noting his concerns of it not being maintained properly.

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## RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 13-0044, amending the comprehensive plan - future land use map from North Eighth Avenue East to North Ninth Avenue between East First Street to East First Street Alley (city of Duluth), from the table, which motion was seconded and unanimously carried.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCE**

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

13-005 (10200) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N) AND RESIDENTIAL-URBAN (R-2) TO MIXED USE-INSTITUTIONAL (MU-I), PROPERTIES LOCATED BETWEEN NORTH NINTH AVENUE EAST AND NORTH 12TH AVENUE EAST AND BETWEEN EAST SUPERIOR STREET AND EAST THIRD STREET (ST. LUKE'S MEDICAL CAMPUS AREA).

Councilor Stauber moved to suspend the rules to consider the ordinance at this time, which motion was seconded and unanimously carried.

Councilor Stauber moved suspend the rules to hear a speaker on the issue, which motion was seconded and unanimously carried.

Ron Franzen, representing St. Luke's Hospital, noted that this is for the hospital expansion and he would appreciate the council's support.

Resolution 13-0044 was adopted as follows:

RESOLVED, that the city council makes the following findings:

(a) The city council adopted the Duluth comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

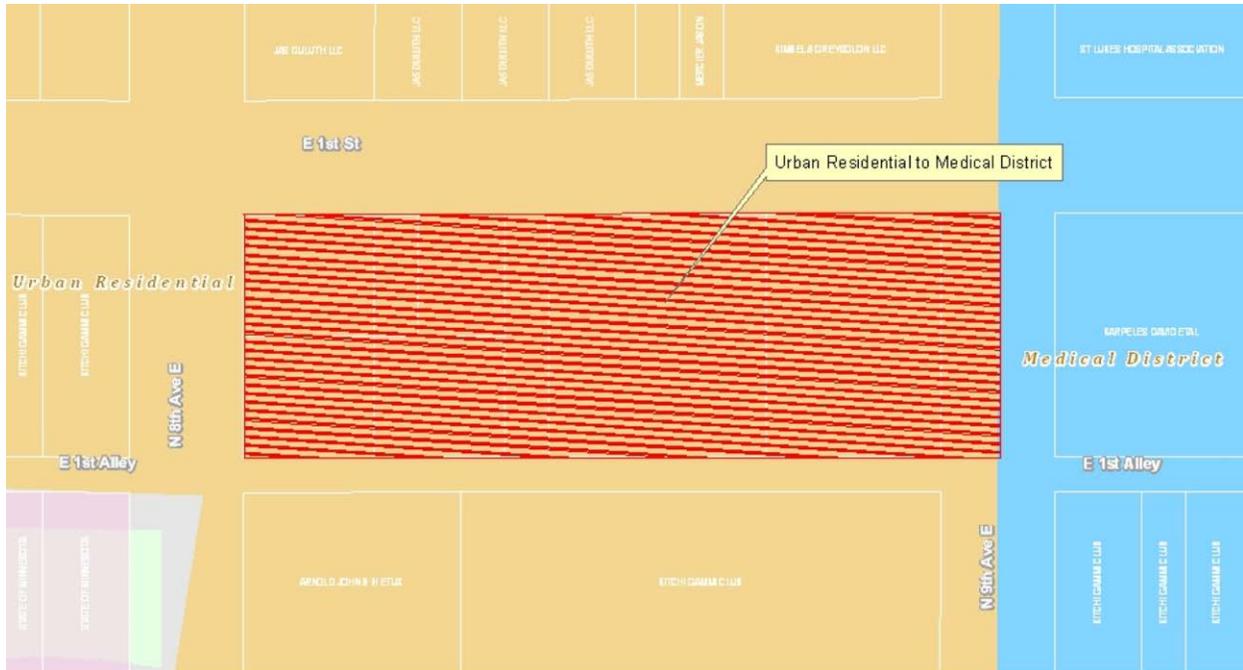
(b) The city planning division has conducted an analysis of land use in the area from North Eighth Avenue East to North Ninth Avenue between East First Street to East First Street Alley, with the findings showing the existing land use supports the medical campus and provides parking for St. Luke's Hospital; and

(c) The existing zoning is Mixed Use-Institutional (MU-I), which allows uses that support the St. Luke's Medical Campus, with related parking, commercial and office uses. However, the area zoning is inconsistent with the comprehensive land use plan. In order to bring this area into compliance with the UDC and the MU-I zoning, the comprehensive land use plan needs to be amended; and

(d) The Municipal Planning Act requires that zoning implement a city's comprehensive plan; and

(e) Based on the review conducted by the planning division and public input, the city proposes amending the comprehensive land use plan - future land use map from Urban Residential to Medical District, as described and depicted below; and

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



(Ref. File. No. 12-177)

(f) The city planning commission has reviewed this future land use amendment, conducted a public hearing on January 8, 2013 at their regular planning commission meeting, and recommends adoption of the proposed future land use map amendment; and

(g) The city council action shall be by resolution, with the affirmative votes of at least two-thirds of those members constituting a quorum required to take action.

IT IS FURTHER RESOLVED, that the adopted comprehensive land use plan - future land use map is amended as described above.

Resolution 13-0044 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or noncontroversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form on file in the office of the city clerk as Public Document No. 13-0211-06, with the Historic Union Depot, Inc. (depot), in an amount not to exceed \$176,800, payable from Fund 258, Agency 030, Account 5436-03 (tourism taxes, finance,

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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tourism tax allocation historic union depot).

Resolution 13-0071 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form on file in the office of the city clerk as Public Document No. 13-0211-07, with Lake Superior and Mississippi Railroad Company in an amount not to exceed \$20,000, payable from Fund 258, Agency 030, Account 5436-06 (tourism taxes, finance, tourism tax allocation Lake Superior and Mississippi Railroad Company).

Resolution 13-0073 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to implement a second one-year extension of the city's annual contract with Liscomb Hood Mason Company for property insurance from February 16, 2013, through February 16, 2014, covering 51 city-owned structures, miscellaneous equipment and business personal property, based on a revised quote of \$93,334.37 and substantiated in a memo from city claims adjuster Don Douglas on file in the office of the city clerk as Public Document No. 13-0211-08, and payable from the following accounts:

\$67,179.37 Self Insurance Fund 610, Department/Agency 036 (insurance accounts), Cost Center 1651 (insurance-general city), Object 5360 (insurance);

\$7,518.00 Self Insurance Fund 610, Department/Agency 036 (insurance accounts), Cost Center 1652 (insurance-water and gas), Object 5360 (insurance);

\$3,597.00 Self Insurance Fund 610, Department/Agency 036 (insurance accounts); Cost Center 1653 (insurance-sewer), Object 5360 (insurance);

\$1,547.00 Self Insurance Fund 610, Department/Agency 036 (insurance accounts), Cost Center 1654 (insurance-stormwater), Object 5360 (insurance);

\$13,493.00 Self Insurance Fund 610, Department/Agency 036 (insurance accounts), Cost Center 1656 (insurance-DEDA), Object 5360 (insurance).

Resolution 13-0078 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with the Duluth Police Union, Local 807,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No 13-0211-18, covering the years 2012-2014.

Resolution 13-0084 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Duluth Playhouse, Rotary Club of Duluth Harbortown, Animal Allies Humane Society, and Fraternal Order of Police Lodge 9 and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0068 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointments by Mayor Ness of Bjorn Braaten and Jeffrey Rosenthal to the alcohol, gambling and tobacco commission for terms expiring on March 31, 2014, replacing John W. Hammack and Heath Hickok, who resigned, are confirmed.

Resolution 13-0085 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a grant agreement pertaining to hazard mitigation assistance, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 13-0211-09, with the division of homeland security and emergency management in the Minnesota department of public safety.

State Cost Share	FEMA Cost Share	Address	Special Flood Hazard Area (Flood Map)	Year Built
25%	75%	1 131st Avenue West Duluth, 55808	Fringe	1928
25%	75%	102 131st Avenue West Duluth 55808	Fringe	1920
25%	75%	13002 West Third Street Duluth 55808	Fringe	1928
25%	75%	1126 West Second Street Duluth 55806	Floodway	1891
25%	75%	12304 State Highway 23 Duluth 55808	Floodway	1921
25%	75%	12810 Water Street Duluth 55808	Floodway	1960
25%	75%	13001 Cass Street Duluth 55808	Floodway	1958
25%	75%	13002 Water Street Duluth 55808	Floodway	1926
25%	75%	1622 Wavery Street Duluth 55803	Floodway	1959
25%	75%	32 South 59th Avenue West Duluth MN 55807	Floodway	1914

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

<b>State Cost Share</b>	<b>FEMA Cost Share</b>	<b>Address</b>	<b>Special Flood Hazard Area (Flood Map)</b>	<b>Year Built</b>
100%	0%	13225 West Fourth Street Duluth 55808	No	2011
100%	0%	1616 East Skyline Pkwy 55805	No	1938
100%	0%	12 South 59th Avenue Duluth 55807	No	1908
100%	0%	14 South 59th Avenue West Duluth 55807	No	1899
100%	0%	18 South 59th Avenue West Duluth 55807	No	1902
100%	0%	1101 97th Avenue West Duluth 55808	No	1916
100%	0%	216 East House Street Duluth 55808	No	1913
100%	0%	306 North 63rd Avenue West Duluth 55807	No	1913
100%	0%	326 South 17th Avenue East Duluth 55812	No	1891
100%	0%	3414 West First Street Duluth 55807	No	1908
100%	0%	4441 West Grand Avenue Duluth 55807	No	1962

Resolution 13-0066 was unanimously adopted.  
 Approved February 11, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant in the amount of \$2,400,000 and execute the agreement pertaining to hazard mitigation assistance, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 13-0211-09, with the state of Minnesota department of natural resources. Funds shall be deposited in Fund 225 (disaster recovery fund), Agency 125 (finance department), Object 1808 (disaster aids), Revenue Source 4220-04 (revenues, state of Minnesota flood hazard mitigation).

BE IT FURTHER RESOLVED, that authorized city officials are hereby authorized to enter into purchase agreements for acquiring and demolishing the properties identified in the grant agreement and land acquisition expenditures shall come from Fund 225 (disaster recovery fund), Agency 125 (finance department), Object 1809 (flood hazard mitigation), Project 5510 (land) and are not to exceed \$2,400,000.

<b>State Cost Share</b>	<b>FEMA Cost Share</b>	<b>Address</b>	<b>Special Flood Hazard Area (Flood Map)</b>	<b>Year Built</b>
25%	75%	1 131st Avenue West Duluth, 55808	Fringe	1928
25%	75%	102 131st Avenue West Duluth 55808	Fringe	1920
25%	75%	13002 West Third Street Duluth 55808	Fringe	1928
25%	75%	1126 West Second Street Duluth 55806	Floodway	1891

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

<b>State Cost Share</b>	<b>FEMA Cost Share</b>	<b>Address</b>	<b>Special Flood Hazard Area (Flood Map)</b>	<b>Year Built</b>
25%	75%	12304 State Highway 23 Duluth 55808	Floodway	1921
25%	75%	12810 Water Street Duluth 55808	Floodway	1960
25%	75%	13001 Cass Street Duluth 55808	Floodway	1958
25%	75%	13002 Water Street Duluth 55808	Floodway	1926
25%	75%	1622 Wavery Street Duluth 55803	Floodway	1959
25%	75%	32 South 59th Avenue West Duluth MN 55807	Floodway	1914
100%	0%	13225 West Fourth Street Duluth 55808	No	2011
100%	0%	1616 East Skyline Pkwy 55805	No	1938
100%	0%	12 South 59th Avenue Duluth 55807	No	1908
100%	0%	14 South 59th Avenue West Duluth 55807	No	1899
100%	0%	18 South 59th Avenue West Duluth 55807	No	1902
100%	0%	1101 97th Avenue West Duluth 55808	No	1916
100%	0%	216 East House Street Duluth 55808	No	1913
100%	0%	306 North 63rd Avenue West Duluth 55807	No	1913
100%	0%	326 South 17th Avenue East Duluth 55812	No	1891
100%	0%	3414 West First Street Duluth 55807	No	1908
100%	0%	4441 West Grand Avenue Duluth 55807	No	1962

Resolution 13-0067 was unanimously adopted.  
 Approved February 11, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement with Bay West Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0211-10, for professional consulting services to perform an inventory environmental assessment project in three discrete areas along the St. Louis River corridor in an amount not to exceed \$79,000, payable from Fund 255 (economic development).

Resolution 13-0076 was unanimously adopted.  
 Approved February 11, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a limited right of entry agreement (agreement) with Wisconsin Central, Ltd., substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0211-11, to allow entry

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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upon various parcels of land owned by the city of Duluth and specifically identified in the agreement along the current CN track near Beck's Road between I-35 and the Steelton Yard as the CN studies the feasibility of a second parallel track. All monies to be paid to the city under the agreement will be made payable into Fund 110 (general fund), Agency 135 (business and community development), Object 1310 (business and community development), Project 4644 (miscellaneous fees).

Resolution 13-0080 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of that contract on file in the office of the city clerk as Public Document No. 13-0211-12, with, and accept funds from, St. Louis County to provide Minnesota family investment program and diversionary work program employment and training services in an amount not less than \$895,456 for the period January 1, 2013, through December 31, 2013. Monies received under this agreement will be deposited in and paid from Fund 268 (workforce development), Agency 031 (grants division), Organization 6235 (MFIP) and 6236 (DWP).

Resolution 13-0075 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

WHEREAS, Chapter 281 of the Laws of Minnesota, 1973, provides that the Duluth City Council establish the date for the municipal primary election which, in addition to municipal elections, includes school board elections; and

WHEREAS, on November 25, 1974, the Duluth City Council passed a resolution establishing the first Tuesday after the second Monday in September as the date for the municipal primary election; and

WHEREAS, the municipal and school board primary elections has been held on the first Tuesday after the second Monday in September since 1975; and

WHEREAS, in 2010, the state legislature passed a law changing the date of the primaries to the second Tuesday in August; and

WHEREAS, the 2010 legislation did not include any provision which would supersede, repeal or amend the 1973 special law, and the city of Duluth continues to be able to set its own date for the municipal and school board primary elections; and

WHEREAS, the 2013 legislature is considering changing the date of the primary election from the second Tuesday in August to sometime in June, which change may cause voter confusion and decrease voter turnout.

NOW, THEREFORE, IT BE RESOLVED, that the Duluth City Council hereby re-affirms that the date for the municipal and school board primary election be the first Tuesday after the second Monday in September.

Resolution 13-0079 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that Contract C20859 with MSA Professional Services, Inc., for professional services for design and construction services for Lift Station No. 45 pumping and force main improvements be amended for additional engineering services associated with

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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control system changes, equipment testing and start-up, SWPPP revisions, London Road interceptor manhole revisions, Minnesota Power delays and additional site inspections, in the amount of \$30,214.50 for a new total of \$191,678.50; payable from Clean Water Fund 532, Division 500 (public works and utilities), Object 5532 (capital improvements - bond), City Project No. 0892SN.

Resolution 13-0043 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

### THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct Phase 3 of the cross city trail in 2014; and

(b) The estimated cost for design and construction of Phase 3 of the cross city trail is \$700,000. The Minnesota department of natural resources (DNR) has grant monies available through its federal recreational trail program that are intended to accelerate the acquisition and development of recreational trails; and

(c) To receive this money the city must submit the federal recreational trail grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding of Phase 3 of the cross city trail as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and is available on a 75 percent/25 percent local matching basis, and has local matching funds available through bonding as well as a \$500,000 FHWA transportation enhancement grant previously awarded to the project.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor

City of Duluth

411 West First Street

Duluth, MN 55802

Resolution 13-0063 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

### THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct Phase 4 of the cross city trail in 2014; and

(b) The estimated cost for design and construction of Phase 4 of the cross city trail is \$700,000. The Minnesota department of natural resources (DNR) has grant monies available

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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through its federal recreational trail program that are intended to accelerate the acquisition and development of recreational trails; and

(c) To receive this money the city must submit the federal recreational trail grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding of Phase 4 of the cross city trail as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and is available on a 75 percent/25 percent local matching basis, and has local matching funds available through bonding as well as a \$500,000 FHWA transportation enhancement grant previously awarded to the project.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor  
City of Duluth  
411 West First Street  
Duluth, MN 55802

Resolution 13-0064 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Out There Advertising, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. 13-0211-13, for furnishing strategic and tactical services to develop messages to effectively promote public awareness of the Duluth public works and utilities services and product safety, and provide media purchasing services for the natural gas utility in accordance with its proposal dated January 7, 2013, with total contract funding for 2013, 2014 and 2015 not to exceed \$255,000; said annual funding for year 2013 not to exceed \$85,000, payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1940-2430 (customer services-information and conservation), Object 5340 (advertising and promotion).

Resolution 13-0065 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three-year agreement with Energy Management Solutions, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. 13-0211-14, for professional services related to a commercial and industrial conservation improvement program for Duluth public works and utilities, and achieving a state-mandated 1.5 percent energy savings goal, in

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

accordance with its proposal dated January 8, 2013, for an annual amount not to exceed \$35,000 in each of years 2013, 2014, and 2015, and a total contract amount not to exceed \$105,000; said annual amount of \$35,000 for year 2013 payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1940-2430 (customer services-information and conservation), Object 5487 (conservation improvement).

Resolution 13-0069 was unanimously adopted.  
Approved February 11, 2013  
DON NESS, Mayor

- - -

RESOLVED, that Resolution 12-0608 adopting license, permit, fine, penalty and other charges for 2013 be amended by amending the pawnbroker transaction surcharge fee listed below, pursuant to Section 36-3(c) of the Duluth City Code, effective immediately.

<b>Police</b>		
<b>Fee Name</b>	<b>Previous Fee</b>	<b>New 2013 Fee</b>
Pawnbroker - transaction surcharge	1.60	1.90

Resolution 13-0074 was unanimously adopted.  
Approved February 11, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a donation of \$1,000 from the American Lung Association. The donation will be deposited into parks fund, community resources, parks operating, gifts and donations (205-130-1219-4660).

Resolution 13-0081 was unanimously adopted.  
Approved February 11, 2013  
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0060, Approving budget and cost sharing formula of Minneapolis-Duluth/Superior passenger rail alliance and authorizing payment of city's cost share of \$12,500, was introduced by Councilor Hartman.

Councilor Hartman moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Ken Buehler, chair of the technical advisory committee of the Northern Lights Alliance, reviewed: the progress the project has made so far; that Duluth as a tourist destination will benefit from this; that this expenditure is from the tourism tax; that the train going to the Twin Cities is an economic development project and other sources of transportation will not be adversely affected.

Councilors Stauber, Krause and Fosle opposed the resolution for the reasons of: this has been funded for five years with no results; other entities originally funding this are no longer funding it; even though it is projected to go through Superior, that city is not funding this; this train is not a bullet train and will take 3-4 hours to get to the Twin Cities; passengers have to have another form of transportation available when they get to their destination and the governor has not put any state funds towards the project this year.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilors Krug, Gardner and Hartman supported the resolution for the reasons of: for a project of this size, working on it for five years is a very short time; this can be an economic development tool; all forms of transportation are subsidized; the train is an integral part of the new Duluth transit authority's Downtown hub; this is supported 100 percent by the St. Louis County board; this train will go a maximum speed of 100 m.p.h.; the council already approved the tourism tax distribution, which had this amount stated; Duluth should not be left out of being connected to the Twin Cities and state funding was not requested from the state at this time.

Resolution 13-0060 was adopted as follows:

RESOLVED, that the city council hereby approves the 2013 budget and cost sharing formula for the Minneapolis-Duluth/Superior passenger rail alliance, a copy of which is on file in the office of the city clerk as Public Document No. 13-0211-15, as approved for in paragraph V-E. of that certain joint powers agreement on file as City Agreement No. 20580.

FURTHER RESOLVED, that the proper city officials are hereby authorized to pay the city's share of sail alliance's 2013 budget in the amount of \$12,500 in conformance with Section VI-A. of City Agreement No. 20580, said sum to be payable from Fund 258-030-5436-09.

Resolution 13-0060 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Krug, Larson and President Boyle -- 5

Nays: Councilors Fosle, Julsrud, Krause and Stauber -- 4

Approved February 11, 2013

DON NESS, Mayor

- - -

Resolution 13-0070, authorizing an agreement with Duluth Sister Cities International, Inc., in the amount of \$30,000, was introduced by Councilor Hartman for discussion.

Councilors Fosle, Stauber and Krause opposed the resolution for the reasons of: this is an increase of \$10,000 from last year and they stated that their goal was to reduce the subsidy from the city down to zero.

Councilors discussed this resolution at length.

Resolution 13-0070 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form on file in the office of the city clerk as Public Document No. 13-0211-16, with Duluth Sister Cities International, Inc. (DSCI), in an amount not to exceed \$30,000, payable from Fund 258, Agency 030, Account 5436-05 (tourism taxes, finance, tourism tax allocation sister cities).

Resolution 13-0070 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved February 11, 2013

DON NESS, Mayor

- - -

Resolution 13-0072, authorizing an agreement with Great Lakes Aquarium in the amount of \$350,000, was introduced by Councilor Hartman.

Councilor Krause noted that the aquarium was told some years ago that this organization would move to total self-sufficiency, which has not happened and anything aquatic is high maintenance.

Resolution 13-0072 was adopted as follows:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement substantially in the form on file in the office of the city clerk as Public Document No. 13-0211-17, with the Lake Superior Center, dba Great Lakes Aquarium, in an amount not to exceed \$350,000, payable from Fund 258, Agency 030, Account 5436-08 (tourism taxes, finance, tourism tax allocation Great Lakes Aquarium).

Resolution 13-0072 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

Approved February 11, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services related to the design of flood repair of Bridge No. 88547, Armory at Chester Creek, in an amount not to exceed \$82,901, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1226, S.P. 118-193-002, Requisition No. 13-0135.

Resolution 13-0077 was unanimously adopted.

Approved February 11, 2013

DON NESS, Mayor

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR KRAUSE

13-006 - AN ORDINANCE AMENDING SECTION 36-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PAWNBROKER HOURS OF OPERATION.

Councilor Krause moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Chuck Armstrong, Pawn America chief legislative officer, noted that Duluth is the only city left where they have locations that restrict Sunday sales. He reviewed how under the current restriction they are not allowed to do any financial pawn loans, nor can customers get back an item that they have pawned. Mr. Armstrong noted that they are open for outright purchases and sales, but this restriction prohibits their full services.

- - -

BY COUNCILOR STAUBER

13-007 - AN ORDINANCE REPEALING ORDINANCE NO. 10172 RESCINDING THE INTERIM MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-009 - AN ORDINANCE CREATING SECTIONS 50-27, 50-38.6, 50-38.7 AND 50-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS, NONCONFORMING SIGNS AND DEFINITIONS.

- - -

The following entitled ordinance was read for the second time:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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INTRODUCED BY COUNCILOR STAUBER

13-004 (10201) - AN ORDINANCE AUTHORIZING DEDICATION OF A STREET AND UTILITY EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL PARK AREA TO THE GENERAL PUBLIC.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:22 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10200**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N) AND RESIDENTIAL-URBAN (R-2) TO MIXED USE-INSTITUTIONAL (MU-I), PROPERTIES LOCATED BETWEEN NORTH NINTH AVENUE EAST AND NORTH 12TH AVENUE EAST AND BETWEEN EAST SUPERIOR STREET AND EAST THIRD STREET (ST. LUKE'S MEDICAL CAMPUS AREA).

The city of Duluth does ordain:

Section 1. That the 3.1 acres of the subject properties located between East Third Street and East Second Street, and between East Superior Street and North Ninth Avenue East and North Tenth Avenue East, and as more particularly described in Exhibit A and by the following:

The below parcels, extending to the centerline of East Third Street, East Second Street, North Ninth Avenue East and North Tenth Avenue East, where these parcels abut roadways:

010-3830-07700	010-3830-09320
010-3830-07701	010-3830-09340
010-3830-07710	010-3830-09350
010-3830-07692	010-3830-09370
010-3830-07680	010-3830-09471
010-3830-07730	010-3830-09450
010-3830-09330	

be reclassified from MU-N and R-2, to MU-I, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

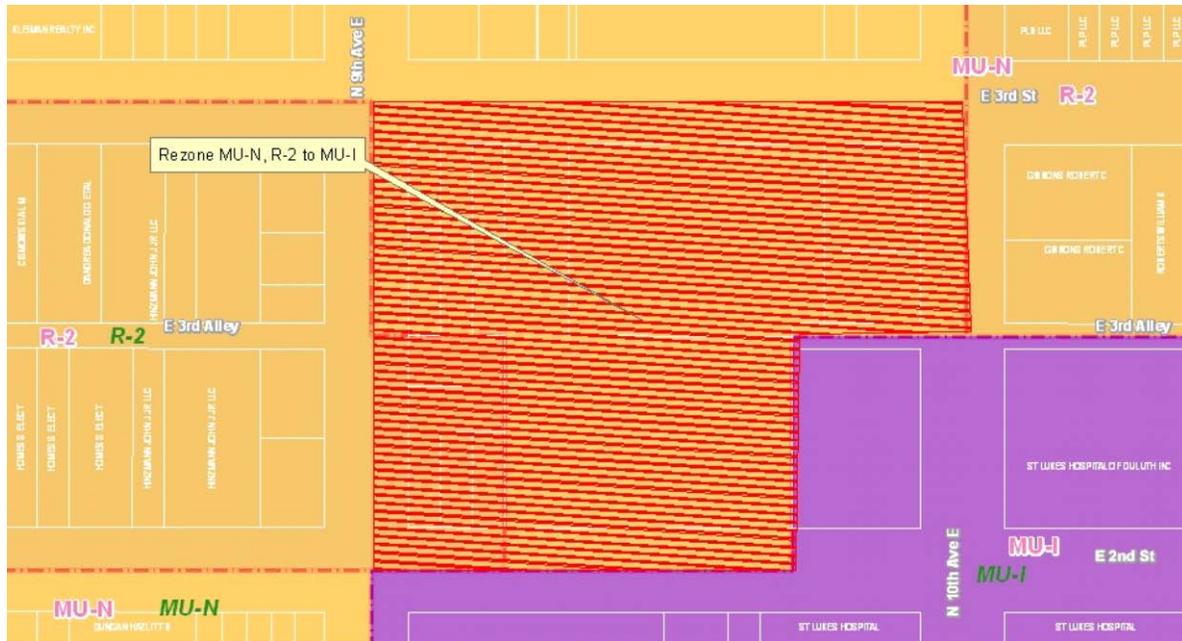


Exhibit A  
(Ref. File No. 12-178)

Section 2. That the .42 acres of the subject properties located on the northwest corner of East Second Street and North 11th Avenue East, and as more particularly described in Exhibit B and by the following:

Parcels 010-3830-08040 and 010-3830-08060, extended to the centerline of East Second Street, East Third Alley and to the centerline of North 11th Avenue East; be reclassified from R-2, to MU-I, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

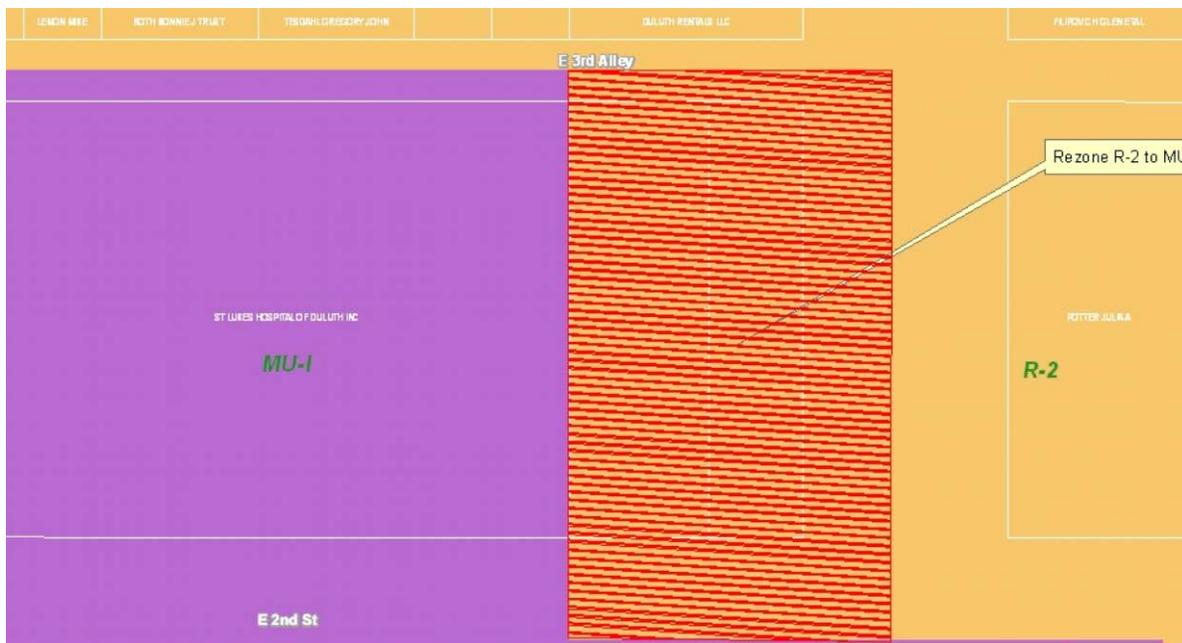


Exhibit B  
(Ref. File No. 12-178)

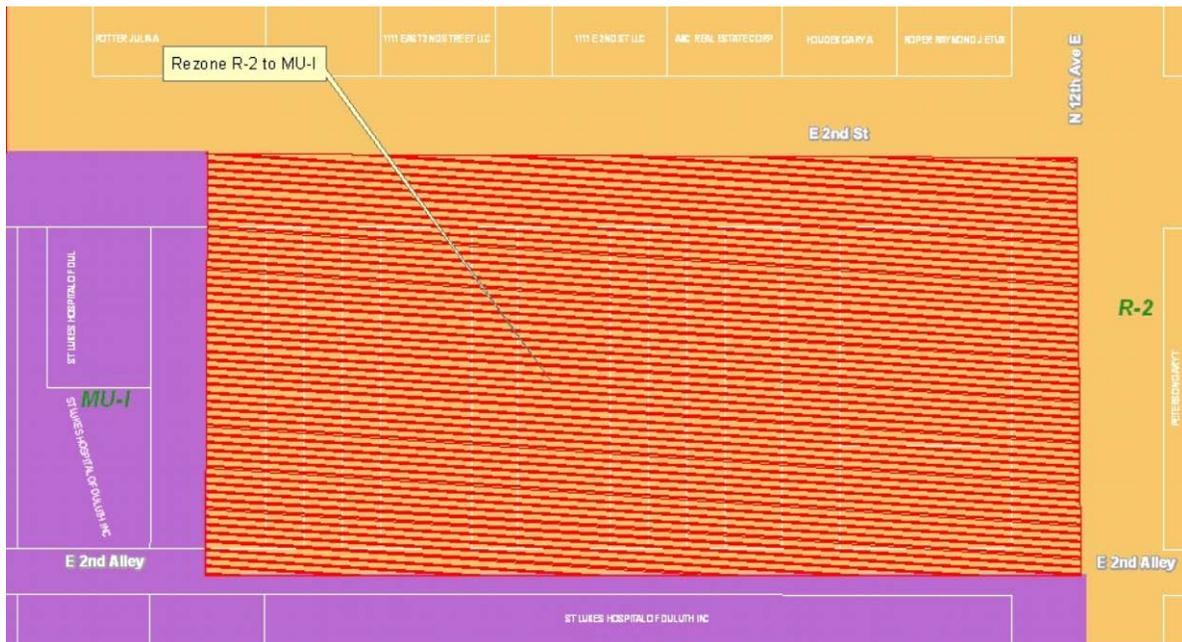
**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

Section 3. That the 1.7 acres of the subject properties located at the southwest corner of East Second Street and North 12th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Second Street and North 12th Avenue East, where these parcels abut roadways:

- |                |                |
|----------------|----------------|
| 010-3830-04830 | 010-3830-04740 |
| 010-3830-04840 | 010-3830-04780 |
| 010-3830-04900 | 010-3830-04790 |
| 010-3830-04870 | 010-3830-04820 |
| 010-3830-04700 | 010-3830-04810 |
| 010-3830-04730 | 010-3830-04825 |
| 010-3830-04725 |                |
| 010-3830-04735 |                |

be reclassified from R-2 to MU-1, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows :



**Exhibit C**  
(Ref. File No. 12-178)

Section 4. That the 5.8 acres of the subject properties located between North Ninth Avenue East and North 12th Avenue East and along the north side of East Superior Street to the East First Street Alley, and as more particularly described in Exhibit D and by the following:

The below parcels, extending to the centerline of North Ninth Avenue East and North 12th Avenue East and along the north side of East Superior Street to the East First Street Alley, where these parcels abut roadways:

- |                |                |                |
|----------------|----------------|----------------|
| 010-0190-00790 | 010-3830-01190 | 010-3830-01660 |
| 010-0190-00770 | 010-3830-01220 | 010-3830-01680 |
| 010-0190-00750 | 010-3830-01230 | 010-3830-01675 |
| 010-3830-01110 | 010-3830-01240 | 010-3830-01670 |
| 010-3830-01120 | 010-3830-01250 | 010-3830-01645 |

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

010-3830-01140      010-3830-01530  
 010-3830-01150      010-3830-01540  
 010-3830-01160      010-3830-01560  
 010-3830-01170      010-3830-01600  
 010-3830-01180      010-3830-01620

be reclassified from MU-N to MU-I, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



**Exhibit D**  
 (Ref. File No. 12-178)

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: March 15, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
 JEFFREY J. COX, City Clerk

Passed February 11, 2013  
 Approved February 11, 2013  
 DON NESS, Mayor

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**ORDINANCE NO. 10201**

AN ORDINANCE AUTHORIZING DEDICATION OF A STREET AND UTILITY EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL PARK AREA TO THE GENERAL PUBLIC.

The city of Duluth does ordain:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 1. That the proper city officials hereby dedicates and conveys to the general public an easement for street and utility purposes in, under, over, upon, across and along the following described property in St. Louis County, Minnesota:

Commencing at the Southwest corner of said Lot 30; thence on an assumed bearing of North 15 degrees 55 minutes 39 seconds West, along the Southwest line of said Block 1, a distance of 25.63 feet to the point of beginning of the easement to be described; thence North 15 degrees 55 minutes 39 seconds West, along said Southwest line of Block 1, a distance of 50.00 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 42.65 feet; thence South 24 degrees 50 minutes 11 seconds West, a distance of 32.92 feet; thence South 10 degrees 58 minutes 48 seconds East, a distance of 24.77 feet; thence South 75 degrees 01 minutes 17 seconds West, a distance of 19.01 feet to the point of beginning and there terminating.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 15, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed February 11, 2013  
Approved February 11, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, February 25, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

- - -

The minutes of the council meeting held on December 3, 2012, were approved upon a unanimous vote.

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0225-07 Duluth Area Chamber of Commerce communications regarding the proposed sign regulations (13-009-O). -- Received

13-0225-08 Lincoln Park Pawn and Pawn Duluth communication regarding the proposed pawnbroker hours of operation (13-006-O). -- Received

- - -

## REPORTS FROM OTHER OFFICERS

13-0225-01 Clerk application for exempt permit to the Minnesota gambling control board from Holy Family Catholic Church on September 21, 2013 (raffle). -- Received

- - -

## REPORTS OF BOARDS AND COMMISSIONS

13-0225-02 Civil service board minutes of December 4, 2012, meeting. -- Received

13-0225-03 Duluth public arts commission minutes of: (a) September 17; (b) October 22; (c) November 17; (d) December 17, 2012, meetings. -- Received

- - -

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martel commented on: his submission to the *Duluth News Tribune* (DNT) about letters sent to the Duluth School Board that were found missing; the DNT initial reluctance to publish the letter and the subsequent, mysterious re-filing of the letters in the school district's public file.

- - -

Tim Velner and Kirsi Kuutti commented on the growth of the high school robotics competition, how well the Duluth East High School team has done in competition and the large number participants who are coming to Duluth for two regional competitions.

- - -

## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

Councilor Krause moved passage of the consent agenda, which motion was seconded and unanimously carried.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the assessment roll levied to defray the assessable portion of Anderson Road from Haines Road to Chambersburg Avenue (Contract #7123 - assessable amount - \$351,425.13), to be deposited into Fund 440, is hereby confirmed.

Resolution 13-0095 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating theater liquor licenses for the period ending August 31, 2013, subject to departmental approvals and the payment of sales and property taxes:

Duluth Playhouse, Inc. (Duluth Playhouse), 506 West Michigan Street, with Christine Seitz, executive director.

Duluth Playhouse, Inc. (Underground Theater), 506 West Michigan Street, with Christine Seitz, executive director.

Resolution 13-0083 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to renew the annual contract with Enventis Telecom, Inc., for continued maintenance of the CISCO core network equipment and software providing voice, data and wireless communication to all network-connected city facilities and departments during fiscal year 2013 in the amount of \$69,049.79 plus \$949.43 sales tax for a combined total amount of \$69,999.22, payable from General Fund 110, Department/Agency 121 (public administration), Division 1107 (management information systems), Object 5404 (equipment machinery repair and maintenance).

Resolution 13-0087 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license and issuing a one day dance license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

One Roof Community Housing, (Raise the Roof Fundraiser), 21 North Lake Avenue, for March 15, 2013, with Kris Eide, manager.

Resolution 13-0093 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on and off sale brewery malt liquor licenses for the period ending August 31, 2013, subject to departmental approvals and the payment of sales and property taxes:

Bent Paddle Brewing Company (Bent Paddle Brewing Co.), 1912 West Michigan Street, with Bryon Tonnis, CEO and 25 percent stockholder, Karen Tonnis, CFO and 25

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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percent stockholder, Laura Mullen, treasurer and 25 percent stockholder, and Colin Mullen, president and 25 percent stockholder.

Resolution 13-0094 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Ziegler, Inc., for the purchase and delivery of a Caterpillar Model 924H articulating wheel loader for the fleet services division in accordance with Minnesota State Contract 53885, Release L-331(5), specifications and pricing in the amount of \$118,770, less \$5,700 (300-hour discount), less \$30,000 (trade-in value for Unit 3390), for a total of \$83,070, plus \$5,711.06 sales tax (6.0875%), plus \$5,760 (seven year 5,000-hour premier warranty), for a combined total of \$94,541.06, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2012 (fiscal year - 2013), Object 5580 (capital equipment), Project No. CE-250-V1304.

Resolution 13-0105 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of manager, fiscal and management analysis, including a title change to budget manager, which were approved by the civil service board on February 12, 2013, and which are filed with the city clerk as Public Document No. 13-0225-04, are approved. This classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay range for said classification shall be Range 1105-1115, \$5,417 to \$6,897 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0102 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, February 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0225-05:

The "road" in the recorded subdivision of Heritage's Rearrangement of Outlots 41 and 42 of Norton's Acre Outlots, Saint Louis County, Minnesota, more particularly described as follows:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Beginning at the southeast corner of Lot 1 of said Heritage's Rearrangement of Outlots 41 and 42 of Norton's Acre Outlots; thence North 89 degrees 46 minutes 53 seconds West, along the south line of said Lot 1 a distance of 207.44 feet to the east line of the platted Street Easement along the east side of the Howard Gnesen Road; thence South 13 degrees 54 minutes 07 seconds West, along said east line a distance of 30.88 feet to the south line of said Heritage's Rearrangement; thence South 89 degrees 46 minutes 53 seconds East, along said south line a distance of 214.81 feet to the southeast corner of said Heritage's Rearrangement; thence North 00 degrees 06 minutes 30 Seconds East, along the east line of said Heritage's Rearrangement a distance of 30.00 feet to the point of beginning; and

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 13-0225-05 showing the platted easement to be vacated.

Resolution 13-0097 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into Cooperative Construction Agreement No. 02299, a copy of which is on file in the office of the city clerk as Public Document No. 13-0225-06, with the Duluth transit authority and the Minnesota department of transportation to provide for state oversight engineering, operation and maintenance for the reconstruction of the Northwest Passage Skywalk (Bridge No. 69509) over Interstate Trunk Highway No. 35 at Third Avenue West within the corporate limits of the city of Duluth, State Project No. 6982-312 and City Project No. 1204.

Resolution 13-0086 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to award a contract to Altec Industries, Inc., for the purchase and delivery of one complete aerial bucket truck, an Altec Model AT40M articulating telescopic aerial device with fiberglass body and cab and chassis, for public works and utilities, in accordance with city-approved specifications, the vendor's proposal, and vendor's official bid of \$159,288 plus \$10,951.05 sales tax for a combined total amount of \$170,239.05, terms net 30, FOB destination, payable from Street Lighting Utility 550, Department/Agency 120 (public administration), Object 5580 (capital equipment).

Resolution 13-0088 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to continue a proprietary annual contract with Dakota Supply Group, Inc., the state's certified distributor and sole supplier of Badger water meters, for the purchase and delivery of Badger water meter parts during fiscal year 2013 for an estimated total of \$40,000 plus sales tax of \$2,750, for a combined estimated total of \$42,750, terms net 30, FOB destination, payable from Water Fund

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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510, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2410 (service), Object 5220 (repair and maintenance supplies).

Resolution 13-0090 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that Resolution 13-0042 stating the city's intent to construct approximately 250 feet of sanitary sewer in Lawn Street beginning at North Boundary Avenue and extending easterly, and to assess the costs thereof against the benefitted properties, is hereby amended by adding to the list of the properties benefitted thereby the properties referenced as:

9237 Lawn Street;

9239 Lawn Street.

Resolution 13-0092 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Minnesota Pipe and Equipment for the purchase and delivery of Waterous WB67 Pacer fire hydrants during fiscal year 2013 in accordance with city-approved specifications and the vendor's low bid of \$50,135.96 plus \$3,446.84 sales tax for a total amount of \$53,582.81, payable from the Water Fund 510, Department/Agency 500 (public works and utilities), Organization 1945 (utility operations), Object 5227 (utility system maintenance supplies).

Resolution 13-0096 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Hunt Electric Corporation for the purchase, delivery and installation of four traffic signal warning gates (Model B&B Roadway by Evergreen Supply Company) to replace the existing gates on Lake Avenue for Aerial Lift Bridge approaches in Canal Park in accordance with city-approved specifications, the vendor's low bid of \$61,592, terms net 30, FOB destination, and payable from the Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings).

Resolution 13-0099 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services related to the design of flood repair of Bridge No. L6115 and its adjacent retaining walls, Skyline Parkway at Chester Creek, in an amount not to exceed \$88,240, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1177, S.P. 118-179-004, Requisition No. 13-0183.

Resolution 13-0100 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that plans for Project 69-610-006 showing proposed alignments, profiles, grades and cross sections for the construction, reconstruction or improvement of County State Aid Highway No. 10 (Martin Road) within the limits of the city as a state aid project have been prepared and presented to the city, and that said plans be in all things approved.

Resolution 13-0104 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the proper city officials are hereby authorized to execute employment documents necessary to compensate the appointed equal opportunity representative a general wage increase of one percent retroactive to January 1, 2012, 1.5 percent retroactive to January 1, 2013, and two percent effective January 1, 2014, said increases applicable to the salary provided for in the employment contract of Robert Grytdahl, which was approved by the city council on February 26, 2007, by Resolution 07-0203 and which contract is on file in the office of the city clerk as Public Document Number 07-0312-17.

FURTHER RESOLVED, that said increased compensation shall remain in effect until further modified by council resolution.

RESOLVED FURTHER, that all above-described compensation to the equal opportunity representative is payable from Fund No. 110-121-1106-5100 (general, public administration: human resources division.)

Resolution 13-0038 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved February 25, 2013

DON NESS, Mayor

- - -

Resolution 13-0101, by Councilor Hartman, requesting the parks and recreation commission review possible locations for additional dog parks in Central and Eastern Duluth, was introduced for discussion.

Councilors Krause and Fosle expressed concerns about the level of costs associated with a dog park at a time when the youth and community club aspects of the parks need attention.

Councilors commented on various components of the resolution at great length.

Resolution 13-0101 was adopted as follows:

BY COUNCILOR HARTMAN:

WHEREAS, the city of Duluth currently has only one dog park which is located in the western portion of the city; and

WHEREAS, the dog park is widely used and has received praise since its opening, including from many immediate neighbors; and

WHEREAS, the city of Duluth has many dog owners and there is a desire to create additional dog parks throughout the city.

THEREFORE, BE IT RESOLVED, that the city council hereby requests the Duluth parks and recreation commission review possible locations for additional dog parks in both the

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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central and eastern portions of the community.

Resolution 13-0101 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

Approved February 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Thane Hawkins Polar Chevrolet for the purchase and delivery of three vehicles, including two 2013 Chevrolet Silverado 2500 4x4 extended cab pickup trucks for the street maintenance division and one 2013 Chevrolet Silverado 2500 4x4 crew cab pickup truck for the park maintenance division in accordance with Minnesota State Contract 37909, Release T-642(5), specifications and pricing for a total of \$79,132.63, plus \$5,143.62 vehicle sales tax (six and one-half percent), plus \$250.05 registration fees and tax-exempt license plates for a combined total amount of \$84,526.30, terms net 30, FOB destination, payable as follows:

(a) Requisition 13-0146 - street maintenance:

\$55,365.67 Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year-2013), Object 5580 (capital equipment), Project CE250-V1304;

(b) Requisition 13-0174 - park maintenance:

\$29,160.63 Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year-2013), Object 5580 (capital equipment), Project CE250-V1304.

Resolution 13-0089 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

BY COUNCILORS STAUBER, GARDNER, KRAUSE AND PRESIDENT BOYLE:

WHEREAS, the city of Duluth greatly appreciates and recognizes the importance of citizen volunteers that serve on city boards and commissions; and

WHEREAS, the council recognizes the value and need for the public to be able to contact their representatives on boards and commissions and to have open access to any business being conducted; and

WHEREAS, the council seeks to ensure that volunteers receive a thorough orientation for each position.

THEREFORE, BE IT RESOLVED, that the city council hereby requests that city administration establish and implement the following guiding principles and general practices for citizens appointed and approved to serve on city boards and commissions as well as general standards for the conduct of business as set forth below:

(1) Contact information for each board or commission should be made available on the city website and may include an email address, phone numbers, and a list of staff that support the board or commission; meeting dates, times and brief description of the board or commission function should be listed;

(2) Board and commission members should be listed to include appointment dates and term length, photos and a short bio may also be listed; contact information for each board

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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member should additionally be listed and city email addresses should be assigned for serving board members;

(3) Board and commission members should receive an orientation on the conduct of business to include information on open meeting law, Robert's Rules of Order, agenda process(es), meeting rules, duration of meetings, training regarding conflicts of interest and any additional relevant information;

(4) If elected as chair of a board or commission, the member should receive additional training on how to properly conduct a meeting using Robert's Rules of Order and reviewing Minnesota open meeting law requirements; such training could be held annually in a group session;

(5) Board and commission meeting agendas should be posted on the city website prior to any meeting; the agenda should include the time and location of the meeting and any supporting documents;

(6) Board and commission meeting minutes should be posted on the city website within one week of official approval and any voting record should be included;

(7) Board and commission by-laws should include provisions regarding attendance, specifically that if any member misses three consecutive meetings they shall be removed or released from serving on the board or commission.

Resolution 13-0106 was unanimously adopted.

Approved February 25, 2013

DON NESS, Mayor

- - -

Resolution 13-0098, authorizing application to (and, if offered, acceptance of) a Minnesota department of natural resources construction grant for completion of ten miles of mountain bike trail, which effectuates the Duluth Traverse Mission Creek Mountain Bike Trail Center, was introduced by Councilor Larson for discussion.

Councilor Fosle expressed concern that the city administration determines where the funds from the parks referendum are expended, such as, trails versus repairs due to the flooding or towards implementation of master plan projects.

Resolution 13-0098 was adopted as follows:

WHEREAS, the city of Duluth supports the grant application made to the Minnesota department of natural resources for the federal recreational trail program. The application is to construct ten miles of mountain bike trail for the Duluth Traverse Mission Creek trail center; and

WHEREAS, the federal recreational trail program requires a 25 percent monetary match. The city of Duluth has secured the match through the parks fund (205), community resources (130), parks capital (1220), improvements other than buildings (5530).

NOW, THEREFORE, BE IT RESOLVED, if the city is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the Duluth Traverse Mission Creek trail center project. The city will comply with all applicable laws, environmental requirements and regulations as stated in the grant agreement. Additionally, the city hereby assures that Duluth Traverse Mission Creek trail center will be maintained for a period of no less than 20 years.

BE IT FURTHER RESOLVED, the Duluth City Council does name the city auditor as fiscal agent for this project:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Wayne Parson, City of Duluth Auditor  
411 W 1 St, Rm 107  
Duluth, MN

Resolution 13-0098 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

Approved February 25, 2013

DON NESS, Mayor

- - -

Resolution 13-0103, accepting unconditional gifts from individuals, civic groups, corporations and other public entities for the 2013 and 2014 construction of a tennis court at Washington Square Park, was introduced by Councilor Larson.

Councilor Krause felt that the need for a tennis court is questionable.

Resolution 13-0103 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from individuals, civic groups, corporations and other public and private entities and thank the contributors for their gifts; said gifts to be deposited into parks fund (205), agency (130), capital (1220), gifts/donations (4660), Project CM7205-WASHSP.

Resolution 13-0103 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

Approved February 25, 2013

DON NESS, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR KRAUSE

13-013 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

- - -

BY COUNCILORS GARDNER, HARTMAN AND STAUBER

13-008 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-010 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N) AND RESIDENTIAL-URBAN (R-2), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6) FOURTH STREET FROM NORTH SIXTH AVENUE EAST TO NORTH 14TH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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The following entitled ordinances were read for the second time:

BY COUNCILOR KRAUSE

13-006 (10202) - AN ORDINANCE AMENDING SECTION 36-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PAWNBROKER HOURS OF OPERATION.

Councilor Krause moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Gardner -- 1

- - -

INTRODUCED BY COUNCILOR STAUBER

13-009 - AN ORDINANCE CREATING SECTIONS 50-27, 50-38.6, 50-38.7 AND 50-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS, NONCONFORMING SIGNS AND DEFINITIONS.

Councilor Hartman moved to amend the ordinance by:

(a) Deleting subsection 50-27.3.F. dealing with freestanding sign landscaping;

(b) In Table 50-27-1: *EXEMPT PERMANENT SIGN REGULATIONS*:

(1) Deleting the maximum flagpole height limitation in the Flags - Federal, State or Local category;

(2) Deleting the maximum size and height limitations and number per lot in the Memorial Plaque category;

(3) Deleting the temporary references in the maximum size in the Permanent Window Sign category;

(c) Deleting the maximum size limitation in the Temporary Window Sign category in Table 50-27-3: *EXEMPT TEMPORARY SIGN REGULATIONS*;

(d) Deleting the A-frame sign category from Table 50-27-4: *SIGN TYPES - PERMIT REQUIRED: DISTRICTS AND USE PERMISSIONS*;

(e) Deleting subsection 50-27.7.B. relating to A-frame signs;

(f) Deleting sub subsection 50-27.7.D.3. relating to exhibition banner maximum size limitations;

(g) Deleting subsection 50-27.7.J relating to menuboards;

(h) Deleting subsection 50-27.7.L. relating to scoreboard and outfield signs;

(i) Deleting the last two sentences of sub subsection 50-27-7.M.9. relating to ghost signs;

which motion was seconded.

Councilor Hartman explained his rational for all the aspects of the amendment.

Councilors commented at length on their feelings on the different aspects of the amendment and whether the ordinance should be passed as it is now and then come back with amendments or amend it now.

Councilor Hartman's amendment carried as follows:

Yeas: Councilors Gardner, Hartman, Julsrud, Stauber and President Boyle -- 5

Nays: Councilors Fosle, Krause, Krug and Larson -- 4

Because of the amendment, the ordinance was considered as a first reading.

- - -

BY COUNCILOR STAUBER

13-007 (10203) - AN ORDINANCE REPEALING ORDINANCE NO. 10172 RESCINDING THE INTERIM MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Krause, Larson, Stauber and President Boyle -- 7

Nays: Councilors Julsrud and Krug -- 2

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The meeting was adjourned at 8:30 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10202**

BY COUNCILOR KRAUSE:

AN ORDINANCE AMENDING SECTION 36-10 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PAWNBROKER HOURS OF OPERATION.

The city of Duluth does ordain:

Section 1. That Section 36-10 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 36-10. Hours of operation.

No pawnbroker shall receive a pledge or pawn or purchase any goods between the hours of 12:00 Midnight on Saturdays and 10:00 a.m. on Sundays, the hours of 6:00 p.m. Sunday and 6:00 a.m. Monday, or between the hours of 11:00 p.m. and 6:00 a.m. on any other day of the week.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: March 28, 2013)

Councilor Krause moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Gardner -- 1

Passed February 25, 2013

Approved February 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10203**

BY COUNCILOR STAUBER:

AN ORDINANCE REPEALING ORDINANCE NO. 10172 RESCINDING THE INTERIM MORATORIUM ON POLE SIGNS AND MONUMENT SIGNS.

The city of Duluth does ordain:

Section 1. That Ordinance No. 10172 which established a moratorium on pole signs and monument signs and was adopted on August 27, 2012, is hereby repealed in its entirety.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 10, 2013)

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Krause, Larson, Stauber and President Boyle -- 7

Nays: Councilors Julsrud and Krug -- 2

Passed February 25, 2013

Approved February 25, 2013, pursuant to Section 12 of the Duluth City Charter.

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 11, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

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The minutes of the council meeting held on December 17, 2012, were approved upon a unanimous vote.

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0311-01 Pete Johnson communication regarding the proposed ordinances relating to civil service (13-008-O and 13-013-O). -- Received

13-0311-02 Communications regarding the proposed ordinance regarding sign regulations (13-009-O): (a) Jerry Kimball; (b) Todd Signs. -- Received

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## REPORTS FROM OTHER OFFICERS

13-0311-03 Clerk application for exempt permit to the Minnesota gambling control board from St. Luke's Foundation on July 22, 2013 (raffle). -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-0311-04 American Indian commission minutes of: (a) December 17, 2012; (b) January 28, 2013, meetings. -- Received

13-0311-05 Building appeal board minutes of: (a) November 14; (b) December 12, 2012, meetings. -- Received

13-0311-06 Commission on disabilities minutes of: (a) December 5, 2012; (b) January 2, 2013, meetings. -- Received

13-0311-07 Duluth citizen review board minutes of: (a) January 22; (b) February 19, 2013, meetings. -- Received

13-0311-08 Duluth economic development authority minutes of January 23, 2013: (a) Special; (b) Regular, meetings. -- Received

13-0311-09 Duluth parking commission: (a) Minutes of November 9, 2012, meeting; (b) Resolutions: (1) To prohibit parking near the intersection of East Eighth Street and East College Street (2013-1); (2) To rescind the weekly alternate side parking system for East Eighth Street between its cul-de-sac terminus just east of Woodland Avenue and East Clover Street (2013-2); (3) To prohibit parking on the north side of the east half of East Arrowhead Road between Wallace Avenue and Vermillion Road (2013-3); (4) To allow parking on the north side of Water Street between 22nd Avenue East and the west end of Beacon Pointe Resort, which is located at 2100 East Water Street (2013-4). -- Received

13-0311-10 Duluth public utilities commission resolution establishing natural gas rates effective with meter readings after March 31, 2013; superseding all prior inconsistent or conflicting rates as of April 1, 2013 (13PUC-003). -- Received

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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13-0311-11 Duluth transit authority: (a) Minutes of: (1) November 28; (2) December 12, 2012; (3) January 2, 2013, meetings; (b) Income statements for: (1) November 2012; (2) December 2012. -- Received

13-0311-12 Housing and redevelopment authority of Duluth minutes of January 29, 2013: (a) Annual; (b) Regular, meetings. -- Received

- - -

### OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell noted that he has confirmed that letters written to the school board are not in the public file and that an individual who has written to the school board has received a harassing retaliation phone call.

- - -

Lindsey Molstad thanked the city for their support of the AmeriCorps program through the parks and recreation levy and reviewed the types of programs.

- - -

### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license for the period ending August 31, 2013, subject to departmental approvals and the payment of sales and property taxes:

Grandma's Sports Bar & Grill, Inc. (Grandma's Hospitality #1), 250 Canal Park Drive, with Andy Borg, CEO and ten percent stockholder, and Michael Paulucci, 90 percent stockholder.

Resolution 13-0082 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Regents of the University of Minnesota Duluth and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0124 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of architect, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0311-13, are approved; that said classification shall be subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay range for said classification shall be Range 1100-1110, \$5,373 to

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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\$6,851 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0056 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SRF Consulting Group, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. 13-0311-14, for professional services in conducting a traffic impact study of the proposed downtown office tower project site at 425 West Superior Street in Duluth, Minnesota, in accordance with city planning and economic development guidelines and the consultant's revised proposal, dated February 25, 2013, for a total amount not to exceed \$27,500, and payable from Fund 450-030-5441, CP2013-1316b (capital improvement fund, finance department, other services and charges, corporate tower project public improvements).

Resolution 13-0118 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 13-0311-15, with Independent School District #709, accepting the grant of a utility and pedestrian easement, in trust for the general public, at no cost to the city over certain property in the vicinity of East 11th Street and Eighth Avenue East.

Resolution 13-0010 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit & Company, Inc., for reconstruction of Lift Station No. 14 in the amount of \$189,500, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Agency 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 0858SN.

Resolution 13-0107 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that Contract C21801 with Limnotech for professional services for assistance in evaluating, assessing and preparing applications to the Minnesota recovery task force (MRTF) and other grant agencies for stream restoration work to repair and restore city-owned property along streams that were damaged as a result of the June 2012 flooding and/or are in need of flood protection, be amended in the estimated amount of \$75,000 for a new total of \$175,000; payable from Disaster Recovery Fund 225, Division 125 (finance), Object 5303 (engineering services), Engineering Project No. 1186.

Resolution 13-0112 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that Contract C21800 with Barr Engineering for professional services for assistance in evaluating, assessing and preparing applications to the Minnesota recovery task force (MRTF) and other grant agencies for stream restoration work to repair and restore city-owned property along streams that were damaged as a result of the June 2012 flooding and/or are in need of flood protection, be amended in the estimated amount of \$75,000 for a new total of \$175,000; payable from Disaster Recovery Fund 225, Division 125 (finance), Object 5303 (engineering services), Engineering Project No. 1186.

Resolution 13-0113 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a proprietary contract with Novaspect, Inc., for the purchase and delivery of two Fisher 1098-EGR regulators, the same brand/model used throughout the Duluth city system, in fiscal year 2013 in the amount of \$27,044.04, and \$1,859.28 sales tax, for a combined total of \$28,903.32, terms net 30, FOB destination, payable from the Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1945 (utility operations), Object 5227 (utility systems maintenance supplies).

Resolution 13-0115 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a proprietary contract with Nelson Technologies, Inc., for the purchase and delivery of one YZ Model total system natural gas odorizer and related equipment and software to replace the old odorizer at TBS-1A town border station, the same brand/model already installed at three other town border stations, in fiscal year 2013, in the amount of \$34,000 plus \$2,337.50 sales tax, for a combined total of \$36,337.50, terms net 30, FOB destination, payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1905 (capital-incl. depreciation/debt service), Object 5580 (capital equipment).

Resolution 13-0116 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that Resolution 11-0663 amending Contract 21549 with LHB, Inc., for professional engineering services for construction administration and inspection for rehabilitation of Bridge No. L6007 on Skyline Parkway at Stewart Creek be amended to increase the amount by \$76,940 for a new total of \$166,802. This increase is to include the construction engineering phase for the bridge rehabilitation project. This increase is payable from Permanent Improvement Fund 411, Department/Agency 035 (capital project accounts), Object 5530 (improvements other than buildings), City Project No. 1016, S.P. 118-060-010.

Resolution 13-0119 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept a grant from the Minnesota board of firefighter training and education in the amount of up to \$9,900, said funds to be deposited in Fund 210, Agency, 030, Organization 3178, Revenue Source 5331 (special

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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projects, finance, fire training fund, travel/training), for the purpose of supporting the Duluth fire department personnel training.

Resolution 13-0108 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Superior Golf Cars for a three year seasonal lease of 60 2013 gas golf cars for Lester Park Golf Course, 60 2013 gas golf cars for Enger Park Golf Course, and ten turf utility vehicles from May through October, in accordance with city approved specifications and the vendor's low bid of \$81,698.40 for each of years 2013, 2014 and 2015, and a potential total contract amount of \$245,095.20, sales tax collected with each rental; said \$81,698.40 for year 2013 to be paid as follows:

(a) \$40,849.20, from Golf Fund 503, Department/Agency 400 (parks and recreation), Division ENGR (golf course Enger), Object 5415 (Enger-vehicle/equipment rental-short-term);

(b) \$40,849.20, from Golf Fund 503, Department/Agency 400 (parks and recreation), Division LSTR (golf course Lester), Object 5415 (Lester-vehicle/equipment rental-short-term).

RESOLVED FURTHER, that this three year lease is subject to the availability of funds.

Resolution 13-0091 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the appropriate city officials are hereby authorized to allocate \$775,000 from the Tourism Tax Fund 258, \$100,000 from the reserve for capital improvements, and \$675,000 from the undesignated unreserved fund balance, to the following tourism-related improvement projects:

	Allocation	Recipient Match
Lakewalk repaving - Canal Park to Leif Erikson	\$50,000	-
Park Point current warning signs	\$50,000	-
Wayfinding - attractions and business	\$100,000	City/legacy
Duluth airport authority marketing plan	\$20,000	\$680,000
Aquarium technology upgrades	\$60,000	-
Piling work on bayside for tall ships	\$15,000	-
Glensheen parking	\$100,000	\$225,000
Leif Erikson ship relocation	\$40,000	\$50,000
Enger Park bathroom and deck work	\$200,000	\$100,000
Munger Trail extension to Irving	\$50,000	-

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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	Allocation	Recipient Match
Compenhensive plan study for DECC (Duluth Entertainment Convention Center) bayside area	\$30,000	-
Spirit Mountain bike trails (2)	\$60,000	-
	\$775,000	\$1,055,000

Resolution 13-0123 was unanimously adopted.  
 Approved March 11, 2013  
 LINDA KRUG, Acting Mayor

- -

Resolution 13-0125, by Councilor Hartman and President Boyle, regarding Leadership In Energy And Environmental Design® (LEED®) standards in the planning, design, construction and commissioning of municipal facilities, was introduced.

Councilors Krause and Fosle expressed concerns that: there are lots of other energy ideas out there; these ideas do not require a need to spend a lot of money to incur savings without achieving certification and a resolution of support is the same as a resolution of intent, thus making city staff think the city council supports this concept, which could be more costly in some cases.

Resolution 13-0125 was adopted as follows:

**BY COUNCILOR HARTMAN AND PRESIDENT BOYLE:**

WHEREAS, a variety of high performance, sustainable, or “green” building standards such as Leadership in Energy and Environmental Design® (LEED®) have been used in Minnesota and across the nation for the last 15 years and have been proven to reduce the consumption of energy and other natural resources; and to improve building performance, cost efficiency, and building longevity; and

WHEREAS, green building can assist in meeting sustainability indicator targets related to air quality, asthma morbidity, reduced greenhouse gas emissions, increased renewable energy, improved water quality, increased permeable surfaces, and brownfield site cleanup.

THEREFORE, BE IT RESOLVED, that the council hereby supports the use of Leadership in Energy and Environmental Design (LEED) standards in the planning, design, construction, and commissioning of municipal facilities.

FURTHER RESOLVED, that the city will endeavor to construct all new or significantly renovated municipal facilities to a LEED silver level of quality.

FURTHER RESOLVED, that annual actual energy data for a project should be submitted to the Minnesota B3 or SB 2030 database.

Resolution 13-0125 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

Resolution 13-0110, approving a development agreement between the Duluth economic development authority and Ramsey IV, LLC relating to the Ramsey neighborhood townhome development, was introduced by Councilor Stauber.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Krause noted that there is a middle income housing shortage and, when trying to get businesses to town, this money should be used for the economic development of middle income housing.

Resolution 13-0110 was adopted as follows:

RESOLVED, that the city council of the city of Duluth does hereby approve the development agreement on file in the office of the city clerk as Public Document No. 13-0311-16, between the Duluth economic development authority (DEDA) and Ramsey IV, LLC, related to the Ramsey Neighborhood Townhome Development in an amount not to exceed \$480,000.

Resolution 13-0110 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities for construction of a new eight inch and 12 inch P.E. gas main, reconnection of local services and branch mains, and abandonment of an existing eight inch steel gas main in First Street from Mesaba Avenue to 15th Avenue West in the amount of \$480,525, payable from Gas Fund 520, Department 500 (public works and utilities), Agency 1905 (capital improvements), Object 5533 (capital improvements - revenue), City Project No. 0839GS.

Resolution 13-0114 was unanimously adopted.

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

Resolution 13-0120, authorizing application to the Minnesota department of natural resources regional trail grant program and to enter into a grant agreement for the Cross City Trail Phase 3; and Resolution 13-0121, authorizing application to the Minnesota department of natural resources regional trail grant program and to enter into a grant agreement for the Cross City Trail Phase 4, were introduced by Councilor Julsrud.

Councilor Krause noted that: these resolutions require a \$50,000 matching grant; ongoing operational costs come after that and the community centers need money for improvements before the city starts spending money on trails.

Resolutions 13-0120 and 13-0121 were adopted as follows:

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct Phase 3 of the Cross City Trail in 2014; and

(b) The estimated cost for design and construction of Phase 3 of the Cross City Trail is \$700,000. The Minnesota department of natural resources (DNR) has grant monies available through its regional trail program that are intended to accelerate the acquisition and development of long distance, destination recreational trails of regional significance; and

(c) To receive this money the city must submit the regional trail grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding of Phase 3 of the Cross City Trail as described in the application.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and is available on a 75 percent/25 percent local matching basis, and has local matching funds available through bonding as well as a \$500,000 FHWA transportation enhancement grant previously awarded to the project.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor  
City of Duluth  
411 West First Street  
Duluth, MN 55802

Resolution 13-0120 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct Phase 4 of the Cross City Trail in 2014; and

(b) The estimated cost for design and construction of Phase 4 of the Cross City Trail is \$700,000. The Minnesota department of natural resources (DNR) has grant monies available through its regional trail program that are intended to accelerate the acquisition and development of long distance, destination recreational trails of regional significance; and

(c) To receive this money the city must submit the regional trail grant application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding of Phase 4 of the Cross City Trail as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and is available on a 75 percent/25 percent local matching basis, and has local matching funds available through bonding as well as a \$500,000 FHWA transportation enhancement grant previously awarded to the project.

FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city of Duluth agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson, City Auditor  
City of Duluth  
411 West First Street  
Duluth, MN 55802

Resolution 13-0121 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

Approved March 11, 2013

LINDA KRUG, Acting Mayor

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR HARTMAN

13-018 - AN ORDINANCE REQUIRING RESOLUTION PRE-APPROVING LAND CONVEYANCES, AMENDING SECTION 2-176 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

BY COUNCILORS GARDNER, HARTMAN AND STAUBER

13-008 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Gardner moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Tom Maida, President of the Duluth Police Union, urged support of this ordinance for reasons of: it is a product of the working group; it is a compromise agreed to by the working group and the administration, and fixes the ability of the administration to hire a lieutenant outside of the Duluth workforce, which would be detrimental to the internal workings of the department.

*[Editor's Note: Due to a replacement of the ordinance by Councilor Gardner, it was read again for the first time.]*

- - -

INTRODUCED BY COUNCILOR STAUBER

13-011 - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-012 - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

- - -

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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INTRODUCED BY COUNCILOR STAUBER

13-014 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO P-1, MINNESOTA POINT FROM THE SKY HARBOR AIRPORT BOUNDARY TO PARCEL ONE OF THE CLARK'S TRACT REFEREE'S PLAT OF MINNESOTA POINT (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR STAUBER

13-016 - AN ORDINANCE ALLOWING BICYCLES TO BE WALKED THROUGH THE NORTHWEST PASSAGE, AMENDING SECTION 44A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-017 - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT 3RD AVENUE WEST AND THE I-35 FRONTAGE ROAD TO DTA AT NO COST FOR THE MULTI-MODAL TRANSPORTATION CENTER, SUBJECT TO CONDITIONS.

- - -

INTRODUCED BY COUNCILOR LARSON

13-015 - AN ORDINANCE PERTAINING TO CONDUCT ON DULUTH TRANSIT AUTHORITY ("DTA") BUSES, AT DTA FACILITIES, AND IN DTA SHELTERS AND AUTHORIZING DRIVERS AND OTHER DTA EMPLOYEES TO REFUSE SERVICE FOR DISORDERLY PERSONS.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR KRAUSE

13-013 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Krause moved to table the ordinance so that it could be considered with Ordinance 13-008 at a future meeting, which motion was seconded and unanimously carried.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-009 (10204) - AN ORDINANCE CREATING SECTIONS 50-27, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS, NONCONFORMING SIGNS AND DEFINITIONS.

Councilor Hartman moved to reconsider his prior amendment to the ordinance because of some legal aspects which need more review, which motion was seconded and unanimously carried.

Councilor Hartman's amendment failed unanimously.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-010 (10205) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N) AND RESIDENTIAL-URBAN (R-2), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6) FOURTH STREET FROM NORTH SIXTH

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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AVENUE EAST TO NORTH 14TH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 7:52 p.m.

JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 10204

AN ORDINANCE CREATING SECTIONS 50-27, 50-38.6, 50-38.7, AND 50-41 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS, NONCONFORMING SIGNS AND DEFINITIONS.

The city of Duluth does ordain:

Section 1. That Section 50-27 of Chapter 50 be repealed and replaced as follows:

#### 50-27. Signs.

---

##### 50-27.1 Permit required.

- A. All signs that require a permit, as described in Section 50-27.5 (*Sign types – permit required*) must obtain a zoning permit as described in Section 50-37.13 (*Zoning permit*) of this Unified Development Chapter;
- B. When submitting a zoning permit application for a sign, the applicant must submit photographs and dimensions of all signs existing on the lot, including all signs that will be removed. The city may request that the applicant submit photographs of all new signs erected on the lot after permit issuance;
- C. The applicant must sign the zoning permit application attesting to the accuracy of the information provided. The city may revoke any sign permit where there has been a violation of the provisions of this section or misrepresentation of fact on the zoning permit application;
- D. All freestanding signs over seven feet in height must submit construction plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code.

##### 50-27.2 Enforcement.

- A. No sign permit shall be required for the types of signs shown in Table 50-27-1, but each such sign shall be required to comply with the provisions of this Section 50-27. Any sign placed on public property or within a public right-of-way or public easement without authorization or without a required sign permit can be removed without notice. Such signs will be held by the city for 30 days. The owner of the sign may reclaim the sign within such period, subject to any fines imposed by the city. If not reclaimed, the city may destroy the sign following expiration of the 30 day period;
- B. If a sign is constructed illegally, either without a required permit or in violation of this section or previous sign regulations, the city may serve notice to the property owner that such sign must be removed or the violation corrected within 30 days. If the sign is not removed or the violation corrected within the 30 day period, the city may remove the sign at the property owner's expense. An extension of this

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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30 day period may be granted per Section 50-37.1.O (*Appeals*) of this Chapter, and must be applied for prior to expiration of the initial 30 day period.

### 50-27.3 Design and construction standards.

All signs constructed, erected, modified or altered must comply with the provisions of this Section and the requirements of the City Code.

#### A. Prohibited sign location.

1. No sign may be erected in a location that violates the Minnesota State Building Code, Minnesota State Fire Code or other regulations;
2. No sign, other than that placed by agencies of government or a sign whose placement is authorized by this Section or the city, may be erected in the public right-of-way or on public property;
3. Signs located on public right-of-ways or on/in public or private skywalks must comply with Chapter 44A of the City Charter;
4. No sign may be erected on private property without prior consent of the property owner;
5. No sign may be erected in violation of the view obstruction provisions of Section 50-25.2.M (*Protection of site distance*) with the exception of a freestanding pole sign, if permitted in the district, with a diameter no greater than one foot and where the sign face is mounted a minimum of eight feet above grade. No sign can be erected that obstructs free and clear vision of any street, intersection, parking lot ingress or egress, or driveway;
6. No sign may be erected in a manner that obstructs access to fire escapes, any ingress or egress, or standpipes;
7. No sign may be erected on the exterior of a building to cover any windows or doors;

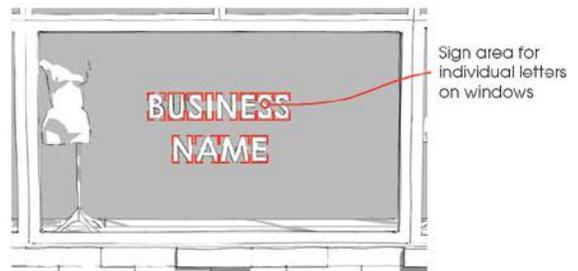
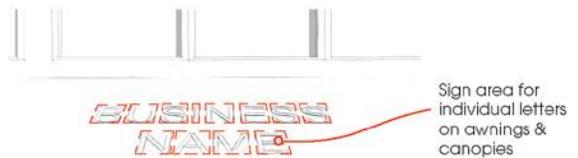
8. Signs on lots adjacent to state or county highways shall conform to the respective setbacks and other standards of the state and county highway departments;
9. Freestanding monument signs shall not be located closer than three feet from the lot line;
10. The supporting pole of a freestanding pole sign shall be setback from the lot line a minimum of three feet, but the sign itself may be up to the lot line. No part of a freestanding pole sign may encroach on a public right-of-way;

**B. Sign dimension measurement methodology.**

1. General measurement of sign area.

Sign area is measured as follows:

- (a) For signs on a background, the entire area of the framework or background of the sign is calculated as sign area, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed. Sign area does not include any supports or bracing, unless such framework or bracing is part of the message or sign face;
- (b) For signs consisting of freestanding letters or logos, the sign area is calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo. Sign area does



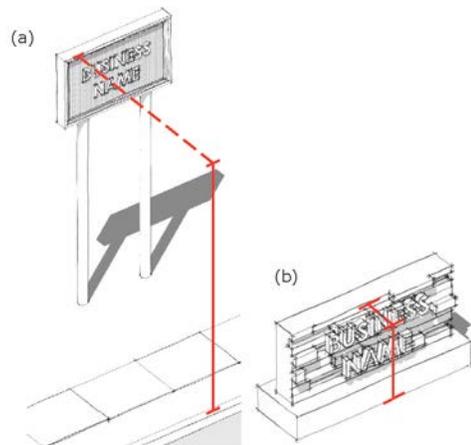
not include any supporting framework or bracing, unless such framework or bracing is part of the message or sign face;

- (c) For awning and canopy signs, the sign area is the printed area of the awning or canopy, calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo;
- (d) Window signs printed on a transparent film and affixed to the interior or exterior of a windowpane are calculated as individual letters or logos, provided that the portion of the transparent film around the perimeter of the individual letters or logos maintains 100 percent transparency of the window. Transparency is defined as both the ability to view into the interior of the establishment from the outside and to view the outside from the interior of the establishment through the same area;
- (e) The sign area of a three-dimensional, free-form or sculptural (non-planar) sign is calculated as 50 percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign;
- (f) If a sign has two or more faces, the area of all faces is included in determining the area of the sign, unless the two sign faces are placed back-to-back and are no more than two feet apart. In such case, the sign area is calculated as the area of one face. If the two faces are unequal in area, the area of the larger face is used to calculate sign area;
- (g) Necessary supports or uprights on which the sign is erected are not included in the sign area computation.

2. General measurement of sign height.

(a) Pole sign height is measured from the grade to the uppermost point of the sign. Grade is established by the elevation of the back of curb or, if no curb exists, from the edge of pavement at the center of the abutting street frontage where the sign will be erected. The pole sign height may also be measured from the natural slope of the lot where the sign will be erected;

(b) Monument sign height is measured from the existing lowest point of the ground where the monument sign is to be installed to the uppermost point of a sign;



C. Construction standards.

- 1. Supports and braces must be designed as an integral part of the overall sign design and hidden from public view to the extent technically feasible;
- 2. All signs attached to a building must be installed and maintained so that wall penetrations are watertight and the structure does not exceed allowable stresses of supporting materials;

3. All signs must be designed and constructed in accordance with Minnesota State Building and Fire codes. Marquee structures must be approved by the city engineer and building safety department;
4. Glass forming any part of a sign must be safety glass'
5. All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to or superimposed upon any sign must be safely and securely built into or attached to the sign structure;
6. Audio components are prohibited on any sign, with the exception of menuboards;
7. Any form of pyrotechnics is prohibited;

**D. Electrical wiring.**

1. All electrical fixtures, devices, circuits, conduits, raceways or apparatus used to illuminate, move or project any sign must be installed and maintained in accordance with Minnesota State Building Code, including the National Electrical Code. Electrical permits are required for sign installation in accordance with the Minnesota State Building Code;
2. Conduits and other components of a sign illumination system must be designed as an integral part of the overall sign structure and hidden from public view to the extent technically feasible;

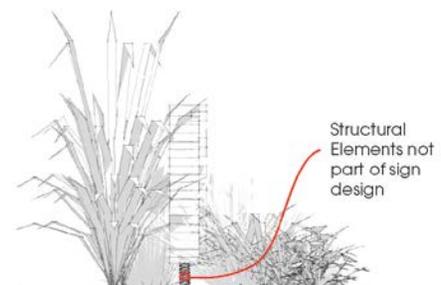
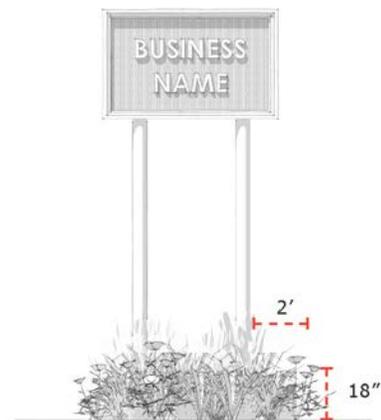
**E. Permit identification.**

Every sign must include an identification of the permit number and name of sign installer either painted on the sign or by the application of a metallic sticker. The information must be visible from the ground with the exception of signs mounted seven or more feet above grade;

**F. Required landscaping.**

All freestanding signs, except in lots zoned I-G and I-W, must be landscaped at the base of the sign in accordance with the following:

1. Freestanding signs must be landscaped with small shrubs a minimum of 18 inches in height at planting, spaced appropriately based on mature height and spread to provide continuous screening of sign base once shrubs have reached maturity. The remainder of the landscape area must be planted with perennials, turf or other live ground-cover;
2. Landscape must extend a minimum of two feet from the sign base on all sides. If this two foot



## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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area extends into the right-of-way, landscape is not required within the right-of-way area. All landscape must be maintained in good condition, and free and clear of rubbish and weeds. Landscape around the base of a sign is included in the total amount of landscape required on a site, if applicable;

3. There is no requirement regarding the mature height of landscape, though landscape must be tailored to the scale of the sign. Landscape may be trimmed and maintained along the sign base to maintain visibility of the sign face;
4. When a monument sign is designed as a single structure where the pediment is constructed of similar or complimentary materials as the sign, and no structural elements that are not related to such overall design of the sign are visible, no landscape is required;

### G. Required sign maintenance.

1. All signs must be maintained in a safe, neat and orderly condition and appearance, and must be repainted or otherwise maintained by the property owner to prevent corrosion or deterioration caused by the weather, age or any other condition;
2. All signs must be maintained to prevent any kind of safety hazard, including faulty sign structures, a fire hazard or an electrical shock hazard;
3. All unused sign hardware or wiring that is visible from the right-of-way must be removed;
4. If a sign is maintained in an unsafe or insecure condition, the city will give written notice to the property owner. If property owner fails to remove or alter the structure to comply with the standards of this Section, the sign may be removed by city at the expense of the property owner. The city may remove any sign that is an immediate peril to persons or property summarily and without notice.

### H. Non-commercial messages.

A non-commercial message may be substituted for a commercial message on any sign permitted by this Section.

### I. Permit identification.

All architectural signs on a structure announcing the original or historic name of the building, year of construction, or insignias must be maintained, and cannot be removed, altered, or covered. Such signs are not calculated as part of any sign area or maximum number of signs permitted by this Section.

### 50-27.4 Illumination standards.

The following illumination standards apply to on-premises signs. Illumination of billboards (off-premises) are regulated separately in Section 50-27.7. Additional illumination requirements for electronic message signs are found in Section 50-27.7.

- A Any sign illumination, including gooseneck reflectors, external illumination and internal illumination, must be designed, located, shielded and directed to prevent the casting of glare or direct light upon roadways and surrounding properties, or the distraction of motor vehicle operators or pedestrians in the public right-of-way;
- B The sign face of internally illuminated signs must function as a filter to diffuse illumination. The sign face must cover all internal illumination components so that no exposed bulbs are visible;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- C All external illumination of a sign must concentrate the illumination upon the printed area of the sign face;
- D No sign illumination may exceed one footcandle of illumination at the property line;
- E The use of neon lighting as a sign material or sign accent is permitted for signs within the mixed-use, form-based and special purpose districts, with the exception of the MU-N and MU-B districts where it is prohibited. Neon lighting is subject to the following:
  - 1. When lit, neon lighting must be continuously illuminated. Flashing neon is prohibited;
  - 2. Neon lighting cannot be combined with any reflective materials (e.g., mirrors, polished metal, highly-glazed tiles, or other similar materials) that would cause glare and increase the spread of light;
  - 3. Neon lighting to outline doors and windows is prohibited;
- F The use of LED lighting as a sign accent is permitted, subject to the following:
  - 1. LED lighting as an accent is only permitted for non-residential uses in the mixed-use, form-based and special purpose districts where electronic message center signs are permitted. LED accent lighting is prohibited in any residential district;
  - 2. LED lighting as an accent must comply with all illumination requirements of an electronic message center sign;
  - 3. The addition of LED lighting as an accent to an existing sign requires a zoning permit;
  - 4. When lit, LED lighting must be continuously illuminated. Flashing LED is prohibited;
  - 5. LED lighting cannot be combined with any reflective materials (e.g., mirrors, polished metal, highly-glazed tiles, or other similar materials) that would cause glare and increase the spread of light;
  - 6. LED lighting to billboards, free standing monument signs, outline doors, windows, and automobile and filling station gas canopies is prohibited;
  - 7. LED lighting to outline free standing pole signs is allowed but lighting must conform to the same brightness standards as electronic message centers as identified in UDC Section 50-27.7.G.

### 50-27.5 Prohibited signs.

The following signs are prohibited:

- A Balloon and air-infused/air-inflated signs;
- B Electronic display screens;
- C Flashing or animated signs;
- D Illegally-affixed signs;
- E Moving signs, including signs moved by wind or mechanical or electrical components. No sign or part of any sign shall move or give the illusion of movement in any manner. Clocks and barber poles are exempt from this provision;
- F Portable signs. Portable signs include both signs mounted on a wheeled structure and those mounted on a stationary structure that can be moved and is not permanently installed on a site;
- G Roof signs;
- H Snipe signs;

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I Strobe lights, moving or fixed spotlights, and floodlights;

J Temporary off-premises signs;

K Traffic hazard signs. Any sign that constitutes a traffic hazard is prohibited, including signs that:

1. Interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal or device because of its position, shape or color, including signs illuminated in red, green or amber color to resemble a traffic signal;
2. Make use of the words STOP, LOOK, DETOUR, DANGER, CAUTION, WARNING or any other word, phrase, symbol or character in a manner that misleads, interferes with or confuses traffic;

L Vehicle signs. Signs placed or painted on parked vehicles where the primary purpose is to advertise a product or service, or to direct the public to a business or activity located on or off the premises, are prohibited. Signs painted on vehicles, trucks or buses, which are being operated and stored in the normal course of business, such as signs located on delivery trucks, promotional vehicles, moving vans and rental trucks, are permitted, provided that the primary purpose of such vehicles is not the display of signs, and that they are parked or stored in areas related to their use as vehicles. Vehicle for-sale signs are exempt from this provision.

### 50-27.6 Signs and activities exempt from permit requirements.

#### A. Alternation and maintenance operations.

The following activities are exempt from a zoning permit:

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

#### B. Illumination.

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

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

#### C. Exempt permanent signs.

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

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**TABLE 50-27-1: EXEMPT PERMANENT SIGN REGULATIONS**

<u>SIGN</u>	<u>PERMITTED DISTRICT OR USE</u>	<u>PERMITTED SIGN TYPE</u>	<u>MAXIMUM SIZE</u>	<u>MAXIMUM HEIGHT (FREE-STANDING SIGNS)</u>	<u>REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)</u>	<u>NUMBER PER LOT</u>
<u>Agricultural Identification Sign</u>	<u>All agricultural uses</u>	<u>Freestanding or wall</u>	<u>RC, RR-1, RR-2: 20sf</u> <u>All other districts: 6sf</u>	<u>6'</u>	<u>20' from front lot line &amp; 10' from any other lot line</u>	<u>1 per street frontage</u>
<u>Bed and Breakfast</u>	<u>Bed and breakfast uses</u>	<u>Freestanding or wall</u>	<u>12 sf</u>	<u>7'</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Building Directory Sign</u>	<u>All multi-family &amp; non-residential uses</u>	<u>Freestanding or wall</u>	<u>6 sf</u>	<u>7'</u>	<u>Within 10' of building entry</u>	<u>1 per building entry</u>
<u>Day Care Facility</u>	<u>Residential Zone Districts</u>	<u>Wall or non-illuminated lawn sign</u>	<u>6 sf</u>	<u>7'</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Directional Sign - Parking Lot</u>	<u>All parking lots and structures</u>	<u>Freestanding</u>	<u>4 sf</u>	<u>7'</u>	<u>0' from any lot line</u>	<u>No limit</u>
<u>Flags – Federal, State or Local</u>	<u>All districts and uses</u>	<u>Freestanding</u>	<u>No Limit</u>	<u>Flagpole limited to maximum height of zoning district</u>	<u>5' from any lot line</u>	<u>No limit</u>
<u>Flags – Commercial</u>	<u>All non-residential uses</u>	<u>Freestanding</u>	<u>16 sf</u>	<u>Flagpole limited to maximum height of zoning district</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Government Information Sign (Federal, State, County or City)</u>	<u>All districts &amp; uses</u>	<u>Freestanding or wall</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>
<u>Home Occupation Sign</u>	<u>All residential dwelling uses and permitted accessory uses</u>	<u>Wall, window, or freestanding including mounting on private lightposts</u>	<u>4 sf</u>	<u>4'</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Memorial Plaque</u>	<u>All districts and uses</u>	<u>Freestanding or wall</u>	<u>6 sf</u>	<u>5'</u>	<u>5' from any lot line</u>	<u>1 per lot</u>
<u>Nameplate</u>	<u>All districts and uses</u>	<u>Wall</u>	<u>4 sf</u>	<u>(Not Applicable)</u>	<u>(Not Applicable)</u>	<u>1 per lot</u>
<u>Parking Lot Information Sign</u>	<u>All parking lots and structures</u>	<u>Freestanding or wall</u>	<u>16 sf</u>	<u>8'</u>	<u>0' from any lot line</u>	<u>2 per access point</u>
<u>Property Identification Sign</u>	<u>All multi-family residential uses</u>	<u>Wall</u>	<u>4 sf</u>	<u>(Not Applicable)</u>	<u>(Not Applicable)</u>	<u>1 per lot</u>

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

**TABLE 50-27-1: EXEMPT PERMANENT SIGN REGULATIONS**

<u>SIGN</u>	<u>PERMITTED DISTRICT OR USE</u>	<u>PERMITTED SIGN TYPE</u>	<u>MAXIMUM SIZE</u>	<u>MAXIMUM HEIGHT (FREE-STANDING SIGNS)</u>	<u>REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)</u>	<u>NUMBER PER LOT</u>
<u>Public Information Sign</u>	<u>The following uses: All educational facilities; cemetery or mausoleum; museum, library or art gallery; park, playground or forest reserve</u>	<u>Freestanding or wall</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>
<u>Public Information School and Field Identification Sign</u>	<u>All districts. K-12 public and private schools. Only to identify name of school, recreation field, or athletic team.</u>	<u>Nonilluminated wall sign</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>	<u>No Limit</u>
<u>Permanent Window Sign</u>	<u>All non-residential uses</u>	<u>Window</u>	<u>Temporary &amp; permanent signs (combined) are limited to 30% coverage of window</u>	<u>(Not applicable)</u>	<u>(Not applicable)</u>	<u>(Not applicable)</u>
<u>Time and Temperature Sign (Electronic)</u>	<u>All non-residential uses</u>	<u>Must be integrated into primary freestanding or wall sign</u>	<u>20% of sign area of freestanding or wall sign, or if standalone sign, 6 sf</u>	<u>(Not Applicable)</u>	<u>(Not Applicable)</u>	<u>1 per lot</u>

**D. Exempt temporary signs.**

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

1. Exempt temporary signs are subject to the display periods in Table 50-27-2: Permitted Display Period.

**TABLE 50-27-2: EXEMPT TEMPORARY SIGN PERMITTED DISPLAY PERIOD**

<u>SIGN</u>	<u>PERMITTED DISPLAY PERIOD</u>
<u>Attention-Getting Device</u>	<u>When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event When not related to a time-specific event: 10 days Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays</u>
<u>Banner (General)</u>	<u>When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event When not related to a time-specific event: 30 days Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays</u>
<u>Community Event Sign</u>	<u>Limited to no more than 4 display periods in a year for a total aggregate display time of 20 days per year</u>
<u>Construction Sign</u>	<u>Erected only after approval of a building permit and must be removed within 7 days of issuance of an occupancy permit or completion of construction, whichever occurs first</u>
<u>Non-Commercial Message Sign</u>	<u>General: No display period limitation Election: Signs of any size related to an election or referendum may be posted in any number from 46 days before the state primary in a state general election year until 10 days following the state general election</u>

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<u>Real Estate Sign</u>	All real estate signs may only be erected on the specific property offered for sale or lease or the property holding an open house Real estate for sale/lease signs: Posted for the duration the property is offered for sale or lease, and must be removed within 7 days of closing or lease Real estate open house signs: Only during the day of the open house and must be removed within 2 hours of the end of the event
<u>Temporary Window Sign</u>	No display period limitation

**2. Exempt temporary signs are subject to the regulations of Table 50-27-3: Exempt Temporary Sign Regulations.**

<b>TABLE 50-27-3: EXEMPT TEMPORARY SIGN REGULATIONS</b>						
<u>SIGN</u>	<u>PERMITTED DISTRICT OR USE</u>	<u>PERMITTED SIGN TYPE</u>	<u>MAXIMUM SIZE</u>	<u>MAXIMUM HEIGHT (FREESTANDING SIGNS)</u>	<u>REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)</u>	<u>NUMBER PER LOT</u>
<u>Attention-Getting Device</u>	<u>Nonresidential uses in MU-C</u>	<u>Freestanding</u>	<u>10sf</u>	<u>6'</u>	<u>10' from any lot line</u>	<u>1 per lot</u>
<u>Banner (general)</u>	<u>Non-residential uses</u>	<u>Wall or retaining wall</u>	<u>32sf</u>	<u>(Not applicable)</u>	<u>(Not applicable)</u>	<u>1 per lot</u>
<u>Community Event Sign</u>	<u>All districts and uses</u>	<u>Freestanding or wall</u>	<u>10sf</u>	<u>6'</u>	<u>10' from any lot line</u>	<u>1 per lot</u>
<u>Construction Sign</u>	<u>All districts and uses</u>	<u>Freestanding or wall</u>	<u>50sf</u>	<u>6'</u>	<u>10' from any lot line</u>	<u>50sf total per street frontage</u>
<u>Non-Commercial Message Sign</u>	<u>All districts and uses</u>	<u>Freestanding, wall or retaining wall</u>	<u>No limit</u>	<u>No limit</u>	<u>No limit</u>	<u>No limit</u>
<u>Real Estate Sign</u>	<u>All districts and uses</u>	<u>Freestanding or wall</u>	<u>Residential Districts: 4sf All Other Districts: 12sf</u>	<u>5'</u>	<u>10' from any lot line</u>	<u>1 per street frontage</u>
<u>Temporary Window Sign</u>	<u>All nonresidential uses</u>	<u>Window</u>	<u>Temporary &amp; permanent signs (combined) are limited to 30% coverage of window</u>	<u>(Not applicable)</u>	<u>(Not applicable)</u>	<u>(Not applicable)</u>

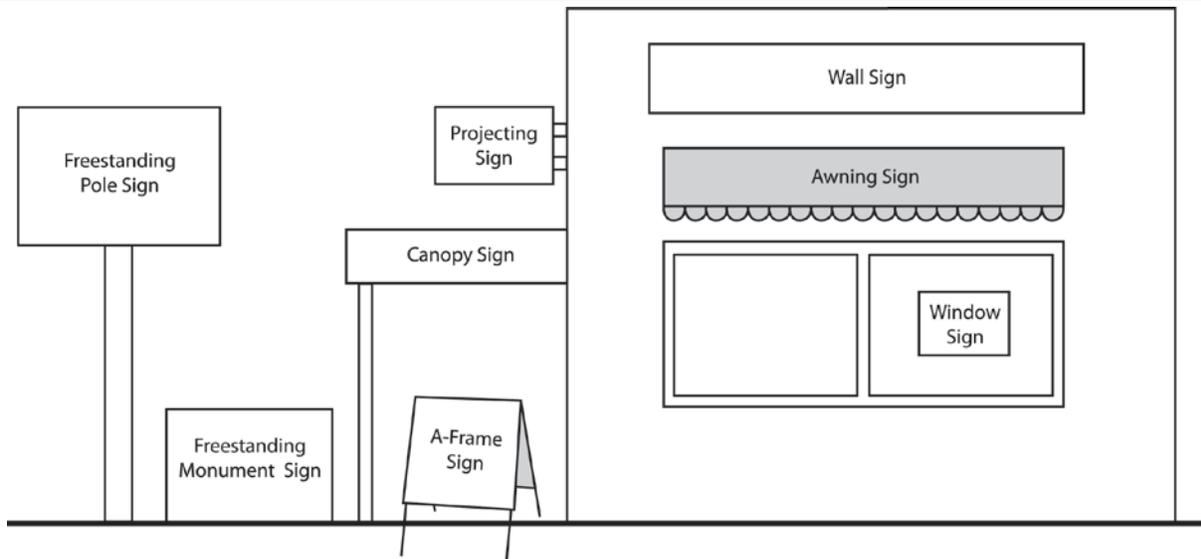


Figure 50-27.6-A: Examples of Common Sign Types

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**50-27.7 Sign types.**

**A. General regulation.**

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

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

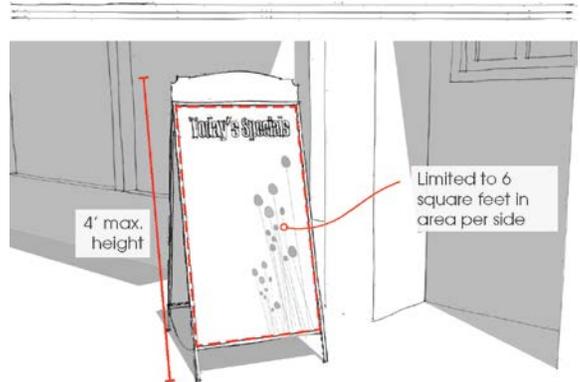
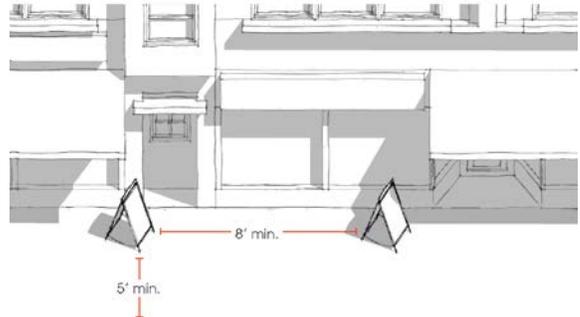
<sup>1</sup> Billboards are permitted on any lot within the noted districts, whether developed or undeveloped, unless such lot is developed for a one-family or two-family dwelling.  
<sup>2</sup> Filling station uses in any district are permitted to display fuel prices by an electronic message component, and are subject to the restrictions of that section. Electronic message signs are not allowed in the Historic Canal Park area as identified in UDC Section 50-27.9.C  
<sup>3</sup> Menuboards are permitted only for a drive-through use. In the case of existing nonconformities within districts that contain drive-through facilities, menuboards are permitted for the drive-through use until such time as the structure is demolished.

**B. A-frame signs.**

A-frame signs are permitted as indicated in Table 50-27-4, subject to the following regulations.

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1. A-frame signs are limited to six square feet in area per side and four feet in height;
2. The use of A-frame signs is limited to business hours only. Signs must be stored indoors at all other times. A-frame signs must not be used outdoors when high winds, heavy rain or heavy snow conditions are present. A-frame signs may be removed during city snow removal operations and the city is not liable for any damage to signs caused by snow removal operations;
3. One A-frame sign is permitted per business, per street frontage of that business. A minimum eight foot separation is required between all A-frame signs;
4. An A-frame sign must be placed on the property where the business is located and within ten feet of the primary entrance of the business or on the right-of-way in front of property. A-frame signs must provide an unobstructed sidewalk width of at least five feet for pedestrian passage and must not interfere with pedestrian traffic or violate standards of accessibility as required by the ADA or other accessibility codes;
5. The permit applicant must provide and maintain in force a certificate of insurance, in a form approved by the city, that evidences that the applicant has in force insurance in the minimum amounts required by the city for bodily injuries or property damage in any one year protecting such person or organization and the City against liability for injuries or damages resulting from the placement of such objects or materials in the public right-of-way;
6. For A-frame signs located within the right-of-way, the sign permit must be renewed on an annual basis;

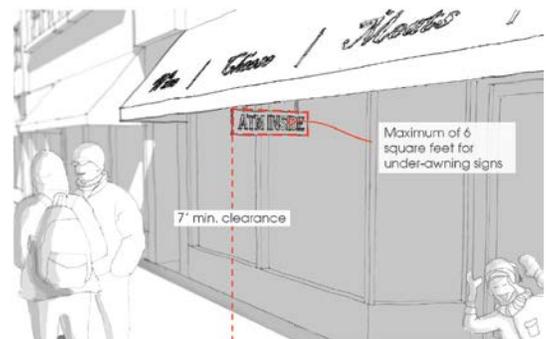
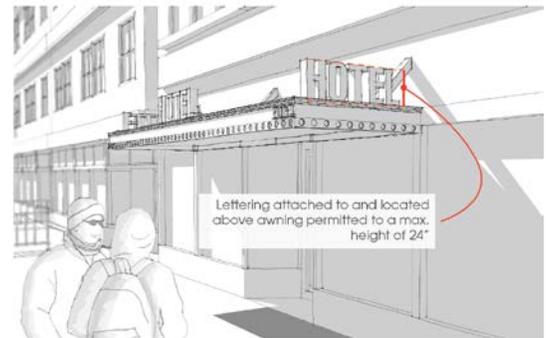
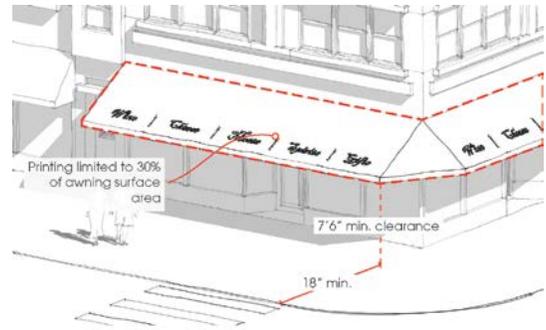


### C. Awning.

Awnings without printing, with the exception of a street address number (number only), are considered an architectural feature and are not regulated by this Section. This Section regulates awning signs, which are used to identify a use by name or logo, the goods or services offered on-site, and similar sign information. Awning signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Awning signs must maintain a minimum vertical clearance of seven feet six inches (7' 6");
2. Awning signs must be located a minimum of 18 inches from the back of curb;

3. Awning signs must comply with Minnesota State Building and Fire codes, including provisions for encroachment into the public right-of-way, structural requirements, sprinkler protections and similar regulations;
4. Awning signs must be made of a durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric or metal;
5. Printing on any awning sign is limited to 30 percent of the surface area;
6. Awning signs are permitted lettering attached to and located above the top of a solid awning to a maximum height of 24 inches;
7. Awning signs may illuminate the printed area of the awning with gooseneck or similar external illumination. Back-lit awnings are prohibited;
8. Under-awning signs are permitted subject to the following:



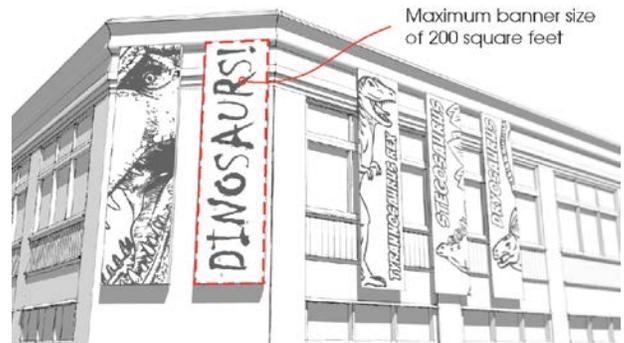
- (a) Under-awning signs must be attached to the underside of an awning. Under-awning signs must not project beyond the awning;
- (b) Under-awning signs must maintain a minimum vertical clearance of seven feet;
- (c) A maximum of one under-awning sign is permitted per business establishment with frontage on the street where the awning is mounted;
- (d) Each under awning sign is limited to a maximum of six square feet;
- (e) Under-awning signs must be securely fixed to the awning with metal supports;
- (f) Under-awning signs must be made of wood, metal or plastic;

#### D. Exhibition banners.

Exhibition banners are permitted for events and exhibitions as indicated in Table 50-27-4, subject to the following regulations:

1. Each use is permitted up to six exhibition banners during one display period. The display period is defined as the combined period of 30 days prior to the opening of the exhibit, the run of the exhibit, and for 14 days following the close of the exhibit;

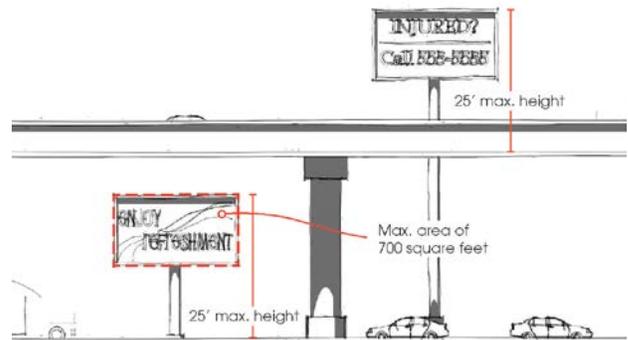
2. Exhibition banners must be made of a durable, weather-resistant material like canvas, nylon or vinyl-coated fabric;
3. Each exhibition banner is limited to a maximum sign area of 200 square feet;
4. Exhibition banners must be securely and tautly attached to the wall of the structure and no exhibition banner may be located higher than the roofline;



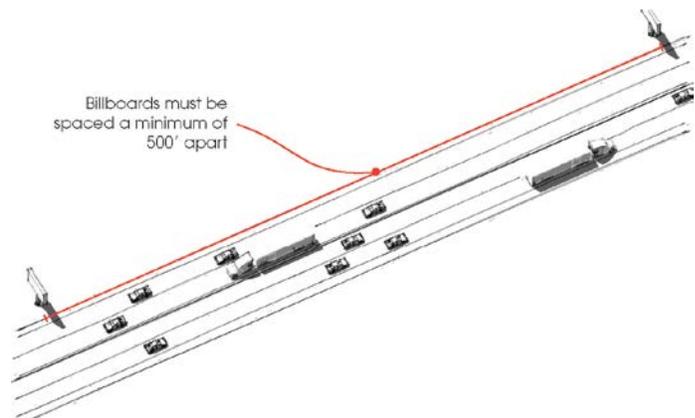
**E. Billboard.**

The following types of signs require a zoning permit before they can be erected on a site;

1. Billboards are permitted as indicated in Table 50-27-4 subject to the following regulations. However, billboards are only permitted in the MU-B and I-G districts with the use of an exception credit (Section 50-38.7). Billboards are also further restricted by the requirements of Minnesota State Statute Section 173.08,



- Subdivision 2, as amended from time to time;
2. The maximum sign area for a billboard is 700 square feet;
3. Billboards adjacent to on-grade roadways are limited to a maximum height of 25 feet. Billboards adjacent to grade separated/elevated roadways are permitted to measure the 25 foot height from the roadbed crown to the tallest projection of the structure. This measurement is taken at a perpendicular angle between the grade separated/elevated roadway and the sign location;
4. Billboards may only be mounted as freestanding pole signs. However, when an exception credit is used, billboards may be wall-mounted and are limited to the wall sign area allowed for that district;
5. Billboards are required to be spaced 500 feet apart, subject to the



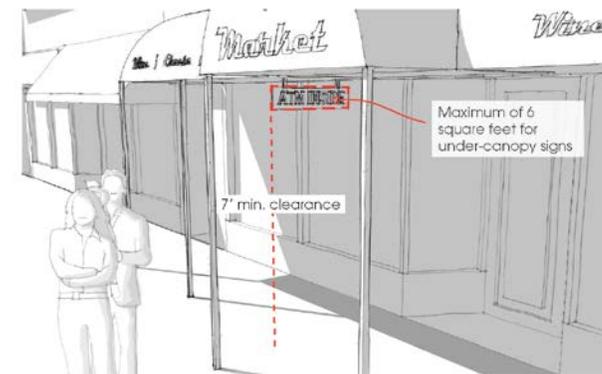
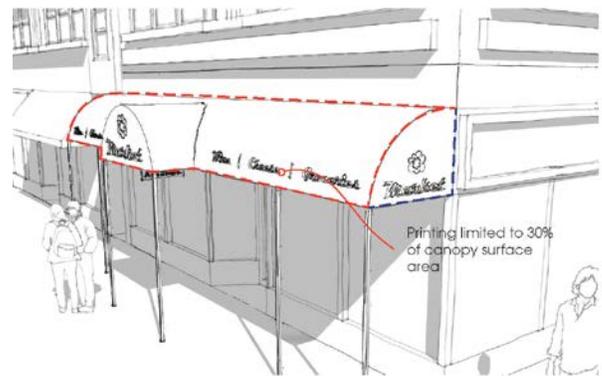
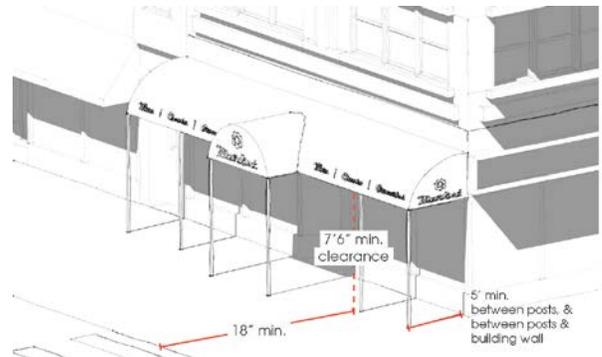
following:

- (a) Billboards located along Interstate Highway No. 35 and Interstate Highway No. 535 must be spaced 800 feet apart, unless erected under an exception credit in which case only the 500 foot spacing is required;
  - (b) Spacing is measured along the nearest edge of the right-of-way pavement to which the billboard is displayed and between points directly opposite the center of the billboard;
  - (c) Spacing requirements apply only to billboards located on the same side of the same highway.
  - (d) Multi-faced or back-to-back billboards, up to a maximum of a five foot separation between sign faces, are considered one billboard;
6. Electronic billboards are permitted only in the MU-C, MU-B, and I-G districts. Electronic billboards are subject to the following regulations:
- (a) An electronic billboard may only be erected if one of the following criteria is met:
    - (i) The electronic billboard is constructed using exception credits. The number of exception credits, in square footage, must equal three times the square footage of the electronic billboard to be constructed;
    - (ii) Nonconforming billboards of a total square footage are removed in an amount equal to three times the square footage of the electronic billboard to be constructed;
  - (b) Each message displayed on an electronic billboard must be static or depicted for a minimum of eight seconds. Any scrolling, flashing or movement of the message is prohibited;
  - (c) The maximum brightness of an electronic billboard is limited to 5,000 nits or 464 candelas per square foot during daylight hours, and 500 nits or 46 candelas per square foot between dusk to dawn. The billboard must have an automatic dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;

#### F. Canopy.

Canopies without printing, with the exception of a street address number (number only), are considered an architectural feature and are not regulated by this Section. This Section regulates canopy signs, which are used to identify a use by name or logo, the goods or services offered on-site, and similar sign information. Canopy signs are permitted as indicated in Table 50-27-4 subject to the following regulations:

1. Canopy signs must maintain a minimum vertical clearance of seven feet six inches (7' 6");
2. Canopy signs must be located at least 18 inches from the back of curb. Support posts must maintain a minimum separation of five feet between posts and between the posts and any building wall. No obstructions are permitted within this area;
3. Canopy signs must comply with Minnesota State Building and Fire codes, including provisions for encroachment into the public right-of-way, structural requirements, sprinkler protections and similar regulations;
4. Canopy signs must be made of a durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric or metal;
5. Printing on any canopy sign is limited to 30 percent of the surface area;
6. Canopies may include under-side, external illumination;
7. Under-canopy signs are permitted subject to the following:
  - (a) Under-canopy signs must be attached to the underside of a canopy. Under-canopy signs must not project beyond the canopy;
  - (b) Under-awning signs must maintain a minimum vertical clearance of seven feet;
  - (c) A maximum of one under-canopy sign is permitted;
  - (d) Each under-canopy sign is limited to a maximum of six square feet;
  - (e) Under-canopy signs must be securely fixed to the awning with metal supports;
  - (f) Under-awning canopy must be made of wood, metal or plastic;



**G. Electronic message sign.**

Electronic message signs are permitted as indicated in Table 50-27-4 subject to the following regulations. However, all filling stations in any district are permitted to display fuel prices by an electronic message component. Such component must only display numerical fuel prices and must be static.

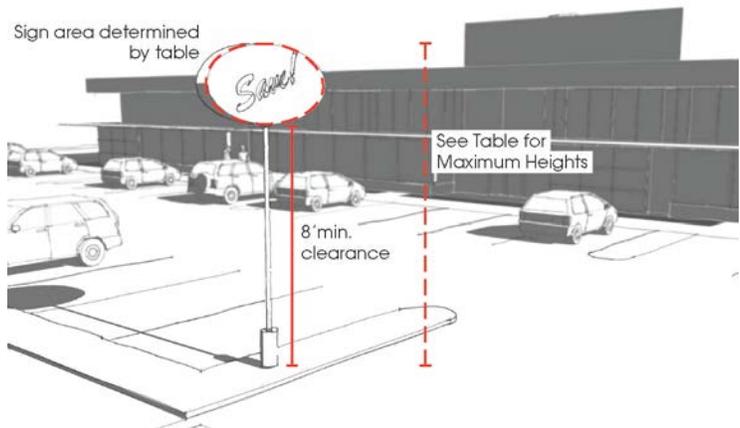
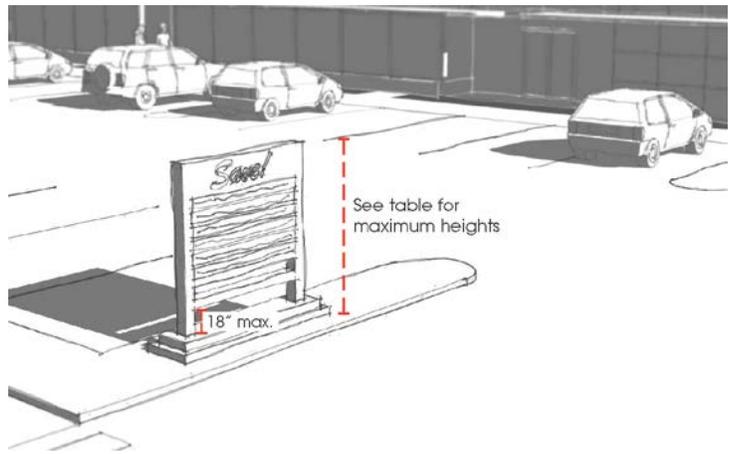
1. Only one electronic message sign per lot is permitted;

2. Each message or image displayed on an electronic message sign must be static or depicted for a minimum of eight seconds. Any scrolling, flashing or movement of the message is prohibited;
3. The maximum brightness of an electronic message sign is limited to 5,000 nits or 464 candelas per square foot during daylight hours, and 500 nits or 46 candelas per square foot between dusk to dawn. The sign must have an automatic dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;
4. Electronic message signs are permitted as part of a freestanding sign, wall sign or marquee and, in addition, are subject to the requirements for those sign types;
5. Electronic message signs must be integrated into the larger sign structure and must include the name of the use as a non-electronic component as part of the sign structure. Electronic message signs are limited to a maximum of 60 percent of the sign area of a freestanding or wall sign;
6. Electronic message signs cannot display any off-premises commercial advertising;
7. Electronic display screens are prohibited;

**H. Freestanding signs-pole and monument.**

Freestanding signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Freestanding sign maximum height and sign areas are as indicated in Table 50-27-5;
2. Only one freestanding sign, either pole or monument, is permitted per street frontage of a lot. For each additional 200 feet of street frontage, above an initial 200 feet of frontage, an additional freestanding sign, either pole or monument, is permitted, up to a maximum of three freestanding signs;
3. All freestanding signs over seven feet in height must submit construction



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- plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code;
4. No part of a freestanding sign may project into, over or otherwise encroach on a public right-of-way;
  5. A freestanding pole sign must maintain a minimum vertical clearance of eight feet. When the pole structure of a freestanding pole sign is wrapped in any decorative material, the decorative pole wrapping must be permanently installed. Decorative wrapping shall not be closer than three feet to the property line, and shall not be wider than 25 percent of the sign face. No temporary signs may be attached to the pole of a freestanding pole sign;
  6. Freestanding monument signs may be internally or externally illuminated. If externally illuminated, all light must be directed onto the sign face. Freestanding pole signs may only be internally illuminated.

**TABLE 50-27-5: FREESTANDING SIGN REGULATIONS**

<u>DISTRICT</u>	<u>SIGN AREA</u>	<u>POLE SIGN</u>	<u>MONUMENT SIGN</u>
	<u>Maximum Sign Area (Square Feet)</u>	<u>Maximum Sign Height (Feet)</u>	<u>Maximum Sign Height (Feet)</u>
<u>R-C</u>	42 sf	17	6
<u>RR-1</u>	42 sf	17	6
<u>RR-2</u>	42 sf	17	6
<u>R-1</u>	42 sf	17	6
<u>R-2</u>	42 sf	17	6
<u>R-P</u>	42 sf	17	6
<u>MU-N</u>	42 sf	17	6
<u>MU-C*</u>	60 sf	25	8
<u>MU-I*</u>	50 sf	25	8
<u>MU-B*</u>	50 sf (Monument)	Prohibited	8
<u>MU-W*</u>	50 sf	20	6
<u>MU-P*</u>	60 sf	25	8
<u>F-1</u>	42 sf	17	6
<u>F-2</u>	42 sf	17	6
<u>F-3</u>	42 sf	17	6
<u>F-4</u>	42 sf	17	6
<u>F-5</u>	42 sf	17	6
<u>F-6</u>	42 sf	17	6
<u>F-7</u>	42 sf	17	6
<u>F-8</u>	42 sf	15	6
<u>F-9</u>	60 sf	25	8
<u>I-G*</u>	60 sf	25	8

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<b><u>I-W*</u></b>	60 sf	25	8
<b><u>P-1</u></b>	42 sf	17	6

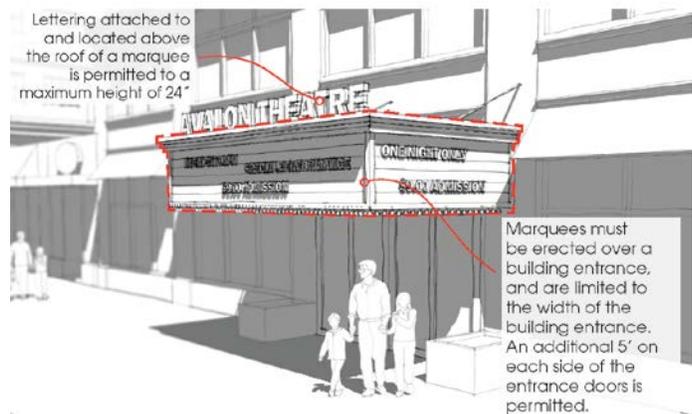
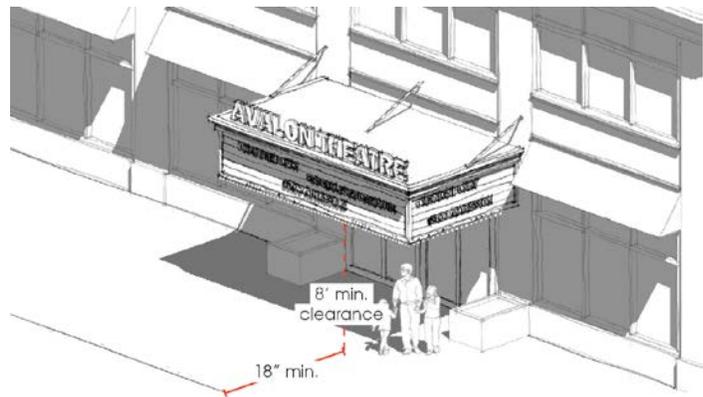
\*Free Standing Pole and Monuments Signs in the MU-I, MU-B and MU-W zones are allowed a maximum of 50 square feet. However, for sites with lot frontage that exceeds 250 lineal feet, the maximum size area of the sign may equal up to 20 percent of the lineal street frontage on the street nearest the sign, up to a maximum sign area of 100 square feet.

\*Free Standing Pole and Monument Signs in the MU-C, MU-P, I-G, and I-W zones are allowed a maximum of 60 square feet. However, for sites with lot frontage that exceeds 300 lineal feet, the maximum size area of the sign may equal up to 20 percent of the lineal street frontage on the street nearest the sign, up to a maximum sign area of 150 square feet.

## I. Marquee.

Marquees are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Marquees must be supported solely by the building to which they are attached. No exterior columns or posts are permitted as supports;
2. No marquee may be erected on any building or other structure of wood frame construction;
3. The roof of a marquee may not be used for any purpose other than to form and constitute a roof and must be constructed of noncombustible material;
4. Water from the roofs of a marquee may not drain, drip or flow onto the surface of a public sidewalk. Sufficient downspouts, drains and gutters must be installed as part of each marquee to prevent water from the roof of the marquee from flowing onto the surface of a public sidewalk;
5. Marquees must be erected over a building entrance and are limited to the width of the building entrance. An additional five feet on each side of the entrance doors covered by the marquee is permitted;
6. All marquees must maintain a minimum vertical clearance of eight feet and the roof of the marquee structure must be erected below the second floor window sill. Marquees may encroach up to 18 inches from the back of curb;
7. Marquees are permitted lettering attached to and located above the roof of a marquee to a maximum height of 24 inches;

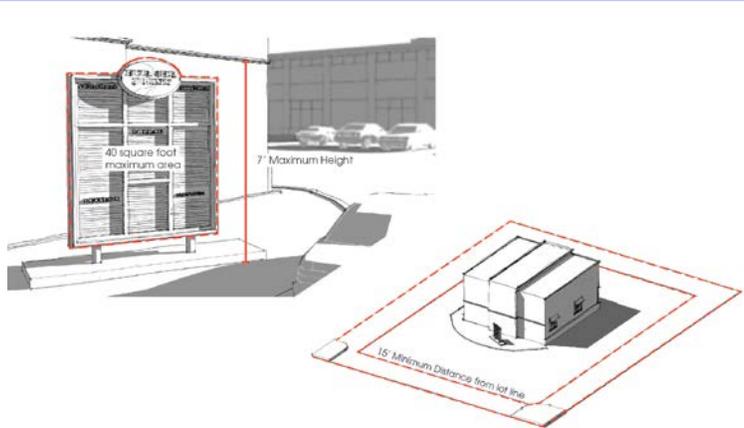


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8. Marquees may be internally illuminated. External Illumination is prohibited;

**J. Menuboard.**

Drive-through establishments are permitted one menuboard sign per drive-through lane, constructed as freestanding pole or monument sign, no more than 40 square feet in sign area, no more than seven feet in height and no less than 15 feet from any lot line. Menuboard may be internally or externally illuminated. For menuboard, the audio component is limited to communication between customer and service;



**K. Projecting signs.**

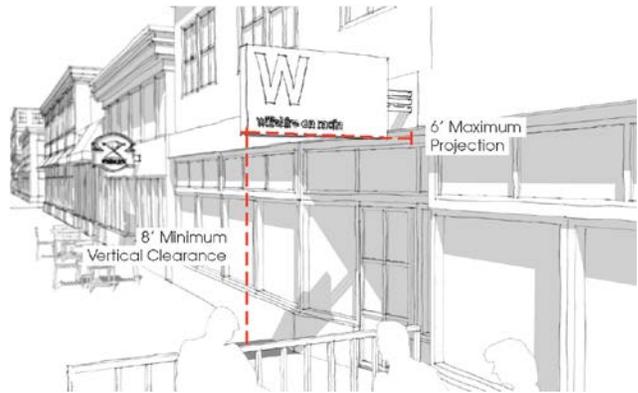
Projecting signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Projecting sign maximum area is as indicated in Table 50-27-6;
2. One projecting sign is permitted per establishment with frontage on a street. For a corner lot, one projecting sign is permitted for each street frontage. Projecting signs must be above or adjacent to the building entrance or, if a corner lot, the corner of the building;
3. Projecting signs may not project more than six feet from the face of the building to which they are attached, including the area between the sign and the face of the building;
4. Projecting signs must maintain a minimum vertical clearance of eight feet. No projecting sign affixed to a building may project higher than the building height, including the sign support structure;
5. Projecting signs, including frames, braces, and supports, must be designed by a licensed structural engineer or manufacturer. No projecting sign may be secured with wire, chains, strips of wood or nails nor may any projecting sign be hung or secured to any other sign. Any

<b>TABLE 50-27-6: PROJECTING SIGN REGULATIONS</b>	
<b>DISTRICT</b>	<b>MAXIMUM AREA</b>
<b>R-C</b>	Prohibited
<b>RR-1</b>	Prohibited
<b>RR-2</b>	Prohibited
<b>R-1</b>	Prohibited
<b>R-2</b>	Prohibited
<b>R-P</b>	Prohibited
<b>MU-N</b>	36sf
<b>MU-C</b>	48sf
<b>MU-I</b>	48sf
<b>MU-B</b>	48sf
<b>MU-W</b>	36sf
<b>MU-P</b>	48sf
<b>F-1</b>	36sf
<b>F-2</b>	36sf
<b>F-3</b>	36sf
<b>F-4</b>	36sf
<b>F-5</b>	36sf
<b>F-6</b>	36sf
<b>F-7</b>	36sf
<b>F-8</b>	48sf
<b>F-9</b>	48sf
<b>I-G</b>	48sf
<b>I-W</b>	48sf
<b>P-1</b>	Prohibited

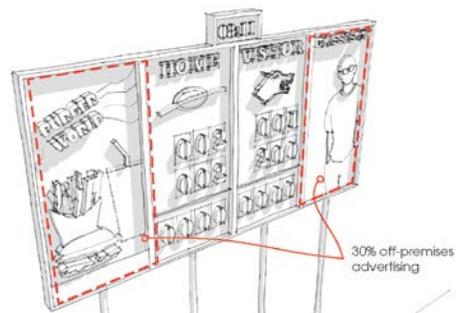
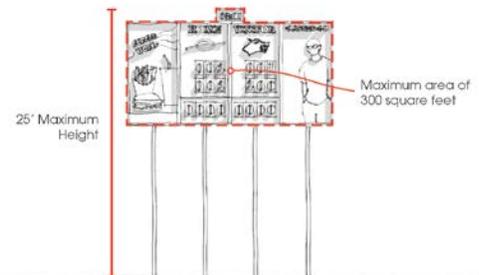
movable part of a projecting sign, such as the cover of a service opening, must be securely fastened by chains or hinges;

6. Projecting signs must be constructed of wood, metal, durable, weather-resistant material like canvas, canvas-like material, nylon or vinyl-coated fabric, or plastic. Projecting signs constructed of material must be mounted so that they are held taut between support posts;
7. Projecting signs may be internally or externally illuminated. If externally illuminated, all lighting must be directed onto the sign face from above;
8. Maximum projecting sign areas are provided in Table 50-27-6: *Projecting Sign Regulations*;
9. Projecting signs erected on properties within the Entertainment District and Historical Canal Park are subject to additional requirements as provided in 50-27.8;



**L. Scoreboard and outfield signs.**

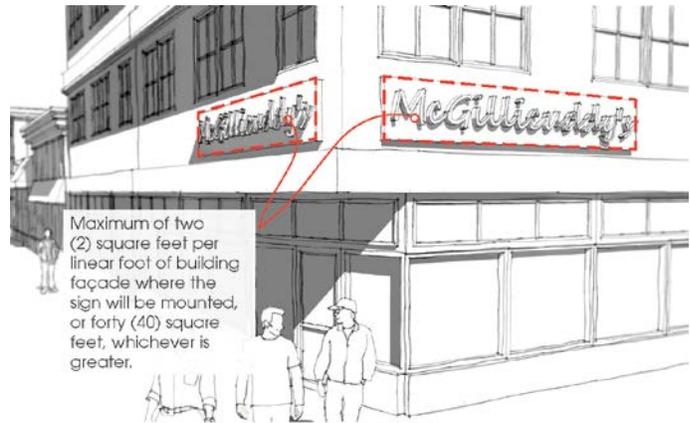
1. Scoreboards and outfield signs are permitted as indicated in Table 50-27-4, subject to the following regulations. Such signs are further restricted to recreational playing fields only;
2. Scoreboards must be constructed as a freestanding pole sign, no more than 300 square feet in sign area and 25 feet in height;
3. The score-keeping portion of the scoreboard may utilize an electronic message component;
4. If the scoreboard cannot be viewed from any adjacent right-of-way as measured along 500 foot sight lines from the scoreboard, up to 30 percent of the sign area may be used for off-premises advertising. If the scoreboard can be viewed from any adjacent right-of-way, up to 25 percent of the sign area may be used for off-premises advertising;
5. There is no limit on the number of outfield advertising signs so long as no such signs are visible from an adjacent right-of-way. No permit is required for outfield advertising signs;
6. Scoreboards and outfield signs that are part of a sports stadium as a principal use are considered part of the structure and not subject to these standards;



**M. Wall signs.**

Wall signs are permitted as indicated in Table 50-27-4, subject to the following regulations.

1. The maximum size of a wall sign is established at two square feet per linear foot of building façade where the wall sign will be mounted or 40 square feet, whichever is greater;
2. In addition, any structure over seven stories in height is permitted one additional wall sign per façade to identify the building, that must be placed within the top 20 feet of the structure and cannot not cover any fenestration or architectural features. The maximum size is established at two square feet per linear foot of building façade, measured at the roof line, where the wall sign will be mounted;
3. Wall signs may be internally or externally illuminated. If externally illuminated, all light must be directed onto the sign face from above;
4. Wall signs must be safely and securely attached to the building wall. Wall signs must be affixed flat against the wall and must not project more than 18 inches from the building wall;
5. If a wall sign projects more than two inches from the surface, a minimum vertical clearance of eight feet is required;
6. No wall sign mounted on a structure may project above the roof of the structure to which it is attached, including the sign support structure. Wall signs may be mounted on a parapet wall when such parapet is consistent with the architectural design of the structure and/or the larger development, and such parapet wall is constructed of the same primary building materials as the structure, excluding any accent materials. When attached to a parapet wall, wall signs may not project more than eight feet above the roof of the structure, or 15 feet above the roof of the structure on properties zoned MU-C;
7. Wall signs must be constructed of wood, brick, metal or plastic. Wall signs constructed of material must be mounted so that they are held taut against the wall;
8. Wall signs must not cover windows, doors or architectural features. However, wall signs are permitted on architectural appurtenances, such as chimneys or penthouses, which are part of the original structure;
9. Ghost signs are considered wall signs. Existing ghost signs are exempt from these requirements and deemed confor-



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ming. Ghost signs may be maintained and repainted but no new information or images may be added to the existing sign. No new wall signs may be painted over ghost signs.

### 50-27.8 Areas of special sign control.

#### A. Purpose.

The city recognizes that certain areas present a unique character that could be strengthened and enhanced with the application of specific sign standards. These commercial areas are:

1. Entertainment districts:
  - (a) Lake Avenue South from Railroad Street to lift bridge;
  - (b) East Superior Street from Lake Avenue to 9th Avenue East;
2. Historic Canal Park: Canal Park Drive from Lake Place Drive to canal;

#### B. Entertainment district standards.

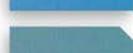
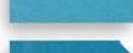
1. All projecting signs are permitted a maximum sign area of 36 square feet, unless the zoning district allows a greater maximum sign area;
2. Marquee signs are permitted;
3. Electronic message signs are permitted as components of wall, marquee or freestanding signs, subject to the electronic message sign regulations;

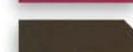
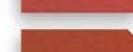
#### C. Historical Canal Park standards.

1. All projecting signs are limited to a maximum sign area of 12 square feet;
2. All projecting signs may only be externally illuminated from above;
3. All signs must be constructed of wood, brick or metal. Individually mounted plastic letters are permitted for wall signs if wholly covered with opaque paint;
4. All signs are limited to colors from the following color palette. Photographs of the color palette swatches are provided for illustrative purposes only. Applicants may view the original palette at the city of Duluth. For the purposes of this ordinance, the specific colors are provided in two types. The first describes the paint colors originally cited in the DWMX District, which are a series of Ace Hardware paint colors. A general Pantone equivalent is also provided, which are the "uncoated" Pantone PMS colors. Pantone is a color system used in a variety of industries, primarily printing, and occasionally in the manufacture of colored paint, fabric, and plastics. Applicants may consult with the land use supervisor to determine the final colors to be used in the sign, which must meet the general color requirements of this Section.

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## COLOR PALETTE

Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent	Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent
	<b>Far Horizon</b> 65A-2P 649		<b>Mirage Lake</b> 65A-3P 650
	<b>Cocoa Parfait</b> 25C-1P 4755		<b>Malibu Sand</b> 25B-2T 466
	<b>Tuxedo Gray</b> 78C-1P 650		<b>Gray Tweed</b> 78C-3D 5425
	<b>Gray Duck</b> 73C-2P 651		<b>Symphony Blue</b> 73C-4D 5415
	<b>Bobby Blue</b> 66B-2T 637		<b>Black Magic</b> 65A-1A Process Black
	<b>Riviera Sky</b> 75B-3D 646		<b>Spectrum Blue</b> 67B-4D 3005
	<b>Tahiti Blue</b> 58C-2T 630		<b>Calico Blue</b> 75A-1A 2955
	<b>Green Stone</b> 60C-2T 623		<b>Nanking Blue</b> 66B-4D 313
	<b>Sea Vista</b> 56C-2T 629		<b>Veridiam</b> 60C-4D 371
	<b>Aqua Pool</b> 56C-3D 326		<b>Gemstone</b> 56C-4D 3292

Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent	Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent
	<b>Cane</b> 36B-1T 726		<b>Harvest</b> 36B-2D 727
	<b>Peach Velvet</b> 15B-2T 699		<b>Dawn Sun</b> 15B-3D 708
	<b>Coral Reef</b> 7B-2T 701		<b>Spectrum Red</b> 5A-1A 186
	<b>Pagoda Red</b> 5C-4D 703		<b>War Dance</b> 14A-1A 188
	<b>Blushing Pink</b> 4C-2T 673		<b>Rosalind</b> 4C-4D 207
	<b>Tarragon</b> 25C-3D 465		<b>Stratum Rock</b> 38A-1A 462
	<b>Lobster Bisque</b> 16C-1P 699		<b>Tile Tan</b> 16C-3D 486
	<b>Ripe Peach</b> 22C-2T 722		<b>Bright Sienna</b> 22C-4D 723
	<b>Tile Tan</b> 16C-3D 486		<b>Really Rust</b> 22A-1A 484
	<b>Bracken Brown</b> 25C-2T 406		<b>Tobacco Gold</b> 47A-1A 4495

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### 50-27.9. Master sign plan.

- A. Following the effective date of this Section, an applicant is required to submit a master sign plan for any new commercial multi-tenant building or development that includes non-residential uses, including mixed-use development, for review and approval by the planning commission. The planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications, or deny the application;
- B. The master sign plan must provide a coordinated design for all building-mounted signs including, at a minimum, criteria and specifications for sign locations, general range of sign area, and lighting. All freestanding signs must be shown on the sign plan, including size, location and lighting;
- C. Once approved, signs erected within the multi-tenant development must follow the master sign plan;
- D. The review and approval process for a master sign plan does not allow for variations to the requirements of this Section.

### 50-27.10 Campus sign plan.

- A. The city recognizes that university or college or hospital campuses have unique sign needs that may need to depart from the requirements of this Section. In such cases, the planning commission may recommend and city council may approve such sign standards for temporary and permanent signs through the review and adoption of a campus sign plan;
- B. A campus sign plan may be applied for by a university or college or hospital campus a minimum of two acres in size. In calculating the area, the entire area does not have to be contiguous and may be separated by public rights-of-way or by individual parcels not owned by the institution. However, the entire area must function as a connected campus;
- C. As part of the establishment of a campus sign plan, a comprehensive sign plan must be submitted. The comprehensive sign plan must describe the sign standards for the campus, including all exceptions to the requirements of this Section. A campus sign plan may be more permissive than the standards of this section. Directional signs within the campus may be described generally by sign area and height and general locations;
- D. The planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications, or deny the application;
- E. Alternately, a campus sign plan may be incorporated into the review and approval process of the district plan option of the MU-I District.

### 50-27.11 Classic signs.

#### A. Purpose.

Because the city recognizes that certain existing signs do not conform with this Chapter but are particularly unique and/or have historic value, including signs for products or businesses that are no longer located on-site, the classic sign designation is established where the city can designate certain signs as classic signs. Once designated, the classic sign is deemed conforming, and thus is no longer nonconforming, provided the sign is maintained in good condition and its

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physical integrity remains intact. Any sign designated on the national historic register is automatically considered a classic sign under this Section;

### B. Eligibility.

1. An owner of a sign, or the city may apply for designation of an existing sign as a classic sign. Classic signs are exempt from area, setback, height, lighting, movement, placement, type, content, and construction materials requirements of this Section;
2. To qualify for designation as a classic sign, the sign must:
  - (a) Be at least 25 years old or an exact replica of an original sign where the combined age of the duplicate and original sign is at least 25 years;
  - (b) Possess unique physical design characteristics, such as configuration, message, color, texture, etc.;
  - (c) Be of significance to the city, regardless of the use identified by the sign;
3. A sign designated a classic sign may remain on the premises even if the original use to which the sign relates is no longer located on the premises. A designated classic sign may also be moved to a new structure;

### C. Application.

The application for classic sign status must be made to the land use supervisor, who will schedule a public hearing. The planning commission may approve or deny the application;

### D. Maintenance.

The owner of a classic sign must ensure that the sign is not structurally dangerous, a fire hazard, an electrical shock hazard, or any other kind of hazard. Classic signs may be rebuilt if damaged;

### E. Designated classic signs.

A list of designated classic signs is maintained by the land use supervisor.

Section 2. That Section 50-38.6 of Chapter 50 be amended as follows:

#### 50-38.6 Nonconforming on-premises signs.

- A. A legal nonconforming on-premises sign that was previously permitted may remain in use, so long as it remains otherwise lawful, and may be restored, repaired, or altered in the following ways: replacing lamps, replacing ballast, replacing transformers, painting the pole(s) and the cabinet, replacing or repairing the sign face(s), including H-bars and retainers behind the face(s), replacing trim, and replacement of sign fasteners, nuts, and washers. The following are not considered repair or restoration and shall require the legal nonconforming on-premises sign to be brought into conformance with this Chapter, except as provided in subsection F below: change or replacement in poles, structural supports, bases or shrouds, footings, moving the sign for any reason, change or replacement of the interior and/or exterior cabinet frame (excluding trim) and any changes made to the size, height, light intensity or bulk of the sign or the temporary or permanent removal of the sign for the repair or replacement of the cabinet or any part thereof, not including the face. Temporary removal of the sign cabinet for the replacement of the sign face(s) is permitted and will not require that the sign be brought into conformance with all requirements of this Chapter;

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- B. No legal nonconforming sign may be relocated, in whole or in part, to any other location on the same or other lot, unless the entire sign conforms to all regulations of the zoning district in which the sign is relocated;
- C. A legal nonconforming on-premises sign may not be altered in any way that would create any new nonconformity or increase the degree of any previously existing nonconformity;
- D. In the event that any legal nonconforming sign is damaged or destroyed to the extent of more than 50 percent of its value prior to the damage, the sign cannot be restored or repaired unless it conforms to all applicable regulations for the district;
- E. All sign illumination, electronic message signs, and electronic billboards that do not conform with the display requirements of this Chapter, including brightness, message duration and similar performance requirements for the electronic component, are required to conform to the standards of this Chapter for the electronic component within 90 days of this date: March 11, 2013;
- F. A legal nonconforming on-premises sign that does not meet the standards for sign area or sign height is being altered in such a way as to reduce the nonconformity, the alteration may be approved by the land use supervisor.

Section 3. That Section 50-38.7 of Chapter 50 be amended as follows:

### 50-38.7 Nonconforming off-premises signs.

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

#### A. Reconstruction of existing signs.

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

#### B. Exception credit system.

1. The owner of a nonconforming off-premises sign may receive an exception credit if it is determined by the building official that a nonconforming off-premises sign is to be removed, or has been removed, due to a termination of lease for reasons beyond the reasonable control of the applicant, or other forced removal (not including destruction or other situations rendering the sign unusable). Such reasons include but are not limited to the refusal of a

lessor to renew a lease or the applicant's inability to obtain a lease renewal on reasonable terms and conditions (including lease rent at a fair market rate). An exception credit may be issued for each such sign that has been removed no more than 30 days prior to written application for the exception credit;

2. The building official shall determine if the applicant is eligible to receive an exception credit and shall certify and keep a log of all such credits documenting the owner of the credit, cumulative square footage of sign area credited and number of locations available for sign structures. After approving the use of an exception credit, the building official shall notify the owner, in writing, of the owner's remaining credited total of available square footage of sign area and remaining credited number of locations available for sign structures;

**C. Use of exception credits.**

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

Section 4. That Section 50-41 of Chapter 50 be amended as follows:

50-41 Definitions.

50-41.1 Definitions: A.

Accessory agriculture roadside stand.

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

Accessory bed and breakfast.

An owner-occupied building designed as a one-family dwelling that provides no more than 5 guest rooms for lodging accommodations by prior arrangements for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Accessory boat dock, residential.

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

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### Accessory caretaker quarters.

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

### Accessory communications tower for private use.

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

### Accessory day care facility.

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

### Accessory dwelling unit.

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

### Accessory heliport.

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

### Accessory home occupation.

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

### Accessory recycling collection point.

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

### Accessory sidewalk dining area.

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

Accessory solar or geothermal power equipment.

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

Accessory use or structure.

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

Accessory vacation dwelling unit.

An accessory dwelling unit as defined by this Chapter that is used for periods of occupancy from three to 21 days.

Accessory wind power equipment.

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

Accessory wireless antenna attached to existing structure.

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

Adjacent developed lots facing the same street.

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

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### Adult entertainment establishment.

See definition in Chapter 5 of the City Code.

### Adult book store.

See definition in Chapter 5 of the City Code.

### Agriculture, general.

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

### Agriculture, urban.

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

### Airport boundary.

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

### Airport elevation.

The established elevation of the highest point on the usable landing area, which elevation is established to be 1,438 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.

### Airport hazard.

Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

### Airport and related facilities.

An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.

### Alley.

A dedicated public right-of-way not more than 30 feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation.

### Alley line.

The established side line of an alley easement.

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### Antenna.

A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

### Apartment.

A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a one-family, including full cooking and bathroom facilities for individual use.

### Apartment hotel.

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

### Automobile and light vehicle sales, rental, or storage.

The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

### Automobile and light vehicle repair and service.

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

### Average lot depth.

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

### 50-41.2 Definitions: B.

#### Bank.

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

#### 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.

#### Bed and breakfast.

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

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### Block..

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

### Block face.

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

### Bluff.

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

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

### Bluff, bottom of.

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

### Bluff, top of.

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

### Bluff impact zone.

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

### Bluff line.

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

### Boathouse.

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

### Buffer area.

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

### Buffer, naturally vegetative.

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

### Build-to zone.

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

### 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

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division walls without openings, each portion of such building so separated shall be deemed a separate building.

### Building material sales.

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

### Bulk storage not listed elsewhere.

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

### Bus or rail transit station.

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

### Business, art, or vocational school.

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

### Business park support activities.

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

### 50-41.3 Definitions: C.

#### Cemetery or mausoleum.

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

#### Channel.

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

#### Club or lodge (private).

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

#### Co-housing facility.

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

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### Co-location.

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

### Coldwater river.

Rivers including trout streams and their tributaries.

### Commercial impracticability or commercially impracticable.

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

### Common open space.

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

### Common plan of development or sale.

A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan. For redevelopment projects, contiguous includes parcels separated by a right-of-way.

### Composting.

The controlled microbial degradation of organic waste to yield a humus-like product.

### Confined animal feeding operation.

A facility, area, or place where the feeding of livestock, poultry, pigs, or small animals takes place for commercial purposes in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means.

### Construction debris.

Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

### Contractor's shop and storage yard.

A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This definition includes architects, engineers, surveyors' construction offices and shops, real estate sign placement service, and showroom and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal and other material in connection with contracting services.

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### Convention or event center.

A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and training facilities, which may be associated with a hotel or motel.

### Critical root radius.

An area around a tree measured with a radius of one foot for every in. diameter of the tree, which is generally the area of soil that must remain undisturbed to ensure long-term viability of the tree.

### Cutoff angle.

For purposes of exterior lighting regulations, the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above from which no light is emitted.

### 50-41.4 Definitions: D.

#### Data center.

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

#### Day care facility.

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

#### Decorative fence.

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

#### Demolition debris.

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

#### Dense urban screen.

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

#### Design storm.

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

#### Detention.

The temporary storage of drainage water.

#### Deteriorated.

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

#### Developable area.

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

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### Development.

The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels.

### Diameter at breast height (DBH).

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

### Direct illumination.

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

### Discharge.

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

### Discharge rate.

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

### District.

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

### DNR.

Minnesota department of natural resources.

### Drainage basin.

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

### Drainage system.

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

### Drainage water.

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

### Drip line.

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

### Dry cleaning or laundry plant.

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

### Dwelling.

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

### Dwelling unit.

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

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### Dwelling unit, efficiency.

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

### Dwelling, live-work.

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

### Dwelling, multi-family.

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

### Dwelling, one-family.

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

### Dwelling, townhouse.

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

### Dwelling, two-family.

A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families.

### 50-41.5 Definitions: E.

#### Electric power or heat generation plant.

A facility or area that generates electricity from mechanical power produced by the firing of fossil fuels, or that produces heat or steam for space heating and other similar uses.

#### Electric power transmission line or substation.

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

#### Elevation (flood).

In the context of flood related regulation, that elevation above mean sea level referenced in the National Geodetic Datum of 1929.

#### Encroachment lines.

In the context of flood related regulation, the lateral limits or lines drawn along each side and generally parallel to a stream or another body of water, which delineates the floodway and within which the flood carrying capacity of the stream or other body of water is to be preserved. Their location, if along a stream, should be such that the

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floodway between them will effectively carry and discharge a flood not less than the regional flood.

Equal degree of encroachment.

In the context of flood related regulation, a method of determining the location of encroachment lines so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

Erosion.

Any process that wears away the surface of the land by the action of water, wind, ice or gravity. Erosion can be accelerated by the activities of man and nature.

Erosion and sediment control plan.

A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Erosion and sedimentation practice specifications, or practice.

The management procedures, techniques and methods adopted by the city to adequately and effectively control soil erosion and sedimentation incident to land disturbing activity within the city. The specifications are primarily based upon the MPCA handbook entitled Protecting Water Quality in Urban Areas, published in October of 1989, but may be varied on a case by case basis to effectively control erosion and sedimentation.

Established residential neighborhood in a built up urban area (ERN BUUA).

In the context of airport regulation, an area that, if it existed on or before January 1, 1978 (for low density structures and lots) and an area that, if it existed on or before July 2, 1979 (for all other land uses) shall be considered a conforming use that shall not be prohibited except as provided in this Chapter. The following criteria shall be applied and considered in determining what constitutes an ERN BUUA:

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

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### Excepted parcel (airport overlay).

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

### Expression line.

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

### 50-41.6 Definitions: F.

#### FAA.

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

#### Family.

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

#### FCC.

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

#### Filling station.

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

#### Flood.

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

#### Flood frequency.

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

#### Flood fringe.

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

#### Flood hazard area.

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

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### Flood peak.

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

### Flood plain.

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

### Flood profile.

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

### Floodproofing.

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

### Flood protection elevation.

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

### Floodway.

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

### Food processing.

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

### Forest management.

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

### Frontage.

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

### Funeral home or crematorium.

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

### 50-41.7 Definitions: G.

#### Garage, private.

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

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### Garden material sales.

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

### General development waters.

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

### General flood plain.

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

### Golf course.

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

### Government building or public safety facility.

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

### Grade.

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

### Grocery store.

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

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

### Groundwater management area.

A geographically defined area that may be particularly sensitive in terms of groundwater quantity or quality by nature of the use or movement of groundwater, or the relationship between groundwater and surface water, and where special

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management measures are deemed necessary to protect groundwater and surface water resources.

### Groundwater recharge volume.

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

### 50-41.8 Definitions: H.

#### 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.

#### Habitable unit.

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

#### Hardship.

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

#### Hazardous waste.

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

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

#### Height of building.

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

#### Height of tower or structure.

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

#### Height of wall or fence.

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

#### Historic preservation district.

A contiguous collection or group of lands, parcels, sites, structures, buildings or objects that is determined to be historically, culturally or architecturally significant as

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a whole and has been locally designated as a historic preservation district pursuant to Section 50-18.3 of this Chapter.

### Historic preservation guidelines.

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

### Historic preservation landmark.

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

### Hotel or motel.

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

### Hospital.

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

### 50-41.9 Definitions: I.

#### Impaired waters.

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

#### Impervious surface.

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

#### Indirect illumination.

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

#### Indoor entertainment facility.

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

#### Industrial services.

A facility or area where industrial services such as heating, ventilation, cooking and refrigeration supplies, motion picture production, plumbing supplies, printing and photocopying, publishing, engraving, exposition building or center, and other uses designed to support industrial or heavy commercial activities in the vicinity, provided

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that such services are not listed separately as a permitted of special use in this Chapter.

### Industrial stormwater permit.

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

### Industrial use.

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

### Infill development.

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

### Infiltration.

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The process of percolating stormwater into the subsoil.

### Infiltration facility.

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

### Institution.

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

### Institutional support use.

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

### 50-41.10 Definitions: J.

### Junk or salvage service.

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

### Jurisdictional wetland.

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

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### 50-41.11 Definitions: K.

#### Kennel.

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

### 50-41.12 Definitions: L.

#### Land development.

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

#### Land disturbing activity.

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

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

#### Landing area.

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

#### Land owner.

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

#### Landscape plan.

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

#### Laundromat.

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

#### Link.

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

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segment that connects a node in the development to the external street network shall be counted as a link in the index calculation.

### Loading space.

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

### Local watershed.

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

### Lot.

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

### Lot, corner.

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

### Lot, double frontage.

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

### Lot, flag.

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

### Lot, front.

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

### Lot frontage.

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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.

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### Lot of record.

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

### Lots on the block face.

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

### Low density residential lot.

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

### Low density residential structure.

A one-family or two-family home.

### Lowest floor.

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

### 50-41.13 Definitions: M.

#### Maintenance agreement.

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

#### Major system.

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

#### Manufacturing, light.

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

#### Manufacturing, heavy.

An establishment or use of land that includes the assembly, fabrication, or processing of goods and materials using processes that ordinarily have impacts on the environment or significant impacts on the use and enjoyment of surrounding properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or any use where the area occupied by outside storage of goods and materials used

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in the assembly, fabrication, or processing exceeds 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: battery, chemicals, machinery, and plastics manufacture; mushroom plant; batching plant; beverage bottling and distribution, packaging plant; slaughterhouse; and rendering plant. This use does not include any use that meets the definition of "light manufacturing" or "hazardous or special manufacturing", or a solid waste disposal site, or a yard waste compost facility, and does not include any use that constitutes a public nuisance.

### Manufacturing, hazardous or special.

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

### Marina or yacht club.

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

### Maximum extent practicable (MEP).

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

### Medical or dental clinic.

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

### Migratory bird flight path.

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

### Mining, extraction and storage.

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

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### Mini-storage facility.

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

### Minor system.

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

### Minor utilities.

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

### Modify or modification.

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

### Motor vehicle.

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

### Municipal separate storm sewer system (MS4).

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

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

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### MPCA.

Minnesota pollution control agency.

### Museum, library, or art gallery.

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

### 50-41.14 Definitions: N.

#### Nameplate.

An accessory sign containing only the name of the occupant of a dwelling and an occupation permitted in that zone district.

#### National register of historic places.

The nation's official list of properties worthy of preservation designated by the United States department of the interior, national park service.

#### Natural environment waters.

Include rivers that are forest previously classified remote, forest, transitional river segments, and tributary river segments that flow into natural environment lakes. The types and intensities of recreational uses within this class vary widely.

#### Natural resource inventory.

An inventory that identifies and maps the critical natural resources on a site, including the following resources: existing land cover of vegetative types; streams; wetlands; lakes; significant, sensitive, threatened, or endangered species; critical wildlife habitat; soil types; geologic hazards (floodplains, unstable slopes, highly erodible soils); and mineral resources.

#### Natural state.

Where vegetation exists in a wild state, where the condition of the ground and shrub layers and floristic composition of the plant community is substantially unaltered by humans, where restoration has been consistent with Commissioner 525 Guidelines or local government approved plans, or where the vegetation has been unaltered for at least one growing season.

#### Navigable airspace.

Airspace at and above the minimum flight altitudes prescribed in the FARs including airspace needed for safe takeoff and landing (refer to FAR Part 77 and 91).

### NIER.

Non-ionizing electromagnetic radiation.

### Node.

For purposes of the connectivity index described in Section 50-23.3, a node exists at each street intersection and cul-de-sac head within the development subject to the connectivity index.

### Nonconforming use.

Any building or land lawfully occupied by a use at the time of passage of this Chapter or an amendment to this Chapter that does not conform after the passage of this Chapter or amendment to this Chapter with the use regulations of the district in which it is situated.

### Nonpoint source pollution.

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

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### 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.

### Non-structural measure.

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

### NPDES.

National pollution discharge elimination system.

### Nursing home.

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

### 50-41.15 Definitions: O.

#### Obstruction.

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

#### Office.

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

#### Off-site facility.

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

#### On-site facility.

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

#### Ordinary high water mark.

A mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark

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is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

### Outdoor entertainment or recreation use.

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

### Owner.

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

### 50-41.16 Definitions: P.

#### Park, playground or forest reserve.

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

#### Parking area.

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

#### Parking structure.

A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking, and underground or under-building parking areas.

#### Parking lot.

An off-street area used for the temporary storage of operable and street legal motor vehicles. Includes parking spaces, aisles, drives and landscaped areas, and provides vehicular access to public street.

#### Parking space.

An off-street space available for the parking of one motor vehicle.

#### Patterned wall.

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

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### Permanent stormwater best management practice (BMP).

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

### Personal services and repair (small).

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

### Personal services and repair (large).

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

### Personal wireless facility.

See wireless telecommunications facilities.

### Personal wireless service or PWS.

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

### Place.

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

### Place of public or semi-public assembly.

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

### Planned future airport improvement.

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

### 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.

### Precision instrument runway.

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

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### Premises.

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

### Preschool.

An establishment licensed by the state to provide a systematic organization or arrangement of activities, personnel, materials, and equipment in a facility to promote the physical, intellectual, social, and emotional development of a child, who is at least 33 months old but who has not yet attended the first day of kindergarten, in the absence of the parent for a period of less than 24 hours a day.

### Principle use or structure.

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

### Public assembly bulletin board.

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

### Pylon.

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

### 50-41.17 Definitions: Q.

#### No definitions.

### 50-41.18 Definitions: R.

#### R-district parking area.

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

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

#### Radio or television broadcasting tower.

A structure that is designed and constructed primarily for the purpose of supporting one or more antennae that transmit information (audio, video, data, but not personal wireless communications) in the form of electromagnetic signals to one or more receivers without the use of a physical connection between the transmitting and receiving source. The term includes but is not limited to: lattice towers, guyed

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towers, and monopole towers. The term does not include a wireless communication tower, clock tower, bell tower, steeple, light pole, power pole, water tower, or similar structure that incidentally supports antennae.

Railroad yard or shipyard and related facilities.

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

Rainfall events

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

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

Reach.

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

Readerboard.

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

Receiving stream or channel.

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

Receiving waters.

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

Recharge.

The replenishment of underground water reserves.

Recycling collection point (primary use).

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

Redevelopment.

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

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### Regional flood.

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

### Regional stormwater.

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

### Religious assembly.

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

### Repairs and maintenance.

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

### Research laboratory.

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

### Residential care facility/Assisted living facility.

A building that houses persons, on a 24 hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following; residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers, and convalescent facilities.

### Responsible party.

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

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

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

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

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

### Retail store.

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

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

### Riding stable.

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

### Rooming house.

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

### Runway.

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

### 50-41.19 Definitions: S.

#### School, elementary.

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

#### School, middle or high.

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

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### Seasonal camp or cabin.

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

### Sediment.

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

### Sedimentation.

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

### Setback.

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

### Shore impact zone.

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

### Shoreland.

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

### Sidewalk.

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

### Sidewalk café.

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

### Sign.

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

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### Sign, A-frame.

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

### Sign, agricultural identification.

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

### Sign, animated.

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

### Sign, attention getting.

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

### Sign, awning.

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

### Sign, balloons.

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

### Sign, banner.

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

### Sign, banner-exhibition.

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

### Sign, billboard.

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

### Sign, building directory.

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

### Sign, canopy.

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

### Sign, construction.

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

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### Sign, community event.

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

### Sign, directional-parking lot.

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

### Sign, electronic display screen.

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

### Sign, electronic message.

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

### Sign, flashing

A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.

### Sign, freestanding.

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

### Sign, freestanding monument.

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

### Sign, freestanding pole.

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

### Sign, ghost.

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

### Sign, government information sign.

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

### Sign, home occupation.

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

### Sign, illumination types.

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

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

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

### Sign, marquee.

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

### Sign, memorial plaque.

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

### Sign, menuboard.

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

### Sign, moving.

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

### Sign, nameplate.

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

### Sign, non-commercial.

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

### Sign, off-premises.

A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located.

### Sign, on-premises.

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

### Sign, parking lot information.

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

### Sign, political.

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

### Sign, portable.

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

### Sign, projecting.

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

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### Sign, property identification/management.

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

### Sign, property identification.

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

### Sign, public information.

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

### Sign, real estate.

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

### Sign, roof.

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

### Sign, scoreboard.

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

### Sign, snipe.

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

### Sign, temporary off-premises.

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

### Sign, under-awning.

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

### Sign, under-canopy.

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

### Sign, wall.

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

### Sign, window.

A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within 12 inches of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or

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temporary. Window clings are considered a window sign and subject to all window sign regulations.

### Significant tree.

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

### Site.

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

### Site plan.

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

### Slope.

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

### Solar, geothermal or biomass power facility (primary use).

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

### Solid land.

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

### Solid waste.

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

### Solid waste disposal or processing facility.

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

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### Special tree species.

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

### Special use.

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

### Stealth or stealth technology.

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

### Steep slope.

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

### Storage warehouse.

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

### Stormwater.

Stormwater runoff, snowmelt runoff, surface runoff and drainage.

### Stormwater management.

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

### Stormwater pollution prevention plan.

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

### Stormwater pollution prevention program (MS4 program).

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

### Stormwater best management practice (BMP).

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

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### Stormwater retrofit.

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

### Stormwater runoff.

Flow on the surface of the ground resulting from precipitation.

### Story.

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

### Story, half.

A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than 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.

### Stream buffer.

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

### Street.

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

### Street line.

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

### Structure.

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

### Structural alteration.

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

### Subdivision.

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

### Sustainable development.

Development that maintains or enhances economic opportunity and community well being while protecting and restoring the natural environment upon which people and

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economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

### 50-41.20 Definitions: T.

#### Telecommunications.

The transmission or reception of audio, video, data, and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

#### Telecommunications site.

See wireless telecommunications facilities.

#### Telecommunications structure.

A structure used in the provision of services described in the definition of wireless telecommunications facilities.

#### Temporary.

A fixed period of time not to exceed 180 days. For the purposes of wireless telecommunications, temporary means not more than 90 days.

#### Temporary construction office or yard.

A facility or area used as a temporary field construction office, temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or construct buildings, structures or infrastructure.

#### Temporary event or sales.

A temporary outdoor use of land for the purposes of an event or sale including but not limited to: a circus, carnival, fair, part, or celebration that reasonably may be expected to attract more than 100 persons at any one time; or any sale made by a person, firm or corporation engaging in the temporary business of selling goods, wares or merchandise from a tent, truck, vending cart or other area outside of a permanent structure on property owned or leased by the person, firm or corporation. The temporary event or sale must be secondary to or incidental to the permitted use or structure existing on the property and not incompatible with the intent of the zone district.

#### Temporary moveable storage container.

A container designed for the storage of personal property that is typically rented to owners or occupants of property for their temporary use, and that customarily is delivered and removed by truck.

#### Temporary real estate sales office.

A facility or area used as a temporary office to sell land or buildings within a specified area or subdivision.

#### Theater.

A building, structure or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

#### Tourist or trailer camp.

Any park, trailer park, trailer court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches or upon which any trailer coach or trailer coaches are parked, and shall include all buildings used or intended for use as part of the equipment or establishment, whether or not a charge is made for the use of the trailer camp and its facilities. Trailer camp shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### Tower.

In the context of wireless telecommunications, any structure designed primarily to support an antenna for receiving or transmitting a wireless signal.

### Trailer.

Any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include trailers whose wheels or axles have been removed.

### Truck.

Every motor vehicle designed, used or maintained primarily for the transportation of property.

### Truck freight or transfer terminal.

A facility in which goods shipped by truck are loaded, unloaded, or transferred between trucks for shipping or distribution, together with incidental truck storage, maintenance, and administrative offices.

### Truck or heavy vehicle sales, rental, repair or storage.

A facility that is engaged in the sales, rental, repair or storage of heavy equipment typically used in agricultural, commercial or industrial operations, including tractors, trucks with a gross vehicle weight of over 10,000 pounds, semi trucks or trailers, harvesters, loaders and tracked vehicles as well as sales of parts, whether new or used, for heavy equipment.

### 50-41.21 Definitions: U.

#### University or college,

An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

#### Useable open space,

Open space, other than required building setback areas, that is utilized exclusively for active recreational purposes such as softball, tennis or playgrounds or for passive recreational purposes such as pedestrian walkways or trails that have been preserved in their natural setting or landscaped. Areas with slopes of 15 percent or greater, and areas of wet, spongy land saturated and partially or intermittently covered with water shall not be considered useable open space. Useable open space shall not include streets or other vehicular access not used exclusively for the maintenance of such open space. Land on which buildings or other facilities are located may be considered useable open space if those buildings or other facilities are used for noncommercial, recreational or cultural purposes that are compatible with useable open space objectives and have been specifically approved as part of the development plan.

#### Utility, major,

A facility providing an important regional utility service, such as water, sewer, or drainage, that normally entails construction of new buildings or structures, and that typically has employees on the site on an ongoing basis. Examples include but are not limited to: water works, sewage treatment plants, reservoirs, regional stormwater detention ponds and other similar facilities.

#### Utility, minor,

Equipment necessary to support utility services to development within the immediate vicinity and that involves only minor accessory structures. Employees typically are not located at the site on an ongoing basis. Examples include but are not limited to:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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electric transformer stations and service boxes, gas regulator stations, telephone service boxes, and well, water and sewer pumping stations, and related underground and aboveground pipes and wires, but excluding those that meet the definition of an electric power transmission line.

### 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.

### 50-41.22 Definitions: V.

### Vacation dwelling unit.

A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities that are physically separated from other habitable units that may or may not be located in the same building for periods of occupancy from three to 21 days. This use does not include hotels, motels, or bed and breakfasts.

### Veterinarian or animal hospital.

A facility for the diagnosis, treatment or hospitalization of animals, and including the incidental boarding or breeding of animals.

### 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.

### 50-41.23 Definitions: W.

### 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.

### Water-dependent bulk storage or wholesaling not listed elsewhere.

A bulk storage or wholesaling use as defined by this Chapter, but not separately defined, that must be located near water because of the nature of the goods being stored or wholesaled or the means by which they are being transferred to or from the site, or because the establishment's suppliers or customers must be located near water

### Water dependent manufacturing, light or heavy.

A light or heavy manufacturing use, as defined by this Chapter, that must be located near water because of the nature of the goods being manufactured, assembled, fabricated, or treated or the means by which they or their inputs are being transferred to or from the site, or because the establishment's suppliers or customers must be located near water

### Water management district.

Land that by definition is in a flood plain district, a shoreland district, or a wetland.

### Water or sewer pumping station/reservoir.

Facilities to collect or distribute water or wastewater from a defined service area, and that typically does not have employees at the site, including but not limited to water-pumping stations, water reservoirs and sewage pumping stations.

### Water or sewer treatment facility.

An establishment to treat water or wastewater from a defined service area, and that typically has employees at the site, including but not limited to water treatment plants, sewage treatment plants and sewage disposal plants.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### Waters of the state.

All streams lakes ponds, marshes, water course, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through or border upon the state or any portion of the state. Constructed wetlands designed for wastewater treatment are not waters of the state

### Wetland.

Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands must have the following attributes:

- A. A predominance of hydric soils;
- B. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition;
- C. Under normal circumstances support a prevalence of such vegetation.

### Wholesaling.

A use engaged in enclosed wholesale of manufactured products, supplies, and equipment, including accessory offices and showrooms. Products may be picked up on-site or delivered to the customer. This use does not include sales to the public at large or to consumers who are members or a club or association, regardless of whether the name of the business includes some version of the word "wholesale

### Wind power facility (primary use).

A primary use of land including an aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, in a configuration necessary to convert the power of wind into mechanical or electrical energy. Examples include but are not limited to: wind charger, windmill and wind turbine.

### Wireless telecommunications facilities.

A structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures, including but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of antennas. It also includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC. This term also includes a telecommunications site and personal wireless facility.

### 50-41.24 Definitions: X.

### No definitions.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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50-41.25 Definitions: Y.

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.

Yard depth or width.

In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front.

A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the primary building, but ignoring projections permitted by this chapter.

Yard, rear.

A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the primary building, but ignoring projections permitted by this Chapter. On all lots the rear yard shall be at the opposite end of the lot from the front yard.

Yard, side.

A yard between the main building and the side line of the lot, and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the primary building, but ignoring projections permitted by this Chapter.

Yard waste.

The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

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.

50-41.26 Definitions: Z.

No definitions.

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 14, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Boyle, Fosle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Hartman -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 11, 2013  
Approved March 11, 2013  
LINDA KRUG, Acting Mayor

- - -

**ORDINANCE NO. 10205**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-NEIGHBORHOOD (MU-N) AND RESIDENTIAL-URBAN (R-2), TO FORM DISTRICT SIX, MID-RISE NEIGHBORHOOD SHOPPING (F-6) FOURTH STREET FROM NORTH SIXTH AVENUE EAST TO NORTH 14TH AVENUE EAST, FROM THE ALLEY ABOVE AND BELOW FOURTH STREET (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That the subject properties, Fourth Street from North Sixth Avenue East to North 14th Avenue East, from the alley above and alley below Fourth Street, and as more particularly described as follows:

Those parts of Duluth Proper First Division, Auditors Rearrangement of Part of Portland Division of Duluth, Portland Division of Duluth and Endion Division of Duluth, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, described as follows:

Beginning at the intersection of North Sixth Avenue East centerline and the southwesterly extension of East Fourth Street Alley centerline (alley between East Third Street and East Fourth Street);

Thence northwesterly along North Sixth Avenue East centerline to the southwesterly extension of East Fifth Street Alley centerline (alley between East Fourth Street and East Fifth Street);

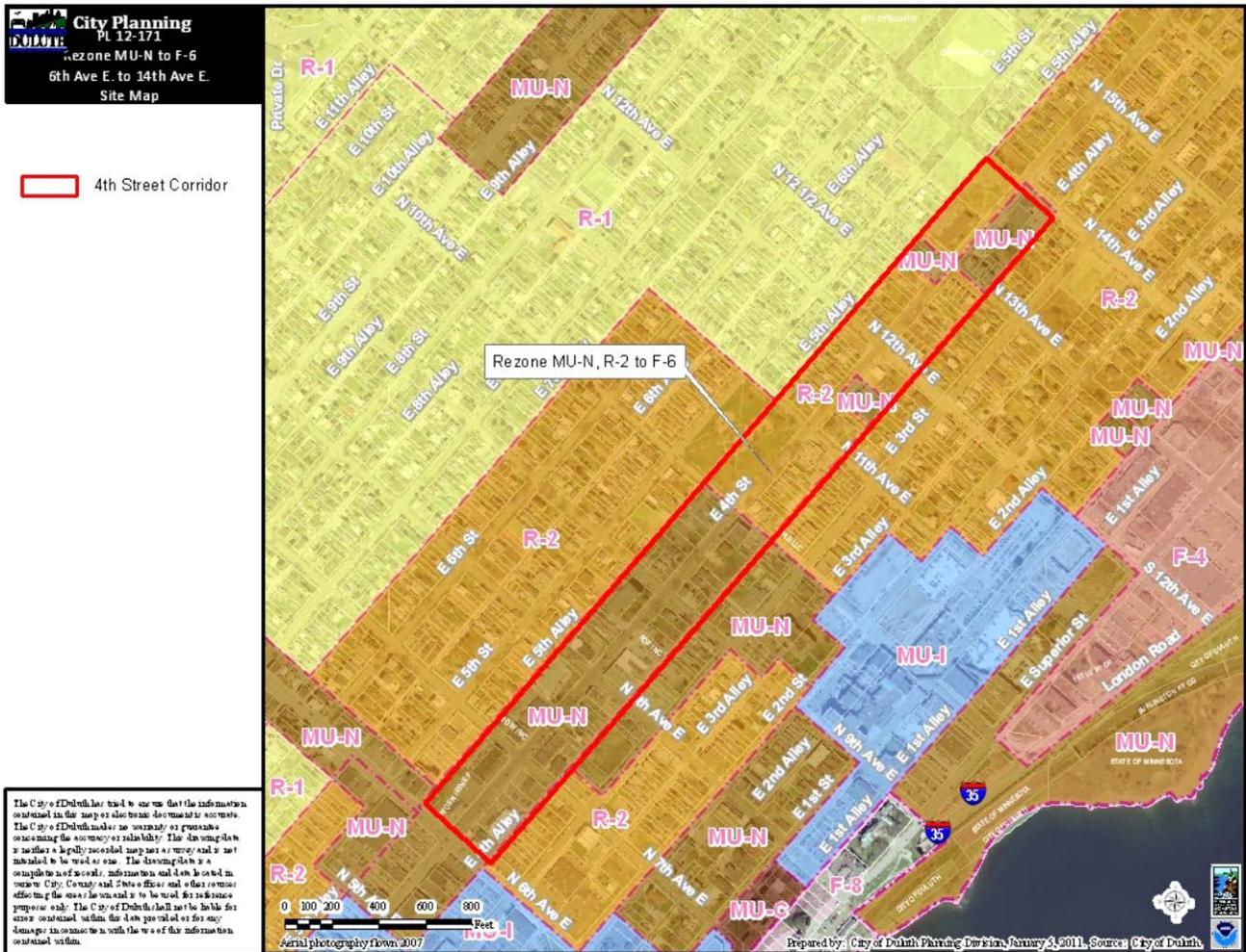
Thence northeasterly along said East Fifth Street Alley centerline and its extensions to the North Fourteenth Avenue East centerline;

Thence southeasterly along said North Fourteenth Avenue East centerline to the northeasterly extension of the East Fourth Street Alley centerline;

Thence southwesterly along said East Fourth Street Alley centerline line and its extensions to the Point of Beginning at North Sixth Avenue East;

be reclassified from Mixed Use-Neighborhood (MU-N), to Form District Six, Mid-Rise Neighborhood Shopping (F-6), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



(Ref. File No. 12-171)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 14, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
 JEFFREY J. COX, City Clerk

Passed March 11, 2013  
 Approved March 11, 2013  
 LINDA KRUG, Acting Mayor

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, March 25, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Absent: President Boyle -- 1

- - -

Vice President Krug presided over the meeting in the absence of President Boyle.

- - -

The minutes of the council meeting held on January 14, 2013, were approved upon a unanimous vote.

- - -

## REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reported at length on the status of Wade Stadium and the plan for financing the repairs and updating its status with the Minnesota Legislature.

- - -

## REPORTS FROM OTHER OFFICERS

13-0325-01 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Duluth AA Institute on May 9, 2013; (b) National Kidney Foundation on May 18, 2013. -- Received

- - -

## REPORTS OF BOARDS AND COMMISSIONS

13-0325-02 Library board minutes of January 22, 2013, meeting. -- Received

- - -

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Loren Martell reviewed: his prior comments about a citizen who wrote the school board and how the letter was never put in the public file and the intimidating verbal confrontation to this individual, that made her so scared that she denied ever sending the letter; that an oversight committee be established to review the removal of communications from the public file and that there is a claim that there is no written policy on communications, when in fact there is a by-law which states that communications are to be in a public file.

- - -

## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

Vice President Krug moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to amend and execute a renewal of the joint powers Agreement No. 20604 with the Duluth entertainment and convention center authority for the operation of the Minnesota Slip pedestrian draw bridge for

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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year 2013 for a total amount not to exceed \$36,441.02, terms net 30, payable from the Tourism Tax Fund 258, Department/Agency 030 (finance), Object 5310 (contract services).

Resolution 13-0117 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor licenses by the liquor control commissioner, and issues three one day dance licenses, subject to departmental approvals and any specific restrictions:

Grandma's Marathon - Duluth, Inc., Canal Park Drive and Buchanan Street, for June 21-23, 2013, with Scott Kennan, manager, with the music and serving ending at 2:00 a.m.

Resolution 13-0127 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Thane Hawkins Polar Chevrolet for the purchase and delivery of three vehicles, including two 2013 Chevrolet Silverado 2500 4x4 extended cab, regular box diesel pickup trucks for public works and utilities and one 2013 Chevrolet Silverado 2500 4x4 regular cab and chassis pickup truck for street maintenance, in accordance with Minnesota State Contract 37909, Release T-642(5), specifications and pricing for a total of \$100,108.12, plus \$6,507.03 vehicle sales tax (6-1/2 percent), plus \$250.05 registration fees and tax-exempt license plates for a combined total amount of \$106,865.20, terms net 30, FOB destination, payable as follows:

(a) Requisition 13-0233 - public works and utilities:

\$72,167.11 Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1905 (capital, incl. depreciation/debt service), Object 5580 (capital equipment);

(b) Requisition 13-0227 - street maintenance:

\$34,698.09 Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (Fiscal Year-2013), Object 5580 (capital equipment), Project CE250-V1304.

Resolution 13-0133 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals and any specific restrictions:

Order of Owls, Nest 1200, (Art in Bayfront Park), Bayfront Park, for August 16, 2013, from 5 p.m. to 9 p.m. and August 17, 2013, from 10:00 a.m. to 8:00 p.m. with Benjamin Marsen, manager.

Resolution 13-0151 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of network administrator, which were approved by the civil service board on March 5, 2013, and which are filed with the city clerk as Public Document No. 13-0325-03, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 137, \$4,595 to \$5,455 per month.

Resolution 13-0129 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service of corrosion technician, including a title change to corrosion technician II, which were approved by the civil service board on March 5, 2013, and which are filed with the city clerk as Public Document No. 13-0325-04, are approved; that said classification shall be subject to the city's collective bargaining unit with its basic unit employees; and that the pay range for said classification shall be Range 32, \$4,044 to \$4,785 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0130 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of corrosion technician I, which were approved by the civil service board on March 5, 2013, and which are filed with the city clerk as Public Document No. 13-0325-05, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that the pay range for said classification shall be Range 29, \$3,573 to \$4,215 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0131 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of regulator mechanic, which were approved by the civil service board on March 5, 2013, and which are filed with the city clerk as Public Document No. 13-0325-06, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change to Pay Range 30, pay rate of \$3,718 to \$4,417 per month. This is a change from Pay Range 29, \$3,573 to \$4,215 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0134 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proposed specifications for the new civil service classification of water conveyance specialist, which were approved by the civil service board on August 8, 2011, and which are filed with the city clerk as Public Document No. 13-0325-07, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 32, \$4,044 to \$4,785 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0135 was unanimously adopted.  
Approved March 25, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of water conveyance technician, which were approved by the civil service board on August 8, 2011, and which are filed with the city clerk as Public Document No. 13-0325-08, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 29, \$3,573 to \$4,215 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0136 was unanimously adopted.  
Approved March 25, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a joint powers agreement pertaining to the housing tax credit program, substantially in the form of the copy on file in the office of the city clerk as Public Document No. 13-0325-09, with the Minnesota housing finance agency (Minnesota housing) for the year 2014.

Resolution 13-0132 was unanimously adopted.  
Approved March 25, 2013  
DON NESS, Mayor

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RESOLVED, that:

(a) The city council adopted the comprehensive land use plan on June 26, 2006, via Resolution 06-0491, which outlined the desired arrangement of land uses for the next 20 years; and

(b) The city planning division has conducted an analysis of land use in the area between London Road and Interstate Highway 35 from South 21st Avenue East to South 26th Avenue East, with the findings revealing a predominance of commercial and with a few remaining residential properties; and

(c) The existing zoning is split between Mixed Use-Neighborhood and Mixed Use-Business, which allows a mixture of commercial and residential uses, while the comprehensive land use plan - future land use map shows the entire area as Mixed Use-Neighborhood, which would not support these uses; and

(d) The Municipal Planning Act requires that zoning implement a city's comprehensive plan; and

(e) Based on the review conducted by the planning division and public input, the city proposes amending the comprehensive land use plan - future land use map from

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Neighborhood Mixed Use to Central Business Secondary, as described and depicted below; and



(Ref. File. No. 13-026)

(f) The city planning commission has reviewed the proposal, conducted a public hearing on March 12, 2013, at their planning commission meeting, and recommends adoption of the proposed future land use map amendments; and

(g) The city council of the city of Duluth hereby amends the comprehensive land use plan - future land use map as described above.

Resolution 13-0137 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the utility easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0325-10:

EASEMENT DESCRIPTIONS TO BE VACATED:

Water: Beginning at a point on the southerly line of said Parcel 4, said point located 153.35 feet easterly of the east line of Minnesota Avenue; thence northwesterly in a

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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straight line to a point on the northerly line of said parcel, said northerly line being parallel with and distant 200 feet north of the southerly line of said Parcel 4; said point located 135.74 feet easterly of the east line of Minnesota Avenue and there terminating.

Sanitary sewer: Beginning at a point on the southerly line of said Parcel 4, said point located 116.27 feet easterly of the east line of Minnesota Avenue; thence northerly in a straight line to a point; said point being a manhole and located 119 feet northerly of the southerly line of said Parcel 4 and 135 feet easterly of the east line of Minnesota Avenue; thence turning and continuing northwesterly in a straight line to a point on the northerly line of said parcel, said northerly line being parallel with and distant 200 feet north of the southerly line of said Parcel 4; said point located 126.95 feet easterly of the east line of Minnesota Avenue and there terminating.

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 13-0325-10 showing the platted easement to be vacated.

Resolution 13-0143 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0325-11:

Legal Description; Vacation of Second Avenue West

That part of Second Avenue West adjacent to Lot 33, Block 113, and Lot 31, Block 114, Duluth Proper Third Division, lying between a line ten feet southerly of the north line of Lot 33, Block 113, and north line of Lot 31, Block 114, and a line lying 33 feet northerly of the centerline of West Eighth Street.

Subject to a 20 foot wide utility easement for the city of Duluth, the centerline of said utility easement being the centerline of Second Avenue West as platted;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 13-0325-11 showing the platted easement to be vacated.

Resolution 13-0144 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0325-12:

LEGAL DESCRIPTION:

That part of 49th Avenue East (the same being platted as "Spencer Avenue"), according to the plat, CROSLY PARK ADDITION TO DULUTH, on file or of record in the office of the county recorder, St. Louis County, Minnesota. The area to be vacated is bounded as follows:

On the north: By the south right-of-way line of Woodlawn Street.

On the west: By the east line of Block 143.

On the east: By the west line of Block 144.

On the south: By the south line of Block 143 and its easterly prolongation to the centerline of said 49th Avenue East and by the south line of Block 144 and its westerly prolongation to the centerline of said 49th Avenue East.

AND

That part of 49th Avenue East (the same being platted as "Spencer Avenue"), according to the plat, CROSLY PARK ADDITION TO DULUTH, on file or of record in the office of the county recorder, St. Louis County, Minnesota. The area to be vacated is bounded as follows:

On the north: By the north line of Block 142 and its easterly prolongation to the centerline of said 49th Avenue East and by the north line of Block 141 and its westerly prolongation to the centerline of said 49th Avenue East.

On the west: By the east line of Block 142.

On the east: By the west line of Block 141.

On the south: By the north right of way line of Kingston Street (the same being platted as "Clifton Street");

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 13-0325-12 showing the platted easement to be vacated.

Resolution 13-0145 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the one foot petitioned right of way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0325-13:

Proposed vacation legal description:

Commencing at the most easterly corner of Block 21, Endion Division of Duluth; thence north 37

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for two vacation dwelling units subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach and that all other accesses are on private property; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0147 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council hereby grants Jeff Latz and Latz Properties an interim use permit to operate two vacation dwelling units located at 1621 East Superior Street and as described by the following:

Lot 11 and east half of Lot 12, Block 59, Endion Division (PID 010-1480-01440); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-016); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for two vacation dwelling units subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant provides documentation that all of the required modifications to the building have been made to comply with the Building Code; and

(b) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0148 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Douglas Sabo and Lorri Hanna an interim use permit to operate a vacation dwelling unit located at 3315 Minnesota Avenue and as described by the following:

Lots 285, 287, 289 and 291, Lower Duluth, Minnesota Avenue (PID 010-3110-01490); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-017); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The applicant must disclose to all guests, in writing, the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0149 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Jeremy Paggen an interim use permit to operate a vacation dwelling unit located at 1615 East Superior Street and as described by the following:

West half of Lot 12 and all of Lot 13, Block 59, Endion Division (PID 010-1480-01460); and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-018); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following condition:

The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0150 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

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RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that the following streets (City Project No. 1032, S.A.P. 118-113-014) be improved:

Skyline Parkway from Observation Road to Seventh Street

Seventh Street from Skyline Parkway to Mesaba Avenue

Carver Avenue from St. Marie Street to Arrowhead Road

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$704,400, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings). The funding source for this project will Municipal State Aid Street Fund 90, and of these project costs, \$133,018 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in five annual installments at municipal bond index fund rate plus 1.50 percent interest.

Resolution 13-0128 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three-year agreement with Energy Insight, Inc., substantially the same as that on file in the office of

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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the city clerk as Public Document No. 13-0325-14, for professional services related to a commercial and industrial conservation improvement program for Duluth public works and utilities, and achieving a state-mandated 1.5 percent energy savings goal, in accordance with a proposal from its predecessor company, Energy Management Solutions, Inc., dated January 8, 2013, for an annual amount not to exceed \$35,000 in each of years 2013, 2014 and 2015, and a total contract amount not to exceed \$105,000; said annual amount of \$35,000 for year 2013 payable from Gas Fund 520, Department/Agency 500 (public works and utilities), Organization 1940-2430 (customer services-information and conservation), Object 5487 (conservation improvement).

RESOLVED FURTHER, that Resolution No. 13-0069 is hereby rescinded.

Resolution 13-0139 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a five year master services agreement with Braun Intertec Corporation, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0325-15, for professional geotechnical and material testing services required to support the construction, operation and maintenance of city systems, in accordance with the consultant's fee schedule, for a blanket annual amount not to exceed \$50,000 in each of fiscal years 2013, 2014, 2015, 2016, 2017, and a total contract amount not to exceed \$250,000; with the blanket annual cost of said services in any fiscal year not to exceed \$50,000 and to be paid from various appropriate funds, departments, agencies, objects, Requisition 13-0219 and Project 1215.

Resolution 13-0140 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a five year master services agreement with American Engineering Testing, Inc., substantially the same as that on file in the office of the city clerk as Public Document No. 13-0325-16, for professional geotechnical and material testing services required to support the construction, operation, and maintenance of city systems, in accordance with the consultant's fee schedule, for a blanket annual amount not to exceed \$50,000 in each of fiscal years 2013, 2014, 2015, 2016, 2017, and a total contract amount not to exceed \$250,000; with the blanket annual cost of said services in any fiscal year not to exceed \$50,000 and to be paid from various appropriate funds, departments, agencies, objects, Requisition 13-0220 and Project 1215.

Resolution 13-0141 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a five year master services agreement with EPC Engineering & Testing substantially the same as that on file in the office of the city clerk as Public Document No. 13-0325-17, for professional geotechnical and material testing services required to support the construction, operation and maintenance of city systems, in accordance with the consultant's fee schedule, for a blanket annual amount not to exceed \$50,000 in each of fiscal years 2013, 2014, 2015, 2016, 2017, and a total contract amount not to exceed \$250,000; with the blanket annual cost of said

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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services in any fiscal year not to exceed \$50,000 and to be paid from various appropriate funds, departments, agencies, objects, Requisition 13-0221 and Project 1215.

Resolution 13-0142 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages from 8:00 a.m. to 3:00 p.m. in public places in the areas bounded by Canal Park Drive and Lake Avenue between the Aerial Lift Bridge and Railroad Street during the marathon on June 22, 2013, to coincide with Grandma's Marathon special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 13-0126 was unanimously adopted.

Approved March 25, 2013

DON NESS, Mayor

- - -

The following resolution was also considered:

Resolution 13-0138, authorizing application to the Minnesota department of natural resources local trail connections grant program and to enter into a grant agreement for the bayfront trails, was introduced by Councilor Larson for discussion.

Councilor Krause expressed his opposition for reasons of: a trail creation should wait for the development that is planned for that area and at this time a \$50,000 match expenditure could be better used for existing structures like Wade and the community clubs.

Resolution 13-0138 was adopted as follows:

THE CITY COUNCIL FINDS:

(a) That the city of Duluth is undertaking a project to construct the Bayfront Trails in 2014; and

(b) The estimated cost for design and construction of the Bayfront Trails is \$200,000. The Minnesota department of natural resources has grant monies available through its local trail connectors program that are intended to accelerate the acquisition and development of relatively short trails connecting people to desirable locations; and

(c) To receive this money the city must submit the local trail connectors application to the Minnesota department of natural resources.

RESOLVED, that the proper city officials are hereby authorized to submit an application to the Minnesota department of natural resources for funding of the Bayfront trails as described in the application.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical and managerial capacity to ensure proper construction, operation and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that the city of Duluth estimates the grant amount to be \$150,000 and is available on a 75 percent/25 percent local matching basis, and has local matching funds available through the Duluth economic development authority.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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FURTHER RESOLVED, that if the city of Duluth is awarded a grant by the Minnesota department of natural resources, the city agrees to accept the grant award and may enter into an agreement with the state of Minnesota for the above referenced project. The city of Duluth will comply with all applicable laws, environmental requirements and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names as fiscal agent for the city of Duluth for this project:

Wayne Parson, City Auditor  
City of Duluth  
411 West First Street  
Duluth, MN 55802

Resolution 13-0138 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Larson, Stauber and Vice President Krug -- 7

Nays: Councilor Krause -- 1

Absent: President Boyle – 1

Approved March 25, 2013

DON NESS, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

13-019 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-1 TO R-C, MU-N TO R-N, AND R-1 TO RR-2, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD AREA.

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INTRODUCED BY COUNCILOR STAUBER

13-020 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-2 TO R-1, R-2 TO MU-N, AND MU-N TO R-2, PROPERTIES LOCATED IN THE EAST HILLSIDE AND ENDION NEIGHBORHOODS.

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INTRODUCED BY COUNCILOR STAUBER

13-021 - AN ORDINANCE GRANTING TO GREGORY KAMP/COLDWELL BANKER A CONCURRENT USE PERMIT FOR CONSTRUCTION OF A CANOPY TO PROJECT INTO THE LONDON ROAD RIGHT-OF-WAY AT 1732 LONDON ROAD.

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INTRODUCED BY COUNCILOR STAUBER

13-022 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL ONE (RR-1), TO INDUSTRIAL-GENERAL (I-G), THE PROPERTIES LOCATED AT 1100 WEST GARY STREET (VONCO V, LLC).

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**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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INTRODUCED BY COUNCILOR STAUBER

13-023 - AN ORDINANCE AMENDING ORDINANCE NO. 10198 EXTENDING THE CLOSING DATE AND CORRECTING THE LEGAL DESCRIPTION RELATING TO THE SALE OF THE ENDION STATION.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-024 - AN ORDINANCE AMENDING ORDINANCE NO. 10201 AUTHORIZING THE DEDICATION OF A STREET AND UTILITY EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL PARK AREA, TO CORRECT THE LEGAL DESCRIPTION.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR HARTMAN

13-018 (10206) - AN ORDINANCE REQUIRING RESOLUTION PRE-APPROVING LAND CONVEYANCES, AMENDING SECTION 2-176 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Hartman moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR GARDNER, HARTMAN AND STAUBER

13-008 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Gardner moved to table the ordinance, which motion was seconded and carried unanimously.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-011 (10207) - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

Councilor Stauber moved to table the ordinance, which motion was seconded and carried unanimously.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-012 (10208) - AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

Councilor Stauber moved to table the ordinance, which motion was seconded and carried unanimously.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-014 (10209) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO P-1, MINNESOTA POINT FROM THE SKY HARBOR AIRPORT BOUNDARY TO PARCEL ONE OF THE CLARK'S TRACT REFEREE'S PLAT OF MINNESOTA POINT (CITY OF DULUTH).

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Councilor Stauber moved to table the ordinance, which motion was seconded and carried unanimously.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-016 (10210) - AN ORDINANCE ALLOWING BICYCLES TO BE WALKED THROUGH THE NORTHWEST PASSAGE, AMENDING SECTION 44A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Stauber moved to table the ordinance, which motion was seconded and carried unanimously.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-017 (10211) - AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT 3RD AVENUE WEST AND THE I-35 FRONTAGE ROAD TO DTA AT NO COST FOR THE MULTI-MODAL TRANSPORTATION CENTER, SUBJECT TO CONDITIONS.

Councilor Stauber moved to table the ordinance, which motion was seconded and carried unanimously.

- - -

BY COUNCILOR LARSON

13-015 (10212) - AN ORDINANCE PERTAINING TO CONDUCT ON DULUTH TRANSIT AUTHORITY BUSES, AT DTA FACILITIES, AND IN DTA SHELTERS AND AUTHORIZING DRIVERS AND OTHER DTA EMPLOYEES TO REFUSE SERVICE FOR DISORDERLY PERSONS.

Councilor Larson moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 7:22 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10206**

BY COUNCILOR HARTMAN:

AN ORDINANCE REQUIRING RESOLUTION PRE-APPROVING LAND CONVEYANCES, AMENDING SECTION 2-176 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 2-176 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 2-176. Preconditions to conveyance.

Prior to any conveyance governed by this Article:

(a) Before any property is offered for sale or conveyance under this Article, the city council shall have, by resolution, stated its intention to so sell or convey such property. Such resolution shall not be required to specify the manner of such sale or conveyance as the same are described in Section 2-177 below;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(b) The city's planning agency shall have reviewed the proposed conveyance for conformity to the city's comprehensive plan and shall have reported its findings in writing to the council with regard thereto; provided that the council may dispense with the requirement of this subsection upon a finding that the proposed conveyance has no relationship to said plan, approved by a two-thirds vote of the council. For the purposes of this Section and of Minnesota Statutes Section 462.356, the city's planning agency shall be deemed to be that department or division of the city responsible for physical planning in the city and the administrator of that department or division shall be responsible for the required review and report;

(c) The city assessor shall have provided a written estimate of the market value of the property interest sought to be conveyed.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2013)

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Nays: None -- 0

Absent: President Boyle -- 1

Passed March 25, 2013

Approved March 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10207**

AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the Duluth Transit Authority, and its successor(s) in interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk in that part of West Michigan Street, described as follows:

This new bridge will start between 1.5 feet of the SE corner of Lot 40 Block 6 Central Division of Duluth and 28.5 feet from the SW corner of Lot 40 Block 6. It will end between 1.5 feet of the NE corner of Lot 10 Block 10 of the Central Division of Duluth and 3.5 feet from the NW corner of that same lot. The height over the driving lanes and parking lanes will be at least 15.5 feet.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. Upon the giving of the notice of termination as aforesaid, the permittees shall remove said skywalk and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, watermains, pipes, conduits or other public utilities made necessary by the presence of such skywalk in said West Michigan Street.

Section 6. The construction of the skywalk be limited to and in substantial compliance with the plans to be approved by the city engineer.

Section 7. The skywalk be operated and maintained in such a way as to allow citizens to walk bicycles in the skywalk. The Duluth Transit Authority, and its successor(s) in interests, will maintain a pedestrian crosswalk at the corner of West Michigan Street and Third Avenue West intersection adjacent to the new multi-modal transportation facility.

Section 8. This ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 26, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Nays: None -- 0

Absent: President Boyle -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 25, 2013  
Approved March 25, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10208**

AN ORDINANCE GRANTING THE DULUTH TRANSIT AUTHORITY A CONCURRENT USE PERMIT TO CONSTRUCT AND MAINTAIN A SKYWALK AND CANOPY OVER WEST MICHIGAN STREET BETWEEN SECOND AND THIRD AVENUES WEST.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is hereby granted to the Duluth Transit Authority, and its successor(s) in interests, referred to herein as the permittees, to occupy, erect and maintain a skywalk and canopy in that part of West Michigan Street, described as follows:

Starting at a point 12 feet east of the NW corner of Lot 1, Block 10, Central Division of Duluth and extending 239 feet to the NW corner of Lot 11, Block 10, Central Division of Duluth, and extending eight feet into the right-of-way of Michigan Street. The height over the sidewalk will be at least 13 feet.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the aforesaid permittees shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance.

Section 3. Said permit granted under this ordinance may be terminated at any time when and if the city of Duluth determines to use the area occupied by said permittees for any purpose in accordance with the duly dedicated public easement or other lawful use. Unless a shorter period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittees six months' written notice by resolution of the council of the city of Duluth to the last known address of the permittees shall be sufficient notice of termination.

Section 4. Upon the giving of the notice of termination as aforesaid, the permittees shall remove said skywalk and canopy and all fixtures and pertinencies of every kind whatsoever attached thereto from the tract of land described above within said six months, all at the expense and cost of the permittees, and without right on the part of the permittees to claim from the city of Duluth, or any of its officers, agents or servants, any compensation, reimbursement for damages of any kind whatsoever.

Section 5. By the acceptance of the terms of this ordinance as aforesaid, the permittees hereby agree to save harmless and defend and indemnify the city of Duluth against any claims or demand which may arise against the city of Duluth by reason of any act or omission of the permittees, and agree that such skywalk and canopy shall be so constructed and at all times maintained so as in no way to interfere with or damage any sewer, watermains, gas mains, pipes, conduits or other public utilities now or to be hereinafter located in any part of said West Michigan Street and agree that the city of Duluth shall not be liable for damage caused to such skywalk and canopy, while the city is engaged in making repairs to public utilities provided that the city exercises reasonable care to avoid such damage, and agree to pay to the city of Duluth all extra costs of installation of any such sewers, gas mains, watermains, pipes, conduits or other public utilities made necessary by the presence of such skywalk and canopy in said West Michigan Street.

Section 6. The construction of the skywalk and canopy be limited to and in substantial compliance with the plans to be approved by the city engineer.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 7. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Nays: None -- 0

Absent: President Boyle -- 1

Passed March 25, 2013

Approved March 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10209**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, TO P-1, MINNESOTA POINT FROM THE SKY HARBOR AIRPORT BOUNDARY TO PARCEL ONE OF THE CLARK'S TRACT REFEREE'S PLAT OF MINNESOTA POINT (CITY OF DULUTH).

The city of Duluth does ordain:

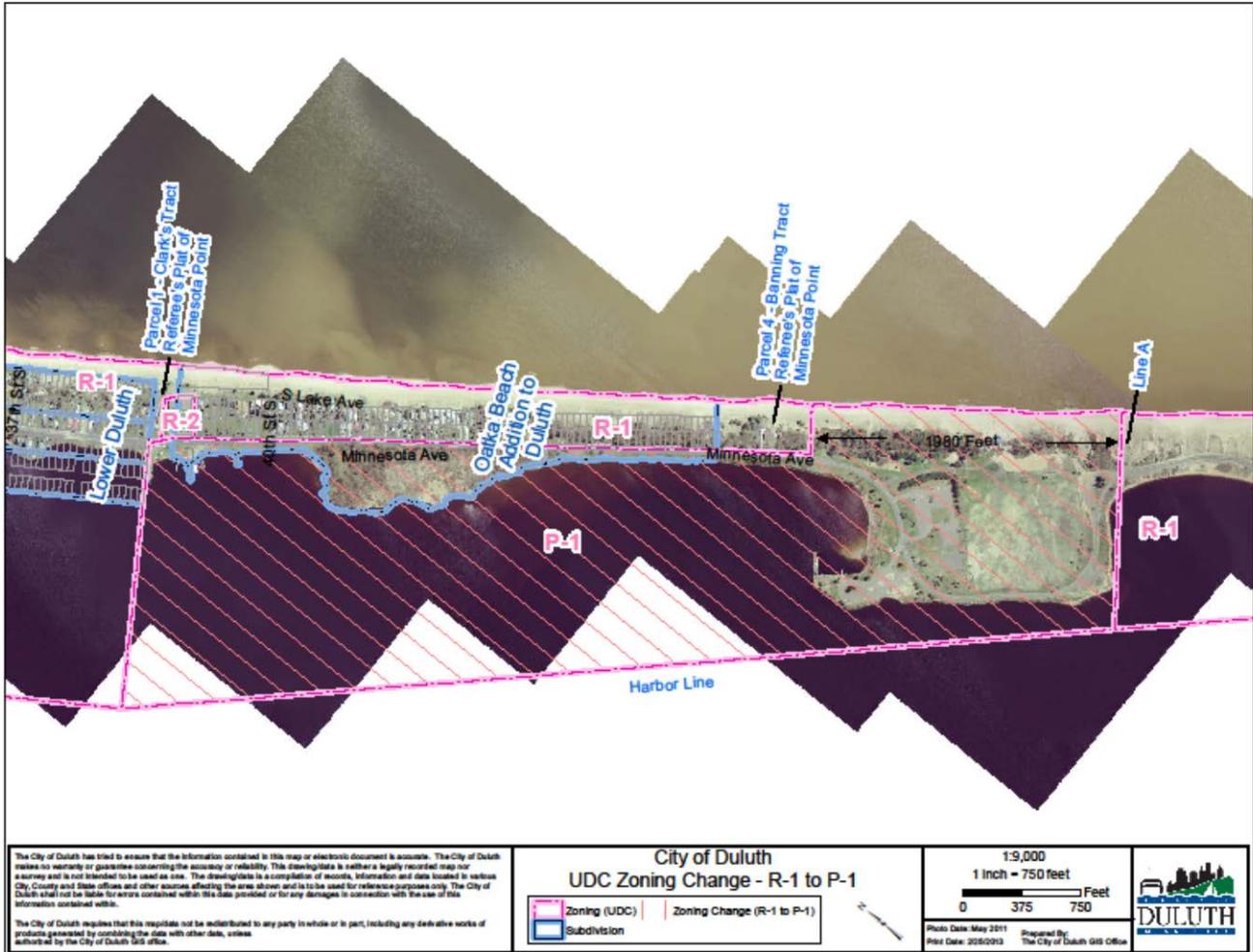
Section 1. That the subject properties located on Minnesota Point from the Superior Harbor entry to the easement for 39th Street South and as more particularly described as follows:

Those parts of Oatka Beach Addition to Duluth and Referee's Plat of Minnesota Point, according to the recorded plats thereof at St. Louis County Recorder's Office, Minnesota, and Government Lot One, Section 13, Township 49 North, Range 14 West, described as follows:

Line "A" is parallel and offset southeasterly 1,980 feet from the southeast line of Parcel Four Referee's Plat of Minnesota Point.

Beginning at the intersection of said Line A and the U.S. Harbor Line; thence northwesterly along said Harbor Line to the southwesterly extension of the southeast line of Lower Duluth Addition; thence northeasterly along said southeast line of Lower Duluth Addition and its extension to the centerline of Minnesota Avenue as platted in Lower Duluth Addition; thence southeasterly across Parcel one (Clark's Tract) as platted in Referee's Plat of Minnesota Point, to the intersection of the centerline of Minnesota Ave as platted in Oatka Beach Addition and the northwest line of Oatka Beach Addition; thence southeasterly along said Minnesota Avenue centerline and its extension to the southeast line of Parcel Four (Banning Tract) as platted in Referee's Plat of Minnesota Point; thence northeasterly along said southeast line and its extension to the shoreline of Lake Superior; thence southeasterly along said shoreline to the northeasterly extension of Line A; thence southwesterly along said extension of Line A to the Point of Beginning;

be reclassified from Residential-Traditional (R-1), to Park and Open Space (P-1), and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(Ref. File No. 12-118)

Section 2. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: April 26, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Nays: None -- 0

Absent: President Boyle -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed March 25, 2013  
Approved March 25, 2013  
DON NESS, Mayor

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**ORDINANCE NO. 10210**

AN ORDINANCE ALLOWING BICYCLES TO BE WALKED THROUGH THE NORTHWEST PASSAGE, AMENDING SECTION 44A-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 1. That Section 44A.5 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 44A-5. Use of bicycles, skateboards, etc., prohibited.

No person shall ride or use a bicycle, skateboard, roller skates, pogo stick, motor vehicle, tricycle, unicycle or other non-pedestrian means of transportation within the skywalk system except as provided below or otherwise provided for in Article II of this Chapter. This Section shall not be construed to apply to:

- (a) Wheelchairs or other devices used to aid handicapped persons;
- (b) Vehicles or devices used for maintenance of the skywalk system;
- (c) Any police officer of the city while on duty; or
- (d) Walking pedestrians pushing bicycles through that portion of the skywalk system within Block 10, CENTRAL DIVISION OF DULUTH, and the portion of the street easement for Third Avenue West adjacent thereto and from said portion to the northwesterly wall of Pioneer Hall which is part of the Duluth Entertainment Convention Center.

Section 2. This ordinance shall take effect only after the effective date of a subsequently-passed ordinance establishing the effective date thereof. (Effective date: To be determined)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Nays: None -- 0

Absent: President Boyle -- 1

Passed March 25, 2013

Approved March 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10211**

AN ORDINANCE AUTHORIZING CONVEYANCE OF PROPERTY AT THIRD AVENUE WEST AND THE I-35 FRONTAGE ROAD TO DTA AT NO COST FOR THE MULTI-MODAL TRANSPORTATION CENTER, SUBJECT TO CONDITIONS.

The city of Duluth does ordain:

Section 1. That pursuant to the requirements of Section 2-176 of the Duluth City Code, 1959, as amended, the city council finds that:

(a) The planning division has determined that the proposed sale of the property described in Public Document No. 13-0325-18(a) on file in the office of the city clerk to the Duluth Transit Authority for incorporation into the multi-modal transportation center conforms to the city's comprehensive plan; and

(b) Given the limitations on title on the property and the requirement that the Duluth Transit Authority re-convey the surface parking back to the city after completion of the construction of said center, the city assessor has estimated the net market value of the conveyance of the property to the Duluth Transit Authority as being negligible; and

(c) The city council finds that the sale of the property described in Public Document No. 13-0325-18(a) at no cost to Duluth Transit Authority to allow for the development of a

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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multi-modal transportation center project over and adjacent to said property while preserving the city's use of the surface level of the property for parking is a superior use to the city's current use of the property for surface level parking only, subject to the provisions of Section 3 below.

Section 2. That, pursuant to the provisions of Section 2-177.3 of the Duluth City Code, 1959, as amended, the proper city officials are hereby authorized to convey by quit claim deed the property described in Public Document No. 13-0325-18(a), on file in the office of the city clerk to the Duluth Transit Authority, subject to the terms and conditions contained in Section 3 below.

Section 3. The authority granted pursuant to Section 2 above shall be subject to the property being used for the construction and operation of a Downtown multi-modal transportation center and shall be further subject to the execution and delivery of an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0325-18(b) committing the Duluth Transit Authority to reconvey the surface level parking as described in the agreement back to the city upon the completion of construction of the multi-modal transportation center.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Nays: None -- 0

Absent: President Boyle -- 1

Passed March 25, 2013

Approved March 25, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10212**

AN ORDINANCE PERTAINING TO CONDUCT ON DULUTH TRANSIT AUTHORITY (DTA) BUSES, AT DTA FACILITIES, AND IN DTA SHELTERS AND AUTHORIZING DRIVERS AND OTHER DTA EMPLOYEES TO REFUSE SERVICE FOR DISORDERLY PERSONS.

The city of Duluth does ordain:

Section 1. That Section 34-7 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 34-7. Prohibited conduct on Duluth transit authority ("DTA") buses, in DTA facilities and at DTA bus shelters.

(a) No person shall, while a DTA bus passenger, in a DTA facility or at a DTA bus shelter, do any of the following acts:

(1) Smoke or possess any lighted or smoldering pipe, cigar or cigarette;

(2) Intentionally deface, damage, write upon or soil any part of such bus, facility or shelter;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(3) Spit, urinate or defecate in or upon any part of such bus, facility or shelter;

(4) Throw, deposit or place any paper, bottles, cans or any other garbage or solid waste in or upon any such bus, facility or shelter;

(5) Throw any object of any kind out any door or window of such bus, facility or shelter;

(6) Play any sound amplification device unless it is played through an earphone so that it is totally inaudible to all other persons with the exception of sound amplification by the DTA in DTA facilities;

(7) Bring any pet or animal on or into such bus, facility or shelter other than a service animal accompanying a person with disabilities or an animal in a cage or held exclusively on the lap of the person with a leash;

(8) Possess any high explosives or carry any corrosive acid or flammable liquid not in a sealed container;

(9) Intentionally interfere with a bus driver's operation of a bus or conduct him or herself in any way that negatively disrupts the delivery of transit services or affects the use of public transit services by others pursuant to State Statute 609.855 or its successor;

(b) No person shall, while a DTA bus passenger, do either of the following acts:

\_\_\_\_\_ (1) Consume any beverages, food or alcohol;

\_\_\_\_\_ (2) Stand or remain in front of any white line marked on the forward end of the floor of any such bus after being asked to step back by the bus driver or other DTA employee;

(3) Enter a bus through the rear door unless authorized to do so by the bus driver or other DTA employee;

(c) The bus driver or other DTA employee may refuse to transport any person or may order any person off a bus, out of a facility or away from a bus shelter if the person is violating or has in the previous 12 months violated the provisions of this Section or the provisions of Section 34-6 relating to disorderly conduct if the disorderly conduct occurs or occurred while the person is a DTA bus passenger, in a DTA facility or at a DTA bus shelter;

(d) No person shall refuse to depart from a DTA bus, facility, or shelter when ordered to do so by the bus driver or other DTA employee;

(e) No person shall enter a DTA bus, facility or shelter when ordered not to do so by the bus driver or other DTA employee;

(f) Any person aggrieved by being refused DTA bus transportation, access to a DTA facility, or use of a DTA bus shelter pursuant to this Section may request a hearing before the executive director. The request for hearing must be made in writing and must state the reasons the person requesting the hearing believes the service refusal was improper. At the hearing both the appellant and DTA employees may present evidence and argument, examine and cross-examine witnesses, and be represented by counsel at their option. After hearing all evidence and arguments, the executive director shall affirm or reverse the refusal of service and may grant any relief or impose any conditions on ridership deemed to be reasonable and appropriate.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: April 26, 2013)

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Councilor Larson moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and Vice President Krug -- 8

Nays: None -- 0

Absent: President Boyle -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed March 25, 2013  
Approved March 25, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 1, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

- - -

The minutes of the council meeting held on January 28, 2013, were approved upon a unanimous vote.

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0401-01 Summit Management, LLC, petition for signal and intersection improvements at the intersection of Woodland Avenue and Summit Street. -- Assessor

13-0401-17 Joel Sipress communication regarding the proposed ordinances relating to civil service (13-008-O and 13-013-O). -- Received

- - -

## REPORTS FROM OTHER OFFICERS

13-0401-08 Planning and construction services department director communication regarding the one-for-one replacement of housing units for the Hillside Apartment project. -- Received

13-0401-02 Purchasing agent emergency order for the purchase of additional road salt. -- Received

- - -

## REPORTS OF BOARDS AND COMMISSIONS

13-0401-03 Commission on disabilities minutes of February 6, 2013, meeting. -- Received

13-0401-04 Duluth public arts commission minutes of February 18, 2013, meeting. -- Received

13-0401-05 Duluth transit authority: (a) Minutes of January 30, 2013, meeting; (b) Income statement for January 2013. -- Received

13-0401-06 Entertainment and convention center authority minutes of December 18, 2012, meeting. -- Received

13-0401-07 Spirit Mountain recreation area authority board minutes of: (a) December 20, 2012; (b) January 17, 2013, meetings. -- Received

- - -

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Jeff Briner, Radisson Hotel general manager, commented that relative to Resolution 13-0153 on this agenda, the hotel has upgraded their alcohol service training.

- - -

## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On March 6, 2013, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of TB Duluth, LLC (Radisson Hotel), 505 West Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 13-0401-09;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on April 1, 2013, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 13-0401-09 regarding any suspension, revocation and/or civil penalty relating to the on sale liquor license of TB Duluth, LLC (Radisson Hotel), 505 West Superior Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: due to the mitigating circumstance that the alcohol, gambling and tobacco commission was unable to meet for three consecutive months, the Duluth City Council reduce the presumptive \$500 penalty and fine the licensee \$100 payable within 30 days of final city action.

Resolution 13-0153 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On March 6, 2013, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the 3.2 percent malt liquor license of Miner's, Inc. (Super One Foods #457), 15 South 13th Avenue East, and has submitted its report to the city council of the city of Duluth as Public Document No. 13-0401-10;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on April 1, 2013, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 13-0401-10 regarding any suspension, revocation and/or civil penalty relating to the 3.2 percent malt liquor license of Miner's, Inc. (Super One Foods #457), 15 South 13th Avenue East, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: due to the mitigating circumstance that the alcohol, gambling and tobacco commission was unable to meet for three consecutive months, the Duluth City Council reduce the presumptive \$500 penalty and fine the licensee \$100 payable within 30 days of final city action.

Resolution 13-0154 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 2-68 of the Duluth City Code, 1959, as amended, the appointments and reappointments by Mayor Ness of members to city boards and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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commissions as listed on Public Document No. 13-0401-11, for terms expiring on March 31 of various years, are confirmed.

Resolution 13-0122 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement in year 2013 with St. Louis County for four quarters of shield maintenance software associated with NEMESIS (Northeastern Minnesota Enforcement Safety Information System) in the amount of \$72,200, terms net 30, payable from General Fund 110, Department/Agency 160 (police), Division 1610 (administration and investigation), Object 5404 (equipment/machinery repair and miscellaneous).

Resolution 13-0111 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept a grant from the Minnesota board of firefighter training and education and the fire service advisory committee in the amount of up to \$10,000, said funds to be deposited in Fund 210, Agency, 030, Organization 3183, Revenue Source 4220-02 (special projects, finance, MBFTE, Haz-Mat, state of Minnesota grant), for the purpose of supporting the Duluth fire department chemical assessment team training.

Resolution 13-0155 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Animal Allies Humane Society, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0401-12, for the operation of an adoption program within the city of Duluth.

Resolution 13-0157 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that Contract 21716 with St. James Home of Duluth, Inc., d/b/a Woodland Hills, for the rental of Washington Recreation Center is hereby amended to reflect the annual rental fee of \$7,200 for years 2013 and 2014. The rental fee will continue to be payable into Fund 110-121-1217-2120-4622 (general, public administration, maintenance operations, architecture and facilities, rent of buildings) on a monthly basis.

Resolution 13-0156 was unanimously adopted.

Approved April 1, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(a) On March 6, 2013, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the intoxicating liquor license of Northland Country Club, 3901 East Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 13-0401-13;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on April 1, 2013, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 13-0401-13 regarding any suspension, revocation and/or civil penalty relating to the on sale club liquor license of Northland Country Club, 3901 East Superior Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: due to the mitigating circumstance that the alcohol, gambling and tobacco commission was unable to meet for three consecutive months, the Duluth City Council reduce the presumptive \$500 penalty and fine the licensee \$100 payable within 30 days of final city action.

Resolution 13-0152 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Krause -- 1

Approved April 1, 2013

DON NESS, Mayor

- - -

Resolution 13-0159, by councilors Stauber and Krause, amending Duluth legislative bonding priorities establishing engineering and renovation of Frank Wade Stadium as the top priority for 2013, was introduced for discussion.

Councilor Stauber commented at length, expressing concerns of: the safety of the wall that fell; that the problems with the wall have been talked about previously; all the other areas at the stadium are also stressed; that matching dollars had previously been identified; it was previously contemplated that a DEED grant would cover the repairs and with the wall falling there could be more legislative support.

Chief Administrative Officer David Montgomery responded at length that: everyone agrees that Wade Stadium needs to be repaired; the only issue is what is the best process to get the job done effectively; the engineering and design work needs to be done first and that will take a fair amount of time; even if the total funding was available to today, the actual construction work would be done in 2014; where the matching funds will come from needs to be resolved, with the options of bonding, tourism tax or using the reserves.

Councilors Krause and Fosle supported the resolution for reasons of: there are countless organizations that use this facility for their fund raising; this has been on the repair list for years; public perception of this being unsafe will hurt activities there; as long as it sits, there will be more damage; this should be a priority and the community investment trust fund could also be used to fund it.

Councilors Gardner, Larson and President Boyle opposed the resolution for reasons of: with everyone supporting Wade being repaired, this should not be an issue between councilors and this, Spirit Mountain and the Norshor Theater are also on the list, with no priority after the No. 1 issue of flood relief.

Resolution 13-0159 failed upon the following vote (Public Document No. 13-0401-14):

Yeas: Councilors Fosle, Krause and Stauber -- 3

Nays: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- - -

Resolution 13-0158, of intent to improve a portion of Tenth Avenue East and to assess a portion of the costs thereof, was introduced by Councilor Julsrud for discussion.

Councilor Julsrud moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Scott Tomkins, Marissa Saurer, Lee Witte and Roger Hendrickson opposed the resolution for reasons of: there will be the loss of the existing private off street parking; residents just found out about this change; the residents are paying 25 percent of the project; the widening should be below Fifth Street; with the hospital expansion, employees take up the on street parking; instead of this project, this area should become a resident permit parking zone; this needs further review; it should just be widened on one side; other residents who oppose this could not be at the council meeting tonight; these are small lots with small front yards that would be reduced even further; this will devalue properties and there has been poor resident contact on this project.

Mr. Montgomery and councilors reviewed at length the process of meetings on this issue, the merits of the project and the other option of having one lane of street parking.

Councilor Fosle felt that this should be defeated so that the administration would review it and come back to the council at a later date.

Councilor Gardner moved that the resolution be tabled for further review, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

#### ORDINANCES TABLED

BY COUNCILORS GARDNER, HARTMAN AND STAUBER

13-008 (10213) - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE

Councilor Gardner moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Gardner moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Tom Maida, president of the Duluth Police Union, expressed the union's support for Ordinance 13-008, because hiring a police lieutenant from an outside agency is highly unusual for the police profession and reviewed the reasons.

Mr. Montgomery reviewed in detail what has happened since the civil service ordinance originally passed and noted the administration's concerns and their support for Ordinance 13-013, which contains the aspects that all parties agree to.

Councilor Krug felt that all changes to the Civil Service Code are too premature because she does not have the accurate data as to what needs to be changed since the last change.

Councilor Krause felt that: many of the changes proposed in the ordinance are addressed already in federal and state laws and do not address the best services for all Duluth residents and management skills are learned, not achieved by time of service.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Stauber stated that after review by the city attorney's office, he does not have a conflict of interest on this ordinance because of a family member working for the Duluth police department.

Other councilors commented at length as to their different viewpoints for supporting the ordinance.

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Larson, Stauber and President Boyle -- 7

Nays: Councilors Krause and Krug -- 2

- - -

BY COUNCILOR KRAUSE

13-013 - AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

Councilor Krause moved remove the ordinance from the table, which motion was seconded and unanimously carried

Councilor Krause moved passage of the ordinance and the same failed upon the following vote (Public Document No. 13-0401-15):

Yeas: Councilor Krause -- 1

Nays: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

- - -

The following entitled ordinance was read for the first time:

BY COUNCILOR GARDNER

13-025 - AN ORDINANCE AMENDING CHAPTER 2, ARTICLE XIX, OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE DULUTH PUBLIC ARTS COMMISSION.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

13-019 (10214) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-1 TO R-C, MU-N TO R-N, AND R-1 TO RR-2, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD AREA.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-020 (10215) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-2 TO R-1, R-2 TO MU-N, AND MU-N TO R-2, PROPERTIES LOCATED IN THE EAST HILLSIDE AND ENDION NEIGHBORHOODS.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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INTRODUCED BY COUNCILOR STAUBER

13-021 (10216) - AN ORDINANCE GRANTING TO GREGORY KAMP/COLDWELL BANKER A CONCURRENT USE PERMIT FOR CONSTRUCTION OF A CANOPY TO PROJECT INTO THE LONDON ROAD RIGHT-OF-WAY AT 1732 LONDON ROAD.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-022 (10217) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL ONE (RR-1), TO INDUSTRIAL-GENERAL (I-G), THE PROPERTIES LOCATED AT 1100 WEST GARY STREET (VONCO V, LLC).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-023 (10218) - AN ORDINANCE AMENDING ORDINANCE NO. 10198 EXTENDING THE CLOSING DATE AND CORRECTING THE LEGAL DESCRIPTION RELATING TO THE SALE OF THE ENDION STATION.

Councilor Larson stated that she would be abstaining on this ordinance and the following one, because her husband has a professional involvement with the party to both ordinances.

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote.

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Larson -- 1

- - -

INTRODUCED BY COUNCILOR STAUBER

13-024 (10219) - AN ORDINANCE AMENDING ORDINANCE NO. 10201 AUTHORIZING THE DEDICATION OF A STREET AND UTILITY EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL PARK AREA, TO CORRECT THE LEGAL DESCRIPTION.

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote.

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Larson -- 1

- - -

The meeting was adjourned at 8:50 p.m.

JEFFREY J. COX, City Clerk

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### ORDINANCE NO. 10213

BY COUNCILORS GARDNER, HARTMAN AND STAUBER:

AN ORDINANCE AMENDING CHAPTER 13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CIVIL SERVICE.

The city of Duluth does ordain:

Section 1. That Section 13-1 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-1. Purpose.

The civil service board is established pursuant to Chapter V of the Duluth City Charter. This Chapter 13 shall constitute the rules and regulations of the board and are established pursuant to Section 36, Chapter V, of the Duluth City Charter. Minnesota law and agreements reached under the Minnesota Public Employment Labor Relations Act (PELRA), 2012 Minnesota Statutes Chapter 179A, to which the city is a party shall supersede these rules and regulations as required by Minnesota law. The provisions and employee protections of PELRA, 2012 Minnesota Statutes Chapter 179A, whether subsequently amended or rescinded, are hereby incorporated into Chapter 13 to the extent allowed by Minnesota law. The purpose of this Chapter 13 is to ensure a fair, efficient and effective system of city human resource administration that meets the needs of the city and provides an equal opportunity for all qualified individuals to obtain employment within the civil service of the city.

Section 2. That Section 13-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-2. Definitions.

The definitions provided in the Minnesota Public Employment Labor Relations Act (PELRA), 2012 Minnesota Statutes Chapter 179A, whether subsequently amended or rescinded, are hereby incorporated into this Chapter to the fullest extent allowed by Minnesota law. The following additional definitions apply to this Chapter:

(a) Appointing authority. The chief administrative officer, department head or acting department head, or staff officer appointed pursuant to charter or statute;

(b) Board. The civil service board established pursuant to Chapter V of the Charter;

(c) Charter. The City Charter for the city of Duluth;

(d) Chief administrative officer. The chief administrative officer for the city or such officer's designee;

(e) Class or class of positions. A group of positions established under this Chapter sufficiently similar in respect to the duties, responsibilities qualifications, and authority that the same descriptive title may be used to designate each position allocated to the class;

(f) Class description. A description of the major duties of each class, examples of tasks performed, and the minimum qualifications required, and other essential functions of the class;

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(g) Classification plan. The classes of positions within the classified service;

(h) Classified employee. Any employee, except an employee provisionally appointed, who, in accordance with the provisions of this Chapter, occupies any position in the classified service, or who is on leave of absence from such position if such position is held vacant pending the employee's return;

(i) Classified service. Any position in the service of the city except the following:

(1) Any position excluded from the definition of public employee under applicable state law; or

(2) Any other position which is exempted from the classified service by the Charter;

(j) Eligible. Any person whose name is on a reappointment, re-employment, internal-employment or open-employment list for a given class and who continues to meet the minimum qualifications for the position;

(k) Eligible list. A list of the names of persons who have been found qualified for employment in positions in the classified service, including the names of persons on the reappointment, re-employment, promotional, internal-employment and open-employment lists;

(l) Employment test. A test or group of tests used to determine the relative fitness of applicants for positions allocated to a class;

(m) Internal-employment list. A list of names of persons currently employed in the classified service who have qualified through employment tests administered by the secretary for employment in other positions allocated to a different class;

(n) Layoff series. A list of class titles that has been created to allow a qualified employee to bump into a lower classification, and whose order has been negotiated as provided in a collective bargaining agreement to which the city is a party;

(o) Open-employment list. A list of names of persons who have qualified through employment tests administered by the secretary for employment in positions allocated to a class within the classification plan;

(p) Organization unit. Any department, office or division of the city government commonly recognized as a unit for purposes of administration;

(q) Position. A full or part-time job held by one person, unless the job is filled by a job sharing arrangement;

(r) Promotional list. A list containing the names of persons currently employed in the classified service in the police or fire departments in a lower class of position, as determined by pay range, who have qualified through employment tests administered by the secretary for promotion to a higher class of position in the same department;

(s) Public Employment Labor Relations Act (PELRA). 2012 Minnesota Statutes Chapter 179A. PELRA regulates labor relations between the city, its employees and the labor organizations that represent city employees;

(t) Reappointment list. A list containing the names of city employees within the classified service who have been demoted for non-disciplinary reasons;

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(u) Re-employment list. A list of the names of persons who have occupied permanent positions allocated to any class, who have been separated from the service as a result of layoff or approved leave of absence, and who, in accordance with this Chapter, are entitled to have their names certified to the appointing authority when vacancies in the class are to be filled;

(v) Secretary. The manager of human resources for the city or the manager's designee.

Section 3. That Section 13-3 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 13-3. Duties of the board.

(a) The board shall oversee compliance with this Chapter. The board may investigate any allegation of a violation of this Chapter. If the board rules there has been a violation, it can recommend a remedy to the appointing authority. If the appointing authority does not apply the remedy recommended by the board, the board may then recommend that same remedy to the city council;

(b) In addition to the authority and responsibility conferred upon the board by Chapter V of the Charter and by the provisions of this Chapter, the board shall act in accordance with the authority and responsibility conferred upon it by any provision of any collective bargaining agreement to which the city is a party;

(c) The board shall serve as a veteran's hearing board as provided by Minnesota law;

(d) All new civil service board members shall participate in training regarding the role of the board, employment laws and other pertinent human resources topics necessary to carry out their duties;

(e) All civil service board members shall participate in annual training regarding applicable employment laws and pertinent human resources topics.

Section 4. That Section 13-8 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-8. Reclassification of positions.

(a) If, after the evaluation of a position, it is the opinion of the secretary that there has been a significant change in the duties of such position, the secretary may assign such position to either a different current classification or to a new classification created by the secretary, both subject to the approval of the chief administrative officer. New job classifications created as a result of this process shall also comply with Section 13-7. The board may modify new job classifications created by the secretary, subject to the chief administrative officer's approval. New job classifications, including any approved amendments, shall be submitted to city council for approval, but not until the employee's appeal period pursuant to this Chapter has expired;

(b) Upon reclassification of the position, the chief administrative officer shall, after receipt of the secretary's and appointing authority's recommendation, determine whether the reclassified position will be filled through an employment test or by the appointment of the incumbent of the former position to the reclassified position. The secretary shall notify the affected employee in writing at least ten calendar days prior to implementation of the chief administrative officer's determination;

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(c) The secretary shall inform the board of the status of all new, pending and completed job audits at each board meeting.

Section 5. That Section 13-10 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-10. Determination of type of eligible list to be created.

(a) When employment tests are to be held to establish an eligible list, the secretary, in consultation with the appointing authority, shall determine whether to administer a promotional only, internal only, internal and open, or open only test process; however, promotional only test processes shall be administered for higher level classifications in the police and fire departments only;

(b) Only persons currently employed in the classified service who have completed a probationary period for a position within the service, may apply to participate in an internal test process;

(c) All persons at least 18 years old, and who may be legally employed in the United States, may apply to participate in an open test process.

Section 6. That Section 13-16 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-16. Creation of eligible list.

(a) Following the completion of test scoring, the secretary shall prepare an eligible list showing the names of the test participants, the raw score of each participant in each test or group of tests and the participant's total weighted score;

(b) The names of the participants shall be arranged on the eligible list in the order of total weighted scores with the highest first; provided, that if two or more participants have the same weighted score, those names shall be placed on the eligible list in the same rank; the list shall be presented to the board for non-public review at the next meeting of the board;

(c) In no case shall the name of any applicant be included on an eligible list if the applicant fails to obtain a passing score on any test or group of tests, as stated in the notice of the test.

Section 7. That Section 13-21 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 13-21. Cancellation of eligible lists.

The secretary shall provide written notice to all persons whose name appeared on the cancelled list. The secretary may cancel any eligible list under the following circumstances:

(a) Illegality, fraud or mistake has affected the creation or maintenance of a list;

(b) The secretary determines that an insufficient number of names remain on the list. The secretary may not cancel an entry level eligible list in the police officer and firefighter organization units if that list has seven or more names. The secretary must obtain board approval prior to canceling promotional lists in the police officer, police lieutenant and firefighter organization units unless there are less than three names on the list.

Section 8. That Section 13-29 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 13-29. Appeals to the board.

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(a) Right to appeal. Any applicant participating in a selection process for a position within the classified service and any current classified employee whose civil service status is directly affected by an action taken by the secretary pursuant to this Chapter may appeal to the board as provided in this Section;

(b) Manner and time for appeal. An appeal is perfected by filing a notice of appeal within ten calendar days after the secretary's written notification of the action. The notice of appeal shall be in writing, shall contain a complete statement of the matter in controversy and the relief requested, and shall be signed and dated by the appellant. The notice shall be addressed to the board and filed with the office of the secretary. Filing may be accomplished by electronic submission, personal delivery or United States mail addressed to the secretary; however, filing shall not be timely unless the notice of appeal is received in the office of the secretary within the time fixed for appeal;

(c) Reporting notice of appeal to the board. The secretary shall forward appeal notices to all board members within seven calendar days of receiving them;

(d) Secretary's authority to reject appeals. The secretary shall reject any appeal received after the time limit provided by this Section;

(e) Board scope of authority. Unless otherwise provided by this Chapter, state or federal law, or required by a collective bargaining agreement, the board's jurisdiction shall be to hear and render a decision on:

(1) Appeals challenging the fairness or scoring of a test, including the number of veteran's preference points allotted to an applicant;

(2) Appeals from applicants that have been rejected under Section 13-13 of this Code;

(3) Appeals of the secretary's action related to placement on a reappointment or re-employment list;

(4) Appeals from applicants on an eligible list canceled by the secretary pursuant to Section 13-21(a);

(5) Appeals of the secretary's action under this Chapter that directly impacts the civil service status of a current classified employee;

(6) Appeals from the secretary's decision not to perform a job audit requested by a classified employee;

(7) Appeals from the secretary's decision not to change an employee's job classification following a job audit of that employee's position;

(8) In rendering its decision the board shall not modify or waive any of the qualifications, skills, abilities or experience requirements provided for in the classification description; this restriction of modification and waiver will not prevent the board from hearing appeals of the secretary's interpretation of qualifications, skills, abilities or experience requirements as stated in the job description and job announcement;

(f) Limitation of board authority. Unless otherwise required by the provisions of a collective bargaining agreement to which the city is a party, the board shall have no authority to hear the appeal of a dispute that is subject to the grievance article of a collective bargaining agreement;

(g) Suspension of employment process pending appeal. The filing of a timely appeal shall stay all proceedings in furtherance of the applicable employment action;

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(h) Notification of board decision. After due deliberation, the board shall render its decision on the record. Within ten calendar days of the board's decision the secretary shall provide written notice of the decision to the appellant and appointing authority. The notice of decision shall be delivered by any reasonable means. The secretary shall provide a copy of the record of decision upon request and as required by Minnesota law. The appellant shall be deemed to have actual notice of the decision on the date the decision was rendered if the appellant or the appellant's representative was present during the meeting at which the board took the action;

(i) Finality of board decision. All decisions of the board are final. Any party aggrieved by a decision of the board may appeal as authorized by Minnesota law;

(j) Implementation of board decision. The secretary shall implement the decision of the board, and in so doing shall determine and implement steps necessary to ensure that legal compliance is maintained.

Section 9. That a new Section 13-30 of the Duluth City Code, 1959, as amended, is hereby added as follows:

Sec. 13-30. Temporary positions.

During any calendar year, no person shall be employed in a temporary position as defined by the Minnesota Public Employment Labor Relations Act (PELRA) for more than 67 days worked; no person shall be employed in more than one temporary position during a calendar year for a total period that exceeds 67 days worked without board approval.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2013)

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Larson, Stauber and President Boyle -- 7

Nays: Councilors Krause and Krug -- 2

Passed April 1, 2013

Approved April 1, 2013, pursuant to Section 12 of the Duluth City Charter.

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**ORDINANCE NO. 10214**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-1 TO R-C, MU-N TO R-N, AND R-1 TO RR-2, PROPERTIES LOCATED IN THE KENWOOD NEIGHBORHOOD AREA.

The city of Duluth does ordain:

Section 1. That the 12 acres of the subject properties located on a portion of Campus Park, east of Rice Lake Road, and as more particularly described in Exhibit A and by the following parcel identification numbers:

010-2710-03947    010-1980-05540  
010-2710-03946    010-1980-04420

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be reclassified from R-1, to R-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

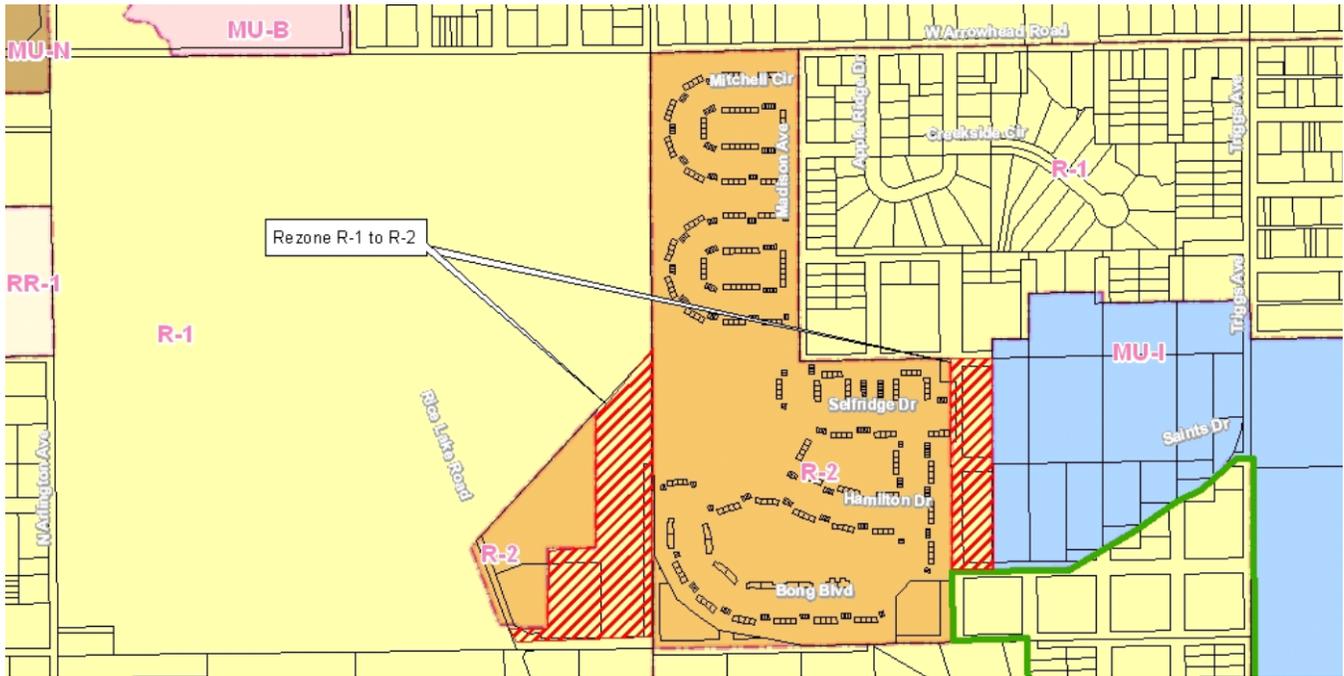


Exhibit A  
(Ref. File No. 12-172)

Section 2. That the 77 acres of the subject property located east of Rice Lake Road and west and south of the St. Scholastica campus, and as more particularly described in Exhibit B and by the following parcel identification numbers:

010-1980-05090	010-4330-04970	010-4330-02010
010-1980-05290	010-4330-04940	010-4330-02020
010-1980-05270	010-4330-04950	010-4330-01990
010-1980-05320	010-4330-04920	010-4330-02000
010-1980-05070	010-4330-04930	010-4330-01970
010-1980-05200	010-4330-04900	010-4330-01980
010-1980-06740	010-4330-04910	010-4330-01950
010-1980-06840	010-4330-04880	010-4330-01960
010-1980-06940	010-4330-04890	010-4330-01930
010-1980-07040	010-4330-04860	010-4330-01940
010-4330-00010	010-4330-04870	010-4330-02090
010-4330-00020	010-4330-00060	010-4330-02250
010-4330-00030	010-4330-00070	010-4330-02410
010-4330-00040	010-4330-00080	010-2290-00210
010-4330-00050	010-4330-00090	010-2290-00220
010-4330-04340	010-4330-00100	010-2290-00230
010-4330-04620	010-4330-00110	010-2290-00240
010-4330-04630	010-4330-00210	010-2290-00250
010-4330-04600	010-4330-00220	010-0010-00200
010-4330-04610	010-4330-00230	010-0010-00180
010-4330-04580	010-4330-00240	010-2290-00080

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010-4330-04590	010-4330-00250	010-2290-00070
010-4330-04560	010-4330-00260	010-2290-00050
010-4330-04570	010-4330-00270	010-2290-00060
010-4330-04540	010-4330-00280	010-2290-00040
010-4330-04550	010-4330-00300	010-2290-00030
010-4330-04520	010-4330-00290	010-2290-00010
010-4330-04530	010-4330-01610	010-2290-00020
010-4330-04500	010-4330-01770	010-2290-00140
010-4330-04510	010-4330-02070	010-2290-00100
010-4330-04640	010-4330-02080	010-2290-00110
010-4330-04660	010-4330-02050	010-2290-00120
010-4330-04840	010-4330-02060	010-2710-03780
010-4330-04980	010-4330-02030	
010-4330-04960	010-4330-02040	

be reclassified from R-1, to R-C, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

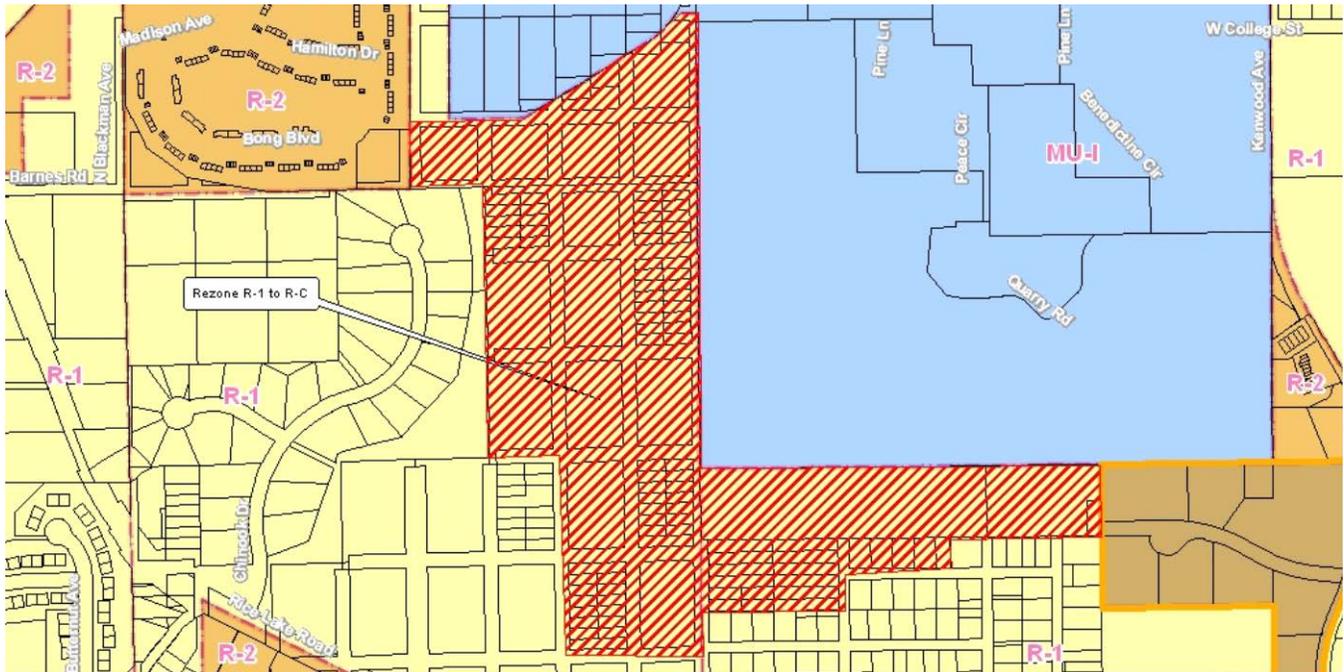


Exhibit B  
(Ref. File No. 12-172)

Section 3. That the 23 acres of the subject property located west of Kenwood Avenue and south of the St. Scholastica campus, and as more particularly described in Exhibit C and by the following parcel identification numbers:

010-0010-00010	010-4426-00010
010-4426-00070	010-4426-00050
010-4426-00080	010-4426-00040
010-4426-00090	010-2710-03841
010-4426-00060	010-2710-03843

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be reclassified from MU-N, to R-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

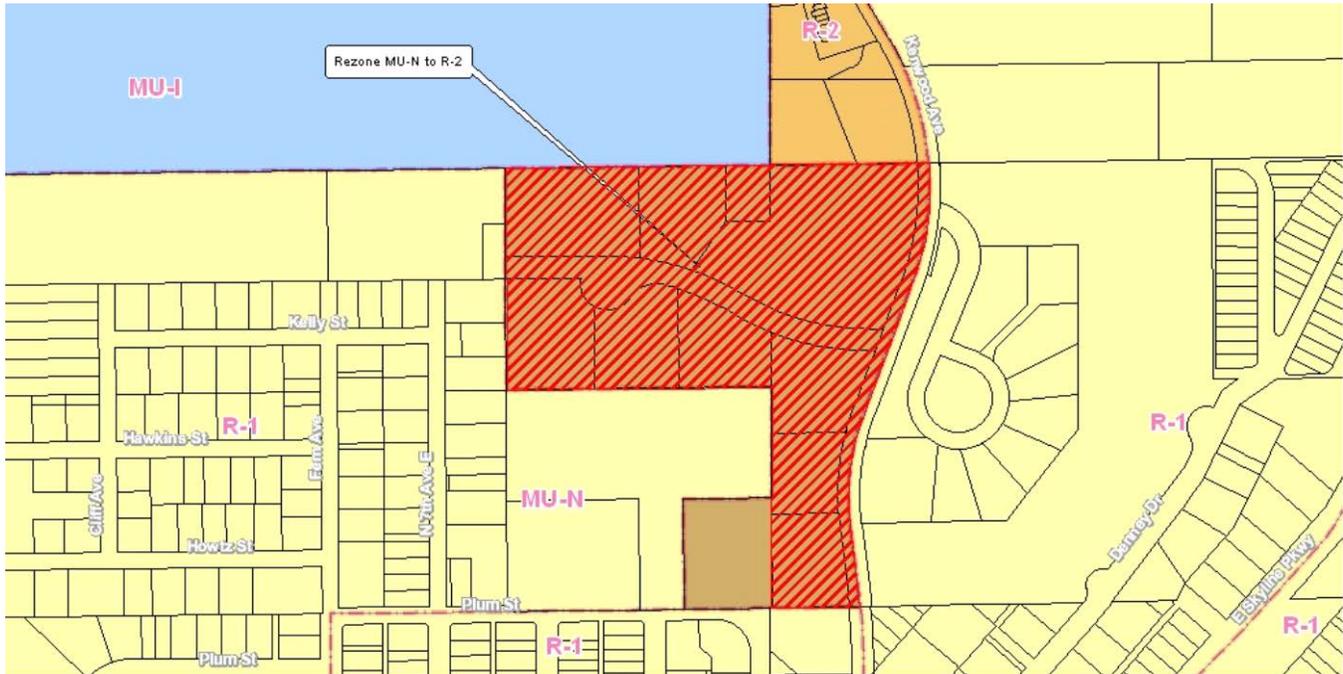


Exhibit C  
(Ref. File No. 12-172)

Section 4. That the 27 acres of the subject property located east of Rice Lake Road and north of Pecan Avenue, and as more particularly described in Exhibit D and by the following parcel identification numbers:

010-4330-06820	010-0540-02100	010-0540-01830
010-4330-06980	010-0540-02080	010-0540-01840
010-4330-07140	010-0540-02060	010-0540-02410
010-2290-00510	010-0540-02030	010-0540-02390
010-2290-00520	010-0540-02040	010-0540-02370
010-2290-00530	010-0540-02010	010-0540-02350
010-2290-00600	010-0540-02020	010-0540-02330
010-2290-00610	010-0540-01990	010-0540-02310
010-2290-00620	010-0540-02000	010-0540-02290
010-2290-00630	010-0540-01970	010-0540-02270
010-2290-00640	010-0540-01980	010-0540-02250
010-2290-00650	010-0540-01950	010-0540-02230
010-2290-00660	010-0540-01960	010-0540-02210
010-2290-00150	010-0540-01930	010-0540-02190
010-2290-00160	010-0540-01940	010-0540-02170
010-2290-00170	010-0540-01910	010-0540-02150
010-2290-00180	010-0540-01890	010-0540-02130
010-0540-01520	010-0540-01870	
010-0540-02120	010-0540-01850	

be reclassified from R-1, to RR-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

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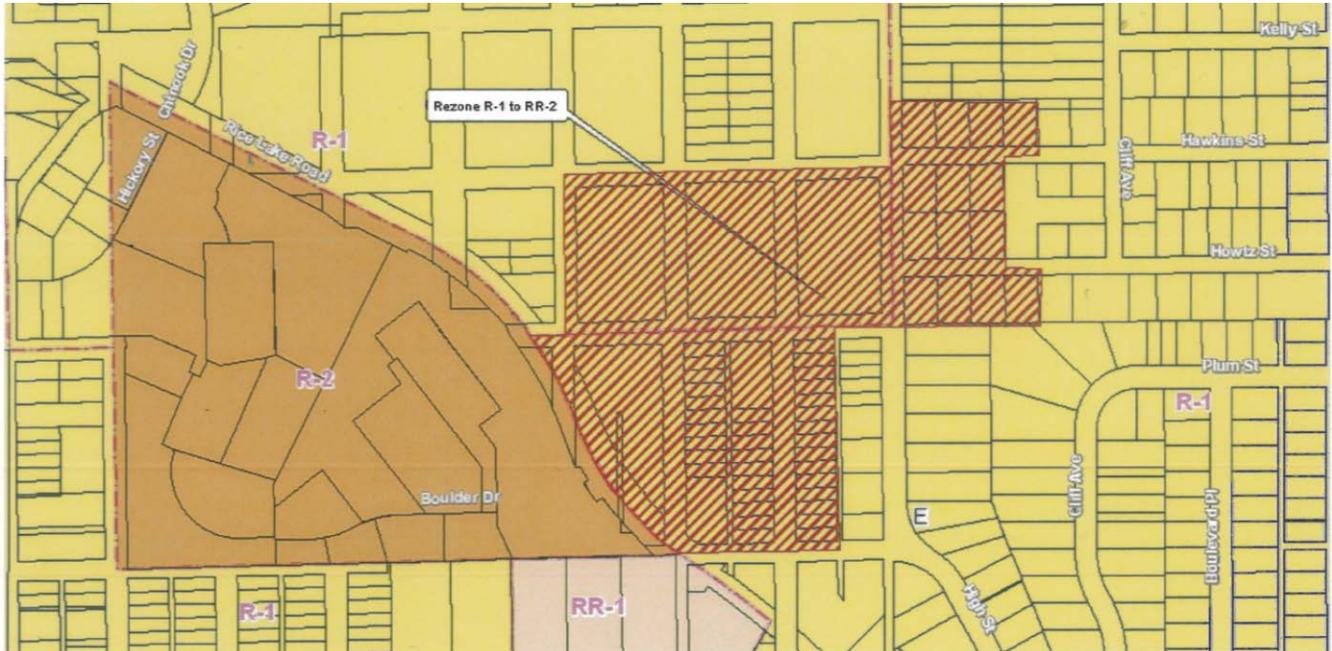


Exhibit D  
(Ref. File No. 12-172)

Section 5. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 4, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 1, 2013  
Approved April 1, 2013  
DON NESS, Mayor

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**ORDINANCE NO. 10215**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO R-2, R-2 TO R-1, R-2 TO MU-N, AND MU-N TO R-2, PROPERTIES LOCATED IN THE EAST HILLSIDE AND ENDION NEIGHBORHOODS.

The city of Duluth does ordain:

Section 1. That the 17 acres of the subject property located along East Ninth Street from North Sixth Avenue East to west of North 11th Avenue East, and as more particularly described in Exhibit A and by the following:

The below parcels, extending to the centerline of East Ninth Street, where these parcels abut roadways:

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010-0780-00090	010-2790-00560	010-3850-07220
010-0780-00070	010-2790-00570	010-3850-07190
010-0780-00050	010-3490-03290	010-3850-07160
010-0780-00110	010-3490-03310	010-3850-07130
010-0780-00120	010-3490-03350	010-3850-07230
010-0780-00130	010-3490-03330	010-3850-07240
010-0780-00140	010-3490-03360	010-3850-07260
010-0780-00150	010-3490-03370	010-3850-07270
010-0780-00160	010-3490-03383	010-3850-07290
010-0780-00180	010-3490-03385	010-3850-07300
010-0780-00190	010-3490-03390	010-3490-02340
010-0780-00200	010-2790-00160	010-3490-02320
010-0780-00100	010-2790-00140	010-3490-02300
010-2790-00490	010-2790-00120	010-3490-02250
010-2790-00480	010-2790-00100	010-3490-02240
010-2790-00510	010-2790-00080	010-3490-02200
010-2790-00460	010-2790-00070	010-3490-02220
010-2790-00455	010-2790-00060	010-3490-02190
010-2790-00450	010-2790-00050	010-3490-02640
010-2790-00440	010-2790-00040	010-3490-02630
010-2790-00430	010-2790-00030	010-3490-02570
010-2790-00420	010-3850-07510	010-3490-02610
010-2790-00410	010-3850-07520	010-3490-02590
010-2790-00400	010-3850-07540	010-3490-03000
010-2790-00390	010-3850-07610	010-3490-02980
010-2790-00370	010-3850-07600	010-3490-02960
010-2790-00350	010-3850-07590	010-1350-07610
010-2790-00330	010-3850-07580	010-3490-03010
010-2790-00520	010-3850-07570	010-3490-03030
010-2790-00720	010-3850-07710	010-3490-03050
010-2790-00740	010-3850-07680	010-3490-03060
010-2790-00750	010-3850-07650	010-3490-03070
010-2790-00760	010-3850-07740	010-3490-03080
010-2790-00770	010-3850-07780	010-3490-03090
010-2790-00780	010-3850-07820	010-3490-03120
010-2790-00790	010-3850-07840	010-3490-03110
010-2790-00810	010-3850-07850	010-3490-03140
010-2790-00820	010-3850-07890	010-3490-03020
010-2790-00830	010-3850-07910	010-1350-07640
010-2790-00580	010-3850-07920	

be reclassified from R-1, to R-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

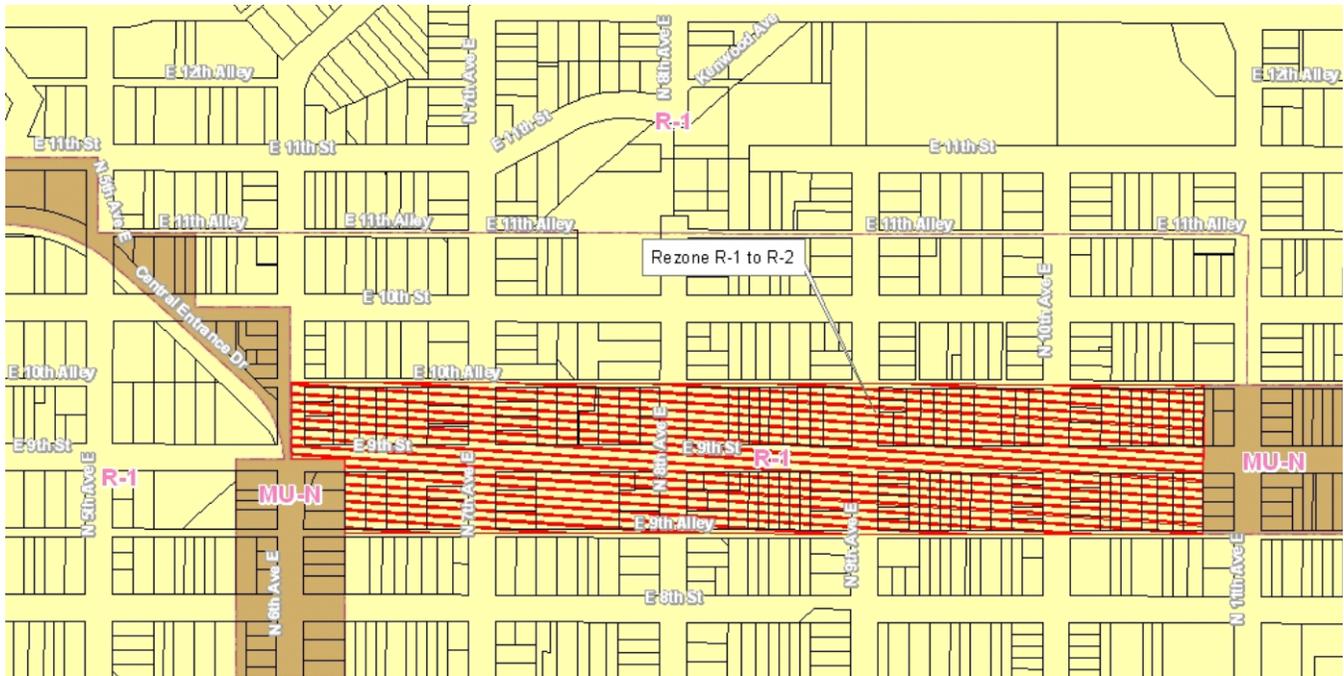


Exhibit A  
(Ref. File No. 12-173)

Section 2. That the 28 acres of the subject property located Along East Fifth Street and East Sixth Street from east of North Sixth Avenue East to North 11th Avenue East, and as more particularly described in Exhibit B and by the following:

The below parcels, extending to the centerline of East Fifth Street, East Sixth Street and North 11th Avenue East, where these parcels abut roadways:

010-3850-01540	010-3850-01400	010-3830-18090
010-3850-01560	010-3850-01410	010-3830-18120
010-3850-01570	010-3850-01420	010-3830-18160
010-3850-01580	010-3850-01440	010-3830-18200
010-3850-01590	010-3850-01450	010-3830-18170
010-3850-01600	010-3850-01460	010-3830-18210
010-3850-01620	010-3850-01470	010-3830-18190
010-3850-01630	010-3850-01480	010-3830-18206
010-3850-01640	010-3850-01490	010-3830-18220
010-3850-01660	010-3850-01500	010-3850-00920
010-3850-01695	010-3850-01510	010-3850-00910
010-3850-01670	010-3830-18440	010-2710-06380
010-3850-01680	010-3830-18470	010-3850-00900
010-3850-01690	010-3830-18480	010-2710-06390
010-3850-00270	010-3830-18490	010-3850-00930
010-3850-00290	010-3830-18500	010-3850-00940
010-3850-00310	010-3830-18510	010-3850-00950
010-3850-00320	010-3830-18520	010-3850-00960
010-3850-00330	010-3830-18530	010-3850-00970
010-3850-00340	010-3830-18540	010-3850-01000

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010-3850-00350	010-3830-18550	010-3850-01010
010-3850-00360	010-3830-18560	010-3850-01020
010-3850-00370	010-3830-18570	010-3850-01030
010-3850-00380	010-3830-18580	010-0160-00380
010-3850-00390	010-3830-18640	010-0160-00400
010-3850-00410	010-3830-18610	010-0160-00425
010-3850-00430	010-3850-00570	010-0160-00410
010-3850-00440	010-3850-00540	010-3490-00110
010-3850-00450	010-3850-00510	010-0160-00440
010-3830-18670	010-3850-00480	010-0160-00430
010-3830-18680	010-3850-00580	010-0160-00450
010-3830-18660	010-3850-00590	010-0160-00460
010-3830-18690	010-3850-00610	010-0160-00470
010-3830-18700	010-3850-00630	010-3850-01060
010-3830-18710	010-3850-00660	010-3850-01070
010-3830-18720	010-3850-00670	010-3850-01090
010-3830-18730	010-3850-00730	010-3850-01100
010-3830-18740	010-3850-00690	010-3850-01110
010-3830-18750	010-3850-00700	010-3850-01120
010-3830-18760	010-3830-18280	010-0160-00390
010-3830-18790	010-3830-18250	010-0160-00540
010-3830-18810	010-3830-18230	010-3850-01050
010-3830-18820	010-3830-18300	010-1010-00960
010-3830-18860	010-3830-18320	010-1010-00970
010-3830-18840	010-3830-18330	010-1010-00980
010-3830-18870	010-3830-18340	010-3830-18010
010-3850-01150	010-3830-18350	010-3830-18020
010-3850-01160	010-3830-18360	010-3830-18030
010-3850-01130	010-3830-18370	010-3830-18050
010-3850-01170	010-3830-18390	010-1030-01950
010-3850-01180	010-3830-18435	010-3490-00050
010-3850-01200	010-3830-18410	010-3490-00040
010-3850-01190	010-3830-18420	010-0160-00575
010-3850-01210	010-3830-18430	010-0160-00550
010-3850-01240	010-3850-00740	010-0160-00560
010-3850-01250	010-3850-00760	010-0160-00555
010-3850-01260	010-3850-00770	010-3490-00305
010-3850-01270	010-3850-00790	010-3490-00280
010-3850-01282	010-3850-00800	010-3490-00300
010-3850-01290	010-3850-00810	010-3490-00310
010-3850-01360	010-3850-00820	010-3490-00320
010-3850-01300	010-3850-00840	010-3490-00330
010-3850-01340	010-3850-00850	010-3490-00340
010-3850-01320	010-3850-00860	010-3490-00350
010-3850-01370	010-3850-00870	010-3490-00360
010-3850-01380	010-3850-00880	010-0160-00590
	010-3830-18070	010-3850-01280

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

be reclassified from R-2, to R-1, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

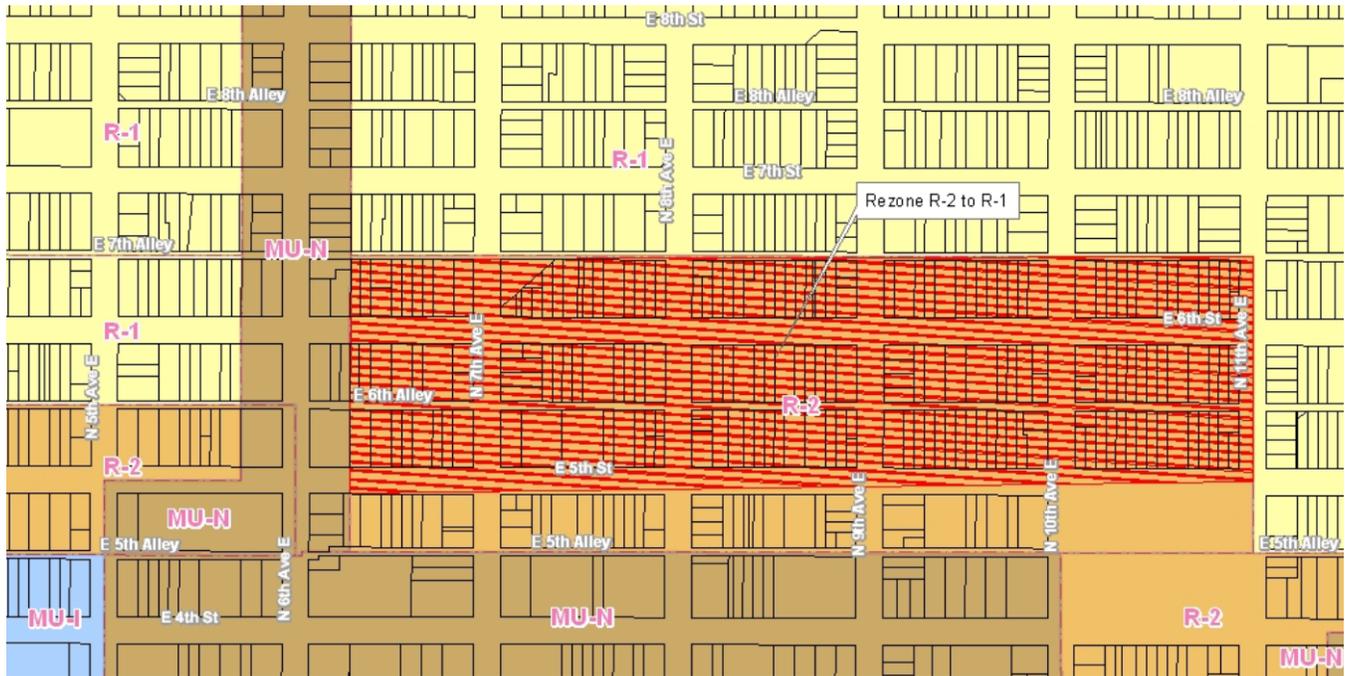


Exhibit B  
(Ref. File No. 12-173)

Section 3. That the 2.35 acres of the subject property located north of East Third Street between Sixth and Seventh Avenues East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of North Sixth Avenue East and East Third Street, where these parcels abut roadways:

010-3830-10710	010-3830-10600
010-3830-10540	010-3830-10620
010-3830-10560	010-3830-10640
010-3830-10595	010-3830-10650
010-3830-10570	010-3830-10670
010-3830-10580	010-3830-10690
010-3830-10590	

be reclassified from R-2, to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit C  
(Ref. File No. 12-173)

Section 4. That the 9.8 acres of the subject property located between East First Street and East Second Street, from west of North Seventh Avenue East to North Ninth Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Second Street and East First Street, North Seventh Avenue East, North Eighth Avenue East, and North Ninth Avenue East, where these parcels abut roadways:

010-3830-03920	010-3830-05580	010-3860-00210
010-3830-03965	010-3830-05600	010-3830-05780
010-3830-03955	010-3830-05620	010-3830-05800
010-3830-03980	010-3830-05640	010-3830-05810
010-3830-04000	010-3830-05650	010-3830-05820
010-3830-04010	010-3830-05695	010-3830-05980
010-3830-04020	010-3830-05675	010-3830-05930
010-3830-04070	010-3830-05730	010-3830-05860
010-3830-05550	010-3830-05770	010-3830-06010
010-3830-05530	010-3860-00040	010-3830-03870
010-3830-05520	010-3860-00020	010-3830-03880
010-3830-05510	010-3860-00090	010-3830-06205
010-3830-05490	010-3860-00130	010-3830-06200
010-3830-05420	010-3860-00160	010-3830-06230
010-3830-05450	010-3860-00180	010-3830-06240
010-3830-05480	010-3860-00220	

be reclassified from MU-N, to R-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit D

(Ref. File No. 12-173)

Section 5. That the 1.4 acres of the subject property located northeast of the intersection of East First Street and North 12th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East First Street and North 12th Avenue East, where these parcels abut roadways:

010-0190-01350

010-0190-01325

010-0190-01340

010-0190-01320

010-0190-01300

be reclassified from R-2, to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit E  
(Ref. File No. 12-173)

Section 6. That the 18 acres of the subject property located along East Fourth Street from North 14th Avenue East to North 19th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Fourth Street North 14th Avenue East, North 15th Avenue East, North 16th Avenue East, North 17th Avenue East, North 18th Avenue East and North 19th Avenue East, where these parcels abut roadways:

010-1480-04310	010-1480-06940	010-1480-07860
010-1480-04320	010-1480-06950	010-1480-07850
010-1480-04330	010-1480-06960	010-1480-07840
010-1480-04340	010-1480-06970	010-1480-07830
010-1480-04350	010-1480-06990	010-1480-07800
010-1480-04280	010-1480-06980	010-1480-07790
010-1480-04250	010-1480-07010	010-1480-07880
010-1480-04260	010-1480-07000	010-1480-07870
010-1480-04300	010-1480-07020	010-1480-07873
010-1480-04720	010-1480-06880	010-1480-07875
010-1480-04740	010-1480-06930	010-1480-08080
010-1480-04750	010-1480-06935	010-1480-08100
010-1480-04730	010-1480-06920	010-1480-08110
010-1480-04760	010-1480-06900	010-1480-08120
010-1480-04780	010-1480-06860	010-1480-08130
010-1480-06680	010-1480-07130	010-1480-08140
010-1480-06690	010-1480-07160	010-1480-08160
010-1480-06700	010-1480-07190	010-1480-08170
010-1480-06730	010-1480-07210	010-1480-08190
010-1480-06710	010-1480-07220	010-1480-08300

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

010-1480-06720	010-1480-07230	010-1480-08310
010-1480-06650	010-1480-07610	010-1480-08320
010-1480-06670	010-1480-07600	010-1480-08330
010-1480-06640	010-1480-07590	010-1480-08340
010-1480-06620	010-1480-07580	010-3830-15780
010-1480-06610	010-1480-07570	010-3830-15810
010-1480-06600	010-1480-07560	010-2200-01160
010-1480-06580	010-1480-07540	010-2200-01180
010-1480-06560	010-1480-07550	010-2200-01165
010-1480-06850	010-1480-07520	

be reclassified from R-2, to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

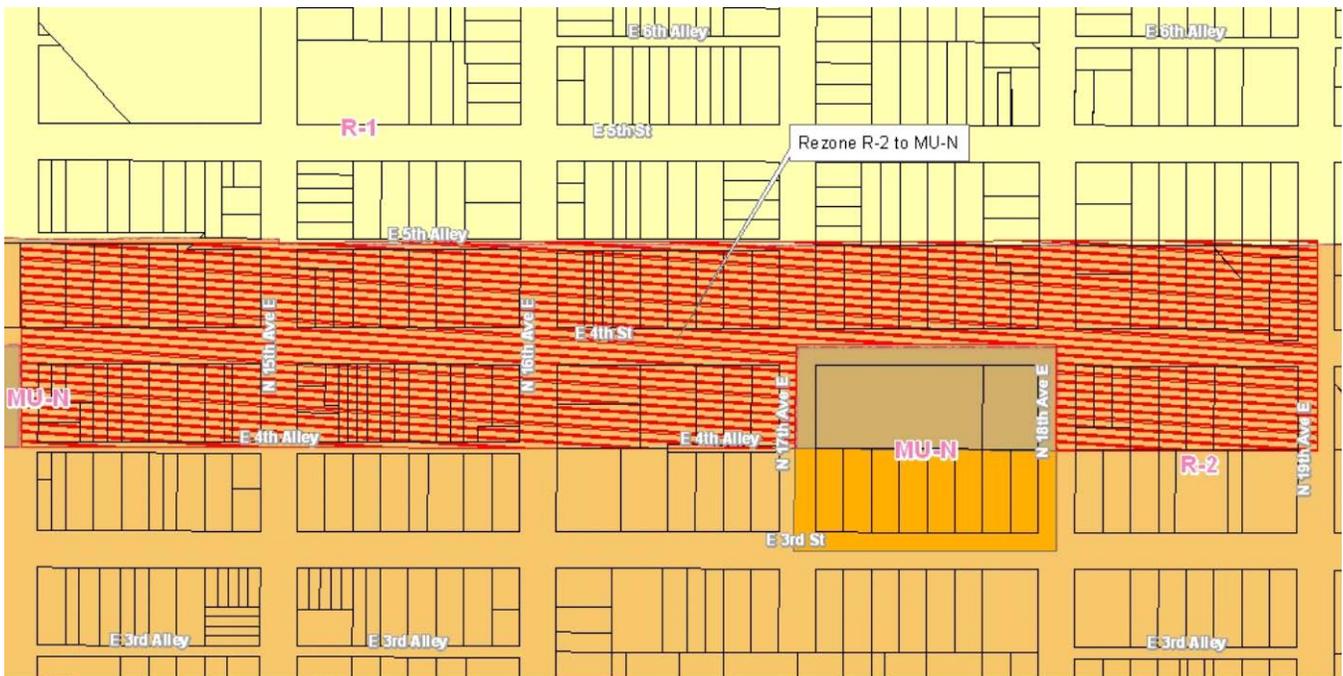


Exhibit F  
(Ref. File No. 12-173)

Section 7. That the 4.5 acres of the subject property located along East First Street from East of North 13th Avenue East to North 15th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East First Street North, North 14th Avenue East and North 15th Avenue East, where these parcels abut roadways:

010-0190-01440	010-1480-05490
010-1480-04880	010-1480-05480
010-1480-04890	010-1480-05470
010-1480-05210	010-1480-05410
010-1480-05400	010-1480-05420
010-1480-05390	010-1480-05440

be reclassified from R-2, to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit G  
(Ref. File No. 12-173)

Section 8. That the two acres of the subject property located along East Third Street between North 17th Avenue East and North 18th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Third Street, North 17th Avenue East and North 18th Avenue East, where these parcels abut roadways:

- |                |                |
|----------------|----------------|
| 010-1480-04640 | 010-1480-04600 |
| 010-1480-04630 | 010-1480-04580 |
| 010-1480-04610 | 010-1480-04570 |

be reclassified from MU-N, to R-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

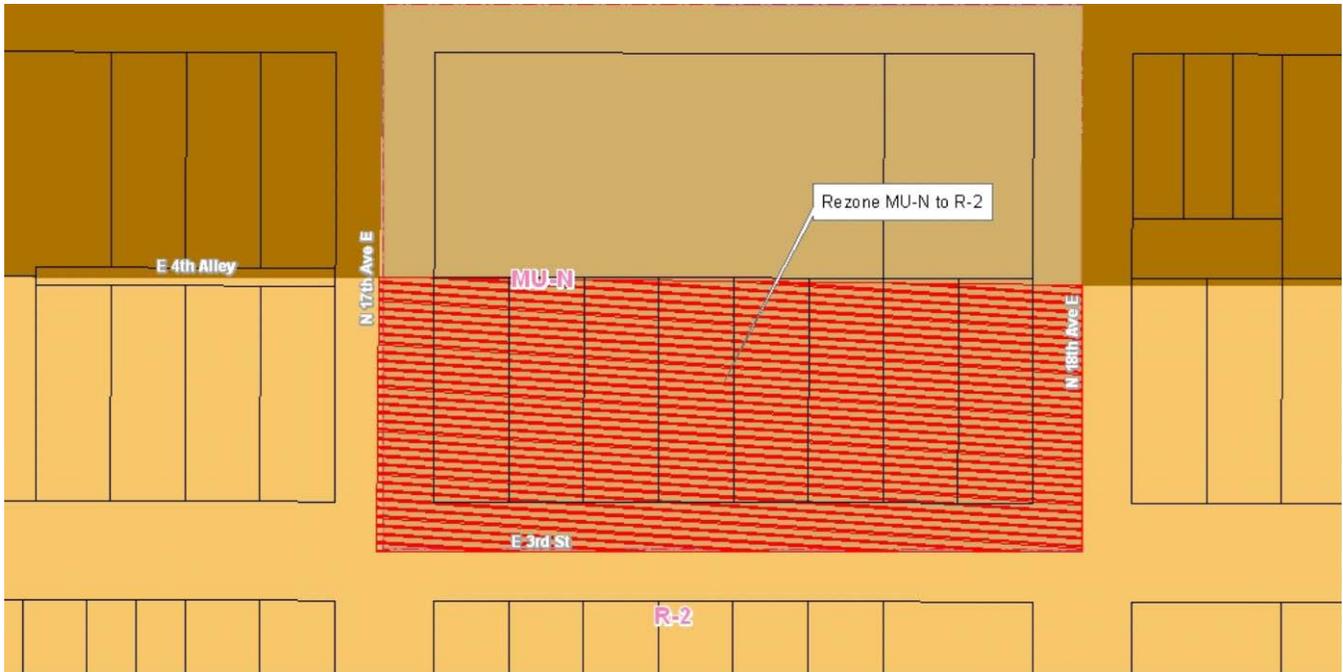


Exhibit H  
(Ref. File No. 12-173)

Section 9. That the 3.1 acres of the subject property located along an area centered on the intersection of East Superior Street and North 19th Avenue East, and as more particularly described in Exhibit C and by the following:

The below parcels, extending to the centerline of East Superior Street, Greysolon Road and North 19th Avenue East, where these parcels abut roadways:

010-1480-00650	010-1480-01040
010-1480-00995	010-1480-01050
010-1480-01010	010-1480-01860
010-1480-01030	010-1480-02180

be reclassified from MU-N, to R-2, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit I  
(Ref. File No. 12-173)

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: May 4, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 1, 2013  
Approved April 1, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10216**

AN ORDINANCE GRANTING TO GREGORY KAMP/COLDWELL BANKER A CONCURRENT USE PERMIT FOR CONSTRUCTION OF A CANOPY TO PROJECT INTO THE LONDON ROAD RIGHT-OF-WAY AT 1732 LONDON ROAD.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations, and restrictions hereinafter set forth, permission is granted to Gregory Kamp/Coldwell Banker and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following: a canopy located 2.5 feet from the property line, as shown in Public Document No. 13-0401-16, and described below:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Commencing at the most easterly corner of Block 21, Endion Division of Duluth;  
thence North 37

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor(s) in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days' written notice, delivered as provided in Section 3, above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3 above.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 13-0401-16; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file acceptance of this ordinance as specified in Section 2 within 30 days after this ordinance takes effect; or

(b) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(c) The failure of the permittee to commence the improvements authorized by this ordinance within 120 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 3, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 1, 2013  
Approved April 1, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

## ORDINANCE NO. 10217

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL ONE (RR-1), TO INDUSTRIAL-GENERAL (I-G), THE PROPERTIES LOCATED AT 1100 WEST GARY STREET (VONCO V, LLC).

The city of Duluth does ordain:

Section 1. That the 29 acres of the subject properties located at 1100 West Gary Street, and as more particularly described in Exhibit A and by the following:

010-2730-00535

010-2730-00538

be reclassified from RR-1 to I-G, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

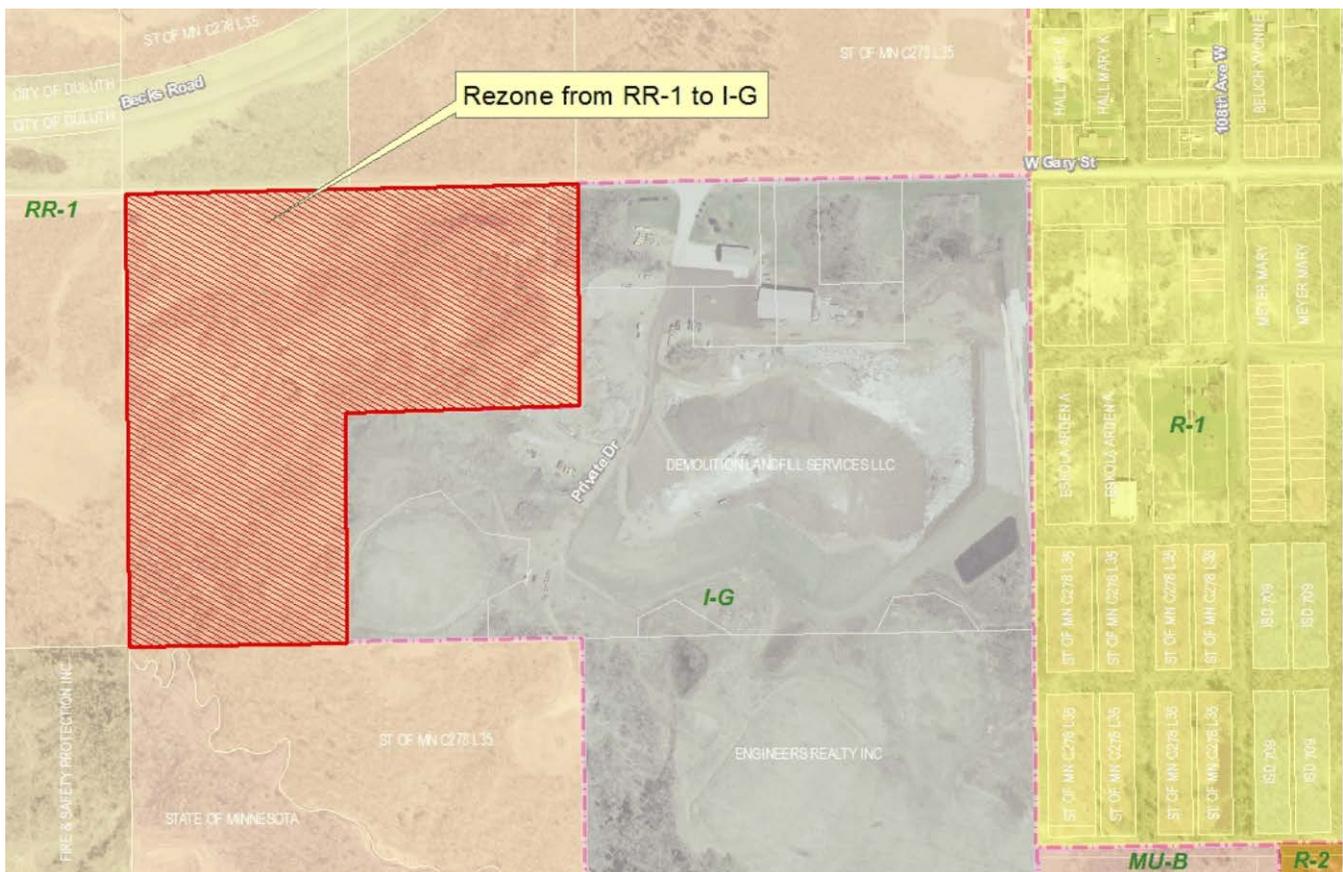


Exhibit A

(Ref. File No. 13-014)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 1, 2013  
Approved April 1, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10218**

AN ORDINANCE AMENDING ORDINANCE NO. 10198  
EXTENDING THE CLOSING DATE AND CORRECTING THE  
LEGAL DESCRIPTION RELATING TO THE SALE OF THE  
ENDION STATION.

The city of Duluth does ordain:

Section 1. That Ordinance No. 10198 is hereby amended to extend until June 1, 2013, the date by which the closing on the sale to Old City Hall, LLC of the property legally described below (the Endion Station) must occur after which time said ordinance authorizing the sale shall be null and void.

Section 2. That Ordinance No. 10198 is hereby further amended to correct the legal description of the property to be conveyed by replacing it with the following:

That part of Lots 30 and 31, Block 1, INDUSTRIAL DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southwest corner of said Lot 30; thence on an assumed bearing of North 15 degrees 55 minutes 39 seconds West, along the Southwest line of said Block 1, a distance of 25.63 feet; thence North 15 degrees 55 minutes 39 seconds West, along said Southwest line of Block 1, a distance of 50.00 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 42.65 feet to the point of beginning of the property to be described; thence North 75 degrees 01 minutes 17 seconds East, a distance of 85.07 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 8.47 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 10.71 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 13.88 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 11.52 feet; thence South 14 degrees 58 minutes 43 seconds East, a distance of 27.65 feet; thence South 75 degrees 01 minutes 17 seconds West, a distance of 130.11 feet; thence North 10 degrees 58 minutes 48 seconds West, a distance of 24.77 feet; thence North 24 degrees 50 minutes 11 seconds East a distance of 32.92 feet to the point of beginning and there terminating.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Larson -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 1, 2013  
Approved April 1, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10219**

AN ORDINANCE AMENDING ORDINANCE NO. 10201  
AUTHORIZING THE DEDICATION OF A STREET AND UTILITY  
EASEMENT OVER CERTAIN CITY PROPERTY IN THE CANAL  
PARK AREA, TO CORRECT THE LEGAL DESCRIPTION.

The city of Duluth does ordain:

Section 1. That the legal description as made part of Ordinance No. 10201 is hereby replaced with the following:

An easement for Street and Utility purposes lying in, under, over, upon, across and along that part of Lots 30 and 31, Block 1, INDUSTRIAL DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southwest corner of said Lot 30; thence on an assumed bearing of North 15 degrees 55 minutes 39 seconds West, along the Southwest line of said Block 1, a distance of 25.63 feet to the point of beginning of the easement to be described; thence North 15 degrees 55 minutes 39 seconds West, along said Southwest line of Block 1, a distance of 50.00 feet; thence North 75 degrees 01 minutes 17 seconds East, a distance of 42.65 feet; thence South 24 degrees 50 minutes 11 seconds West, a distance of 32.92 feet; thence South 10 degrees 58 minutes 48 seconds East, a distance of 24.77 feet; thence South 75 degrees 01 minutes 17 seconds West, a distance of 19.01 feet to the point of beginning and there terminating.

Section 2. That the proper city officials are authorized to execute all documents necessary with regard to said easement.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 4, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Larson -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 1, 2013  
Approved April 1, 2013  
DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, April 22, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

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The minutes of council meetings held on February 11 and 25, March 11 and 25, 2013, were approved upon a unanimous vote.

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### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0422-01 Minnesota state auditor Duluth/North Shore Sanitary District audit report for the year ended December 31, 2011. -- Received

13-0422-22 Todd Signs communication regarding the proposed ordinance regarding sign regulations (13-028-O). -- Received

13-0422-23 The following communications regarding the proposed resolution regarding the Un-Fair Campaign (13-0163R): (a) Jacky Block; (b) Warren Howe. -- Received

--

### REPORTS OF BOARDS AND COMMISSIONS

13-0422-02 Commission on disabilities minutes of March 6, 2013, meeting. -- Received

13-0422-03 Community development committee minutes of: (a) December 4, 2012; (b) January 29; (c) February 26, 2013, meetings. -- Received

13-0422-04 Duluth citizen review board minutes of February 26, 2013, meeting. -- Received

13-0422-05 Duluth economic development authority minutes of February 27, 2013, meeting. -- Received

13-0422-06 Duluth public utilities commission: (a) Minutes of: (1) February 19; (2) February 26, 2013, meetings; (b) Resolution establishing natural gas rates effective with meter readings after April 30, 2013; superseding all prior inconsistent or conflicting rates as of May 1, 2013 (13PUC-004). -- Received

13-0422-07 Duluth Seaway Port authority budget summary of March 2013. -- Received

13-0422-08 Housing and redevelopment authority audit report for the year ended September 30, 2012. -- Received

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Cathy Schuyler reviewed the mission of the Un-Fair Campaign and the impacts of racism and its effects on citizens, and stated that they have prepared a report of their progress so far.

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Jerry Schlafer voiced concern that the high speed rail issues are coming back to the forefront and stated that Duluth does not need the train as we already have transportation from Duluth to Minneapolis via buses and airport limousines, and the airport services more places

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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than the train will go. He voiced concern that the government will be subsidizing the train forever.

- - -

Loren Martell expressed frustration that the Duluth News Tribune does not understand the financing problems with the red plan and therefore does not report the issues to the public that go with it.

- - -

### MOTIONS AND RESOLUTIONS

Resolution 13-0197, approving the transfer of the off sale intoxicating liquor license from Golden Eagle Liquors, LLC (Sportsmen's Liquor), 3904 Grand Avenue, to Broad Eaves, LLC (Piedmont Liquor), 2818 Piedmont Avenue, was introduced by Councilor Krause.

Councilor Krause stated the administration has requested this resolution be removed from the agenda.

Without any objections, President Boyle withdrew the resolution from the agenda.

- - -

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0422-09, with Spirit Mountain recreation area authority in an amount not to exceed \$60,000, payable from Fund 258, Agency 030, Account 5436-07 (tourism taxes, finance, tourism tax allocation Spirit Mountain).

Resolution 13-0174 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Great Lakes Aquarium in an amount not to exceed \$60,000, payable from Fund 258-030-5436-08 (tourism taxes, finance, tourism tax allocation Great Lakes Aquarium).

Resolution 13-0181 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that Resolution 06-0498, which amended Resolution 01-0601 modifying the membership of the city special board of review, is hereby amended to read as follows:

(a) That a special board of review for the city of Duluth is hereby created, and all the powers and duties of the city council under Minnesota Statutes 274.01, subdivision 1, are hereby delegated to said special board of review;

(b) That said board shall be comprised of five members, all of whom shall by training and experience be well versed and familiar with property values in the city of Duluth. One member shall be an appraiser by profession, one member shall be a real estate broker, one member shall be an attorney, one member shall have attended the equalization course

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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required by Minnesota Statutes Section 274.014, subdivision 2, and the final member shall be a person familiar with real property valuations in Duluth;

(c) The member who has completed the equalization course shall be designated annually by the chief administrative officer of the city, or in his or her absence, the mayor. Of the other members of the board, one member shall initially be appointed for a two year term, another for a three year term, and the remaining two members for four year terms, and, thereafter, all appointments, except those made to fill an unexpired term, shall be for four year terms;

(d) The board shall meet annually on such day as the county auditor shall designate and from time to time thereafter until all duties and responsibilities imposed on said board by Minnesota Statutes 274.01 are discharged in full;

(e) All meetings of the special board of review shall be public, and it shall keep minutes of its proceedings which shall be immediately forwarded to the council, and which shall be a public record. At any meeting, three members shall constitute a quorum. Necessary staff, recording, transcription and mailing service shall be provided to the board by city administration.

Resolution 13-0205 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth makes the following findings of fact:

(a) On April 3, 2013, the alcohol, gambling and tobacco commission held a public hearing to consider whether disciplinary action should be taken against the 3.2 percent malt liquor license of D & C Letourneau, Ent. (D & C Lakeside Milkhouse), 5402 East Superior Street, and has submitted its report to the city council of the city of Duluth as Public Document No. 13-0422-10;

(b) Pursuant to Duluth City Code Chapter 8, Section 9, clause (a), on April 22, 2013, the city council considered the records and evidence submitted;

(c) The finding of facts as set forth in Public Document No. 13-0422-10 regarding any suspension, revocation and/or civil penalty relating to the 3.2 percent malt liquor license of D & C Letourneau, Ent. (D & C Lakeside Milkhouse), 5402 East Superior Street, are adopted.

BE IT FURTHER RESOLVED, that the decision of the city council regarding any suspension, revocation and/or civil penalty is as follows: due to the mitigating circumstance that the alcohol, gambling and tobacco commission was unable to meet for three consecutive months, the Duluth City Council reduce the presumptive \$500 penalty and fine the licensee \$100 payable within 30 days of final city action.

Resolution 13-0171 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Arrowhead Concrete Works, Inc., for the purchase and delivery of an estimated 750 cubic yards of ready-mix concrete as needed during fiscal year 2013 by street maintenance crews in accordance with city-approved bid specifications and the vendor's bid of \$102.70 per cubic yard of type 3A32 high early concrete, for a total of \$77,025 plus \$5,295.47 sales tax, for a combined estimated total of \$82,320.47, terms net 30, FOB destination, payable from the General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations),

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Cost Center 2140 (street maintenance), Object 5224 (gravel and other maintenance materials).

Resolution 13-0176 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Northland Constructors of Duluth, LLC, as the primary vendor for the purchase of hot mix (fine) as needed during fiscal year 2013 for street maintenance and flood repair projects in accordance with city-approved specifications and the vendor's low bid of \$46.90 per ton, for 12,750 tons, for a total of \$597,975 plus \$41,110.78 sales tax, and a combined total of \$639,085.78, payable as follows:

(a) Requisition 13-0259, \$92,730.09 (1,850 tons for flood repairs):

\$72,700.39 Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5222 (blacktop), Project Flood-073;

\$20,029.70 Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5222 (blacktop), Project Flood-472;

(b) Requisition 13-0262, \$546,355.69 (10,900 tons for street maintenance):

\$546,355.69 General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5222 (blacktop).

Resolution 13-0187 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Ulland Brothers, Inc., as the secondary vendor for the purchase of hot mix (fine) as needed during fiscal year 2013 for street repairs, utility repairs and street improvements in accordance with city-approved specifications and the vendor's bid of \$52 per ton, for 1,100 tons, for a total of \$57,200 plus \$3,933.07 sales tax, for a combined total of \$61,133.07, payable as follows:

Requisition 13-0311 (1,100 tons) \$61,133.07:

\$61,133.07 General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance) Object 5222 (blacktop).

Resolution 13-0188 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Marshall School (Marshall Auction), 1215 Rice Lake Road, for May 4, 2013, with Beth Tessier, manager.

Resolution 13-0194 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area and issues an additional bar license to the following on sale intoxicating liquor license for the period ending August 31, 2013, and subject to departmental approvals:

Flame Nightclub, Inc. (Flame Nightclub), 28 North First Avenue West, expanding to include first floor.

Resolution 13-0195 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, in conjunction with Grandma's Marathon, for June 22, 2013, with the serving ceasing at 2:00 a.m.

Grandma's Angie's, Inc. (Little Angie's Cantina), 11 East Buchanan Street, in conjunction with Tall Ships, for July 25 - 28, 2013, with the serving ceasing at 2:00 a.m.

Resolution 13-0196 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale wine license for the period beginning September 1, 2013, ending August 31, 2014 and issues an on sale 3.2 percent malt liquor license for the period ending April 30, 2014, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Stewart Zaun, Inc. (Amazing Grace Bakery), 394 Lake Avenue South, main floor and front sidewalk area, with Marcie Stoyke, 100 percent owner.

Resolution 13-0198 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues off sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2013, and ending April 30, 2014, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 13-0422-11.

Resolution 13-0199 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues on sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2013, and ending April 30, 2014, subject to departmental approvals and the payment of sales and property taxes, as

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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provided for in the Duluth City Code, to the applicants listed on Public Document No. 13-0422-12.

Resolution 13-0200 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following consumption and display licenses by the liquor control commissioner for the period beginning April 1, 2013, and ending March 31, 2014, subject to departmental approvals and the payment of sales and property taxes:

Order of Owls, Nest #1200, 118 East Second Street.

Duluth Woman's Club, 2400 East Superior Street.

Resolution 13-0201 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Timothy L. Meyer to the planning commission for a term expiring on March 31, 2017, replacing Heather Rand, is confirmed.

Resolution 13-0165 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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BY COUNCILOR GARDNER:

RESOLVED, that the proper city officials are hereby authorized to enter into a transfer of assets agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0422-13, pursuant to which the city accepts from the Duluth Public Arts Fund, Inc., assets to be used in furtherance of the purposes of the nonprofit in the form of eight art boxes located in the new terminal at the Duluth International Airport and \$59,186.49 to be retained in the Duluth Public Art Fund 745.

Resolution 13-0193 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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RESOLVED, that the appointment of Jaron A. Smallwood by Mayor Ness to the American Indian commission for a term expiring on March 31, 2016, replacing Priscilla Fairbanks who resigned, is confirmed.

Resolution 13-0209 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Heather Pitschka and Steven Pitschka an interim use permit to operate a vacation dwelling unit located at 1210 South Lake Avenue and as described by the following:

Lot 135, Upper Duluth, Lake Avenue (PID 010-4380-00680); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-031); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 26, 2013; and

(f) The city planning commission, at their regular meeting on March 26, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property is approved subject to the following conditions:

(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0164 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Heather Pitschka and Steven Pitschka an interim use permit to operate a vacation dwelling unit located at 1535 South Lake Avenue and as described by the following:

Lot 62, Upper Duluth, Lake Avenue (PID 010-4380-01530); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-029); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 26, 2013; and

(f) The city planning commission, at their regular meeting on March 26, 2013, considered the application's consistency with the use specific standards for vacation dwelling

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property is approved subject to the following conditions:

(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0166 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Heather Pitschka and Steven Pitschka an interim use permit to operate a vacation dwelling unit located at 1302 Minnesota Avenue and as described by the following:

Lot 119, Upper Duluth, Minnesota Avenue (PID 010-4390-00650); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-030); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 26, 2013; and

(f) The city planning commission, at their regular meeting on March 26, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property is approved subject to the following conditions:

(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(d) The interim use permit shall be revoked on November 1, 2013, if the required off-street parking spaces have not been constructed on the applicant's property.

Resolution 13-0167 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Theresa Hanson and David J. Hanson an interim use permit to operate a vacation dwelling unit located at 124 North Hawthorne Road and as described by the following:

Lots 30 and 31, Congdon Park Division, First Rearrangement (PID 010-0690-00020); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-034); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 26, 2013; and

(f) The city planning commission, at their regular meeting on March 26, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property is approved subject to the following conditions:

(a) The interim use permit shall not be effective until an operational permit has been granted by the fire department and a lodging license has been granted by the state of Minnesota; and

(b) The interim use permit is issued allowing up to 14 guests; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50; and

(d) There shall be no more than seven vehicles parked at the site at any time, excluding any vehicles parked inside the garage.

Resolution 13-0168 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that:

(a) The city council hereby grants Cottage on the Point, LLC/Patricia Burns and William M. Burns an interim use permit to operate a vacation dwelling unit located at 3330 Minnesota Avenue and as described by the following:

ALL THAT PART OF SOUTH 1/2 OF LOT 294 AND ALL OF LOTS 296 & 298, MINNESOTA AVENUE, LOWER DULUTH AND SOUTHERLY 1/2 OF LOT 293 AND ALL OF LOTS 295 & 297, LAKE AVENUE, LOWER DULUTH DESCRIBED AS FOLLOWS; BEGINNING AT NORTHWEST CORNER OF THE ABOVE DESCRIBED PARCEL; THENCE SOUTHERLY ALONG WEST LINE 50 FEET THENCE 19 DEGREES 21' 57" TO THE LEFT 25.10 FEET THENCE 60 DEGREES 52' 47" TO THE LEFT 72.73 FEET THENCE ON A LINE PARALLEL WITH AND 14 FEET DISTANT FROM SOUTH LINE OF LOTS 297 & 298 43.91 FEET THENCE 90 DEGREES LEFT 86 FEET TO NORTH LINE OF PARCEL THENCE 90 DEGREES LEFT 123.82 FEET TO POINT OF BEGINNING (PID 010-3110-03585); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-019); the commission gave due notice of public hearing and considered the application during a public hearing occurring on April 9, 2013; and

(f) The city planning commission, at their regular meeting on April 9, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property is approved subject to the following conditions:

(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50; and

(d) The interim use permit shall not be effective until an operational permit is granted by the fire department and a lodging license is granted by the state of Minnesota.

Resolution 13-0178 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that:

(a) The city council hereby grants Ted W. Stein and Carelle Stein an interim use permit to operate a vacation dwelling unit located at 206 North 11th Avenue West and as described by the following:

Lot 173, except easterly 25 feet of southerly 78 feet, Block 100, Duluth Proper Second Division (PID 010-1160-00760, 00710, 00720, 00740, 00770); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-038); the commission gave due notice of public hearing and considered the application during a public hearing occurring on April 9, 2013; and

(f) The city planning commission, at their regular meeting on April 9, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet; and

(b) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0184 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Jerry Paulson and Betsy Snow of Park Point Carriage House/Carriage House Charters, LLC, an interim use permit to operate a vacation dwelling unit located at 1202 South Lake Avenue and as described by the following:

Lot 139, Upper Duluth, Lake Avenue (PID 010-4380-00700); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-039); the commission gave due notice of public hearing and considered the application during a public hearing occurring on April 9, 2013; and

(f) The city planning commission, at their regular meeting on April 9, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property is approved subject to the following conditions:

(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0185 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Deborah Medlin and Wallace Medlin an interim use permit to operate a vacation dwelling unit located at 1018 South Lake Avenue and as described by the following:

Northerly 20 feet of Lot 169 and all of Lot 171, Upper Duluth, Lake Avenue (PID 010-4380-00855); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-040); the commission gave due notice of public hearing and considered the application during a public hearing occurring on April 9, 2013; and

(f) The city planning commission, at their regular meeting on April 9, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property is approved subject to the following conditions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0186 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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BY COUNCILOR STAUBER:

WHEREAS, Tax Increment Finance District (TIF) #3 was decertified in 2007 and today has an uncommitted balance of \$2 million; and

WHEREAS, the city has worked diligently to spend excess and remaining TIF dollars from this district on economic development in the district but still has a balance of unused dollars that may need to be returned; and

WHEREAS, historic Frank Wade Stadium, home of the minor league baseball team the Duluth-Superior Huskies is in dire need of repairs and lies just outside of the district; and

WHEREAS, a large section of the stadium wall collapsed on March 18, 2013, and there is concern that more damage may follow; and

WHEREAS, full reconstruction of the stadium would employ approximately 30 full-time employees and three additional full-time employees following construction; and

WHEREAS, the city has unsuccessfully sought both bonding from the 2012 legislature and a grant from DEED for rehabilitation; and

WHEREAS, recent private and public fiscal improvements in the immediate area, such as Clyde Park, Heritage Hockey, Wheeler Field and many new businesses, are making the district more economically viable.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests special legislation by the 2013 legislature of the state of Minnesota to allow for any remaining monies in Tax Increment Financing District (TIF) #3 of Duluth to be spent on the engineering and rehabilitation of Frank Wade Stadium.

FURTHER RESOLVED, that the proper city officials are hereby requested to begin promoting and lobbying as needed to garner legislative approval this session and that the city clerk's office distribute a copy of this request to all local legislators.

Resolution 13-0202 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and the Minnesota department of transportation (Mn/DOT), a copy of which is on file in the office of the city clerk as Public Document No. 13-0422-14, for grading, bituminous mill and overlay, and construction of Bridge No. 69X12 on TH23 from Polk Street to I-35, at an estimated cost of \$101,357.66. Of the city's costs for this project, \$41,405.79 is payable from Water Fund 510, Agency 500 (public works and utilities), Organization 1905 (capital), Object 5533 (capital improvements - revenue), \$20,227.03 from

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Sanitary Sewer Fund 530, Agency 500, Object 1905, Organization 5533, and \$39,724.84 from Street Lighting Fund 550, Agency 120 (public administration), Object 5533, S.P. 6910-82, City Project No. 1231.

Resolution 13-0161 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with ON2 Solutions for the purchase and delivery of 120 AEL (American Electric Lighting) ATB2 LED (light emitting diode) roadway luminaries in accordance with city-approved specifications and the vendor's quote of \$555 per unit, for a total amount of \$66,600 plus \$4,578.75 sales tax, for a combined total of \$71,178.75, terms net 30, FOB destination, payable from Street Lighting Utility Fund 550, Department/Agency 120 (public administration), Object 5580 (capital equipment).

Resolution 13-0177 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC for construction of the Lakewalk East Extension Phase IV in the amount of \$524,345.37, payable from Capital Improvement Fund 450, Department 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0687TR.

Resolution 13-0179 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

### CITY PROPOSAL:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit & Company, Inc., for construction of the West Duluth reservoir surge tank in the amount of \$498,925, payable from Water Fund 510, Department 500 (public works and utilities), Object 5533 (capital improvements - revenue), City Project No. 1199.

Resolution 13-0180 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hovland, Inc., for the Cascade Park permanent flood repairs in the amount of \$74,570, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1187.

Resolution 13-0182 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to award a contract to Hanco Utilities, Inc., for construction of high pressure gas mains and services and related work

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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in various locations in the city of Duluth in the amount of \$647,621, payable from Gas Utility Fund 520, Department 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1208.

Resolution 13-0183 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0422-15, with Minnesota Power for emergency repair services, payable from the fund of the department in which the service is needed.

Resolution 13-0189 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Western Lake Superior Sanitary District ("WLSSD"), a copy of which is on file in the office of the city clerk as Public Document No. 13-0422-16, for the transfer of ownership of and responsibility of certain sewer or wastewater lines or pipes and associated manholes and other appurtenances from the city to WLSSD and the transfer of ownership of and responsibility of certain sewer or wastewater lines or pipes and associated manholes and other appurtenances from WLSSD to the city to reflect present practices and the best allocation of responsibility between the parties for the subject facilities.

Resolution 13-0206 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the rehabilitation of Bridge No. L6007 at Skyline Parkway over Stewart Creek, City Project No. 1016.

FURTHER RESOLVED, that the grant has been approved and increased by \$12,526.80 for a new total of \$85,669.80.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 175.40, subdivision 5, clause (30), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the bridge but not required. The proper city officials are hereby authorized to execute a grant agreement concerning the above referenced grant. Grant monies received hereunder shall be deposited into Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1016, S.P. 118-060-010.

Resolution 13-0208 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with the Duluth airport authority providing for the lease of approximately 140 square feet of space on the second floor of the terminal, also referred to as Room Number 212, to be used by the police department as a sub-station in District 29; said agreement to be

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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substantially in the form of Public Document No. 13-0422-17 on file in the office of the city clerk.

Resolution 13-0170 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to Agreement Number 21736 regarding FY 2012 justice assistance grant between St. Louis County sheriff's office and the city of Duluth, which grant is from the U.S. department of justice and to be used for state and local initiatives with the city of Duluth as the designated recipient and fiscal agent; said first amendment to be substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0422-18, and reallocates \$7,000 in funding from St. Louis County to the Duluth police department for crime scene investigations equipment, funds to be deposited in Fund No. 215-200-2299-4209-02 (Duluth police grant programs, police, 2012 JAG grant, direct federal grants operating), and expenses to be paid from Fund No. 215-220-2299-5580 (Duluth police grant programs, police, 2012 JAG grant, capital equipment).

Resolution 13-0192 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept \$47,002 from the Arrowhead Library System for use in 2013 by the Duluth public library to purchase library materials, said sum to be deposited in Fund No. 110-121-1218-4654-02 (general, public administration, library services).

Resolution 13-0162 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into a rental agreement with David Joseph Conley providing for the rental of the residential dwelling unit located within the upper level of the Chester Bowl Chalet, said agreement to be substantially in the form of Public Document No. 13-0422-19, on file in the office of the city clerk; monthly rental payments shall be deposited into Parks Fund 205, Community Resources 130, Parks Operating 1219, Rent for Buildings 4622.

Resolution 13-0190 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized to enter into a rental agreement with Donald Roderick Kuchenbecker providing for the rental of the residential dwelling unit located within the upper level of the Chester Bowl Chalet, said agreement to be substantially in the form of Public Document No. 13-0422-19, on file in the office of the city clerk; monthly rental payments shall be deposited into Parks Fund 205, Community Resources 130, Parks Operating 1219, Rent for Buildings 4622.

Resolution 13-0191 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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The following resolutions were also considered:

RESOLVED, that the city treasurer is hereby authorized to accept, on behalf of the city, gifts in the amount of \$10,000 or less made to the city, except where the donor specifies the use of the gift for a particular project or activity and city funds are required as a match to complete the project or the activity.

FURTHER RESOLVED, that such gifts shall be deposited in appropriate accounts and used only in accordance with the expressed wishes of the donor.

FURTHER RESOLVED, that this resolution replaces Resolution 97-0594 relating to acceptance of gifts of \$5,000 or less.

FURTHER RESOLVED, that this resolution shall be in effect until December 31, 2016.

Resolution 13-0109 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

- - -

Resolution 13-0163, by Councilor Stauber, requesting the Un-Fair Campaign organization remove the city of Duluth as a listed sponsor on their web page and literature, was introduced.

Councilor Stauber stated that the organization had changed their web page so he wished to withdraw the resolution from the agenda.

Without any objections, President Boyle withdrew the resolution from the agenda.

- - -

Resolution 13-0207, authorizing an agreement with Bench Strength Partners, Inc., for professional services in the negotiation of contracts for rental of space by communication carriers on designated communication and water tower infrastructure, to be provided at no cost to the city until a specific economic result is achieved, was introduced by Councilor Julsrud for discussion.

Councilor Stauber expressed concern that the company has only been in the business for two years and stated that it would be better to put a request for proposals (RFP) out on this issue instead of contracting with a company with so little experience.

Resolution 13-0207 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with Bench Strength Partners, Inc., (BSP), substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0422-20, for professional services in the negotiation of contracts for all carriers on the city's communication and water tower infrastructure to be provided at no cost to the city until BSP earns specific economic results in accordance with the "BSP Success-Based Fee Structure" specified in Exhibit B of the contract; said compensation payable from revenues deposited in Water Fund 510 and payable from Department/Agency 500 (public works and utilities), Division 1900 (public works director's office), Object 5441 (other services and charges).

Resolution 13-0207 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved April 22, 2013

DON NESS, Mayor

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0169, authorizing lease agreement with North Shore Sup, LLC, for operation of a seasonal business offering paddleboard rentals, guided tours and a variety of instructional classes at a city owned property located at 45th Street and Minnesota Avenue, was introduced by Councilor Larson for discussion.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Garrett Russell and Heather Holmes explained their intent is to introduce and grow the sport of paddleboards in Duluth and this business will focus on outdoor recreational opportunities for the citizens and tourists.

Resolution 13-0169 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a lease agreement, substantially in the form of that agreement on file in the office of the city clerk as Public Document No. 13-0422-21, with North Shore SUP, LLC, for the lease and operation of a seasonal business offering paddleboard rentals, guided tours and a variety of instructional classes at a city owned property located at 45th Street and Minnesota Avenue. This is a one year agreement requiring written confirmation to continue the automatic renewal option of two additional years (ending August 31, 2015). All payments to the city will be deposited into 205 (parks fund), 130 (community resources), 1219 (parks operating), 4644 (miscellaneous fees, sales and services).

Resolution 13-0169 was unanimously adopted.

Approved April 22, 2013

DON NESS, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR GARDNER

13-026 - AN ORDINANCE AMENDING SECTION 2-90 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING ONE ADDITIONAL MEMBER TO DULUTH DEFERRED COMPENSATION PLAN COMMISSION.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-027 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) AND MIXED USE-NEIGHBORHOOD (MU-N) TO MIXED USE-COMMERCIAL (MU-C), FOR PROPERTIES LOCATED AT THE 2100 BLOCK OF LONDON ROAD (LONDON ACQUISITION, LLC).

- - -

INTRODUCED BY COUNCILOR STAUBER

13-028 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-029 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING DIMENSIONAL STANDARDS, PERMITTED AND SPECIAL

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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USES, USE SPECIFIC STANDARDS, THE HISTORIC PRESERVATION COMMISSION AND DEFINITIONS.

- - -

BY COUNCILOR LARSON

13-030 - AN ORDINANCE AMENDING CHAPTER 27 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE RELATED TO MOBILE FOOD CARTS AND VEHICLES.

- - -

The following entitled ordinance was read for the second time:

BY COUNCILOR GARDNER

13-025 (10220) - AN ORDINANCE AMENDING CHAPTER 2, ARTICLE XIX, OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE DULUTH PUBLIC ARTS COMMISSION.

Councilor Gardner moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 7:45 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10220**

BY COUNCILOR GARDNER:

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE XIX, OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE DULUTH PUBLIC ARTS COMMISSION.

The city of Duluth does ordain:

Section 1. That Chapter 2, Article XIX, of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 2-104. Statement of purpose.

It is the purpose of this ordinance *[Article]* to promote the public welfare and to serve the public interest, convenience and necessity through the promotion of the arts in the city of Duluth, particularly by fostering public arts events in the city and establishing physical works of art in public places throughout the city; the city council of the city of Duluth further finds that the promotion of public art can help to build the economy of the city through promotion of tourism and can improve the lives of its citizens through the humanization and individualization of public spaces and structures, while preserving historic sites which contribute to the unique character of the city; in furtherance of these goals, said council finds the need to form a public arts commission to advocate for, promote and participate in the selection and interpretation of public artwork and public arts events in the city of Duluth.

Sec. 2-105. Definitions.

For the purposes of this ordinance *[Article]*, the following words and phrases shall have the meanings hereinafter ascribed to them:

(a) Commission. The Duluth public arts commission;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(b) Commissioner or commissioners. The person or those persons serving as members of the commission as appointed pursuant to Section 2-107 hereof;

(c) Council or city council. The city council of the city of Duluth.  
Sec. 2-106. Commission created.

For the purposes herein provided, there shall be created in and for the city of Duluth a Duluth public arts commission.

Sec. 2-107. Commissioners.

(a) The membership of the commission shall consist of nine commissioners who shall be appointed to the membership of said commission and who shall perform their duties as herein after set forth in this ordinance *[Article]*;

(b) Commissioners shall serve without compensation. Terms of commissioners shall be for three years and all terms shall expire on March 31 of the appropriate year or until their respective successors are appointed and qualified. When a vacancy occurs in said commission, by means of resignation, death, removal from the city or removal for failure or neglect to perform the duties of a commissioner, such vacancy shall be filled for the unexpired term;

(c) All appointments and removals of commissioners shall be made by the mayor, with the approval of the city council evidenced by resolution;

(d) Within 20 days after all of the commissioners have been appointed, the commission shall meet and organize and adopt, and thereafter may amend, such rules and regulations for the conduct of the commission as the commission shall deem to be in the public interest and most likely to advance, enhance, foster and promote the purposes of this ordinance *[Article]*. At such meeting and at all subsequent meetings of the commission, 50 percent or more of the commissioners then holding office shall constitute a quorum for the transaction of business;

(e) The commissioners shall elect from among their membership a president and vice president and shall also elect a secretary who, may or may not be a member of said commission. No two of such offices shall be held by one commissioner. The officers shall have their duties and powers usually attendant upon such offices and such other duties and powers not inconsistent therewith as may be provided by the commission.

Sec. 2-108. Staff support; consultants.

(a) Staff support shall, whenever practical, be provided by such city staff personnel as may be directed by the chief administrative officer;

(b) In the event that certain services, such as consulting services, are desirable to promote and foster public art, the commission may request that the city hire consultants to provide such services and may recommend that a particular person or firm be hired to provide such services.

Sec. 2-109. Commission authority.

In furtherance of the purposes set forth in Section 2-104, the commission shall have the following authority:

(a) To establish such internal rules and regulations as the commission shall deem advantageous for its internal operations;

(b) To foster the development of the arts in the city of Duluth;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- (c) To advise city administration and the city council with respect to arts-related matters;
- (d) To stimulate participation in and appreciation of the arts by city residents;
- (e) To act as an advocate for the arts before private and public agencies;
- (f) To assist the city in the establishment and maintenance of a municipal arts plan for the city as set forth in Section 2-110 below;
- (g) To determine methods of selection of artists and works of art;
- (h) To evaluate and recommend artists eligible for funding by the city;
- (i) To evaluate and recommend works of art for approved locations for funding by the city;
- (j) To recommend for funding artists and locations for the performing arts;
- (k) To establish criteria for the selection of consultants on the arts;
- (l) To assist the city in raising funds from public and private sources for the funding of arts projects in the city;
- (m) To report to the council at least annually on the activities of the commission and the projects that it has recommended.

Sec. 2-110. Municipal arts plan.

The commission will work with the city to develop and promulgate a municipal arts plan for the entire city. Thereafter, this plan shall be periodically updated. The plan will list long term objectives of the commission in carrying out its purpose as stated above; establish criteria for the selection of artists and works of art; create a list of potential locations throughout the city for the placement of works of art; develop a list of priorities for the funding of various art projects throughout the city; identify the existing inventory of public art work in the city; establish a collection policy; and create guidelines for public accessibility and safety.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 24, 2013)

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed April 22, 2013  
Approved April 22, 2013  
DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, May 13, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle – 9

Absent: None – 0

- - -

The minutes of the council meeting held on April 1, 2013, were approved upon a unanimous vote.

- - -

### PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0513-01 Summit Management, LLC, further petition (one additional signature) for signal and intersection improvements at the intersection of Woodland Avenue and Summit Street. -- Assessor

13-0513-02 Minnesota state auditor of Spirit Mountain recreation area authority audit report for the years ended April 30, 2012, and 2011. -- Received

13-0513-03 Daniel and Barbara Hoffman communications regarding the proposed Tenth Avenue East improvement (13-0158R). -- Received

13-0513-04 Gregory Kamp/Coldwell Banker acceptance of terms, conditions and provisions of concurrent use permit granted by Ordinance 10216 on April 1, 2013. -- Received

13-0513-05 The following communications regarding the proposed ordinance related to mobile food carts and vehicles (13-030-O): (a) Duluth Area Chamber of Commerce; (b) Michelle Peterson; (c) Ken Steil. -- Received

- - -

### REPORTS FROM OTHER OFFICERS

13-0513-06 Acting assessor letter of sufficiency regarding petition to construct signal and intersection improvements at Woodland Avenue and Summit Street. -- Received

13-0513-07 Budget manager 2012 general fund reconciled budget report, pursuant to Ordinance No. 10130. -- Received

13-0513-08 Clerk application for exempt permit to the Minnesota gambling control board from Duluth Amateur Hockey Association on January 10, 2014 (raffle). -- Received

- - -

### REPORTS OF BOARDS AND COMMISSIONS

13-0513-28 Alcohol, gambling and tobacco commission minutes of: (a) March 6; (b) April 3, 2013, meetings. -- Received

13-0513-09 Duluth citizen review board minutes of March 26, 2013, meeting. -- Received

13-0513-10 Duluth economic development authority minutes of March 27, 2013, meeting. -- Received

13-0513-11 Duluth parking commission minutes of: (a) December 7, 2012; (b) February 22, 2013, meetings. -- Received

13-0513-12 Entertainment and convention center authority minutes of: (a) November 20; (b) December 18, 2012, meetings. -- Received

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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13-0513-13 Housing and redevelopment authority minutes of: (a) February 26; (b) March 26, 2013, meetings. -- Received

13-0513-14 Library board minutes of: (a) February 26; (b) March 26, 2013, meetings. -- Received

- - -

### OPPORTUNITY FOR CITIZENS TO BE HEARD

Austin Lee stated he did not like what the school district is doing for food choices at the public schools.

- - -

### TABLED RESOLUTION

Councilor Gardner moved to remove Resolution 13-0158, of intent to improve a portion of Tenth Avenue East and to assess a portion of the costs thereof, from the table, which motion was seconded and unanimously carried.

Resolution 13-0158 was adopted as follows:

RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the following portion of the street named below to be improved as part of the city's 2014 municipal state aid project and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board, together with a recommendation as to what portion of the cost should be paid by special assessment, and what part, if any, should be a general obligation of the city, the number of installments in which assessments may be paid, and the lands which should include the special assessments:

Tenth Avenue East from Superior Street to Fifth Street.

Resolution 13-0158 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved May 13, 2013

DON NESS, Mayor

- - -

### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)

Councilor Krause moved passage of the consent agenda, which motion was seconded and unanimously carried.

WHEREAS, by passing Resolution 12-0152 the city council approved a three-year contract, through Minnesota State Swift Contract C-1005(5), with Toshiba Business Solutions, Inc., for the rental, supplies and maintenance of copiers; and

WHEREAS, the city administration realized that it must modify the original resolution in order to (i) adjust the resolution to accurately reflect actual expenditures for fiscal year 2012 and revised projected expenditures for 2013 through 2015 (i.e. base charges, additional page count, and additional equipment), and (ii) include sales tax which was inadvertently omitted

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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from the original resolution, all of which are outlined in detail in the April 4, 2013, memorandum submitted by management information systems and attached to this resolution;

NOW, THEREFORE, BE IT RESOLVED, that Resolution 12-0152 is hereby amended to include an overall increase of \$133,085.31 for a new adjusted contract total of \$541,849.83; payable from various funds, departments/agencies, divisions, cost centers, and objects:

Fiscal Year	Estimated Cost
2012	\$85,178.42
2013	\$178,211.29
2014	\$185,640.08
2015 (January - June)	\$92,820.04

Resolution 13-0210 was unanimously adopted.  
Approved May 13, 2013  
DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Hovland, Inc., for the Enger Park shelter improvements and Rotary Peace Plaza in accordance with plans and specifications prepared by Collaborative Design Group, Inc., dated March 18, 2013, and the vendor's adjusted bid of \$325,000, payable from Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project CP450-Engprk.

RESOLVED FURTHER, that this authorization is based on the council's passage of Resolution 13-0256 accepting a gift donation of \$105,000 from the Duluth Rotary Clubs.

Resolution 13-0216 was unanimously adopted.  
Approved May 13, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an amendment to Agreement No. 21607 with Barr Engineering Co., substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0513-15, to increase the consulting fee in the amount of \$1,711, for a new agreement total not to exceed \$25,211, payable from Fund 205-130-1220-5530-CM205-Travrs (parks, community resources, parks capital, improvements other than buildings).

Resolution 13-0218 was unanimously adopted.  
Approved May 13, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Brock White Company for the purchase and delivery of 100,000 pounds of crack sealer in fiscal year 2013 in accordance with Minnesota Department of Transportation (Mn/DOT) Specification No. 3723 and the vendor's low bid of \$.5725 per pound, for a total of \$57,250, plus \$3,935.94 sales tax, for a combined total of \$61,185.94, terms net 30, FOB destination, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance) and Object 5224 (gravel and other maintenance materials).

Resolution 13-0232 was unanimously adopted.  
Approved May 13, 2013  
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proper city officials are hereby authorized to contract with Hoffman & McNamara Co. for the purchase and delivery of trees for planting in Duluth parks, boulevards and other city property in fiscal year 2013 in accordance with city-approved specifications and the vendor's low bid for various lots for a total amount not to exceed \$84,000 (to include funds reimbursed from grants), terms net 30, FOB destination, and payable as follows:

(a) \$71,500, from Parks Fund 205, Department/Agency 130 (community resources), Division 1221 (parks maintenance), Object 5225 (park/landscape materials);

(b) \$12,500, from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Object 5225 (park/landscape materials).

RESOLVED FURTHER, that funds for this contract will be provided in part by grants totaling \$34,300 (\$25,000 from the Minnesota department of natural resources and \$9,300 from the Minnesota pollution control agency) with the balance of \$49,700 from the parks fund budget.

Resolution 13-0236 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 percent malt liquor for the period ending April 30, 2014, subject to departmental approvals:

Minnesota Wine Exchange, LLC (Minnesota Wine Exchange), 3 West Superior Street, with Debra Fellman, 100 percent owner.

Resolution 13-0239 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth hereby approves the transfer of stock of the following off sale intoxicating liquor license for the period ending August 31, 2013, subject to departmental approvals and further subject to the liquor control commissioner:

Last Chance of Duluth, (Last Chance Liquor), 619 East Fourth Street, with Patti Katoski, six shares, Katie Hagglund, two shares, and Kelly Katoski, two shares.

Resolution 13-0240 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Alpine Bar & Lounge, Inc. (Alpine Bar & Lounge), 1308 Commonwealth Avenue, for June 28, 2013, from 7:00 p.m. to midnight, June 29, 2013, from 7:00 p.m. to 1:00 a.m., and June 30, 2013, 11:00 a.m. to 3:00 p.m.

Grandma's, Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, for June 22, 2013, with music and serving ceasing at 1:00 a.m.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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PDL of Duluth, Inc. (Club Saratoga), 331 Canal Park Drive, for June 22, 2013, serving from 8:00 a.m. to 3:00 p.m.

Resolution 13-0241 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor licenses for the period ending August 31, 2013, subject to departmental approvals:

Grandma's Inc. (Grandma's Saloon & Deli), 522 Lake Avenue South, addition to second level deck.

Grandma's of Miller Hill, Inc. (Grandma's Saloon & Grill), 2202 Maple Grove Road, addition to deck along back of building.

Resolution 13-0242 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

College of St. Scholastica, (John Baggs Memorial Scholarship Golf Tournament), 1200 Kenwood Avenue, for June 8, 2013, with Ken Kolquist, manager.

Resolution 13-0243 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Northern Lights Foundation and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0244 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license for the period ending August 31, 2013, subject to departmental approvals and the payment of sales and property taxes:

Duluth Playhouse, Inc. (The Underground), 506 West Michigan Street, (lower level), with Christine Seitz, executive director.

Resolution 13-0247 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth hereby accepts a gift of \$105,000, less all applicable fees and taxes, from the Rotary Club 25, Harbortown Rotary Club, Duluth Superior Eco Rotary, Rotary Club of Duluth Skyline, and Rotary International District 5580 (all collectively referred to

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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as the Duluth Rotary Clubs), to be used for the improvement of Enger Park; said gift to be designated for materials and labor to construct a Rotary Peace Plaza in acknowledgment of this year's theme "Peace Through Service," the gift to be deposited in Capital Improvement Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project Cp450-Engrpk.

FURTHER RESOLVED, that the gift will be disbursed in three separate disbursements to the city as follows:

\$25,000 on May 2, 2013;  
\$40,000 on July 31, 2013;  
\$40,000 upon the project completion.

FURTHER RESOLVED, that the Duluth Rotary Club's gift will be combined with other city funds not to exceed \$300,000 (\$200,000 from the 2013 tourism tax allocation and \$100,000 from the parks fund 2013 capital budget) to complete improvements at the Enger Park Pavilion and Plaza. Improvements will include new restrooms, new landscape features, including the Rotary Peace Plaza, and a new wooden platform extension for the gazebo with total project costs not to exceed \$400,000.

RESOLVED FURTHER, that the city administration and city council hereby express their gratitude to the Duluth Rotary Clubs, for their generous gift and their interest in and dedication to Duluth's Enger Park, the premiere regional park.

Resolution 13-0256 was unanimously adopted.  
Approved May 13, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the abolishment of 15 obsolete and inactive job classifications, which was approved by the chief administrative officer on April 22, 2013, and which are filed with the city clerk as Public Document No. 13-0513-16, is approved.

Resolution 13-0222 was unanimously adopted.  
Approved May 13, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Elaine Hansen to the Spirit Mountain recreation area authority for a term expiring on June 30, 2014, replacing Veronica Nelson who resigned, is confirmed.

Resolution 13-0223 was unanimously adopted.  
Approved May 13, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of administrative finance specialist, which were approved by the civil service board on May 7, 2013, and which are filed with the city clerk as Public Document No. 13-0513-17, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 129, \$3,295 to \$3,884 per month.

Resolution 13-0248 was unanimously adopted.  
Approved May 13, 2013  
DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of assistant storekeeper, which were approved by the civil service board on May 7, 2013, and which are filed with the city clerk as Public Document No. 13-0513-18, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 24, \$2,930 to \$3,438 per month.

Resolution 13-0249 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of storekeeper, which were approved by the civil service board on May 7, 2013, and which are filed with the city clerk as Public Document No. 13-0513-19, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 27, \$3,296 to \$3,875 per month.

Resolution 13-0250 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of assistant city clerk, which were approved by the civil service board on May 7, 2013, and which are filed with the city clerk as Public Document No. 13-0513-20, are approved. This classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees and compensated at Pay Range 1055, \$4,529 to \$5,524 per month.

Resolution 13-0251 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that Resolution 13-0135 approving proposed specifications for the new civil service classification of water conveyance specialist, be amended by correcting the pay range for said classification from Range 32, \$4,044 to \$4,785 per month to Range 31, \$3,875 to \$4,586 per month.

Resolution 13-0252 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of budget and operations analyst, which were approved by the civil service board on May 7, 2013, and which are filed with the city clerk as Public Document No. 13-0513-21, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 133, \$3,884 to \$4,595 per month.

Resolution 13-0253 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

RESOLVED, that the proposed specifications for the new civil service classification of fleet assistant, which were approved by the civil service board on May 7, 2013, and which are filed with the city clerk as Public Document No. 13-0513-22, are approved; that said classification shall be subject to the city’s collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 28, \$3,438 to \$4,044 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0254 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of safety coordinator, which were approved by the civil service board on May 7, 2013, and which are filed with the city clerk as Public Document No. 13-0513-23, are approved; that said classification shall be subject to the city’s collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 133, \$3,884 to \$4,595 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0255 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

WHEREAS, that the community development committee, on behalf of the heading home SLC leadership council hereby recommends to the Duluth City Council the following funding strategies for the FY 2011, 2012 and 2013 emergency solutions grant program; and

WHEREAS, the secretary of HUD is authorized to make grants to cities and/or counties under the HEARTH Act to finance local community programming for homeless persons and those at risk of homelessness; and

WHEREAS, City Council Resolution No. 12-0230, adopted on April 24, 2012, approved submission of the substantial amendment to the 2012 action plan to receive additional FY 2011, 2012 and 2013 funds under the regulations set forth in the HEARTH Act for emergency solutions grant funds (ESG).

NOW, THEREFORE, BE IT RESOLVED, that the community development committee is authorized to make and submit funding recommendations to the Duluth City Council for the following emergency solutions grant funding:

2011 ESG Program – Fund 262 (community development), Agency 020 (planning department), Object 5434 (grants and awards), Project CD11ES

SUBPROJECT	PROJECT	AMOUNT	NEW GRANT	DIFFERENCE
1734	HRA	0	\$58,477	\$58,477
6092	Wilder Foundation	0	\$ 4,000	\$ 4,000
AD-01	ESG administration	\$4,465	\$12,000	\$ 7,535
	Total			\$70,012

2012 ESG Program – Fund 262 (community development), Agency 020 (planning department), Object 5434 (grants and awards), Project CD12ES

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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SUBPROJECT	PROJECT	AMOUNT	NEW GRANT	DIFFERENCE
1734	HRA	0	\$84,378	\$84,378
6092	Wilder Foundation	0	\$ 4,000	\$ 4,000
AD-04	ESG administration	\$4,465	\$14,000	\$ 9,535
	Total			\$97,913

2013 ESG Program – Fund 262 (community development), Agency 020  
(planning department), Object 5434 (grants and awards), Project CD13ES

SUBPROJECT	PROJECT	AMOUNT	NEW GRANT	DIFFERENCE
1734	HRA	0	\$64,346	\$64,346
	Total			\$64,346

BE IT FURTHER RESOLVED, that the following is hereby designated as the financial resource for the above programming:

Source of Funding

2011 HESG grant	\$ 70,012
2012 HESG grant	\$ 97,913
2013 HESG grant	\$ 64,346
Total	\$232,271

BE IT FURTHER RESOLVED, that the city of Duluth and its officials assume full responsibility for assuring that the emergency solutions grant program is carried out according to regulations set forth in the HEARTH Act. This authorization shall also apply to existing 2012 and 2013 ESG program contracts with the city of Duluth and HUD.

Resolution 13-0215 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the mayor and clerk are hereby authorized to enter into a grant agreement with the state of Minnesota for a grant award in the amount of \$30,000 from the Minnesota department of health (MDH) for the above-referenced project and receive said grant payable into Fund 110-132-1301-4220-02 (general, planning and construction services, planning, state of Minnesota operating) and that the city certifies that it will comply with all applicable laws and regulations as stated in the grant agreement.

FURTHER RESOLVED, that the city has the legal authority to apply for financial assistance, and the institutional, managerial and financial capability to ensure adequate project administration.

FURTHER RESOLVED, that the city hereby commits to perform a health impact assessment in conjunction with Duluth's small area plan (SAP) for Gary and New Duluth and the master area plan (MAP) of the US Steel Duluth Works site using the best practices in the field as articulated in the North American Practice Standards and National Research Council's report, "Improving Health in the United States: the Role of Health Impact Assessment."

FURTHER RESOLVED, that the city hereby commits to provide city staff time as matching/in-kind services to the value of \$5,068 during the first year of the project and \$14,943 over the second year of the project.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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FURTHER RESOLVED, that the city has not violated any federal, state and local laws pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practices.

Resolution 13-0238 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that Contract 21580 with SEH, Inc., for professional engineering services for the Lakewalk East extension, phases IV and V, from 60th Avenue East to Brighton Beach, be amended to increase the amount by \$35,855 for a new total of \$221,655, payable from Capital Improvement Fund 450, Department/Agency 030 (finance), Object 5530 (improvements other than buildings), city project nos. 0645TR and 0687TR.

Resolution 13-0211 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into Contract No. 3000034888, a copy of which is on file in the office of the city clerk as Public Document No. 13-0513-25(a), with the Minnesota department of natural resources in the amount of \$650,000 for removal of debris and sediment from public waters.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into Contract No. 59776, a copy of which is on file in the office of the city clerk as Public Document No. 13-0513-25(b), with the Minnesota board of water and soil resources in the amount of \$1,727,419 for stabilization of stream banks and hillsides as a result of the June 2012 flooding.

FURTHER RESOLVED, that the amounts received will be deposited to and payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1808 (disaster aid - revenues), Source 4220 (state of Minnesota), City Project No. 1186.

Resolution 13-0212 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit & Co., Inc. for the reconstruction of Olney Street from 57th Avenue West to 260 feet westerly in the amount of \$65,490, payable out of Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1203.

Resolution 13-0220 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC for the mill and overlay of Vinland Street from Irwin Avenue to Boundary Avenue and 27th Avenue West from Third Street to 11th Street in the amount of \$467,333.60, payable out of Disaster Recovery Fund 225, Department/Agency 125

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1155/1156.

Resolution 13-0224 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Roseville Midway Ford for the purchase and delivery on three 2013 Ford Econoline 350 cargo vans for public works and utilities in accordance with Minnesota State Contract 35458, Release A-175(5), specifications and pricing in the amount of \$68,777.76, plus \$4,470.55 state motor vehicle tax (6-1/2 percent), plus \$362.25 license and document fees, for a combined total amount of \$73,610.56, payable as follows:

(a) \$14,722.11 from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital - incl. depreciation/debt service), Object 5580 (capital equipment);

(b) \$58,888.45 from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital - incl. depreciation/debt service), Object 5580 (capital equipment).

Resolution 13-0226 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Boyer Ford Trucks for the purchase and delivery of one 2014 Freightliner Model 114 SD tandem axle cab and chassis unit in accordance with Minnesota State Contract 61001, Release T-647(5), specifications and pricing in the amount of \$107,914 plus \$7,014.41 state motor vehicle tax (6-1/2 percent) plus \$52.59 license fees for a combined total amount of \$114,981, terms net 30, FOB destination, and payable as follows:

(a) \$86,235.75 from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital - incl. depreciation/debt service), Object 5580 (capital equipment);

(b) \$28,745.25 from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital - incl. depreciation/debt service), Object 5580 (capital equipment).

Resolution 13-0227 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that Contract C21121 with MSA Professional Services, Inc., for engineering services for design and construction services for five sanitary sewer lift stations be amended for additional engineering services associated with an additional lift station (Atlas, LS No. 51, environmental assessment for LS No. 14, LS No. 14 separate bidding and construction administration, and adjustments to billing rates), in the estimated amount of \$29,971, for a new total of \$293,288; payable out of Sanitary Sewer Fund 530, Department 500 (public works and

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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utilities), Division 1905 (capital improvements), Object 5536 (utility infrastructure improvements), City Project No. 0858SN.

Resolution 13-0228 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the 2013 street preservation project on Skyline Parkway and West Seventh Street from Observation Road to Mesaba Avenue, and on Carver Avenue from St. Marie Street to Arrowhead Road, in the amount of \$569,586.90, payable out of Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1032, S.A.P. 118-113-014, 118-127-006 and S.A.P. 118-159-004.

Resolution 13-0231 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with RJS Construction Group, LLC, for the 2013 watermain improvements in West First Street, Bessemer Street and Raleigh Street in the amount of \$1,372,000, payable out of Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5536 (infrastructure replacement), City Project No. 1211.

Resolution 13-0234 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hanco Utilities, Inc., for the replacement of approximately 960 copper gas service risers with anodeless service risers and related work at various locations in the city of Duluth and the surrounding service area in the amount of \$593,625, payable out of Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1225.

Resolution 13-0235 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that it is necessary to make signal and intersection improvements at the intersection of Woodland Avenue and Summit Street, and to assess the costs thereof.

FURTHER RESOLVED, that it is the intent of the city council to cause this improvement to be made, provided that further information demonstrates that the improvement should be made.

FURTHER RESOLVED, that to aid the council in determining whether or not to finally order in said project, the mayor shall cause to be prepared plans and specifications for said project and will further direct procedures prescribed by Section 62 of the Charter.

Resolution 13-0257 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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RESOLVED, that the proper city officials are authorized to pay to Nationwide Insurance Company (as subrogee: Tyler Wedel) the sum of \$11,844.93 in full and final settlement of the claim which arose out of a vehicle accident occurring near North First Avenue West and Fourth Street on January 10, 2013; payment to be made from the Self Insurance Fund 0610.

Resolution 13-0213 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth city council hereby authorizes consumption of alcoholic beverages in public places on Harbor Drive in the area shown on Public Document No. 13-0513-27 on July 25, 2013, from noon to 6:00 p.m., July 26 and 27, 2013, from 9:00 a.m. to 11:00 p.m., and July 28, 2013, from 10:00 a.m. to 5:00 p.m., to coincide with Visit Duluth's special events license for Tall Ships Duluth 2013, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 13-0217 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept a grant from the city of Minneapolis, Minnesota, in the amount of up to \$22,391.77, said funds to be deposited in the General Fund 110, Agency 150 (fire department), Organization 1505 (hazardous materials team budget), for the purpose of reimbursing the city for the costs of participation by members of the city's chemical assessment team in a hazardous materials transportation specialist training program.

Resolution 13-0221 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on the 1300 block of Commonwealth Avenue on June 28-30, 2013, to coincide with the Far West Fest special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 13-0246 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SRF Consulting Group, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0513-26, for professional services for the development of a master plan for two city parks (Hartley Park and Woodland Recreation Area) for an amount not to exceed \$50,000, payable from Fund 205-130-1220-5530 (parks fund, community resources, parks capital, improvements other than buildings).

Resolution 13-0175 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

BY COUNCILOR LARSON:

RESOLVED, that Resolution 12-0608 adopting license, permit, fine, penalty and other charges for 2013 be amended by adopting the following new fees related to mobile food cart and mobile food vehicle licensing, pursuant to Section 31-6(a) of the Duluth City Code, 1959, as amended, said new adopted fees which shall be effective upon the effective date of Ordinance No. 13-030.

FURTHER RESOLVED, that the cost of said new license fees for a mobile food cart or mobile food vehicle shall be reduced by any 2013 peddler fee already paid by the licensee for that same mobile food cart or mobile food vehicle.

Name of License	Department/Division	2013 Fee
Mobile food cart license (12 calendar month)	Clerk	\$175
Mobile food vehicle license (12 calendar month)	Clerk	\$485

Resolution 13-0225 was unanimously adopted.

Approved May 13, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

RESOLVED, that the city of Duluth empowers the St. Louis County housing and redevelopment authority (HRA) to provide \$250,000 in funding to Center City Housing Corporation, which is needed for an emergency shelter housing project for homeless families located at Fourth Street and First Avenue West.

Resolution 13-0214 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Larson -- 1

Approved May 13, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0513-24, with Regents of the University of Minnesota Duluth – School of

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Fine Arts in an amount not to exceed \$100,000, payable from Fund 258, Agency 030, Account 5436-12 (tourism taxes, finance, tourism tax allocation miscellaneous).

Resolution 13-0173 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Hartman -- 1

Approved May 13, 2013

DON NESS, Mayor

- - -

Resolution 13-0203, by Councilor Gardner, reappointing Jennifer Julsrud and Linda Ross Sellner and appointing \_\_\_\_\_, replacing Patrick Huston, to the Duluth public utilities commission, was introduced for discussion.

Councilor Gardner moved to amend the title and body of the resolution to insert the name of "Jim Ramnes" in the blanks, which motion was seconded for discussion.

Councilor Stauber stated he was supporting Tom Ryther and would be voting against this resolution.

Councilor Gardner's amendment carried upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Resolution 13-0203, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the city council hereby reappoints Jennifer Julsrud (city councilor) and Linda Ross Sellner (at large) to the Duluth public utilities commission for terms expiring on March 31, 2016.

FURTHER RESOLVED, that the city council hereby appoints Jim Ramnes (at large) to the Duluth public utilities commission for a term expiring on March 31, 2016, replacing Patrick Huston.

Resolution 13-0203, as amended, was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved May 13, 2013

DON NESS, Mayor

- - -

Resolution 13-0230, of intent to support the request by the Lincoln School Limited Partnership to the state of Minnesota for the award of low-income housing tax credits for the Lincoln Park School project, was introduced by Councilor Stauber for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Michael Conlan requested the council to review the process used for this resolution as the project mentioned is not the only project in Duluth seeking tax credits. He explained that the Kozy Bar building is blight on the community and has been empty for 2-1/2 years. Mr. Conlan continued saying that the council should have heard both projects instead of just one when deciding on tax credit projects and requested the council table this issue until they consider both projects at the same time.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Gardner stated that tax credits are very important for the Kozy project and that she feels a sense of urgency about the historic building. She stated the buildings on this corner should be a positive place for the residents and community.

Councilor Stauber explained he cannot support this resolution as the Kozy Bar corner of the block is in severe need of rehabilitation and cleaning up since it is in a fragile state.

Councilor Gardner moved to table the resolution for a committee meeting, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gardner, Larson and Stauber -- 3

Nays: Councilors Fosle, Hartman, Julsrud, Krause, Krug and President Boyle -- 6

Resolution 13-0230 was adopted as follows:

RESOLVED, that the Duluth City Council hereby expresses its support for the Sherman Associates, Inc., request for funding to the Minnesota housing finance agency for low-income housing tax credits for the Lincoln Park School project.

Resolution 13-0230 was adopted upon the following vote:

Yeas: Councilors Fosle, Hartman, Julsrud, Krause, Krug, Larson and President Boyle -- 7

Nays: Councilors Gardner and Stauber -- 2

Approved May 13, 2013

DON NESS, Mayor

- - -

Resolution 13-0237, by Councilor Stauber, of intent to create a street improvement board and to establish certain procedures pertaining to street improvements and funding, was introduced.

Councilor Stauber moved to table the resolution until the next meeting so that it could be considered with the second reading of companion Ordinance 13-031, which motion was seconded and unanimously carried.

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

13-031 - AN ORDINANCE ESTABLISHING A STREET IMPROVEMENT TRUST (SIT) FUND, PROVIDING FOR THE CREATION OF A CITYWIDE STREET IMPROVEMENT PROGRAM AND CONDITIONALLY AUTHORIZING TRANSFERS OF FUNDS TO THE SIT FUND.

- - -

INTRODUCED BY PRESIDENT BOYLE

13-032 - AN ORDINANCE AMENDING CHAPTER I, SECTION 1, OF THE CITY CHARTER AMENDING THE LEGAL DESCRIPTION FOR THE CITY OF DULUTH.

- - -

INTRODUCED BY PRESIDENT BOYLE

13-033 - AN ORDINANCE AMENDING CHAPTER IV, SECTION 21, OF THE CITY CHARTER RELATING TO POLITICAL ACTIVITIES OF CITY EMPLOYEES.

- - -

INTRODUCED BY PRESIDENT BOYLE

13-034 - AN ORDINANCE AMENDING CHAPTER IV, SECTION 23, OF THE CITY CHARTER REMOVING CITY ASSESSOR REFERENCE.

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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INTRODUCED BY PRESIDENT BOYLE

13-035 - AN ORDINANCE AMENDING CHAPTER XI, SECTION 84, OF THE CITY CHARTER AMENDING THE STATED DOLLAR AMOUNT FOR FAILURE TO COMPLY LIABILITY.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR GARDNER

13-026 (10221) - AN ORDINANCE AMENDING SECTION 2-90 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING ONE ADDITIONAL MEMBER TO DULUTH DEFERRED COMPENSATION PLAN COMMISSION.

Councilor Gardner moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-027 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) AND MIXED USE-NEIGHBORHOOD (MU-N) TO MIXED USE-COMMERCIAL (MU-C), FOR PROPERTIES LOCATED AT THE 2100 BLOCK OF LONDON ROAD (LONDON ACQUISITION, LLC).

The rules were suspended upon a unanimous vote to hear from speakers on the ordinance.

Dave Holappa spoke against the rezoning of this property as it is not part of the comprehensive land use plan as it creates spot zoning by creating a different zone for one block on London Road. He stated that the area from Tenth Avenue East to 26th Avenue East should also be included in the rezoning.

Dan Maddy, representing the developer, explained that rezoning the property will be appropriate by looking at the historic use of the property and neighboring property as the new zoning will be compatible for future development which will increase the economic vitality, provide new commercial services and increase the tax base of that area. He also reviewed that future development will address the blighted portion of the area, especially the lower level road.

Councilor Stauber voiced concern that if a building was built as high as the proposed 90 feet, there would be public outcry like there was for Beacon Point. He stated he cannot support the ordinance as is and suggested the area from Tenth Avenue East to 26th Avenue East should be reclassified at the same time instead of just this one area.

Councilor Krause moved to table the ordinance for more information, which motion was seconded and carried upon the following vote:

Yeas: Councilors Fosle, Gardner, Julsrud, Krause, Larson, Stauber and President Boyle -- 7

Nays: Councilors Hartman and Krug -- 2

- - -

INTRODUCED BY COUNCILOR STAUBER

13-028 (10222) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Hartman moved to amend the ordinance to delete subsection 50-27.3.F pertaining to freestanding sign landscaping requirements, which motion was seconded and failed upon the following vote:

Yeas: Councilors Hartman, Julsrud, Krug and Stauber -- 4

Nays: Councilors Fosle, Gardner, Krause, Larson and President Boyle -- 5

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-029 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING DIMENSIONAL STANDARDS, PERMITTED AND SPECIAL USES, USE SPECIFIC STANDARDS, THE HISTORIC PRESERVATION COMMISSION AND DEFINITIONS.

Councilor Stauber moved to table the ordinance, which motion was seconded and carried upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Stauber and President Boyle -- 8

Nays: Councilor Larson -- 1

- - -

BY COUNCILOR LARSON

13-030 (10223) - AN ORDINANCE AMENDING CHAPTER 27 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE RELATED TO MOBILE FOOD CARTS AND VEHICLES.

Councilor Larson moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:20 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for  
JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 10221

AN ORDINANCE AMENDING SECTION 2-90 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING ONE ADDITIONAL MEMBER TO DULUTH DEFERRED COMPENSATION PLAN COMMISSION.

The city of Duluth does ordain:

Section 1. That Section 2-90 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 2-90. City of Duluth deferred compensation plan commission.

A city of Duluth deferred compensation plan commission is hereby established. The commission shall have eight members, who shall be appointed by the mayor, but only with the approval of the city council. At least one person from each of the city's collective bargaining units shall be appointed, and any person so appointed shall be qualified to be a member of the commission only while being a member of the collective bargaining unit from which he or she was appointed. The term for any member shall be as the mayor and the city council

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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shall specify at the time of appointment, but no such term shall be for more than four years. Any member or former member may be reappointed.

The duties of the commission shall be:

(a) To monitor the administration of the city of Duluth deferred compensation plan;

(b) To advise the city administration regarding the operation of the plan and the desirability of amending the plan.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 14, 2013)

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed May 13, 2013

Approved May 13, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10222**

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING SIGN REGULATIONS.

The city of Duluth does ordain:

Section 1. That Section 50-27 of Chapter 50 be amended as follows:

Sec. 50-27. Signs.

Sec. 50-27.1. Permit required.

- A. All signs that require a permit, as described in Section 50-27.5 (Sign types – permit required) must obtain a zoning permit as described in Section 50-37.13 (Zoning permit) of this Unified Development Chapter;
- B. When submitting a zoning permit application for a sign, the applicant must submit photographs and dimensions of all signs existing on the lot, including all signs that will be removed. The city may request that the applicant submit photographs of all new signs erected on the lot after permit issuance;
- C. The applicant must sign the zoning permit application attesting to the accuracy of the information provided. The city may revoke any sign permit where there has been a violation of the provisions of this section or misrepresentation of fact on the zoning permit application;
- D. All freestanding signs over seven feet in height must submit construction plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code.

Sec. 50-27.2. Enforcement.

- A. No sign permit shall be required for the types of signs shown in Table 50-27-1, but each such sign shall be required to comply with the provisions of this Section

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- 50-27. Any sign placed on public property or within a public right-of-way or public easement without authorization or without a required sign permit can be removed without notice. Such signs will be held by the city for 30 days. The owner of the sign may reclaim the sign within such period, subject to any fines imposed by the city. If not reclaimed, the city may destroy the sign following expiration of the 30 day period;
- B. If a sign is constructed illegally, either without a required permit or in violation of this section or previous sign regulations, the city may serve notice to the property owner that such sign must be removed or the violation corrected within 30 days. If the sign is not removed or the violation corrected within the 30 day period, the city may remove the sign at the property owner's expense. An extension of this 30 day period may be granted per Section 50-37.1.O (*Appeals*) of this Chapter, and must be applied for prior to expiration of the initial 30 day period.

### Sec. 50-27.3. Design and construction standards.

All signs constructed, erected, modified or altered must comply with the provisions of this Section and the requirements of the City Code.

- A. Prohibited sign location.
1. No sign may be erected in a location that violates the Minnesota State Building Code, Minnesota State Fire Code or other regulations;
  2. No sign, other than that placed by agencies of government or a sign whose placement is authorized by this Section or the city, may be erected in the public right-of-way or on public property;
  3. Signs located on public right-of-ways or on/in public or private skywalks must comply with Chapter 44A of the City Charter;
  4. No sign may be erected on private property without prior consent of the property owner;
  5. No sign may be erected in violation of the view obstruction provisions of Section 50-25.2.M (*Protection of site distance*) with the exception of a freestanding pole sign, if permitted in the district, with a diameter no greater than one foot and where the sign face is mounted a minimum of eight feet above grade. No sign can be erected that obstructs free and clear vision of any street, intersection, parking lot ingress or egress, or driveway;
  6. No sign may be erected in a manner that obstructs access to fire escapes, any ingress or egress, or standpipes;
  7. No sign may be erected on the exterior of a building to cover any windows or doors;
  8. Signs on lots adjacent to state or county highways shall conform to the respective setbacks and other standards of the state and county highway departments;
  9. Freestanding monument signs shall not be located closer than three feet from the lot line;
  10. The supporting pole of a freestanding pole sign shall be setback from the lot line a minimum of three feet, but the sign itself may be up to the lot line. No part of a freestanding pole sign may encroach on a public right-of-way;
- B. Sign dimension measurement methodology.

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

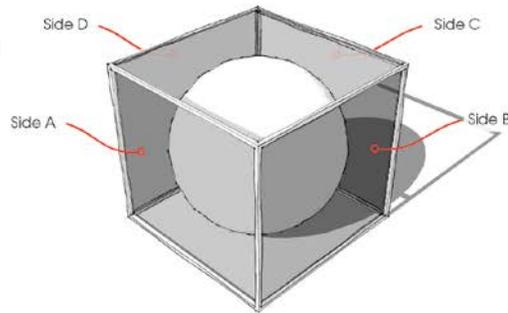
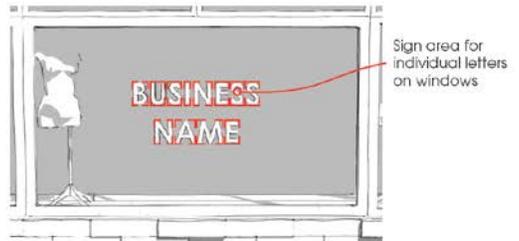
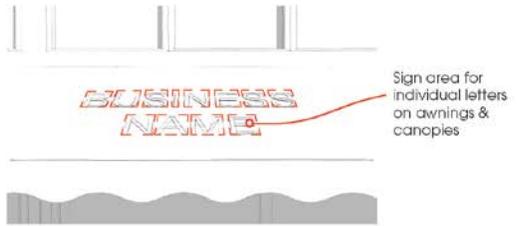
1. General measurement of sign area. Sign area is measured as follows:

(a) For signs on a background, the entire area of the framework or background of the sign is calculated as sign area, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed. Sign area does not include any supports or bracing, unless such framework or bracing is part of the message or sign face;

(b) For signs consisting of freestanding letters or logos, the sign area is calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo. Sign area does not include any supporting framework or bracing, unless such framework or bracing is part of the message or sign face;

(c) For awning and canopy signs, the sign area is the printed area of the awning or canopy, calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo;

(d) Window signs printed on a transparent film and affixed to the interior or exterior of a windowpane are calculated as individual letters or logos, provided that the portion of the transparent film around the perimeter of the individual letters or logos maintains 100 percent transparency of the window. Transparency is defined as both the ability to view into the interior of the establishment from the

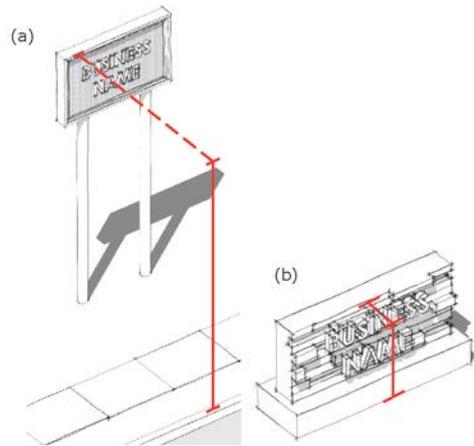


outside and to view the outside from the interior of the establishment through the same area;

- (e) The sign area of a three-dimensional, free-form or sculptural (non-planar) sign is calculated as 50 percent of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign;
- (f) If a sign has two or more faces, the area of all faces is included in determining the area of the sign, unless the two sign faces are placed back-to-back and are no more than two feet apart. In such case, the sign area is calculated as the area of one face. If the two faces are unequal in area, the area of the larger face is used to calculate sign area;
- (g) Necessary supports or uprights on which the sign is erected are not included in the sign area computation.

2. General measurement of sign height.

- (a) Pole sign height is measured from the grade to the uppermost point of the sign. Grade is established by the elevation of the back of curb or, if no curb exists, from the edge of pavement at the center of the abutting street frontage where the sign will be erected. The pole sign height may also be measured from the natural slope of the lot where the sign will be erected;



- (b) Monument sign height is measured from the existing lowest point of the ground where the monument sign is to be installed to the uppermost point of a sign;

C. Construction standards.

- 1. Supports and braces must be designed as an integral part of the overall sign design and hidden from public view to the extent technically feasible;
- 2. All signs attached to a building must be installed and maintained so that wall penetrations are watertight and the structure does not exceed allowable stresses of supporting materials;
- 3. All signs must be designed and constructed in accordance with Minnesota State Building and Fire codes. Marquee structures must be approved by the city engineer and building safety department;
- 4. Glass forming any part of a sign must be safety glass;
- 5. All letters, figures, characters or representations in cut-out or irregular form, maintained in conjunction with, attached to or superimposed upon any sign must be safely and securely built into or attached to the sign structure;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

6. Audio components are prohibited on any sign, with the exception of menuboards;
  7. Any form of pyrotechnics is prohibited;
- D. Electrical wiring.
1. All electrical fixtures, devices, circuits, conduits, raceways or apparatus used to illuminate, move or project any sign must be installed and maintained in accordance with Minnesota State Building Code, including the National Electrical Code. Electrical permits are required for sign installation in accordance with the Minnesota State Building Code;
  2. Conduits and other components of a sign illumination system must be designed as an integral part of the overall sign structure and hidden from public view to the extent technically feasible;

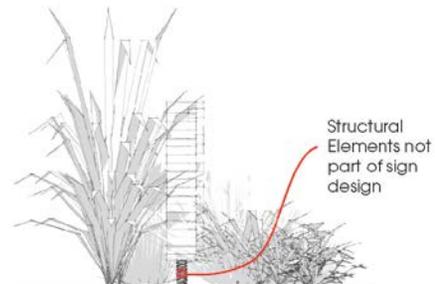
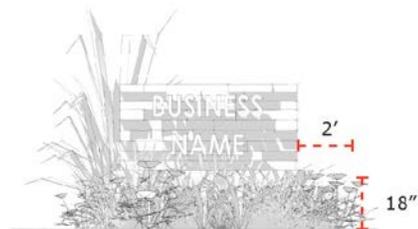
E. Permit identification.

Every sign must include an identification of the permit number and name of sign installer either painted on the sign or by the application of a metallic sticker. The information must be visible from the ground with the exception of signs mounted seven or more feet above grade;

F. Required landscaping.

All freestanding signs, except in lots zoned I-G and I-W, must be landscaped at the base of the sign in accordance with the following:

1. Freestanding signs must be landscaped with small shrubs a minimum of 18 inches in height at planting, spaced appropriately based on mature height and spread to provide continuous screening of sign base once shrubs have reached maturity. The remainder of the landscape area must be planted with perennials, turf or other live groundcover;
2. Landscape must extend a minimum of two feet from the sign base on all sides. If this two foot area extends into the right-of-way, landscape is not required within the right-of-way area. All landscape must be maintained in good condition, and free and clear of rubbish and weeds. Landscape around the base of a sign is included in the total amount of landscape required on a site, if applicable;
3. There is no requirement regarding the mature height of landscape, though landscape



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must be tailored to the scale of the sign. Landscape may be trimmed and maintained along the sign base to maintain visibility of the sign face;

4. When a monument sign is designed as a single structure where the pediment is constructed of similar or complimentary materials as the sign, and no structural elements that are not related to such overall design of the sign are visible, no landscape is required;
- G. Required sign maintenance.
1. All signs must be maintained in a safe, neat and orderly condition and appearance, and must be repainted or otherwise maintained by the property owner to prevent corrosion or deterioration caused by the weather, age or any other condition;
  2. All signs must be maintained to prevent any kind of safety hazard, including faulty sign structures, a fire hazard or an electrical shock hazard;
  3. All unused sign hardware or wiring that is visible from the right-of-way must be removed;
  4. If a sign is maintained in an unsafe or insecure condition, the city will give written notice to the property owner. If property owner fails to remove or alter the structure to comply with the standards of this Section, the sign may be removed by city at the expense of the property owner. The city may remove any sign that is an immediate peril to persons or property summarily and without notice;

H. Noncommercial messages.

A noncommercial message may be substituted for a commercial message on any sign permitted by this Section.

I. Permit identification.

All architectural signs on a structure announcing the original or historic name of the building, year of construction, or insignias must be maintained, and cannot be removed, altered, or covered. Such signs are not calculated as part of any sign area or maximum number of signs permitted by this Section.

Sec. 50-27.4. Illumination standards.

The following illumination standards apply to on-premises signs. Illuminations of billboards (off-premises) are regulated separately in Section 50-27.7. Additional illumination requirements for electronic message signs are found in Section 50-27.7.

- A Any sign illumination, including gooseneck reflectors, external illumination and internal illumination, must be designed, located, shielded and directed to prevent the casting of glare or direct light upon roadways and surrounding properties, or the distraction of motor vehicle operators or pedestrians in the public right-of-way;
- B The sign face of internally illuminated signs must function as a filter to diffuse illumination. The sign face must cover all internal illumination components so that no exposed bulbs are visible;
- C All external illumination of a sign must concentrate the illumination upon the printed area of the sign face;
- D No sign illumination may exceed one footcandle of illumination at the property line;

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- E The use of neon lighting as a sign material or sign accent is permitted for signs within the mixed-use, form-based and special purpose districts, with the exception of the MU-N and MU-B districts where it is prohibited. Neon lighting is subject to the following:
1. When lit, neon lighting must be continuously illuminated. Flashing neon is prohibited;
  2. Neon lighting cannot be combined with any reflective materials (e.g., mirrors, polished metal, highly-glazed tiles, or other similar materials) that would cause glare and increase the spread of light;
  3. Neon lighting to outline doors and windows is prohibited;
- F The use of LED lighting as a sign accent is permitted, subject to the following:
1. LED lighting as an accent is only permitted for non-residential uses in the mixed-use, form-based and special purpose districts where electronic message center signs are permitted. LED accent lighting is prohibited in any residential district;
  2. LED lighting as an accent must comply with all illumination requirements of an electronic message center sign;
  3. The addition of LED lighting as an accent to an existing sign requires a zoning permit;
  4. When lit, LED lighting must be continuously illuminated. Flashing LED is prohibited;  
LED lighting cannot be combined with any reflective materials (e.g., mirrors, polished metal, highly-glazed tiles, or other similar materials) that would cause glare and increase the spread of light;
  6. LED lighting to billboards, free standing monument signs, outline doors, windows, and automobile and filling station gas canopies is prohibited;
  7. LED lighting to outline free standing pole signs is allowed but lighting must conform to the same brightness standards as electronic message centers as identified in UDC Section 50-27.7.G.

### Sec. 50-27.5. Prohibited signs.

The following signs are prohibited:

- A. Balloon and air-infused/air-inflated signs;
- B. Electronic display screens;
- C. Flashing or animated signs;
- D. Illegally-affixed signs;
- E. Moving signs, including signs moved by wind or mechanical or electrical components. No sign or part of any sign shall move or give the illusion of movement in any manner. Clocks and barber poles are exempt from this provision;
- F. Portable signs. Portable signs include both signs mounted on a wheeled structure and those mounted on a stationary structure that can be moved and is not permanently installed on a site;
- G. Roof signs;
- H. Snipe signs;
- I. Strobe lights, moving or fixed spotlights, and floodlights;
- J. Temporary off-premises signs;

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- K. Traffic hazard signs. Any sign that constitutes a traffic hazard is prohibited, including signs that:
  - 1. Interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal or device because of its position, shape or color, including signs illuminated in red, green or amber color to resemble a traffic signal;
  - 2. Make use of the words STOP, LOOK, DETOUR, DANGER, CAUTION, WARNING or any other word, phrase, symbol or character in a manner that misleads, interferes with or confuses traffic;
- L. Vehicle signs. Signs placed or painted on parked vehicles where the primary purpose is to advertise a product or service, or to direct the public to a business or activity located on or off the premises, are prohibited. Signs painted on vehicles, trucks or buses, which are being operated and stored in the normal course of business, such as signs located on delivery trucks, promotional vehicles, moving vans and rental trucks, are permitted, provided that the primary purpose of such vehicles is not the display of signs, and that they are parked or stored in areas related to their use as vehicles. Vehicle for-sale signs are exempt from this provision.

### Sec. 50-27.6. Signs and activities exempt from permit requirements.

#### A. Alternation and maintenance operations.

The following activities are exempt from a zoning permit:

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

#### B. Illumination.

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

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

#### C. Exempt permanent signs.

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

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**TABLE 50-27-1: EXEMPT PERMANENT SIGN REGULATIONS**

SIGN	PERMITTED DISTRICT OR USE	PERMITTED SIGN TYPE	MAXIMUM SIZE	MAXIMUM HEIGHT (FREE-STANDING SIGNS)	REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)	NUMBER PER LOT
Agricultural Identification Sign	All agricultural uses	Freestanding or wall	RC, RR-1, RR-2: 20sf All other districts: 6 sf	6'	20' from front lot line & 10' from any other lot line	1 per street frontage
Bed and Breakfast	Bed and breakfast uses	Freestanding or wall	12 sf	7'	5' from any lot line	1 per lot
Building Directory Sign	All multi-family & non-residential uses	Freestanding or wall	6 sf	7'	Within 10' of building entry	1 per building entry
Day Care Facility	Residential zone districts	Wall or non-illuminated lawn sign	6 sf	7'	5' from any lot line	1 per lot
Flags – Federal, State or Local	All districts and uses	Freestanding	No Limit	<u>No Limit</u>	5' from any lot line	No limit
Flags – Commercial	All non-residential uses	Freestanding	16 sf	Flagpole limited to maximum height of zoning district	5' from any lot line	1 per lot
Government Information Sign (Federal, State, County or City)	All districts & uses	Freestanding or wall	No Limit	No Limit	No Limit	No Limit
Home Occupation Sign	All residential dwelling uses and permitted accessory uses	Wall, window or freestanding including mounting on private lightposts	4 sf	4'	5' from any lot line	1 per lot
Memorial Plaque	All districts and uses	Freestanding or wall	<u>No Limit</u>	<u>Limited to maximum height of zoning district</u>	5' from any lot line	1 per lot
Nameplate	All districts and uses	Wall	4 sf	(Not Applicable)	(Not Applicable)	1 per lot
<u>Parking Lot Directional Sign</u>	<u>All parking lots and structures</u>	<u>Freestanding</u>	<u>4 sf</u>	<u>7'</u>	<u>0' from any lot line</u>	<u>No limit</u>
Parking Lot Information Sign	All parking lots and structures	Freestanding or wall	16 sf	<u>12'</u>	0' from any lot line	<del>23</del> per access point
Property Identification Sign	All multi-family residential uses	Wall	4 sf	(Not Applicable)	(Not Applicable)	1 per lot

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

<b>TABLE 50-27-1: EXEMPT PERMANENT SIGN REGULATIONS</b>						
<b>SIGN</b>	<b>PERMITTED DISTRICT OR USE</b>	<b>PERMITTED SIGN TYPE</b>	<b>MAXIMUM SIZE</b>	<b>MAXIMUM HEIGHT (FREE-STANDING SIGNS)</b>	<b>REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)</b>	<b>NUMBER PER LOT</b>
Public Information Sign	The following uses: All educational facilities; cemetery or mausoleum; museum, library or art gallery; park, playground or forest reserve	Freestanding or wall	No Limit	No Limit	No Limit	No Limit
Public Information School and Field Identification Sign	All districts. K-12 public and private schools. Only to identify name of school, recreation field, or athletic team.	Nonilluminated wall sign	No Limit	No Limit	No Limit	No Limit
Permanent Window Sign	All non-residential uses	Window	Temporary & permanent signs (combined) are limited to 30% coverage of <u>each</u> window	(Not applicable)	(Not applicable)	(Not applicable)
Time and Temperature Sign (Electronic)	All non-residential uses	Must be integrated into primary freestanding or wall sign	20% of sign area of free-standing or wall sign, or if stand-alone sign, 6 sf	(Not Applicable)	(Not Applicable)	1 per lot

**D. Exempt temporary signs.**

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

1. Exempt temporary signs are subject to the display periods in Table 50-27-2: *Permitted Display Period*.

<b>TABLE 50-27-2: EXEMPT TEMPORARY SIGN PERMITTED DISPLAY PERIOD</b>	
<b>SIGN</b>	<b>PERMITTED DISPLAY PERIOD</b>
Attention-Getting Device	When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event When not related to a time-specific event: 10 days Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays
Banner (General)	When related to a time-specific event: Combined display period of 14 days prior to the event, the time period of the event and 2 days following the event When not related to a time-specific event: 30 days Limited to no more than 4 display periods in a year, with a minimum of 30 days between displays
Community Event Sign	Limited to no more than 4 display periods in a year for a total aggregate display time of 20 days per year
Construction Sign	Erected only after approval of a building permit and must be removed within 7 days of issuance of an occupancy permit or completion of construction, whichever occurs first

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

Non-Commercial Message Sign	General: No display period limitation Election: Signs of any size related to an election or referendum may be posted in any number from 46 days before the state primary in a state general election year until 10 days following the state general election
Real Estate Sign	All real estate signs may only be erected on the specific property offered for sale or lease or the property holding an open house Real estate for sale/lease signs: Posted for the duration the property is offered for sale or lease, and must be removed within 7 days of closing or lease Real estate open house signs: Only during the day of the open house and must be removed within 2 hours of the end of the event
Temporary Window Sign	Limited to no more than 4 display periods in a year for a total aggregate display time of 60 days per year

2. Exempt temporary signs are subject to the regulations of Table 50-27-3: *Exempt Temporary Sign Regulations.*

TABLE 50-27-3: EXEMPT TEMPORARY SIGN REGULATIONS						
SIGN	PERMITTED DISTRICT OR USE	PERMITTED SIGN TYPE	MAXIMUM SIZE	MAXIMUM HEIGHT (FREESTANDING SIGNS)	REQUIRED SETBACK OR LOCATION (FREESTANDING SIGNS)	NUMBER PER LOT
Attention-Getting Device	Nonresidential uses in MU-C	Freestanding	10sf	6'	10' from any lot line	1 per lot
Banner (general)	Non-residential uses	Wall or retaining wall	32sf	(Not applicable)	(Not applicable)	1 per lot
Community Event Sign	All districts and uses	Freestanding or wall	10sf	6'	10' from any lot line	1 per lot
Construction Sign	All districts and uses	Freestanding or wall	50sf	6'	10' from any lot line	50sf total per street frontage
Non-Commercial Message Sign	All districts and uses	Freestanding, wall or retaining wall	No limit	No limit	No limit	No limit
Real Estate Sign	All districts and uses	Freestanding or wall	Residential Districts: 4sf All Other Districts: 12sf	5'	10' from any lot line	1 per street frontage
Temporary Window Sign	All nonresidential uses	Window	Temporary & permanent signs (combined) are limited to 30% coverage of each window	(Not applicable)	(Not applicable)	(Not applicable)

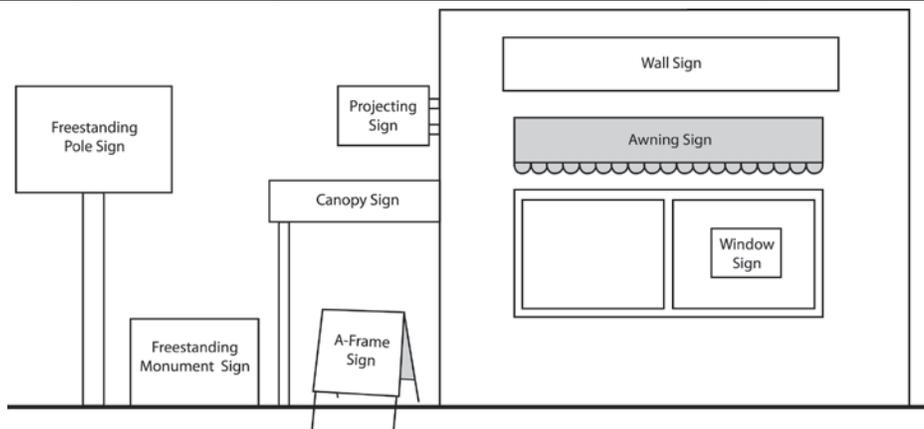


Figure 50-27.6-A: Examples of Common Sign Types.

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**Sec. 50-27.7. Sign types.**

**A. General regulation.**

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

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

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

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

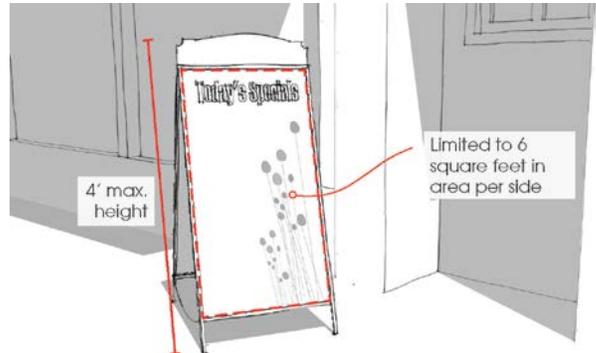
**B. A-frame signs.**

A-frame signs are permitted as indicated in Table 50-27-4, subject to the following regulations.

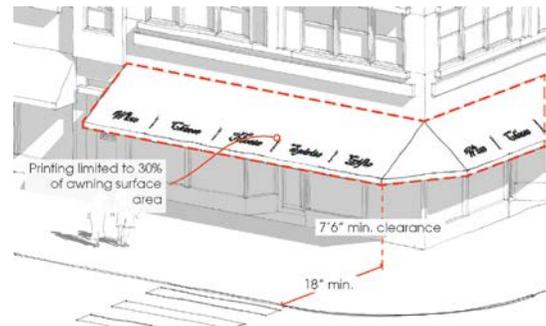
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- A-frame signs are limited to six square feet in area per side and four feet in height. The use of A-frame signs is limited to business hours only, and may not be displayed for more than 16 hours in a 24 hour period. Signs must be stored indoors at all other times;

- An A-frame sign must be placed on the property where the business is located, and within ten feet of the primary entrance of the business or on the right-of-way in front of property. A-frame signs must provide an unobstructed sidewalk width of at least five feet for pedestrian passage and must not interfere with pedestrian traffic or violate standards of accessibility as required by the ADA or other accessibility codes.



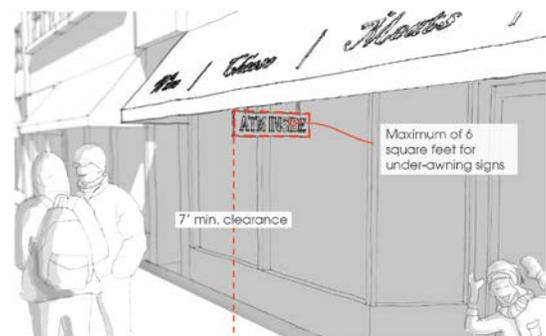
- The permit applicant must provide and maintain in force a certificate of insurance, in a form approved by the city, that evidences that the applicant has in force insurance in the minimum amounts required by the city for bodily injuries or property damage in any one year protecting such person or organization and the City against liability for injuries or damages resulting from the placement of such objects or materials in the public right-of-way. Proof of insurance must be renewed on an annual basis;



### C. Awning.

Awnings without printing, with the exception of a street address number (number only), are considered an architectural feature and are not regulated by this Section. This Section regulates awning signs, which are used to identify a use by name or logo, the goods or services offered on-site, and similar sign information. Awning signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

- Awning signs must maintain a minimum vertical clearance of seven feet six inches (7' 6");



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2. Awning signs must be located a minimum of 18 inches from the back of curb;
3. Awning signs must comply with Minnesota State Building and Fire codes, including provisions for encroachment into the public right-of-way, structural requirements, sprinkler protections and similar regulations;
4. Awning signs must be made of a durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric or metal;
5. Printing on any awning sign is limited to 30 percent of the surface area;
6. Awning signs are permitted lettering attached to and located above the top of a solid awning to a maximum height of 24 inches;
7. Awning signs may illuminate the printed area of the awning with gooseneck or similar external illumination. Back-lit awnings are prohibited;
8. Under-awning signs are permitted subject to the following:
  - (a) Under-awning signs must be attached to the underside of an awning. Under-awning signs must not project beyond the awning;
  - (b) Under-awning signs must maintain a minimum vertical clearance of seven feet;
  - (c) A maximum of one under-awning sign is permitted per business establishment with frontage on the street where the awning is mounted;
  - (d) Each under awning sign is limited to a maximum of six square feet;
  - (e) Under-awning signs must be securely fixed to the awning with metal supports;
  - (f) Under-awning signs must be made of wood, metal or plastic;

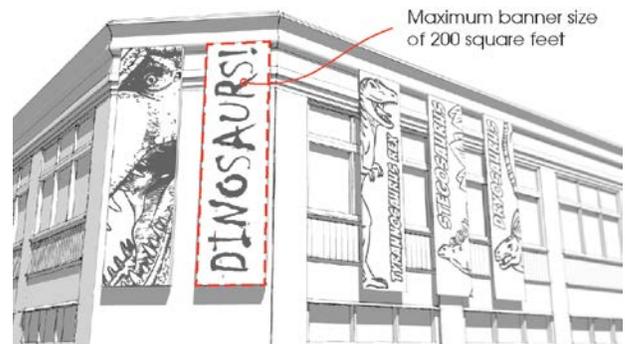
### D. Exhibition banners.

Exhibition banners are intended to be used in conjunction with a special exhibit for an educational facility, government building, museum, library or art gallery, or religious assembly. Exhibition banners are permitted for events and exhibitions as indicated in Table 50-27-4, subject to the following regulations:

1. Each use is permitted up to six exhibition banners during one display period.

The display period is defined as the combined period of 30 days prior to the opening of the exhibit, the run of the exhibit, and for 14 days following the close of the exhibit. In no event may the display of exhibition banners exceed four months in any calendar year;

2. Exhibition banners must be made of a durable, weather-resistant material like canvas, nylon or vinyl-coated fabric;
3. Each exhibition banner is limited to a maximum sign area of 200 square feet;
4. Exhibition banners must be securely and tautly attached to the wall of the structure and no exhibition banner may be located higher than the roofline;

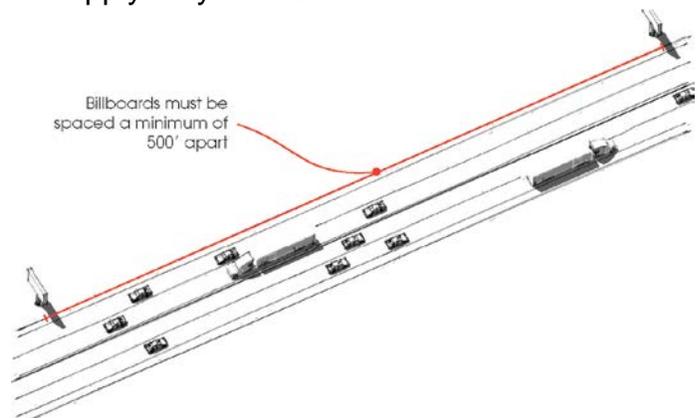
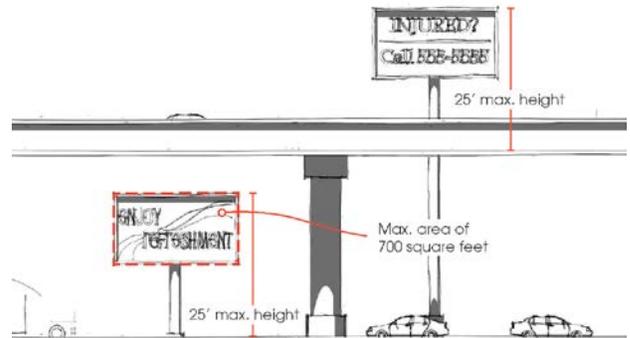


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### E. Billboard.

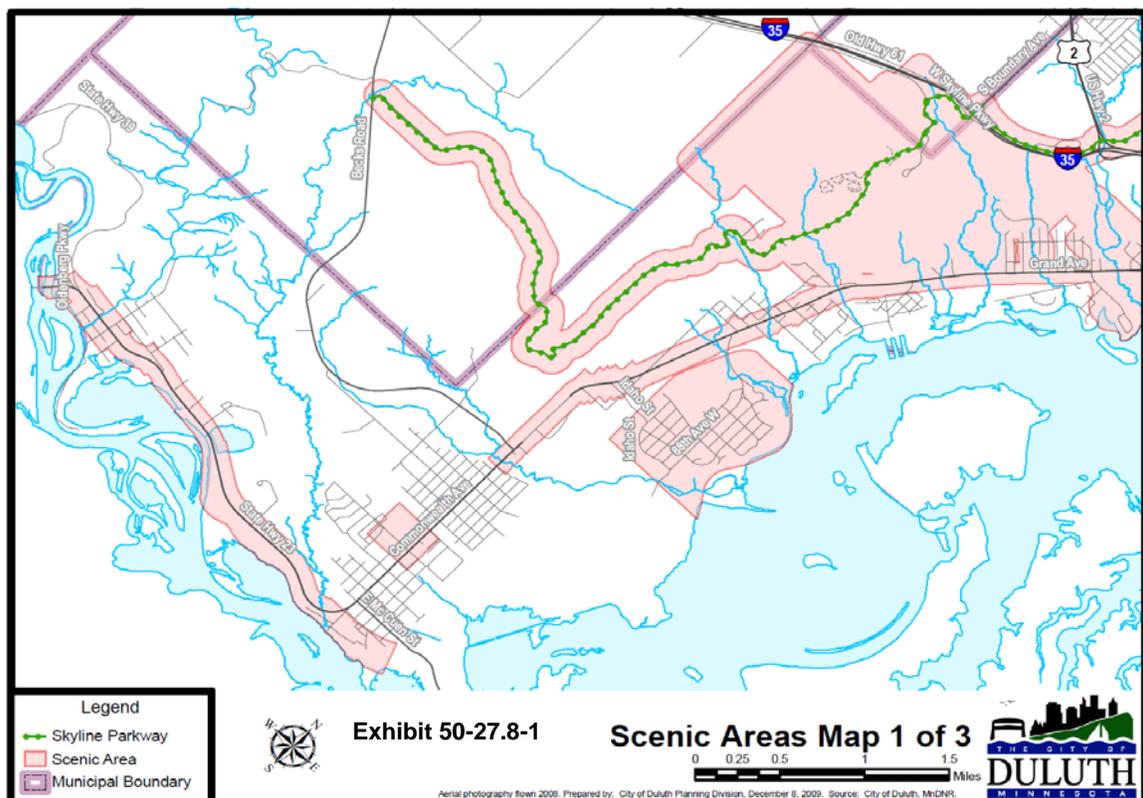
The following types of signs require a zoning permit before they can be erected on a site;

7. Billboards are permitted as indicated in Table 50-27-4 subject to the following regulations. However, billboards are only permitted in the MU-B and I-G districts with the use of an exception credit (Section 50-38.7). Billboards are also further restricted by the requirements of Minnesota State Statute Section 173.08, Subdivision 2, as amended from time to time;
8. The maximum sign area for a billboard is 700 square feet;
9. Billboards adjacent to on-grade roadways are limited to a maximum height of 25 feet. Billboards adjacent to grade separated/elevated roadways are permitted to measure the 25 foot height from the roadbed crown to the tallest projection of the structure. This measurement is taken at a perpendicular angle between the grade separated/elevated roadway and the sign location;
10. Billboards may only be mounted as freestanding pole signs. However, when an exception credit is used, billboards may be wall-mounted and are limited to the wall sign area allowed for that district;
11. Billboards are required to be spaced 500 feet apart, subject to the following:
  - (a) Billboards located along Interstate Highway No. 35 and Interstate Highway No. 535 must be spaced 800 feet apart, unless erected under an exception credit in which case only the 500 foot spacing is required;
  - (b) Spacing is measured along the nearest edge of the right-of-way pavement to which the billboard is displayed and between points directly opposite the center of the billboard;
  - (c) Spacing requirements apply only to billboards located on the same side of the same highway.
  - (d) Multi-faced or back-to-back billboards, up to a maximum of a five foot separation between sign faces, are considered one billboard;

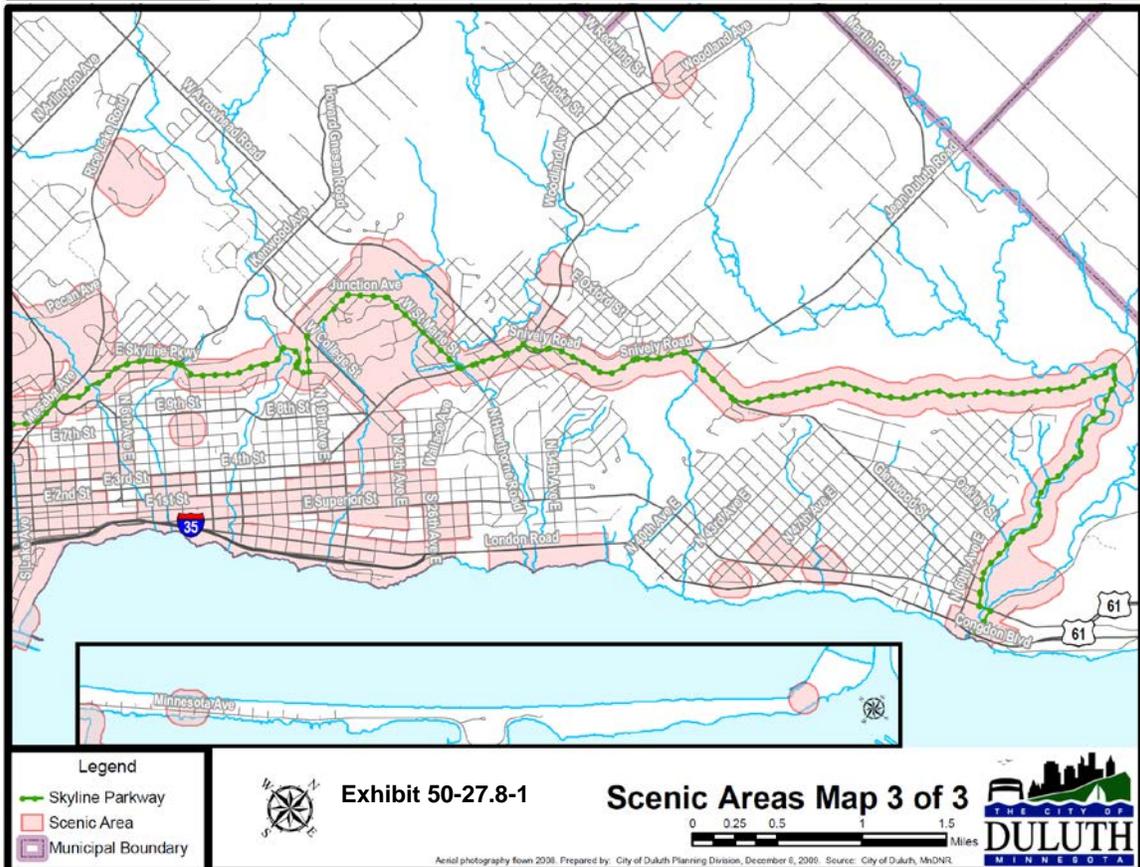
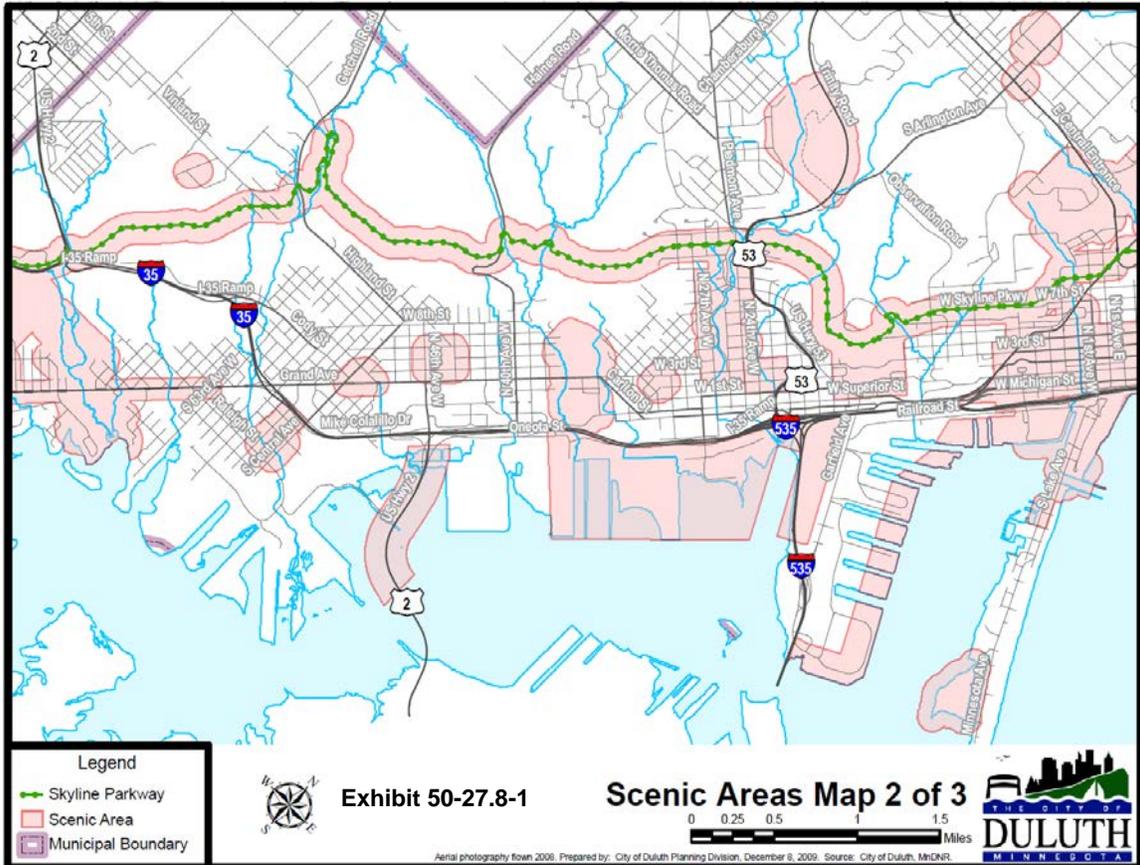


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12. Electronic billboards are permitted only in the MU-C, MU-B, and I-G districts. Electronic billboards are subject to the following regulations:
  - (a) An electronic billboard may only be erected if one of the following criteria is met:
    - (i) The electronic billboard is constructed using exception credits. The number of exception credits, in square footage, must equal three times the square footage of the electronic billboard to be constructed;
    - (ii) Nonconforming billboards of a total square footage are removed in an amount equal to three times the square footage of the electronic billboard to be constructed;
  - (b) Each message displayed on an electronic billboard must be static or depicted for a minimum of eight seconds. Any scrolling, flashing or movement of the message is prohibited;
  - (c) The maximum brightness of an electronic billboard is limited to 5,000 nits or 464 candelas per square foot during daylight hours, and 500 nits or 46 candelas per square foot between dusk to dawn. The billboard must have an automatic dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;
13. No off-premises sign or billboard in excess of 60 square feet shall be erected or maintained in any area shown on the maps in Exhibit 50-27.8-1.



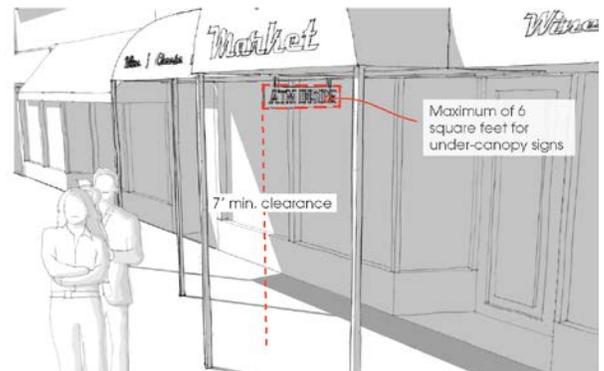
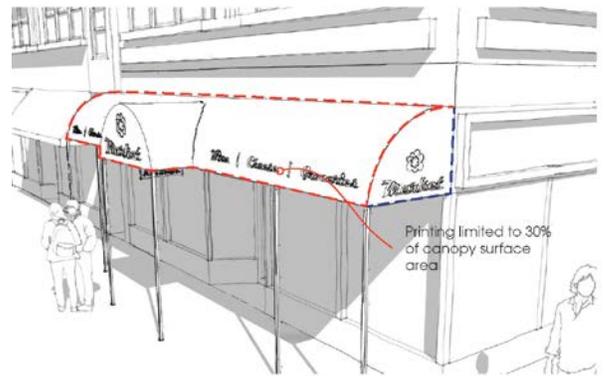
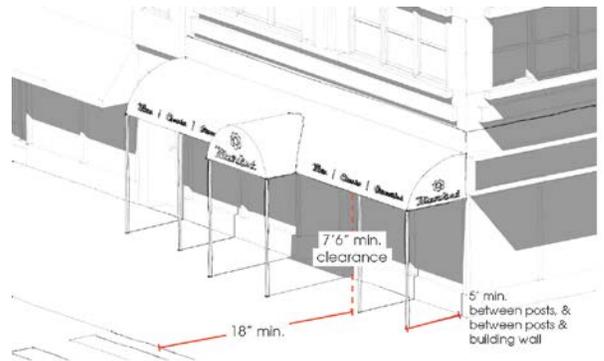
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F. Canopy.

Canopies without printing, with the exception of a street address number (number only), are considered an architectural feature and are not regulated by this Section. This Section regulates canopy signs, which are used to identify a use by name or logo, the goods or services offered on-site, and similar sign information. Canopy signs are permitted as indicated in Table 50-27-4 subject to the following regulations:

1. Canopy signs must maintain a minimum vertical clearance of seven feet six inches (7' 6");
2. Canopy signs must be located at least 18 inches from the back of curb. Support posts must maintain a minimum separation of five feet between posts and between the posts and any building wall. No obstructions are permitted within this area;
3. Canopy signs must comply with Minnesota State Building and Fire codes, including provisions for encroachment into the public right-of-way, structural requirements, sprinkler protections and similar regulations;
4. Canopy signs must be made of a durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric or metal;
5. Printing on any canopy sign is limited to 30 percent of the surface area;
6. Canopies may include underside, external illumination;
7. Under-canopy signs are permitted subject to the following:
  - (a) Under-canopy signs must be attached to the underside of a canopy. Under-canopy signs must not project beyond the canopy;
  - (b) Under-awning signs must maintain a minimum vertical clearance of seven feet;
  - (c) A maximum of one under-canopy sign is permitted;
  - (d) Each under-canopy sign is limited to a maximum of six square feet;
  - (e) Under-canopy signs must be securely fixed to the awning with metal supports;
  - (f) Under-awning canopy must be made of wood, metal or plastic;



G. Electronic message sign.

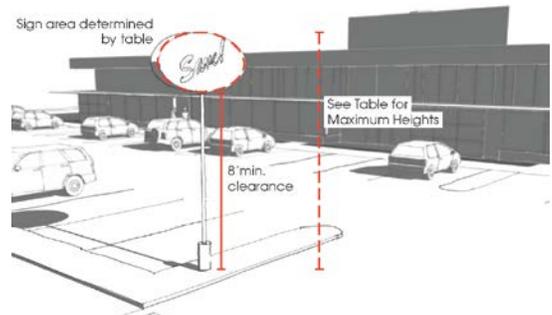
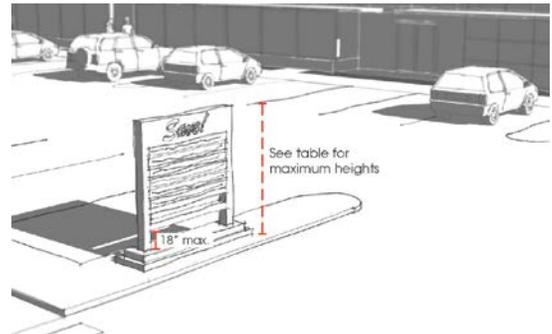
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Electronic message signs are permitted as indicated in Table 50-27-4 subject to the following regulations. However, all filling stations in any district are permitted to display fuel prices by an electronic message component. Such component must only display numerical fuel prices and must be static.

1. Only one electronic message sign per lot is permitted;
2. Each message or image displayed on an electronic message sign must be static or depicted for a minimum of eight seconds. Any scrolling, flashing or movement of the message is prohibited;
3. The maximum brightness of an electronic message sign is limited to 5,000 nits or 464 candelas per square foot during daylight hours, and 500 nits or 46 candelas per square foot between dusk to dawn. The sign must have an automatic dimmer control that produces a distinct illumination change from a higher allowed illumination level to a lower allowed level for the time period between one-half hour before sunset and one-half hour after sunrise;
4. Electronic message signs are permitted as part of a freestanding sign, wall sign or marquee and, in addition, are subject to the requirements for those sign types;
5. Electronic message signs must be integrated into the larger sign structure and must include the name of the use as a non-electronic component as part of the sign structure. Electronic message signs are limited to a maximum of 60 percent of the sign area of a freestanding or wall sign;
6. Electronic message signs cannot display any off-premises commercial advertising;
7. Electronic display screens are prohibited;

H. Freestanding signs-pole and monument. Freestanding signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Freestanding sign maximum height and sign areas are as indicated in Table 50-27-5. Free standing signs must be constructed of solid or composite finished wood, metal, masonry, neon, glass, or non-woven plastic.
2. Only one freestanding sign, either pole or monument, is permitted per street frontage of a lot. For each additional 200 feet of street frontage, above an initial 200 feet of frontage, an additional freestanding sign, either pole or monument, is permitted, up to a maximum of three freestanding signs;
3. All freestanding signs over seven feet in height must submit construction



plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code;

4. No part of a freestanding sign may project into, over or otherwise encroach on a public right-of-way;
5. A freestanding pole sign must maintain a minimum vertical clearance of eight feet. When the pole structure of a freestanding pole sign is wrapped in any decorative material, the decorative pole wrapping must be permanently installed. Decorative wrapping shall not be closer than three feet to the property line, and shall not be wider than 25 percent of the sign face. No temporary signs may be attached to the pole of a freestanding pole sign;
6. Freestanding monument signs may be internally or externally illuminated. If externally illuminated, all light must be directed onto the sign face. Freestanding pole signs may only be internally illuminated.

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TABLE 50-27-5: FREESTANDING SIGN REGULATIONS			
DISTRICT	SIGN AREA	POLE SIGN	MONUMENT SIGN
	Maximum Sign Area (Square Feet)	Maximum Sign Height (Feet)	Maximum Sign Height (Feet)
R-C	42 sf	17	6
RR-1	42 sf	17	6
RR-2	42 sf	17	6
R-1	42 sf	17	6
R-2	42 sf	17	6
R-P	42 sf	17	6
MU-N	42 sf	17	6
MU-C*	60 sf	25	8
MU-I*	50 sf	25	8
MU-B*	50 sf (Monument)	Prohibited	8
MU-W*	50 sf	20	6
MU-P*	60 sf	25	8
F-1	42 sf	17	6
F-2	42 sf	17	6
F-3	42 sf	17	6
F-4	42 sf	17	6
F-5	42 sf	17	6
F-6	42 sf	17	6
F-7	42 sf	17	6
F-8	42 sf	15	6
F-9	60 sf	25	8
I-G*	60 sf	25	8
I-W*	60 sf	25	8
P-1	42 sf	17	6

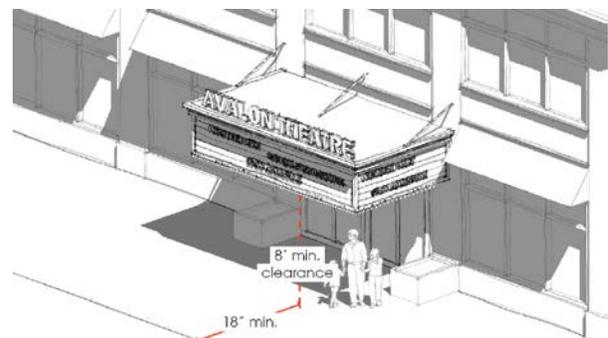
\*Free Standing Pole and Monuments Signs in the MU-I, MU-B and MU-W zones are allowed a maximum of 50 square feet. However, for sites with lot frontage that exceeds 250 lineal feet, the maximum size area of the sign may equal up to 20 percent of the lineal street frontage on the street nearest the sign, up to a maximum sign area of 100 square feet.

\*Free Standing Pole and Monument Signs in the MU-C, MU-P, I-G, and I-W zones are allowed a maximum of 60 square feet. However, for sites with lot frontage that exceeds 300 lineal feet, the maximum size area of the sign may equal up to 20 percent of the lineal street frontage on the street nearest the sign, up to a maximum sign area of 150 square feet.

I. Marquee.

Marquees are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Marquees must be supported solely by the building to which they are attached. No exterior columns or posts are permitted as supports;



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2. No marquee may be erected on any building or other structure of wood frame construction;
3. The roof of a marquee may not be used for any purpose other than to form and constitute a roof and must be constructed of noncombustible material;
4. Water from the roofs of a marquee may not drain, drip or flow onto the surface of a public sidewalk. Sufficient downspouts, drains and gutters must be installed as part of each marquee to prevent water from the roof of the marquee from flowing onto the surface of a public sidewalk;
5. Marquees must be erected over a building entrance and are limited to the width of the building entrance. An additional five feet on each side of the entrance doors covered by the marquee is permitted;
6. All marquees must maintain a minimum vertical clearance of eight feet and the roof of the marquee structure must be erected below the second floor window sill. Marquees may encroach up to 18 inches from the back of curb;
7. Marquees are permitted lettering attached to and located above the roof of a marquee to a maximum height of 24 inches;
8. Marquees may be internally illuminated. External illumination is prohibited;



**J. Projecting signs.**

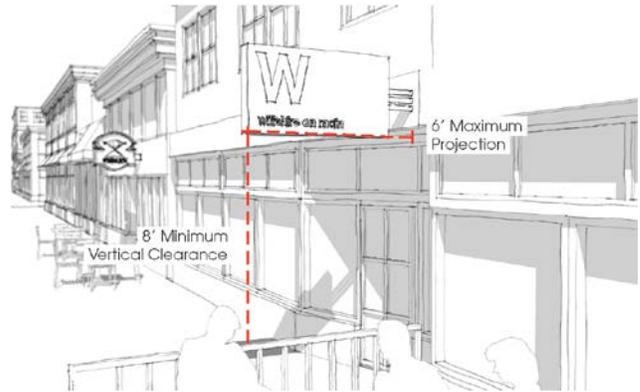
Projecting signs are permitted as indicated in Table 50-27-4, subject to the following regulations:

1. Projecting sign maximum area is as indicated in Table 50-27-6;
2. One projecting sign is permitted per establishment with frontage on a street. For a corner lot, one projecting sign is permitted for each street frontage. Projecting signs must be above or adjacent to the building entrance or, if a corner lot, the corner of the building;
3. Projecting signs may not project more than six feet from the face of the building to which they are

<b>TABLE 50-27-6: PROJECTING SIGN REGULATIONS</b>	
<b>DISTRICT</b>	<b>MAXIMUM AREA</b>
<b>R-C</b>	Prohibited
<b>RR-1</b>	Prohibited
<b>RR-2</b>	Prohibited
<b>R-1</b>	Prohibited
<b>R-2</b>	Prohibited
<b>R-P</b>	Prohibited
<b>MU-N</b>	36sf
<b>MU-C</b>	48sf
<b>MU-I</b>	48sf
<b>MU-B</b>	48sf
<b>MU-W</b>	36sf
<b>MU-P</b>	48sf
<b>F-1</b>	36sf
<b>F-2</b>	36sf
<b>F-3</b>	36sf
<b>F-4</b>	36sf
<b>F-5</b>	36sf
<b>F-6</b>	36sf
<b>F-7</b>	36sf
<b>F-8</b>	48sf
<b>F-9</b>	48sf
<b>I-G</b>	48sf
<b>I-W</b>	48sf
<b>P-1</b>	Prohibited

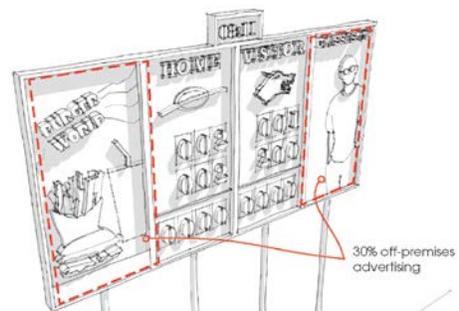
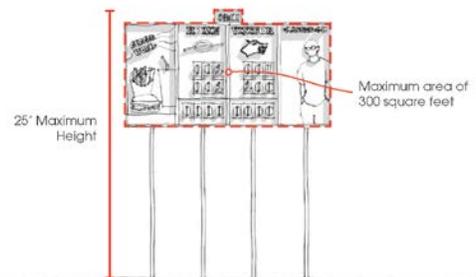
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4. attached, including the area between the sign and the face of the building;
4. Projecting signs must maintain a minimum vertical clearance of eight feet. No projecting sign affixed to a building may project higher than the building height, including the sign support structure;
5. Projecting signs, including frames, braces, and supports, must be designed by a licensed structural engineer or manufacturer. No projecting sign may be secured with wire, chains, strips of wood or nails nor may any projecting sign be hung or secured to any other sign. Any movable part of a projecting sign, such as the cover of a service opening, must be securely fastened by chains or hinges;
6. Projecting signs must be constructed of wood, metal, durable, weather-resistant material like canvas, canvas-like material, nylon or vinyl-coated fabric, or plastic. Projecting signs constructed of material must be mounted so that they are held taut between support posts;
7. Projecting signs may be internally or externally illuminated. If externally illuminated, all lighting must be directed onto the sign face from above;
8. Maximum projecting sign areas are provided in Table 50-27-6: *Projecting Sign Regulations*;
9. Projecting signs erected on properties within the Entertainment District and Historical Canal Park are subject to additional requirements as provided in 50-27.8;



### K. Scoreboard and outfield signs.

1. Scoreboards and outfield signs are permitted as indicated in Table 50-27-4, subject to the following regulations. Such signs are further restricted to recreational playing fields only;
2. Scoreboards must be constructed as a freestanding pole sign, no more than 300 square feet in sign area and 25 feet in height;
3. The score-keeping portion of the scoreboard may utilize an electronic message component;
4. If the scoreboard cannot be viewed from any adjacent right-of-way as measured along 500 foot sight lines from the scoreboard, up to 30 percent of the sign area may



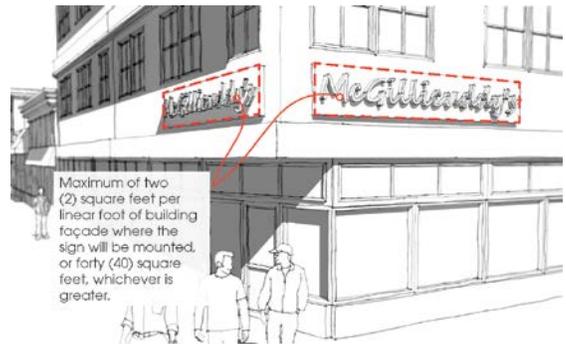
be used for off-premises advertising. If the scoreboard can be viewed from any adjacent right-of-way, up to 25 percent of the sign area may be used for off-premises advertising;

5. There is no limit on the number of outfield advertising signs so long as no such signs are visible from an adjacent right-of-way. No permit is required for outfield advertising signs;
6. Scoreboards and outfield signs that are part of a sports stadium as a principal use are considered part of the structure and not subject to these standards;

L. Wall signs.

Wall signs are permitted as indicated in Table 50-27-4, subject to the following regulations.

1. The maximum size of a wall sign is established at two square feet per linear foot of building façade where the wall sign will be mounted or 40 square feet, whichever is greater;
2. In addition, any structure over seven stories in height is permitted one additional wall sign per façade to identify the building that must be placed within the top 20 feet of the structure and cannot cover any fenestration or architectural features. The maximum size is established at two square feet per linear foot of building façade, measured at the roof line, where the wall sign will be mounted;
3. Wall signs may be internally or externally illuminated. If externally illuminated, all light must be directed onto the sign face from above;
4. Wall signs must be safely and securely attached to the building wall. Wall signs must be affixed flat against the wall and must not project more than 18 inches from the building wall;
5. If a wall sign projects more than two inches from the surface, a minimum vertical clearance of eight feet is required;
6. No wall sign mounted on a structure may project above the roof of the structure to which it is attached, including the sign support structure. Wall signs may be mounted on a parapet wall when such parapet is consistent with the architectural design of the structure and/or the larger development, and such parapet wall is constructed of the same primary building materials as the structure, excluding any accent materials. When attached to a parapet wall, wall signs may not project more than eight feet above the roof of the structure, or 15 feet above the roof of the structure on properties zoned MU-C;
7. Wall signs must be constructed of wood, brick, metal or plastic. Wall signs of durable, weather-resistant material like canvas, canvas-like material, nylon or vinyl-coated fabric are also permitted but the signs must be held taught to the building with no sags or wrinkles and the mounting devices must be concealed by a frame that covers the entire perimeter of the



## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- banner;
8. Wall signs must not cover windows, doors or architectural features. However, wall signs are permitted on architectural appurtenances, such as chimneys or penthouses, which are part of the original structure;
  9. Ghost signs are considered wall signs. Existing ghost signs are exempt from these requirements and deemed conforming. Ghost signs may be maintained and repainted but no new information or images may be added to the existing sign. No new wall signs may be painted over ghost signs.



### Sec. 50-27.8. Areas of special sign control.

#### A. Purpose.

The city recognizes that certain areas present a unique character that could be strengthened and enhanced with the application of specific sign standards. These commercial areas are:

1. Entertainment districts:
  - (a) Lake Avenue South from Railroad Street to lift bridge;
  - (b) East Superior Street from Lake Avenue to 9th Avenue East;
2. Historic Canal Park: Canal Park Drive from Lake Place Drive to canal;

#### B. Entertainment district standards.

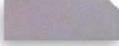
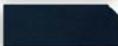
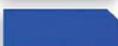
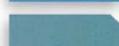
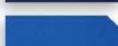
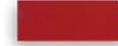
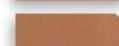
1. All projecting signs are permitted a maximum sign area of 36 square feet, unless the zoning district allows a greater maximum sign area;
2. Marquee signs are permitted;
3. Electronic message signs are permitted as components of wall, marquee or freestanding signs, subject to the electronic message sign regulations;

#### C. Historical Canal Park standards.

1. All projecting signs are limited to a maximum sign area of 12 square feet;
2. All projecting signs may only be externally illuminated from above;
3. All signs must be constructed of wood, brick or metal. Individually mounted plastic letters are permitted for wall signs if wholly covered with opaque paint;
4. All signs are limited to colors from the following color palette. Photographs of the color palette swatches are provided for illustrative purposes only. Applicants may view the original palette at the city of Duluth. For the purposes of this ordinance, the specific colors are provided in two types. The first describes the paint colors originally cited in the DWMX District, which are a series of Ace Hardware paint colors. A general Pantone equivalent is also provided, which are the "uncoated" Pantone PMS colors. Pantone is a color system used in a variety of industries, primarily printing, and occasionally in the manufacture of colored paint, fabric, and plastics. Applicants may consult with the land use supervisor to determine the final colors to be used in the sign, which must meet the general color requirements of this Section.

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

## COLOR PALETTE

Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent	Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent
	<b>Far Horizon</b> 65A-2P 649		<b>Mirage Lake</b> 65A-3P 650
	<b>Cocoa Parfait</b> 25C-1P 4755		<b>Malibu Sand</b> 25B-2T 466
	<b>Tuxedo Gray</b> 78C-1P 650		<b>Gray Tweed</b> 78C-3D 5425
	<b>Gray Duck</b> 73C-2P 651		<b>Symphony Blue</b> 73C-4D 5415
	<b>Bobby Blue</b> 66B-2T 637		<b>Black Magic</b> 65A-1A Process Black
	<b>Riviera Sky</b> 75B-3D 646		<b>Spectrum Blue</b> 67B-4D 3005
	<b>Tahiti Blue</b> 58C-2T 630		<b>Calico Blue</b> 75A-1A 2955
	<b>Green Stone</b> 60C-2T 623		<b>Nanking Blue</b> 66B-4D 313
	<b>Sea Vista</b> 56C-2T 629		<b>Veridiam</b> 60C-4D 371
	<b>Aqua Pool</b> 56C-3D 326		<b>Gemstone</b> 56C-4D 3292
Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent	Ace Hardware Paint Color	General Pantone Color (Uncoated) Equivalent
	<b>Cane</b> 36B-1T 726		<b>Harvest</b> 36B-2D 727
	<b>Peach Velvet</b> 15B-2T 699		<b>Dawn Sun</b> 15B-3D 708
	<b>Coral Reef</b> 7B-2T 701		<b>Spectrum Red</b> 5A-1A 186
	<b>Pagoda Red</b> 5C-4D 703		<b>War Dance</b> 14A-1A 188
	<b>Blushing Pink</b> 4C-2T 673		<b>Rosalind</b> 4C-4D 207
	<b>Tarragon</b> 25C-3D 465		<b>Stratum Rock</b> 38A-1A 462
	<b>Lobster Bisque</b> 16C-1P 699		<b>Tile Tan</b> 16C-3D 486
	<b>Ripe Peach</b> 22C-2T 722		<b>Bright Sienna</b> 22C-4D 723
	<b>Tile Tan</b> 16C-3D 486		<b>Really Rust</b> 22A-1A 484
	<b>Bracken Brown</b> 25C-2T 406		<b>Tobacco Gold</b> 47A-1A 4495

### Sec. 50-27.9 Master sign plan.

- A. Following the effective date of this Section, an applicant is required to submit a master sign plan for any new commercial multi-tenant building or development that includes non-residential uses, including mixed-use development, for review and approval by the planning commission. The planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications, or deny the application;
- B. The master sign plan must provide a coordinated design for all building-mounted signs including, at a minimum, criteria and specifications for sign locations,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- general range of sign area, and lighting. All freestanding signs must be shown on the sign plan, including size, location and lighting;
- C. Once approved, signs erected within the multi-tenant development must follow the master sign plan;
  - D. The review and approval process for a master sign plan does not allow for variations to the requirements of this Section.

### Sec. 50-27.10. Campus sign plan.

- A. The city recognizes that university or college or hospital campuses have unique sign needs that may need to depart from the requirements of this Section. In such cases, the planning commission may recommend and city council may approve such sign standards for temporary and permanent signs through the review and adoption of a campus sign plan;
- B. A campus sign plan may be applied for by a university or college or hospital campus a minimum of two acres in size. In calculating the area, the entire area does not have to be contiguous and may be separated by public rights-of-way or by individual parcels not owned by the institution. However, the entire area must function as a connected campus;
- C. As part of the establishment of a campus sign plan, a comprehensive sign plan must be submitted. The comprehensive sign plan must describe the sign standards for the campus, including all exceptions to the requirements of this Section. A campus sign plan may be more permissive than the standards of this section. Directional signs within the campus may be described generally by sign area and height and general locations;
- D. The planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications, or deny the application;
- E. Alternately, a campus sign plan may be incorporated into the review and approval process of the district plan option of the MU-I District.

### Sec. 50-27.11. Classic signs.

#### A. Purpose.

Because the city recognizes that certain existing signs do not conform with this Chapter but are particularly unique and/or have historic value, including signs for products or businesses that are no longer located on-site, the classic sign designation is established where the city can designate certain signs as classic signs. Once designated, the classic sign is deemed conforming, and thus is no longer nonconforming, provided the sign is maintained in good condition and its physical integrity remains intact. Any sign designated on the national historic register is automatically considered a classic sign under this Section;

#### B. Eligibility.

1. An owner of a sign or the city may apply for designation of an existing sign as a classic sign. Classic signs are exempt from area, setback, height, lighting, movement, placement, type, content, and construction materials requirements of this Section;
2. To qualify for designation as a classic sign, the sign must:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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- (a) Be at least 25 years old or an exact replica of an original sign where the combined age of the duplicate and original sign is at least 25 years;
  - (b) Possess unique physical design characteristics, such as configuration, message, color, texture, etc.;
  - (c) Be of significance to the city, regardless of the use identified by the sign;
3. A sign designated a classic sign may remain on the premises even if the original use to which the sign relates is no longer located on the premises. A designated classic sign may also be moved to a new structure;

C. Application.

The application for classic sign status must be made to the land use supervisor, who will schedule a public hearing. The planning commission may approve or deny the application;

D. Maintenance.

The owner of a classic sign must ensure that the sign is not structurally dangerous, a fire hazard, an electrical shock hazard, or any other kind of hazard. Classic signs may be rebuilt if damaged;

E. Designated classic signs.

A list of designated classic signs is maintained by the land use supervisor.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 14, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed May 13, 2013  
Approved May 13, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10223**

BY COUNCILOR LARSON:

AN ORDINANCE AMENDING CHAPTER 27 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE RELATED TO MOBILE FOOD CARTS AND VEHICLES.

The city of Duluth does ordain:

Section 1. That Chapter 27 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Article III as follows:

Article III. Mobile Food Carts and  
Mobile Food Vehicles.

Sec. 27-16. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Baywalk. The constructed paved walkway in close proximity to the Lake Superior Duluth Harbor Basin extending from the Duluth Harbor North Breakwater Light along North Pier Road closely following the Lake Superior Duluth Harbor Basin waterline until an end point near the intersection of West Railroad Street and Harbor Drive.

Food and beverage service establishment. A building, structure, enclosure, or any part of a building, structure, or enclosure, used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

Lakewalk. The constructed trail surface of that recreational trail running in close proximity to Lake Superior from the Aerial Lift Bridge to 26th Avenue East and from there following the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad to the east side of the Lester River and thereafter connecting to and located in Kitchi Gammi Park.

Mobile food cart. An outdoor food and beverage service establishment that is a non-motorized vehicle self-propelled by the operator.

Mobile food vehicle. An outdoor food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered.

Restaurant. A food and beverage service establishment, whether the establishment serves alcohol or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a mobile food cart or a mobile food vehicle.

Sec. 27-17. License--required.

(a) No person or business shall operate a mobile food cart or mobile food vehicle within the city without a license;

(b) The city may require such information on the license application as city staff deem reasonable and necessary, including but not limited to, the following information:

(1) Trade name;

(2) Name, mailing address, email address, and telephone numbers of applicant and manager;

(3) Name and contact information of commercial food supply sources;

(4) Proof of applicable licenses or permits required by the state of Minnesota, St. Louis County, or this Code;

(5) Brief physical description of the mobile food cart or mobile food vehicle, which may include physical layout plan and dimensions, photographs, equipment types, manufacturer and model numbers, axle weight, license plate numbers, and vehicle identification numbers;

(6) Information regarding water supply, fuel supply, and waste disposal.

Sec. 27-18. Same--fees.

License applications under this Article shall be submitted to the city clerk with the designated license fee, said fee shall be set by city council resolution in accordance with Section 31-6(a) of this Code. Licenses shall be issued for a period of 12 months. Licenses are non-transferable.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### Sec. 27-19. Same--operation.

A mobile food cart or mobile food vehicle is, by definition, a food establishment and must comply with the Minnesota Food Code, Minnesota Statutes Chapter 157 and Minnesota Rules Chapter 4626, or their successors. Additionally, it shall be unlawful to operate any mobile food cart or mobile food vehicle in the city unless it is licensed, operated, and conducted in accordance with the following requirements:

- (a) Applicable license fee under Section 27-18 shall be paid;
- (b) Prohibited from discarding waste, liquids, garbage, litter, or refuse on city sidewalks, streets, or lawn areas, or in city drains or trash receptacles. Licensees shall be responsible for all litter and garbage left by customers;
- (c) Prohibited from using utilities from public property and right-of-ways;
- (d) Prohibited from using utilities of any adjacent private property without obtaining permission from the private property owner or agent;
- (e) Shall operate in strict compliance with the laws, rules, and regulations of the United States, state of Minnesota, St. Louis County, and the city;
- (f) Shall abide by all vehicular public parking regulations;
- (g) Shall comply with vehicle noise limits for electronically amplified sound and sound broadcasting devices pursuant to sections 34-22 and 34-24 of this Code;
- (h) Shall provide and maintain at least one clearly designated waste container for customer use per each mobile food cart or mobile food vehicle;
- (i) Food sold or served from mobile food carts and mobile food vehicles may not be prepared or stored at a private residence;
- (j) Licensees shall collect and remit applicable Minnesota and city sales tax.

### Sec. 27-20. Same--inspection.

Mobile food carts and mobile food vehicles are subject to inspection by city staff from the police, fire, and parks and recreation departments, and licensees must comply with any regulation or specific directive imposed by city staff from those departments.

### Sec. 27-21. Same--insurance required.

Before any license under this Article becomes effective, the licensee must possess a commercial general liability insurance policy for its mobile food cart and mobile food vehicle operations in an amount not less than \$100,000 per individual, \$500,000 per single incident, and \$100,000 for property damage occurring in any year, with a signed endorsement satisfactory to the city attorney. Licensee shall name and maintain the city of Duluth as an additional insured on the insurance policy.

### Sec. 27-22. Same--prohibited locations.

- (a) Mobile food carts and mobile food vehicles may not operate or travel on the Lakewalk or Baywalk;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(1) Mobile food carts and mobile food vehicles may not operate or travel through or on other city trails or parks unless the licensee obtains permission from the city parks and recreation department;

(b) Mobile food vehicles may not operate or travel on public sidewalks;

(c) Mobile food carts and mobile food vehicles may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park;

(1) Mobile food carts and mobile food vehicles may not operate in city-owned parking lots adjacent to or inside a city park unless the licensee obtains permission from the city parks and recreation department;

(d) Mobile food carts and mobile food vehicles are prohibited from obstructing the ingress or egress from commercial buildings during the building hours of operation;

(e) Mobile food carts and mobile food vehicles may not operate or travel on private property unless the licensee obtains permission from the private property owner or agent;

(f) Mobile food carts and mobile food vehicles may not operate within 200 feet from the public entrance to any restaurant and/or any portion of a restaurant's outdoor dining area during that restaurant's hours of operation unless the licensee obtains permission from the restaurant owner or manager, said 200 feet measured in a straight line of constant elevation;

(g) Mobile food carts and mobile food vehicles may not operate within 400 feet from a community event or parade as defined in Section 45-49 unless the licensee obtains permission from the permit holder of that community event or parade, said 400 feet measured in a straight line of constant elevation.

Sec. 27-23. Same--denial, revocation and suspension.

License applications and current licenses may be denied, revoked, or suspended for good cause. The city shall mail written notice describing the reasons for denial, revocation, or suspension of a license covered by this Article. The licensee may then demand a hearing before the city council by delivering a written demand to the city clerk within ten business days after the notice of denial, revocation or suspension is mailed. Such appeal shall be heard at the first regularly scheduled meeting of the city council thereafter. For the purposes of this Section "good cause" shall include, but not be limited to:

(a) The manner, or proposed manner, of operating the mobile food cart of mobile food vehicle violates any federal, state of Minnesota, St. Louis County, or city law (including this Article) or regulation;

(b) The manner of operating the mobile food cart or vehicle constitutes a public nuisance per Minnesota statutes 609.74 and 609.745, or their successors;

(c) Licensee or any employee or agent of the licensee are convicted of any crime relating to the operation of the mobile food cart or vehicle;

(d) Licensee or any employee or agent of licensee made omissions, deceptive statements, and/or false statements of material fact to city staff; or

(e) Failure to timely pay licensee fee or previous pattern of operation without license.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 14, 2013)

Councilor Larson moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 13, 2013  
Approved May 13, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, May 28, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle – 9

Absent: None – 0

- - -

The minutes of the council meeting held on April 22, 2013, were approved upon a unanimous vote.

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0528-01 John and Linda Van Etta, et al. (five signatures), petition for overlay and local improvements of Plum Street. -- Assessor

13-0528-02 The following communications regarding the proposed ordinance related to the reclassification to Mixed Use-Commercial the properties located at the 2100 block of London Road (13-027-O): (a) David Holappa; (b) Joseph Kleiman. -- Received

- - -

## REPORTS FROM OTHER OFFICERS

13-0528-03 Acting assessor letter of sufficiency regarding petition to pave Plum Street, from Ninth Avenue East to Skywood Lane. -- Received

- - -

## REPORTS OF BOARDS AND COMMISSIONS

13-0528-20 Alcohol, gambling and tobacco commission minutes of: (a) August 1; (b) September 5; (c) October 3; (d) November 7; (e) December 5, 2012, meetings. -- Received

13-0528-04 Duluth airport authority minutes of April 16, 2013, meeting. -- Received

13-0528-05 Duluth human rights commission minutes of April 10, 2013, meeting. -- Received

13-0528-06 Spirit Mountain recreation area authority minutes of: (a) March 21; (b) April 18, 2013, meetings. -- Received

- - -

At this time, 7:02 p.m., the public hearing on a proposed City Charter amendment to the legal description for the city of Duluth began. No one appeared who wished to be heard and the hearing was declared closed.

- - -

At this time, 7:03 p.m., the public hearing on a proposed City Charter amendment relating to political activities of city employees began. No one appeared who wished to be heard and the hearing was declared closed.

- - -

At this time, 7:04 p.m., the public hearing on a proposed City Charter amendment removing the city assessor reference began. No one appeared who wished to be heard and the hearing was declared closed.

- - -

At this time, 7:05 p.m., the public hearing on a proposed City Charter amendment to the stated dollar amount for the failure to comply liability of franchises began. No one appeared

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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who wished to be heard and the hearing was declared closed.

- - -

At this time, 7:06 p.m. the regular order of business was resumed.

- - -

### OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer commented on what he felt was a high salary for the former University of Minnesota-Duluth (UMD) chancellor and the difficulty that students have in paying tuition.

- - -

Karen Lewis suggested that the city consider the input from taxi drivers, bus drivers, police and pizza delivery drivers because they know what streets are in the worst condition. She also suggested turning the one way streets to two way so traffic movement would not be impaired when problems exist and building wheelchair accesses where they do not allow water on to the sidewalks and properties.

- - -

Tyler Nord expressed support for the revitalization of the Kozy Bar location for housing, noting the need for collaboration with all the parties involved. He cited the merits of urban rooftop gardening and that there is adequate housing space, including storage, at this location.

- - -

### RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 13-0237, of intent to create street improvement board and to establish certain procedures pertaining to street improvements and funding, from the table, which motion was seconded and unanimously carried.

Councilor Stauber then moved to suspend the rules to consider Ordinance 13-031 at this time, which motion was seconded and unanimously carried.

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was introduced for the second time:

BY COUNCILOR STAUBER

13-031 - AN ORDINANCE ESTABLISHING A STREET IMPROVEMENT TRUST (SIT) FUND, PROVIDING FOR THE CREATION OF A CITY-WIDE STREET IMPROVEMENT PROGRAM AND CONDITIONALLY AUTHORIZING TRANSFERS OF FUNDS TO THE SIT FUND.

Councilor Stauber moved to remove the resolution and ordinance from the agenda, due to the support from the administration for a street improvement task force, which motion was seconded and unanimously carried.

- - -

### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the assessment roll levied for reassessment of a canceled razing (#5272 - Fund 110) at the following location is set forth below:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Plat 2620 Parcel 01690 - total assessable: \$5,699

The total assessable amount is \$5,699 and this assessment roll is hereby confirmed.

Resolution 13-0265 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the budget for the fiscal year May 1, 2013, to April 30, 2014, in the amount of \$5,804,694 as set out in the budget on file with the city clerk as Public Document No. 13-0528-07, for the Spirit Mountain recreation area authority is hereby approved.

Resolution 13-0279 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute the renewal of the contract with Duluth Ready Mix, Inc., the third year of a three-year contract, for the purchase and delivery of 5,500 tons of washed sand during fiscal year 2013 for use by the street maintenance division in accordance with the vendor's original bid of \$10 per ton for a total of \$55,000 plus \$3,781.25 sales tax, for a combined total of \$58,781.25, terms net 30, FOB destination, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5223-02 (salt and sand sand).

RESOLVED FURTHER, that 5,500 tons will be delivered to the following Duluth locations: 2,500 tons to 1123 Mesaba Avenue, 2,500 tons to 105 North 40th Avenue West, and 500 tons to 2407 Commonwealth Avenue.

Resolution 13-0263 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council accepts Laws of Minnesota 2013, Chapter 42, Section 15 [S.F. No. 541] authorizing the city to issue an annual intoxicating liquor license or annual 3.2 malt liquor license for the concession at Wheeler Field.

Resolution 13-0264 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept a grant contract, a copy of which is on file in the office of the city clerk as Public Document No. 13-0528-08, from the Minnesota department of labor and industry occupational safety and health consultation division, in the amount up to \$5,252, said funds to be deposited in Fund 510-500-1900-4220-02, and to commit a local match up to \$5,252 from fund 510-500-1945-5241, for the purpose of purchasing safety equipment.

Resolution 13-0289 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 14, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0528-09:

### LEGAL DESCRIPTION OF THE ALLEY TO BE VACATED:

The platted 20 foot alley lying between Industrial Avenue and 86th Avenue West located in Block 3 of the plat of RIVERSIDE, on file or of record in the office of the county recorder, St. Louis County, Minnesota.

Reserving an easement for utility purposes over, under and across the above-described alley;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 13-0528-09 showing the platted easement to be vacated.

Resolution 13-0267 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council hereby grants Gerard and Norma Downes an interim use permit to operate a vacation dwelling unit located at 1004 South Lake Avenue and as described by the following:

Lot 179, Upper Duluth, Lake Avenue (PID 010-4380-00900); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-063); the commission gave due notice of public hearing and considered the application during a public hearing occurring on May 14, 2013; and

(f) The city planning commission, at their regular meeting on May 14, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0271 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0528-10, with Duluth Teachers Credit Union for the repair work to its building located at 11 West Second Street damaged as a result of the June 2012 flood event, in an amount not to exceed \$15,048, payable from Fund 235-020-5434 (Duluth recovery loan program fund, planning, grants and awards), contingent upon receipt by the city of a Minnesota Investment Fund Grant – 2012 Disaster Recovery Program from the Minnesota department of employment and economic development (DEED) pursuant to Grant DRLF-12-0002-V-FY13 (the “MIF grant”).

Resolution 13-0272 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0528-11, with Grandma’s, Inc., in an amount not to exceed \$198,019, payable from Fund 235-020-5434 (Duluth recovery loan program fund, planning, grants and awards), contingent upon receipt by the city of a Minnesota Investment Fund Grant – 2012 Disaster Recovery Program from the Minnesota department of employment and economic development (DEED) pursuant to Grant DRLF-12-0002-V-FY13 (the “MIF grant”).

FURTHER RESOLVED, that the city hereby accepts a personal guaranty provided by Michael J. Paulucci (“guarantor”), in favor of the city guaranteeing to the city the repayment obligation of the city to DEED for a total amount of the loan; said guaranty included in the public document.

Resolution 13-0273 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0527-12, with Whole Foods Co-op, Inc., for the repair work to its parking lot and structural retaining wall damaged as a result of the June 2012 flood event, in an amount not to exceed \$293,190, payable from Fund 235-020-5434 (Duluth recovery loan program fund, planning, grants and awards), contingent upon receipt by the city of a Minnesota Investment Fund Grant – 2012 Disaster Recovery Program from the Minnesota department of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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employment and economic development (DEED) pursuant to Grant DRLF-12-0002-V-FY13 (the "MIF grant").

Resolution 13-0274 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Nancy Nilsen/Riverside Retreat, LLC, an interim use permit to operate a vacation dwelling unit located at 10 Industrial Avenue and as described by the following:

Lot 5, Block 3, Riverside Division (PID 010-3970-00260); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-064); the commission gave due notice of public hearing and considered the application during a public hearing occurring on May 14, 2013; and

(f) The city planning commission, at their regular meeting on May 14, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the city council approves the vacation of the alley adjacent to the property; and

(b) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0275 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Matthew Evingson an interim use permit to operate a vacation dwelling unit located at 13402 West Third Street (State Highway 23) and as described by the following:

East 10 feet of Lot 17 and all of Lot 19, Fond du Lac, Third Street (PID 010-1610-00090, 010-1610-00100); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-065); the commission gave due notice of public hearing and considered the application during a public hearing occurring on May 14, 2013; and

(f) The city planning commission, at their regular meeting on May 14, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until an operational permit has been granted by the fire department and a lodging license has been granted by the state department of health; and

(b) The required driveway and parking improvements shall be completed by September 30, 2013 or the interim use permit shall be suspended until such improvements are made; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0276 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that the city council approves settlement in the amount of \$290,000 of all claims or causes of actions asserted by Lauren M. Nash in that matter venued in the district court of Minnesota, sixth judicial district and identified as Lauren M. Nash v. City of Duluth, File No. 69DU-CV-12-2281 and further authorizes the proper city officials to take all actions necessary to conclude this matter on a full, final and complete basis; payment to be made from the Self Insurance Fund 0610.

Resolution 13-0277 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an amendments to City Contract Nos. 21203, 21204, 21205 and 21262 with the Minnesota state public facilities authority extending the terms thereof to December 31, 2013.

Resolution 13-0262 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to acquire from James G. Sundstrom and Gail A. Sundstrom a street easement as described on Public

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

Document No. 13-0528-13(a) and a utility easement as described on Public Document No. 13-0528-13(b), said documents being on file in the office of the city clerk, over property in the vicinity of Central Avenue and Columbia Street in the total amount of \$1,500, payable from Fund 110-500-1930-2300-5441 (general fund, public works and utilities, engineering, transportation engineering, other services and charges).

Resolution 13-0266 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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RESOLVED, that by Resolution of Intent 13-0042 and Amending Resolution of Intent 13-0092 the council did request the administration to prepare plans and specifications for the construction of approximately 250 feet of sanitary sewer in Lawn Street beginning at North Boundary Avenue and extending easterly.

FURTHER RESOLVED, that said work be done by contract and that the estimated total cost of said improvement, as estimated by the city engineer, is \$64,500, with \$52,000 payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements), City Project 1151; and of these costs, \$52,000 will be assessed to benefitting properties. The remaining \$12,500 will be payable from Water Fund 510, Department 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements).

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in 15 annual installments at the municipal bond index fund rate plus 1.50 percent.

FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter, and that said improvement be hereby ordered.

Resolution 13-0268 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to acquire from the persons specified below utility easements as described on Public Document No. 13-0528-14 on file in the office of the city clerk, over property adjacent to Lakeside Court in the total amount of \$3,734.40, payable from Fund 530, Department 500, Division 1905, Object 5535 (sanitary sewer fund, public works and utilities, capital, non-capital improvements); Project No. 1150:

Name	Description	Amount
	LAKESIDE COURT	
Jana I. Ulland	Lot 1, Block 2	\$1,001.40
Kaylor R. & Karen Pagenkopf Teig	Lot 2, Block 2	\$ 911
Charles H. & Mary Ann Howard	Lot 3, Block 2	\$ 911
Jeannine Marie Brodin	Lot 4, Block 2	\$ 911

Resolution 13-0269 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that Contract 21793 with Watters and Sons Excavating, LLC for removal of a flood damaged bridge and construction of a box culvert at Greene Street over Keene Creek be amended for an increase in the amount of \$70,000 for a new total of \$272,827. This increase is payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1128, S.A.P. 118-080-044, Flood Site No. 135.

Resolution 13-0281 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

WHEREAS, in December 2011, the city entered into a software license agreement with GoodPointe Technology, Inc., for its ICON Pavement Management System and database development;

WHEREAS, the city is now ready for the consultant to move on to the next phase of adding information to the database;

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with GoodPointe Technology, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0528-15, for a pavement condition survey to include Task 1.1 ASTM PCI Survey, Task 1.3 Roughness (IRI) Data, and Task 1.4 Rutting Data, for an amount not to exceed \$115,000, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year), Object 5580 (capital equipment), Project No. CE250-E1314.

Resolution 13-0283 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. EMW-2012-FO-06474 from the U.S. department of homeland security, federal emergency management agency, assistance to firefighters grant program, operations and safety program, a copy of which is on file in the office of the city clerk as Public Document No. 13-0528-16, in the amount of \$129,120, said funds to be deposited in Fund 210 (special projects fund), Agency 030 (finance), Organization 3184 (direct federal grants), Revenue Source 4209-01 (capital equipment), for the purpose of purchasing 90 fire nozzles, 132 EMS jackets and 105 pairs of fire boots to replace obsolete equipment, and committing \$32,280 as the city's local share cost of said grant, said sum to be paid from the city's Fund 250 (capital equipment fund), 015-Administrative Services, Fiscal Year 2012, 5580.

Resolution 13-0258 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0528-17, with the Cloquet Area Fire District for the cooperative provision of emergency

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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fire suppression and other emergency services by the parties in the other party's jurisdiction upon request.

Resolution 13-0261 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby approves the Memorial Park Master Plan and authorizes implementation of the plan as funding becomes available.

Resolution 13-0229 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to execute a temporary access agreement substantially in the form as filed with the city clerk as Public Document No. 13-0528-18 with the Minnesota department of natural resources (MnDNR) granting the DNR access across city property to Radio Tower Bay for removal of wood waste from the bay and enhance fish and wildlife habitats in support of the St. Louis River Remedial Action Plan, at no cost to the city.

Resolution 13-0270 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to accept a Minnesota cross country trail assistance program grant, a copy of which is on file in the office of the city clerk as Public Document No. 13-0528-19, with the Minnesota department of natural resources for the maintenance of the Duluth cross country trails for the 2013-2014 season in the amount of \$25,820; said funds to be deposited in the General Fund-110, Public Administration-121, Maintenance Operations/Buildings and Grounds-1217-2150, Ski Trail Reimbursement-4225.

Resolution 13-0278 was unanimously adopted.

Approved May 28, 2013

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 13-0282, by councilors Gardner and Krug, amending Resolution 12 0608, adopting license, permit, fine, penalty and other charges for 2013, by adding a license fee for synthetic drug establishments, was introduced for discussion.

Councilor Gardner moved to suspend the rules for speakers, which motion was seconded and unanimously carried.

Karen Lewis expressed concern that there be a clear, specific and accurate definition of the natural drugs that these prohibited drugs are replacing.

David Ross, executive director of the Duluth Area Chamber of Commerce, spoke on behalf of the Duluth Area Chamber of Commerce Board of Directors, supporting this initiative.

Jim Carlson, CEO of the Last Place On Earth establishment, noted that he has always felt that his products are legal and that by licensing his establishment, the city will be conceding that he was correct about his products as being legal. He continued to comment at length about his establishment being singled out, where other locations in the region selling the same type of product are not being prosecuted as he is being prosecuted and other issues.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Gardner moved table the resolution until final consideration of the companion ordinances, which motion was seconded and unanimously carried.

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Resolution 13-0280, authorizing an agreement with LHB for surveying services for future street and utility improvements on Superior Street in Downtown Duluth, was introduced by Councilor Julsrud for discussion.

Councilors Krause and Fosle expressed the following concerns that: it has been supposedly expressed that funding for the Miller Hill Mall cut through for residential traffic and other areas was not available and now this expenditure comes forward; there needs to be a future, long term road planning process; there were extensive plans done when Superior Street was done 30 years ago that should be available and adequate and, with the new management contract, there is likely to be a changeover to hot and cold water from the steam district, and thus, with this likely change, it will be unfair for all taxpayers to be paying the cost for the total street project.

Resolution 13-0280 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB to provide the topographic services required to design, prepare plans and specifications and provide construction engineering services for the reconstruction of Superior Street in Downtown Duluth. LHB has submitted a proposal for surveying services for this project and was rated the top-ranked firm. The cost of said survey services is estimated at \$48,910. The working fund will be Permanent Improvement Fund 411. \$9,782 will be payable from Permanent Improvement Fund 411, Department 038 (special assessment), Object 5530 (improvements other than buildings); \$9,782 will be payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Organization 1905 (capital), Object 5536 (utility infrastructure replacement); \$9782 will be payable from Water Fund 510, Department 500 (public works and utilities), Organization 1905 (capital), Object 5536 (utility infrastructure replacement); and \$9,782 will be payable from Stormwater Fund 535, Department 500 (public works and utilities), Organization 1905 (capital), Object 5533 (capital improvements - revenue); City Project No. 0923TR.

Resolution 13-0280 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

Approved May 28, 2013

DON NESS, Mayor

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

#### ORDINANCES TABLED

INTRODUCED BY COUNCILOR STAUBER

13-027 (10224) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) AND MIXED USE-NEIGHBORHOOD (MU-N) TO MIXED USE-COMMERCIAL (MU-C), FOR PROPERTIES LOCATED AT THE 2100 BLOCK OF LONDON ROAD (LONDON ACQUISITION, LLC).

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Stauber moved to consider Ordinance 13-029 at this time, which motion was seconded and unanimously carried.

INTRODUCED BY COUNCILOR STAUBER

13-029(a) (10225) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING DIMENSIONAL STANDARDS, PERMITTED AND SPECIAL USES, USE SPECIFIC STANDARDS, THE HISTORIC PRESERVATION COMMISSION AND DEFINITIONS.

Councilor Stauber moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to suspend the rules to hear a speaker on the ordinances, which motion was seconded and unanimously carried.

Dan Maddy, representing the parties associated with Ordinance 13-027, expressed concerns that the proposed amendments would change some height limits and that the 45 foot limit for commercial businesses does not get any lower.

Councilor discussed at length aspects of the height restriction.

Councilor Stauber moved to split the ordinance into an "(a)," which would include everything except the Mixed Use-Neighborhood, Commercial, Business and Waterfront, and a "(b)" would only include the Mixed Use-Neighborhood, Commercial, Business And Waterfront, which motion is seconded and unanimously carried.

Councilor Stauber moved passage of the (a) version of the ordinance and the same was adopted upon a unanimous vote.

- - -

Councilor Gardner moved to amend the (b) version of the ordinance as follows:

(a) In the Mixed Use-Neighborhood Table 50-15.2-1, add the minimum width of side yard category of "general, unless listed below" and add the structure setback at "5 feet";

(b) In the Mixed Use-Neighborhood Table 50-15.2-1, Mixed Use-Commercial Table 50-15.3-1, Mixed Use-Business Park Table 50-15.5-1 and Mixed Use-Waterfront Table 50-15.6-1:

(1) In the R-1 maximum height of building, residential or mixed use category, delete "400" and replace with "500";

(2) In the R-2 maximum height of building, residential or mixed use category, delete "300" and replace with "500";

which motion was seconded and discussed at length.

Councilor Stauber moved to amend the (b) version of the ordinance as follows:

(a) In the Mixed Use-Neighborhood Table 50-15.2-1, add the minimum width of side yard category of "general, unless listed below" and add the structure setback at "5 feet";

(b) In the Mixed Use-Neighborhood Table 50-15.2-1, Mixed Use-Commercial Table 50-15.3-1, Mixed Use-Business Park Table 50-15.5-1 and Mixed Use-Waterfront Table 50-15.6-1:

(1) In the R-1 maximum height of building, residential or mixed use category:

(A) Delete "400" and replace with "1,000";

(B) Under "Structure Height," delete "35" and replace with "30";

(2) In the R-2 maximum height of building, residential or mixed use category:

(A) Delete "300" and replace with "750";

(B) Under "Structure Height," delete "50" and replace with "45";

which motion was seconded and discussed at length.

Councilor Gardner's amendment was carried unanimously.

Councilor Stauber's amendment failed unanimously.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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*[EDITOR'S NOTE: Because of the amendment, the ordinance was considered as a first reading.]*

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At this time, Councilor Stauber moved to remove Ordinance 13-027 from the table, which motion was seconded and unanimously carried.

Councilor Stauber moved to suspend the rules to hear a speaker on the ordinance, which motion was seconded and unanimously carried.

Nick Patronas expressed support for this development which will improve that location and increase sales and property taxes.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The following entitled ordinances were read for the first time:

BY COUNCILORS GARDNER AND KRUG

13-038 - AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 28, ADDING A NEW ARTICLE VIII PROHIBITING CONSUMPTION OF PRODUCTS LABELED NOT FOR HUMAN CONSUMPTION.

- - -

BY COUNCILORS GARDNER AND KRUG

13-039 - AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 5 ADDING A NEW ARTICLE VII REGARDING SYNTHETIC DRUG ESTABLISHMENTS.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-037 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE BUSINESS (MU-B) TO MIXED USE NEIGHBORHOOD (MU-N) FOR PROPERTIES LOCATED AT 4502 EAST SUPERIOR STREET (GREG KLEIN).

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY PRESIDENT BOYLE

13-032 (10226) - AN ORDINANCE AMENDING CHAPTER I, SECTION 1, OF THE CITY CHARTER AMENDING THE LEGAL DESCRIPTION FOR THE CITY OF DULUTH.

President Boyle moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY PRESIDENT BOYLE

13-033 (10227) - AN ORDINANCE AMENDING CHAPTER IV, SECTION 21, OF THE CITY CHARTER RELATING TO POLITICAL ACTIVITIES OF CITY EMPLOYEES.

President Boyle moved passage of the ordinance and the same was adopted upon a unanimous vote.

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INTRODUCED BY PRESIDENT BOYLE

13-034 (10228) - AN ORDINANCE AMENDING CHAPTER IV, SECTION 23, OF THE CITY CHARTER REMOVING CITY ASSESSOR REFERENCE.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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President Boyle moved passage of the ordinance and the same was adopted upon a unanimous vote.

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INTRODUCED BY PRESIDENT BOYLE

13-035 (10229) - AN ORDINANCE AMENDING CHAPTER XI, SECTION 84, OF THE CITY CHARTER AMENDING THE STATED DOLLAR AMOUNT FOR FAILURE TO COMPLY LIABILITY.

President Boyle moved passage of the ordinance and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 8:28 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10224**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) AND MIXED USE-NEIGHBORHOOD (MU-N) TO MIXED USE-COMMERCIAL (MU-C), FOR PROPERTIES LOCATED AT THE 2100 BLOCK OF LONDON ROAD (LONDON ACQUISITION, LLC).

The city of Duluth does ordain:

Section 1. That the 2.4 acres of the subject properties located at the 2100 block of London Road, and as more particularly described in Exhibit A and by the following:

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7) and Eight (8), Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), Block Twenty-five (25), ENDION DIVISION OF DULUTH, EXCEPT that part of Lot One (1), Block Twenty-five (25), ENDION DIVISION OF DULUTH, which lies southwesterly of the line described as: beginning at a point on the northwesterly line of Lot One (1), distant 30 feet northwesterly of the most westerly corner thereof; thence run southeasterly to a point on the southeasterly line of said Lot One (1), distant 30 feet northeasterly of the most southerly corner thereof and there terminating;

And:

That part of the North 1/2 of South Street, as dedicated on the recorded plat of ENDION DIVISION OF DULUTH, lying Easterly of the Southerly extension of the Westerly line of Lot 15, Block 25, said ENDION DIVISION OF DULUTH, and lying Westerly of the Southerly extension of the Easterly line of Block 25, said ENDION DIVISION OF DULUTH; be reclassified from MU-B and MU-N to MU-C, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

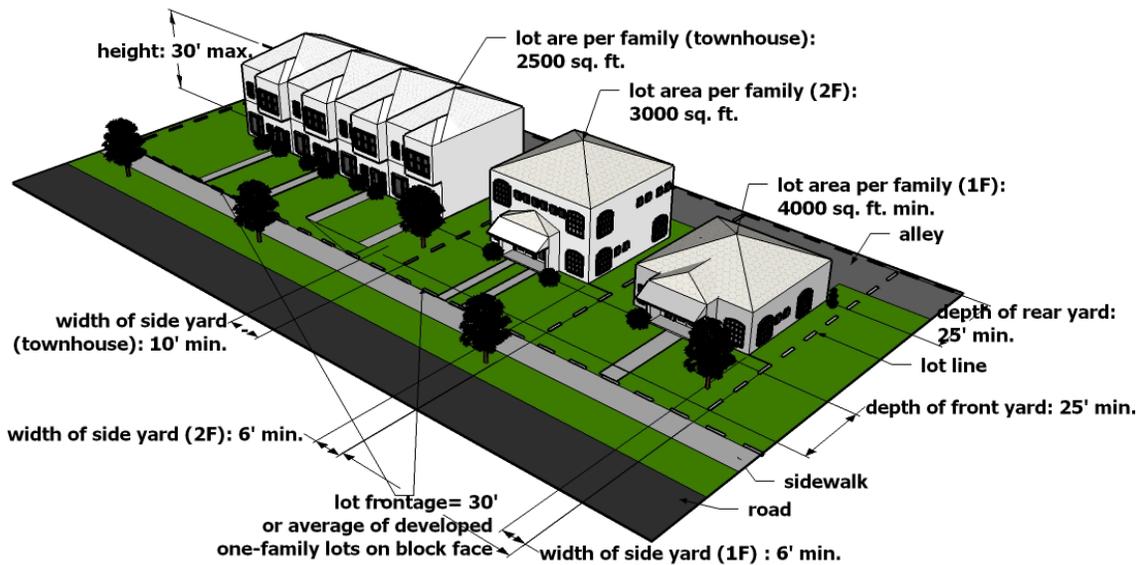
TABLE 50-14.5-1 R-1 DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area per family (One-family) [1]		The <u>smaller</u> of 4,000-sq. ft. or average of developed 1-family lots on the block face
Minimum lot area per family (Two-family) [1]		The <u>smaller</u> of 3,000 sq. ft. or average of developed 2-family lots on the block face
Minimum lot area per family (Townhouse) [1]		2,500 sq. ft.
Minimum lot frontage (one-family, two-family, and townhouses) [1]		The <u>smaller</u> of <u>40</u> ft. or average of developed lots with similar uses on the block face
		STRUCTURE SETBACKS
Minimum depth of front yard		The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard (one- and two-family)	General	6 ft.
	Lots with less than 50 ft. frontage and garage	Combined width of side yards must be at least 12 ft.
Minimum width of side yard (Townhouse)		10 ft. if adjacent to another lot
		25 ft. if adjacent to platted street
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory building	20 ft.
	Permitted non-residential building	25 ft.
Minimum depth of rear yard		25 ft.
		STRUCTURE HEIGHT
Maximum height of building		30 ft.
[1] <u>Determined using "Lots on the Block Face" definition. <u>When doing this calculation, exclude the subject lot from the average.</u></u>		
Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

B. Example.

*R-1 Example Building Forms*



C. Illustration.



Section 2. That Section 50-17.4 of Chapter 50 be amended as follows:

50-17.4 Park and Open Space District (P-1).

A. Purpose.

The P-1 district is intended to protect and reserve lands for recreational, scenic and natural resource uses. It is intended to be applied to publicly owned land but may be applied to private property with the landowner's written consent. Both passive recreational (e.g., walking paths, picnic tables) and active recreational (e.g., playgrounds, ball fields, tennis courts) uses may be permitted, as shown in Table 50-19.8. Small-scale buildings, structures and development (e.g., parking) that are incidental to and supportive of an approved use may also be permitted. All uses and structures shall be compatible in scale, design and impact with the natural features and character of the land;

B. Example.

*P-1 Example Pictures*



**TABLE 50-17.4-1:**

**P-1 DISTRICT DIMENSIONAL STANDARDS**

LOT STANDARDS	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 ft.
STRUCTURE SETBACKS	
Minimum depth of front yard	25 ft.
Minimum width of side yard	25 ft.
Minimum depth of rear yard	25 ft.
STRUCTURE HEIGHT	
Maximum height of building	30 ft.

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

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Section 3. That Section 50-18.3 of Chapter 50 be amended as follows:

50-18.3 Historic Resources Overlay (HR-O).

A. Purpose.

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

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

B. Designation of historic resources.

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

C. Review of construction/demolition activities.

Within those designated historic preservation districts shown on Exhibit 50-18.3-1 and those historic preservation landmarks on file with the secretary of the planning commission:

1. Construction and demolition activities, including all street and utility activities shall be approved pursuant to Section 50-37.14;
2. The issuance of city permits to do any of the following shall be approved pursuant to Section 50-37.14:
  - (a) Remodel, repair or alter in any manner that will change the exterior appearance;
  - (b) New construction, including parking facilities;
  - (c) Move a building;
  - (d) Change the nature or appearance of a designated historic preservation landmark or district, including landscape features;
  - (e) Demolition in whole or in part;

D. Emergency repair.

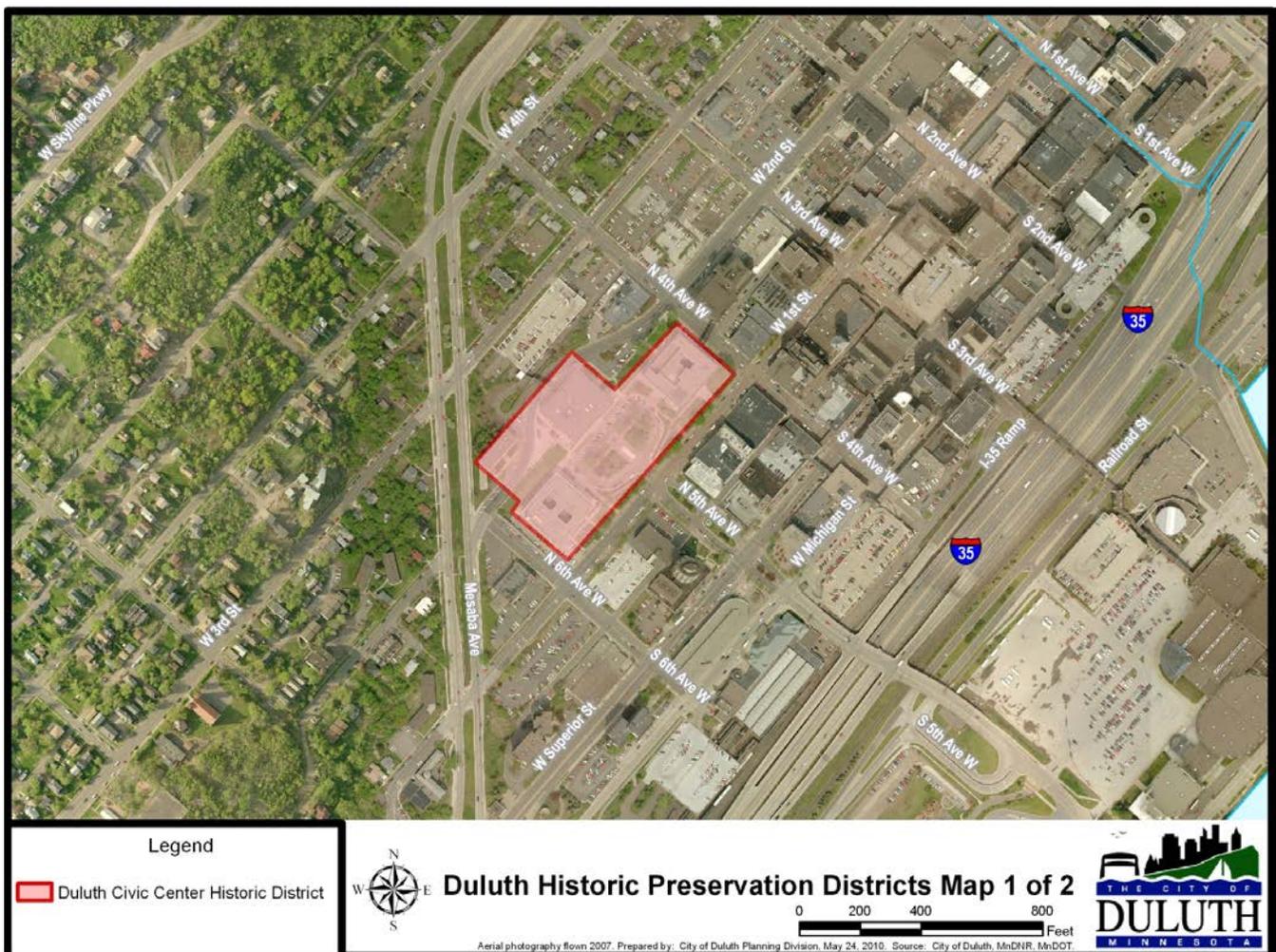
In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the building official may approve the repair of only those

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

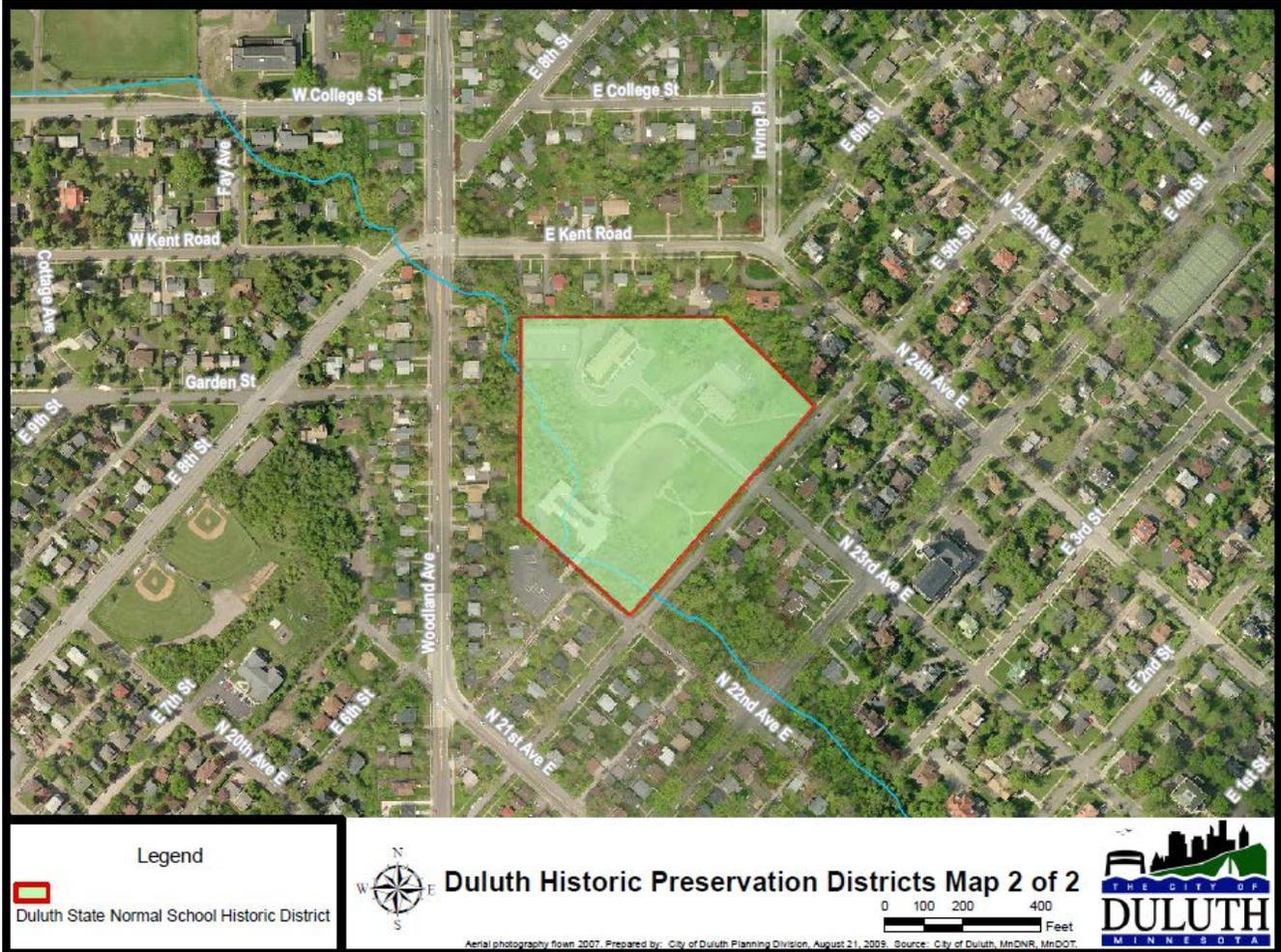
items needed to ensure safety. Such repairs shall be limited to those necessary to correct the safety emergency. In the case of a permit issued pursuant to this subsection D, the building official shall require that the repairs be made in conformance with the U.S. secretary of interior's recommended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

E. Building code enforcement.

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



PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Section 4. That Section 50-19.8 of Chapter 50 be amended as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

**TABLE 50-19.8: USE TABLE**

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

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

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

P = Permitted Use U = Upper Story Only

A = Accessory Use

S = Special Use or Interim Use

I = Interim Use Only

Zone District Name	Residential						Mixed Use					Form									Special			Use-Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1	
<b>LAND USE CATEGORY</b>																										
<b>RESIDENTIAL USES</b>																										
<b>Household Living</b>																										
Dwelling, one-family	P	P	P	P	P	P	P					P	U	U	U	U	U	P	U	U	U					
Dwelling, two-family				P	P	P	P					P	U	U	U	U	U	P	U	U	U				50-20.1.A	
Dwelling, townhouse				S	P	P	P				P	P													50-20.1.B	
Dwelling, multi-family					P		P	P	P		P	P	U	P	U	P	P	P	U	P	P				50-20.1.C	
Dwelling, live-work							P	P	P		P	P	P	P	P	P	P		P	P						
<b>Group Living</b>																										
Co-housing facility				S	S	P	P					P														
Residential care facility/assisted living (6 or fewer )		P	P	P	P	P	P					P	U	P	U	P	P	U	U	P	P				50-20.1.D	
Residential care facility/assisted living (7 or more)				S	P		P	P	P		P	P	U	P	U	P	P	U	U	P	P				50-20.1.D	
Rooming house					S		P	P	P		P	P	U	P	U	P	P	U	U	P	P				50-20.1.E	
<b>PUBLIC, INSTITUTIONAL AND CIVIC USES</b>																										
<b>Community and Cultural Facilities</b>																										
Bus or rail transit station							P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Cemetery or mausoleum	S	S	S	S	S	P	S	S	S	S														S		
Club or lodge (private)					S	P	P	P	P		P	P	P	P	P	P	P	P	P	P				S	50-20.2.A	
Government building or public safety facility		P	P	S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	S	S	S		
Museum, library or art gallery				S	S	P	P	P		S	P	P	P	P	P	P	P	P	P	P	P			S		
Park, playground or forest reserve	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P			P		
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P	P	P	P	P	S	P	P	P	P	P	P	P	P	P						50-20.2.C	

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9		I-G	I-W	P-1
<b>LAND USE CATEGORY</b>																									
Religious assembly, large (50,000 sq. ft. or more)		S	S	S	S	P	P	P	P	S	P	P	P	P	P	P	P	P	P						50-20.2.C
<b>Educational Facilities</b>																									
Business, art or vocational school							P	P	P	P	P	P	P	P	P	P	P	P	P						
School, elementary		P	P	P	P	P	P	P			P	U	P	U	P	P	U	U	U						50-20.2.D
School, middle or high		S	S	S	S	P	S	S			P	U	P	U	P	P	U	U	U						50-20.2.D
University or college						I			P		P			U	P	P	U	U	U						
<b>Health Care Facilities</b>																									
Hospital									P																
Medical or dental clinic					S	P	P	P	P	P	P	P	P	P	P	P	P	P	P						50-20.2.B
Nursing home					P	P	P	P	P		P		P		P										
Other institutional support uses not listed in this table									P																
<b>COMMERCIAL USES</b>																									
<b>Agriculture and Animal-Related</b>																									
Agriculture, general	P	P																							50-20.3.B
Agriculture, urban		P	P	P	P	P					P														
Kennel	S	S					S	S	P		P														
Riding stable	S	S	S			P				S														S	
Veterinarian or animal hospital	S	S			P	P	P	P	P	P	P		P		P	P									50-20.3.U
<b>Food, Beverage and Indoor Entertainment</b>																									
Adult entertainment establishment																						P			50-20.3.A
Convention or event center								P		P	P	P				P	P		P	P	P				50-20.3.H
Indoor entertainment facility								P		P	P	P		P		P	P		P	P	P				

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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<b>LAND USE CATEGORY</b>																										
Restaurant, (no drive-in/drive-through, less than 5,000 sq. ft. )					S	P	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P					50-20.3.P
Restaurant, (no drive-in/drive-through, 5,000 sq. ft. or more)						P		P	P	P	P	P	P	P	P	P	P	P	P	P	P					50-20.3.P
Restaurant, with drive-in/drive-through								P		P		P		P		P										50-20.3.Q
Theater							S	P			P	P		P		P	P		P	P	P					
<b>Lodging</b>																										
Hotel or motel							S	P	P	P	P	P		P		P	P		P	P	P					
Bed and breakfast				S	P	P	P	P	P	P	P	P		P		P		P								50-20.3.F
Seasonal camp or cabin	P	P				P					P													S		50.20.3.S
Vacation dwelling unit		I	I	I	I	I	I										I									50-20.3.V
<b>Offices</b>																										
Bank						I	S	P	P	P	S	P	P	P	P	P	P	P	P	P	P					50-20.3.E
Office				S	P		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					50-20.3.M
Data center							S	P	P	P	S	P	U	U	U	U	U	U	U	U	U	P				
<b>Outdoor Recreation &amp; Entertainment</b>																										
Golf course		S	S			P																			P	
Marina or yacht club											P												S	S		
Tourist or trailer camp	S	S	S								S													S		50.20.3.T
Other outdoor entertainment or recreation use not listed		S						S		S	S															50.20.3.N
<b>Personal Services</b>																										
Business park support activities										P		P														
Preschool		S	S	S	P	P	P	P	P		P	P	P	P	P	P	P	S	P	S						
Daycare facility, small (14 or fewer)	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P						50-20.3.I

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1	
<b>LAND USE CATEGORY</b>																										
Daycare facility, large (15 or more)		S	S	S	S	P	P	P	P		P	P	P	P	P	P	P	S	P	S						50-20.3.I
Funeral home or crematorium					S		S	P	P	P	P		P	P	P		P					P				
Mini-storage facility										P												P	P			50-20.3.L
Personal service and repair, <u>small</u> (less than 10,000 sq. ft.)						P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Personal service and repair, <u>large</u> (10,000 sq. ft. or more)						I	S	P	P	P	P		P		P		P		P			P				
<b>Retail Sales</b>																										
Adult bookstore																						P				Chapter 5
Building materials sales								S		P	P															50-20.3.G
Garden material sales		S						P			P				P											
Grocery store, <u>small</u> (less than 15,000 sq. ft.)						P	P	P			P	P		P		P	P	P	P	P						50-20.3.K
Grocery store, <u>large</u> (15,000 sq. ft. or more)								P			P															50-20.3.K
Retail store not listed, <u>small</u> (less than 15,000 sq. ft.)					S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P					50-20.3.R
Retail store not listed, <u>large</u> (15,000 sq. ft. or more)								P			P	P		P		P	P		P	P						50-20.3.R
<b>Vehicle-Related</b>																										
Automobile and light vehicle repair and service							S	P		P	P		P		P	P	P					P				50-20.3.C
Automobile and light vehicle sales, rental, or storage								P		P												P				50-20.3.D
Filling station					S	P	S	P		P	P	P		P		P	P	P				P	P			50-20.3.J
Parking lot or parking structure (primary use)						I		P	P	P	P	P	S	S	S	S	S	S	S	S	S	P	P			50.20.3.O
Truck or heavy vehicle sales, rental, repair or storage										P												P				

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		
<b>LAND USE CATEGORY</b>																										
Water or sewer pumping stations/reservoirs	S	S	S	S	S	P	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S		
Water or sewer treatment facilities																						P	P			
Wind power facility (primary use)		S							S	S												P	S		50-20.4.M	
<b>Waste and Salvage</b>																										
Junk and salvage services																						S	S		50.20.4.D	
Recycling collection point (primary use)								S	S	S												P	P			
Solid waste disposal or processing facility		S								S												S	S		50-20.4.J	
<b>Wholesale Distribution and Storage</b>																										
Storage warehouse										P							P					P			50.20.4.K	
Wholesaling										P							P					P			50-20.4.L	
Bulk storage not listed elsewhere																						P				
Water-dependent bulk storage or wholesaling not listed elsewhere																							P			
<b>ACCESSORY USES</b>																										
Accessory agriculture roadside stand	A	A																						A	50.20.5.A	
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A														50-20.5.B	
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A														50-20.5.C	
Accessory caretaker quarters										A												A	A	A		
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Accessory dwelling unit	A	A	A	A	A	A	A																		50-20.5.D	
Accessory heliport	A								A		A											A			50-25.5.E	
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A					50-20.5.F	

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Zone District Name	Residential						Mixed Use						Form						Special			Use-Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9		I-G	I-W	P-1
<b>LAND USE CATEGORY</b>																									
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				50-20.5.G
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I
Accessory vacation dwelling unit		I	I	I	I	I	I									I									50-20.5.L
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K
<b>TEMPORARY USES</b>																									
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.A
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	

Section 5. That Section 50-20.2 of Chapter 50 be amended as follows:

50-20.2 Public, institutional and civic uses.

A. Club or lodge (private).

1. In the P-1 and R-2 district, the club or lodge shall be operated by a not-for-profit civic, cultural or educational organization, and the primary activity cannot be any service that is customarily carried on as a business;
2. In the RR-1 district, any 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;
3. In the RR-1, RR-2 and R-1 zone districts, the sum of all structures on the lot shall be not more than 50,000 square feet;
4. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

B. Medical or dental clinic.

1. In the residential districts, the clinic shall occupy 10,000 square feet or less in total floor area;
2. In the MU-N district, the clinic shall occupy 20,000 square feet or less in total floor area;

C. Religious assembly.

1. In the RR-1 district, any 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;
2. In the RR-1, RR-2 and R-2 zone districts, the sum of all structures on the lot shall not exceed 50,000 square feet without a special use permit. A special use permit is required for all religious assemblies in the R-1 zone districts;
3. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

D. School, elementary, middle or high.

1. In the RR-1, RR-2 and R-1 districts, the school shall have 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;
2. In the RR-1, RR-2, R-1, R-2, MU-N and MU-C districts, any such building shall be located not less than 40 feet from any side or rear lot line;
3. Notwithstanding any lower maximum height stated in Article II, in all zone districts except the form districts, the maximum height for this use shall be 45 feet.

Section 6. That Section 50-20.3 of Chapter 50 be amended as follows:

50-20.3 Commercial uses.

A. Adult entertainment establishment.

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

B. Agriculture, general.

1. No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

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2. All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;
- C. Automobile and light vehicle repair and service.
1. No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;
  2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;
  3. All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;
- D. Automobile or light vehicle sales, rental or storage.  
In the MU-C district, the use is permitted when located at least 100 feet from any R district;
- E. Bank.
1. In the MU-N district, banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;
  2. Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;
  3. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;
- F. Bed and breakfast.  
This is a primary use of land, and the owner need not reside in the use. The use shall:
1. Have no more than 12 habitable units;
  2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
  3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;
  4. Be located on a lot or tract containing a minimum of 0.6 acre;
  5. Contain a minimum of 1,500 square feet of area on the first floor of the main building;
  6. Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;
  7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;
  8. Shall limit each guest stay to a maximum of 21 consecutive days;
- G. Building materials sales.

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

### H. Convention center.

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

### I. Daycare facility, small and large.

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

### J. Filling station.

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

### K. Grocery store, small and large.

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

### L. Mini-storage facility.

This use shall comply with the following standards:

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

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8. In the R districts a dense urban screen shall be installed along all side and rear property lines;
- M. Office.
1. In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;
  2. In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;
  3. In the F-6 district, offices may not have drive-through facilities.
- N. Other outdoor entertainment or recreation use not listed.
1. No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;
- O. Parking lot or parking structure (primary use).
1. In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;
  2. In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F 7, only parking structures are allowed as primary uses. In F 5, parking lots and parking structures are allowed as primary uses;
- P. Restaurant (no drive-in/ drive-through).  
In the R-2 and MU-N district, no use shall exceed 5,000 square feet in gross floor area;
- Q. Restaurant (with drive-in/drive-through).  
Drive through lanes must be located at least 25 feet from the boundary of any RR or R district and impacts along the boundary with those districts shall be buffered through the use of a dense urban screen;
- R. Retail sales, small and large.
1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
  2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;
  3. Retail stores are limited to one drive-through window;
  4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open part 10:00 p.m.;
- S. Seasonal camp or cabin.
1. In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;
  2. In the R-C district, the design of the site shall preserve the rural character by:
    - (a) Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;
    - (b) Preserving all natural vegetation not required to be removed for access roads, trails or public safety;
    - (c) Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

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T. Tourist or trailer camp.

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

U. Veterinarian or animal hospital.

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

V. Vacation dwelling unit.

1. The minimum rental period shall as follows:

(a) For properties zoned RR-1, RR-2, R-1 and R-P the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;

(b) For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
3. Off street parking shall be provided at the following rate:
  - (a) 1-2 bedroom unit, one space;
  - (b) 3-4 bedroom unit, two spaces;
  - (c) 5+ bedroom unit, three spaces;
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;
5. The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for three to 21 days;
6. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 7. That Section 50-20.5 of Chapter 50 be amended as follows:

50-20.5. Accessory uses.

- A. Accessory agriculture roadside stand.

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

### B. Accessory bed and breakfast.

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

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

### C. Accessory boat dock, residential.

This use shall comply with the following standards:

1. Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;
2. If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;
3. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;

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4. At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;
5. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted;

### D. Accessory dwelling unit.

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

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

### E. Accessory heliport.

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

### F. Accessory home occupation.

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

1. The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot;
2. No business involving retail sales of goods from the premises is permitted;
3. No person not a member of the family residing on the premises shall work on the premises;
4. Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50 percent of an accessory structure may be devoted to such home occupation;
5. The home occupation shall not require external alterations that would change the residential character of the property;
6. No display pertaining to such occupation shall be visible from the street;
7. The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of two appointments per hour and appointments shall be limited to the hours of 8

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a.m. to 7 p.m. and not more than four clients shall be on site at the same time;

8. No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;
9. All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times;
10. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation;

G. Accessory sidewalk dining area.

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

H. Accessory solar or geothermal power equipment.

In all districts, other than building integrated solar collection systems, solar collection systems shall comply with the following requirements:

1. Ground-mounted solar system.
  - (a) Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;
  - (b) Solar collectors shall be located a minimum of six feet from all property lines and other structures;
  - (c) Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all districts except residential districts shall not exceed one-half of the footprint of the principal structure;
  - (d) Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch;
2. Roof-mounted or wall-mounted solar system.
  - (a) A solar collection system shall be located a minimum of six feet from all property lines and other structures except the structure on which it is mounted;
  - (b) Notwithstanding the height limitations of the zoning district, building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof;
  - (c) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the parapet wall or roof surface, if no parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three feet above the roof surface shall be exempt from this provision;

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(d) A solar collection system may be located on an accessory structure;

3. Solar easements.

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

I. Accessory uses or structures not listed elsewhere.

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

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

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

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

2. In the RR-2 district, business shall not be conducted from a garage;

3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house;

4. In the MU-N district, accessory buildings shall be subject to the following restrictions:

(a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;

(b) Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business;

5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:

(a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;

(b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light

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vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business;

6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use;
7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article II and Section 50-20;

### J. Accessory wind power equipment.

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

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways;
2. Towers that are 50 feet or less in height are permitted by right. Towers exceeding 50 feet in height require approval of a special use permit, provided that in no case shall tower height exceed 130 feet;
3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 feet within any migratory bird flight path;
4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades;
7. No sign that is visible from any public street shall be permitted on the generator, tower, building or other structure associated with a small wind energy system other than the manufacturer's or installer's identification and appropriate warning signs;
8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
9. Any climbing feet pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
10. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
11. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent

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to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement;

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

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

L. Accessory vacation dwelling unit.

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

1. Only one accessory vacation dwelling unit may be created per lot;
2. No variances shall be granted for an accessory vacation dwelling unit;
3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling;
4. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building;
5. The minimum rental period shall as follows:
  - (a) For properties zoned RR-1, RR-2, R-1 and R-P the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than five nights;
  - (b) For properties zoned R-2, MU-N and F-5 the minimum rental period shall not be less than two nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than three nights;
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
7. Off-street parking shall be provided at the following rate:
  - (a) 1-2 bedroom unit, one space;
  - (b) 3-4 bedroom unit, two spaces;
  - (c) 5+ bedroom unit, three spaces;

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8. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;
9. The property owner must obtain all licenses and permits from the city of Duluth and State of Minnesota required for guest occupancy on the property for three to 21 days;
10. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
11. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

Section 8. That Section 50-21.2 of Chapter 50 be amended as follows:

### 50-21.2 Special dimensional standards.

#### A. Lot without municipal sewer.

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

#### B. Front yards on double frontage lots.

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

#### C. Side yards.

##### 1. Dwelling units above commercial uses.

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

##### 2. Attached and multi-family dwellings.

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

##### 3. Driveways.

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

#### D. Rear yards.

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

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### E. Street improvements to lot frontage.

Except as provided in Section 50-37.1.L, for lots developed with an existing legally constructed principle structure, the street frontage requirements contained in Article 2 need not be met when the landowner proposes an expansion of the existing legally constructed structure or a new principle structure if the landowner provides evidence of a perpetual easement to access the property from an improved street of a distance not greater than 150 feet, and such access shall be improved to meet Fire Code standards.

1. The street frontage shall be improved to the most current standards on file in the office of the city engineer and shall be designed for the road classification within the zone in which the property is located;
2. The street shall be improved across the entire frontage of the lot proposed to be developed and all other contiguous property owned by the owner of the subject lot;
3. Any street improvement that results in a dead-end street that is greater than 150 feet in length shall require construction of a turn-around for emergency and maintenance vehicles approved by the city fire marshal.

Section 9. That Section 50-36.3 of Chapter 50 be amended as follows:

### 50-36.3 Heritage preservation commission.

#### A. Creation.

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

#### B. Membership and terms.

The commission shall consist of seven voting members, all of whom are to be citizens of the city, five of whom will be appointed by the mayor with the approval of the council; one will be appointed by the county historical society, and one will be appointed by the planning commission. Members shall be persons who have demonstrated an interest in the historical, cultural or architectural development of the city or who own property within a historic preservation district. At least two of the five members appointed by the mayor shall be preservation-related professionals;

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

#### C. Powers.

The heritage preservation commission shall have the following powers:

1. Recommendation of historic preservation sites and districts to the city council;
2. Approve, approve with conditions or deny applications for historic construction and demolition permits pursuant to Section 50 37.14;
3. Recommend historic preservation guidelines specific to a landmark or district;
4. Make an annual report to the state historic preservation officer by October 31 of each year;
5. Conduct continuing survey of all areas, places, buildings, structures or similar objects in the city that the commission, on the basis of information available or

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- presented to it, has reason to believe are or will be eligible for designation as historic preservation landmarks or districts;
6. Work for the continuing education of the citizens of the city with respect to the historic and architectural heritage of the city and keep current and public an official list of designated historic preservation landmarks and districts;
  7. The commission may retain the services, on a permanent or part-time basis, of technical experts and other persons as may be required to perform the commission's duties;
  8. The commission shall have authority to solicit gifts and contributions to be made to the city and to assist in the preparation of applications for grant funds to be made to the city for the purpose of historic preservation;
  9. The commission may recommend to the planning commission and council that certain properties eligible for designation as historic preservation landmarks or districts be acquired by gift, by negotiation or other legal means;
  10. Upon final designation of a historic preservation landmark or district, adopt historic preservation guidelines specific to the landmark or district. Such guidelines shall detail allowable architectural and/or site modifications, essential features to be retained and any other criteria by which future proposals for modifications shall be judged. The United States secretary of the interior standards for treatment of historic properties shall be among the standards used to create such a program. These guidelines are intended to provide assurance to owners of properties within historic preservation landmarks or districts that any permit review process will be based on clear and objective standards rather than the taste of individual commission members;
  11. The commission may nominate a historic preservation landmark or district to the national register of historic places, but only with the consent of the council.

Section 10. That Section 50-37.8 of Chapter 50 be amended as follows:

50-37.8 Historic resource designation.

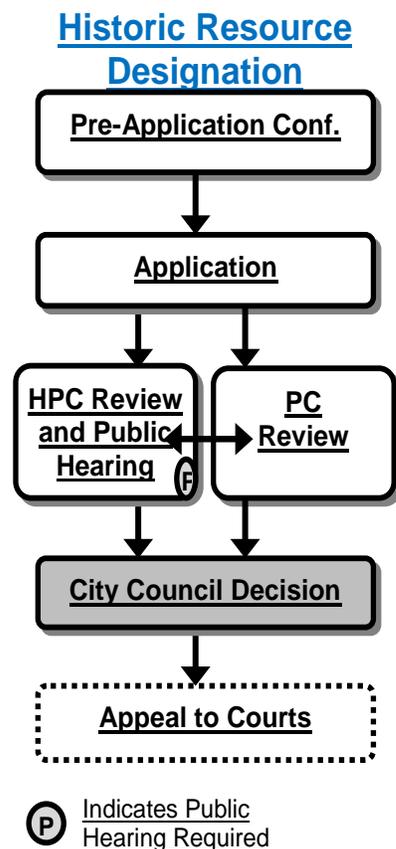
A. Application.

An application for historic resource designation shall be filed pursuant to Section 50-37.1.B;

B. Procedure.

1. Review and recommendation by heritage preservation commission.

The heritage preservation commission shall review the application, submit the application to the planning commission, conduct an investigation and public hearing pursuant to Section 50 37.1.I, with public notice as required by Section 50 37.1.H, make a recommendation to council, and report on the historical, cultural and architectural significance of the buildings,



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structures, sites or objects proposed for designation. The report shall also attempt to determine the economic status of the property or properties by providing information such as assessed value, recent real estate transactions and other appropriate data. A copy of the report shall be sent to the state historic preservation officer for review and comment in accordance with MSA 471.193. Any comments made by the planning commission and state historic preservation officer regarding a proposed designation must be included in the commission's recommendation to the council;

2. Review and recommendation by planning commission.

The planning commission shall review the application and make a recommendation to the heritage preservation commission and council. In its review and recommendation, the commission shall consider potential effects on the surrounding neighborhood, economics, environment and other planning considerations;

3. Designation by council.

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

4. Registration of historic sites.

The city clerk shall record or file with the county recorder the legal description of all properties affected by the council action. The city clerk shall also distribute an official list of all locally designated historic preservation landmarks and districts to the land use supervisor and the state historic preservation officer;

### C. Criteria.

Historic preservation landmarks and districts shall only be designated when the property or properties are found to meet one of the following criteria:

1. It has character, interest or value as part of the development, heritage or cultural characteristics of the city, state, or the United States;
2. Its location was a site of a significant historical event;
3. It is identified with a person or persons who significantly contributed to the culture or development of the city, state, or the United States;
4. It embodies a distinguishing characteristic of an architectural type;
5. It is identified as the work of an architect or master builder whose individual work has influenced the development of the city or state;
6. It embodies elements of architectural design, detail, materials or craftsmanship that represents significant architectural innovation;
7. Its unique location or singular physical characteristics represents an established and familiar visual feature of a neighborhood, community or city.

Section 11. That Section 50-37.9 of Chapter 50 be amended as follows:

#### 50-37.9 Variance.

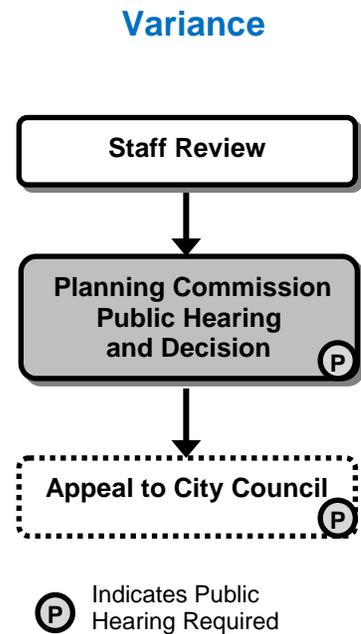
This Section applies to applications for a variance from the terms and provisions of this Chapter. Different types of variances are subject to differing criteria for approval, and in many cases are also subject to limitations on the types of variances that can be granted.

##### A. Application.

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

B. Procedure.

The planning commission shall review the application, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision on the application based on the criteria in subsections C through M below, as applicable to the specific type of variance being requested. The planning commission may grant a different variance or different form of relief than that requested by the applicant if it determines that the alternative relief better meets the criteria in subsections C through M below. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security pursuant to Section 50-37.2.P or a development agreement regarding the design, construction and operation of the project, to protect the comprehensive land use plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met. Constructing any improvement or beginning any activity authorized by the variance shall constitute the applicant's agreement to conform to all terms and conditions of the permit;



C. General variance criteria.

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

1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property, the strict application of the requirements of this Chapter would result in peculiar and practical difficulties or exceptional or undue hardship to the property owner;
2. The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant;
3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;
4. The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;
5. The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any

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other respect impair the health, safety or public welfare of the inhabitants of the city;

6. The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map;
7. The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27;
8. The relief complies with any additional limitations or criteria applicable to that variance in subsections D through M below;

D. No use variances.

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

E. Variances to lot size in unsewered areas.

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

F. Variances for two-family dwellings in the R-1 district.

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

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

G. Permitted variances from parking and loading regulations.

1. Residential districts.

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

- (i) On any non-corner lot in an R district where the permitted parking area as shown in Table 50-24-3 is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, and the applicant demonstrates hardship;
- (ii) On any corner lot in an R district where the R district parking area is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, without a showing of hardship;

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

- (i) On a non-corner lot with frontage of less than 50 feet, only one parking area may be located outside the R district parking area;
- (ii) On a corner lot with frontage of less than 50 feet, the variance may allow for compliance with the off street parking requirements of this Chapter;
- (iii) On a corner or non-corner lot with frontage of 50 feet or greater, no variance may allow a parking area, including any

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driveway area leading to it, to exceed an additional 30 percent of the front yard;

- (iv) The proposed parking area shall be entirely located on the applicant's lot and shall not encroach across any abutting lot line unless such abutting lot and the subject lot are under the same ownership and the abutting lot is not occupied by a dwelling unit;
- (v) Where the proposed parking area will encroach into any unimproved area of a street, the variance shall expire upon improvement of the street;
- (vi) Economic considerations, in whole or part, shall not constitute a hardship;

- 2. Reducing required parking spaces. Except as provided in 50 37.9.G, variances from the minimum amount of off-street parking required may be approved if a smaller amount of off-site parking will be adequate to meet the needs of the facility because the facility is restricted to occupancy or use by populations with documented lower vehicle uses, such as the elderly or disabled;
- 3. Exceeding required parking spaces. Variances from the maximum parking limits provided in 50-24.4 shall not exceed 175 percent of the minimum requirement provided in Table 50-24.1;

### H. Variances to reduce setbacks;

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

### I. Variances in the MU-C district.

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

### J. Variances in A-O airport overlay district.

Variances shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions,

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and in the event of an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern;

K. Variances from flood plain regulations.

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

1. In a floodway:
  - (a) No variance shall be granted that would result in any increase in flood levels during the base flood discharge;
  - (b) No variance shall authorize the placement of a manufactured home, dwelling unit or any structure designed for human habitation;
  - (c) No variance shall be granted authorizing a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
  - (d) Variances shall be limited to giving the applicant a minimal reasonable use of the site;
2. In a flood fringe:
  - (a) No variance shall authorize a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
  - (b) Variances shall not produce any adverse effects to the flood capacity or efficiency of the watercourse;
3. Flood insurance notice and recordkeeping.

The building official shall notify the applicant for a variance that:

- (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage;
  - (b) Construction below the 100 year or regional flood level increases risks to life and property. Such copy notification shall be maintained with a record of all variance actions. The building official shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program;
4. General considerations.

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

    - (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
    - (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
    - (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
    - (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
    - (e) The importance of the services to be provided by the proposed use to the community;
    - (f) The requirements of the facility for a waterfront location;

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- (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
- (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- (i) The relationship of the proposed use to the comprehensive land use plan and flood plain management program for the area;
- (j) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;

### L. Standards for variances in shorelands.

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

### M. Reconstruction of a nonconforming building.

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

Section 12. That Section 50-41.1 of Chapter 50 be amended as follows:

#### 50-41.1. Definitions: A.

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

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

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

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

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

Accessory day care facility. A private or public establishment licensed by the state that regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, for gain or

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otherwise, as a secondary and subordinate activity to a permitted or approved special use of the property.

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

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

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

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

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

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

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

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Accessory vacation dwelling unit. An accessory dwelling unit as defined by this Chapter that is used for periods of occupancy from three to 21 days.

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

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

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

Adult entertainment establishment. See definition in Chapter 5 of the City Code.

Adult bookstore. See definition in Chapter 5 of the City Code.

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

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

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

Airport elevation. The established elevation of the highest point on the usable landing area, which elevation is established to be 1,438 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.

Airport hazard. Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

Airport and related facilities. An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.

Alley. A dedicated public right-of-way not more than 30 feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation.

Alley line. The established side line of an alley easement.

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Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

Apartment. A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a one-family, including full cooking and bathroom facilities for individual use.

Apartment hotel. A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and newsstands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.

Automobile and light vehicle sales, rental, or storage. The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

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

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

Section 13. That Section 50-41.4 of Chapter 50 be repealed and replaced as follows:

50-41.4. Definitions: D.

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

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

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

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

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

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

Detention. The temporary storage of drainage water.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

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

Development. The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels.

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

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

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

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

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

DNR. Minnesota department of natural resources.

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

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

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

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

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

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

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

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

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

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Dwelling, multi-family. A building containing three or more dwelling units that is not a townhouse.

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

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

Dwelling, two-family. A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families. A twin home is a two-family dwelling where each unit shares a common vertical wall, and where a side lot line exists on the common wall extending to the front and rear lot lines, but is on two separate lots.

Section 14. That Section 50-41.7 of Chapter 50 be amended as follows:

50-41.7. Definitions: G.

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

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

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

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

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

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

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

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

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

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

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

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

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

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

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

Section 15. That Section 50-41.13 of Chapter 50 be amended as follows:

50-41.13. Definitions: M.

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

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

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

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

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

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

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

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

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

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

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

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

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

Mixed use structure. A structure containing a mix of the four major land uses, as defined by the permitted use table in UDC Section 50-19 (residential, public, commercial, and industrial). To be considered a mixed use structure, a structure must have at least 20 percent

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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of its total square footage used by one of the four major land uses that is different than its principal use.

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

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

Municipal separate storm sewer system (MS4). A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains):

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

B. Designed or used for collecting or conveying stormwater;

C. That is not a combined sewer; and

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

MPCA. Minnesota pollution control agency.

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

Section 16. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: June 29, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 28, 2013  
Approved May 28, 2013  
DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### ORDINANCE NO. 10226

AN ORDINANCE AMENDING CHAPTER I, SECTION 1, OF THE CITY CHARTER AMENDING THE LEGAL DESCRIPTION FOR THE CITY OF DULUTH.

The city of Duluth does ordain:

Section 1. That Chapter I, Section 1 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 1. The city of Duluth in the County of St. Louis and State of Minnesota shall continue to be, upon the adoption of this Charter, a municipal corporation of the same name, and with the same boundaries as it now has, to-wit: Commencing at a point where the north line of section twenty-five (25) township fifty-one (51) north of range thirteen (13) west, in St. Louis County, Minnesota, intersects the shore line of Lake Superior; thence west to the northwest corner of section twenty-six (26), in said township fifty-one (51) north of range thirteen (13) west; thence south to the quarter corner post on the west line of said section twenty-six (26); thence west to the center of section twenty-seven (27) in said township fifty-one (51) north of range thirteen (13) west; thence south to the quarter corner post on the south line of said section twenty-seven (27); thence west to the northwest corner of section thirty-five (35) in township fifty-one (51) north of range fourteen (14) west; thence south to the southwest corner of said section thirty-five (35); thence west to the northwest corner of township fifty (50) north of range fourteen (14) west <sup>(A)</sup>; thence south to the southwest corner of said township fifty (50) north of range fourteen (14) west; thence west to the northwest corner of section two (2) in township forty-nine (49) north of range fifteen (15) west <sup>(B)</sup>; thence south to the southwest corner of section fourteen (14) in said township forty-nine (49) north of range fifteen (15) west, thence west to the northwest corner of section twenty-two (22) in said township forty-nine (49) north of range fifteen (15) west; thence south to the southwest corner of section thirty-four (34) in said township forty-nine (49) north of range fifteen (15) west; thence west on the town line between township forty-eight (48) north of range fifteen (15) west and township forty-nine (49) north of range fifteen (15) west, to the southwest corner of said township forty-nine (49) north of range fifteen (15) west; thence south on the range line between township forty-eight (48) north of range fifteen (15) west and township forty-eight (48) north of range sixteen (16) west, to the center line of the channel of the St. Louis River; thence easterly along the center line of the channel of said river to the state boundary line between the States of Minnesota and Wisconsin; thence along said state boundary line to the mouth of the St. Louis River at the entry of the Bay of Superior between Minnesota and Wisconsin points; thence in a straight line to the place of beginning.

By and in its corporate name, it shall have perpetual succession; save as herein otherwise provided and save as prohibited by the Constitution or Statutes of the State of Minnesota, it shall have and exercise all powers, functions, rights and privileges possessed by the city of Duluth prior to the adoption of this Charter; also all powers, functions, rights and privileges now or hereafter given or granted to municipal corporations of the first class having "home rule charters" by

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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the Constitution and laws of the State of Minnesota; also all powers, functions, rights and privileges usually exercised by, or which are incidental to, or inhere in, municipal corporations of like power and degree; also all municipal power, functions, rights, privileges and immunities of every name and nature whatsoever; and in addition, it shall have all the powers, and be subject to the restrictions contained in this Charter. In its corporate name, it may take and hold, by purchase, condemnation, gift or devise, and lease and convey any and all such real, personal or mixed property, within or without its boundaries as its purposes may require, or as may be useful or beneficial to its inhabitants.

Section 1(A). Certain lands upon which the Duluth International Airport is located were annexed to the corporate limits of the city of Duluth by Ord. No. 7564, passed February 13, 1967, under authority of M.S.A. 414.03, Subd. 2.

Section 1(B). Certain lands upon which the South St. Louis County fairgrounds is located were detached from the corporate limits of the city of Duluth by Resolution No. 11-0052 and subsequent order by the state of Minnesota chief administrative law judge, under authority of M.S.A. 414.061, Subd. 1.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective date: August 28, 2013)

President Boyle moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 28, 2013  
Approved May 28, 2013  
DON NESS, Mayor

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**ORDINANCE NO. 10227**

AN ORDINANCE AMENDING CHAPTER IV, SECTION 21, OF THE CITY CHARTER RELATING TO POLITICAL ACTIVITIES OF CITY EMPLOYEES.

The city of Duluth does ordain:

Section 1. That Chapter IV, Section 21 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 21. At the head of each department there shall be an officer of the city, who shall have control and direction of the department subject to the general supervision of the chief administrative officer. The head of each department shall, with the approval of the chief administrative officer, have the power to appoint and remove all officers and employees of the department subject to the civil service provisions of this Charter; provided, that the equal opportunity representative shall be appointed by the mayor with the approval of the city council and may only be removed by the mayor with the approval of the city council. Two or more departments may be headed by the same individual and the chief administrative officer may head one or more departments, and

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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heads of the departments may also serve as chiefs of divisions thereof as may be established by ordinance, upon recommendation by the mayor. The authority herein conferred upon the chief administrative officer is granted subject to the limitations contained in Section 19 of this Charter.

Each department head shall possess the necessary qualifications to insure efficient administration of such department. The council by ordinance shall establish appropriate minimum qualifications for department heads, the deputy fire chief, the deputy chief of police and the equal opportunity representative.

No officer or employee of the city may use their official authority or influence to compel another officer or employee of the city to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution or to take part in political activity.

All city employees shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective date: August 28, 2013)

President Boyle moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed May 28, 2013  
Approved May 28, 2013  
DON NESS, Mayor

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**ORDINANCE NO. 10228**

AN ORDINANCE AMENDING CHAPTER IV, SECTION 23, OF THE CITY CHARTER REMOVING CITY ASSESSOR REFERENCE.

The city of Duluth does ordain:

Section 1. That Chapter IV, Section 23 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 23. The administrative organization of the city shall always provide for the following officers who may or may not be made heads of departments: a clerk, an auditor and a treasurer. The clerk shall be the secretary of the council, unless the council shall elect to appoint a separate officer as secretary of the council under the provisions of Section 6 of this Charter, and shall perform such duties as are usually performed by clerks of municipal corporations, and all such as are required by the laws of the state, and by this Charter, and, in addition, shall perform all such other duties as are required of such office by the council. The clerk shall be the custodian of the official seal of the city.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective date: August 28, 2013)

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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President Boyle moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed May 28, 2013

Approved May 28, 2013

DON NESS, Mayor

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**ORDINANCE NO. 10229**

AN ORDINANCE AMENDING CHAPTER XI, SECTION 84, OF THE CITY CHARTER AMENDING THE STATED DOLLAR AMOUNT FOR FAILURE TO COMPLY LIABILITY.

The city of Duluth does ordain:

Section 1. That Chapter XI, Section 84 of the 1912 Home Rule Charter of the city of Duluth, as amended, is hereby amended, to read as follows:

Section 84. Every corporation, co-partnership or person exercising any franchise in the city of Duluth shall file annually on the first Monday in February in each year, in the office of the auditor, a statement, subscribed and sworn to by at least two officers of such corporation, or by the individual in control, in case such franchise is exercised by a person or co-partnership, setting forth in detail for the preceding calendar year the then actual cost to said corporation, co-partnership or persons of the plant or business operated by such corporation, co-partnership or person, the actual encumbrances, debts and obligations thereon, if any, the amount of stock issued, and to whom issued, and the consideration therefor, the gross earnings, the expenses and nature thereof, and the net income, after deducting all proper costs and expenses, the names and residences and the amount of the stock of all stockholders of such public service corporation; if any bonds have been redeemed and not cancelled, that fact shall also be stated. This duty may be enforced by appropriate legal proceedings. Every such corporation or person, who fails to comply with the provisions of this Section, shall also be liable to the city of Duluth for each day of such failure in an amount to be set by city council resolution, to be recovered in a civil action in any court of competent jurisdiction, and at the end of sixty (60) days, if such default shall continue, the council may forfeit such franchise.

Section 2. That this ordinance shall take effect 90 days after its passage and publication. (Effective date: August 28, 2013)

President Boyle moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed May 28, 2013

Approved May 28, 2013

DON NESS, Mayor

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# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 10, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0610-01 Minnesota state auditor audit report for Duluth entertainment and convention center authority for the years ended December 31, 2012, and 2011. -- Received

13-0610-27 The following communications regarding animal control and licensing (13-0313R and 13-040-O): (a) Katie Larson; (b) Sue Swendsen. -- Received

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## REPORTS FROM THE ADMINISTRATION

13-0610-10 Chief administrative officer notice regarding conversion of two Lake Place Lot metered parking spaces to a loading zone, pursuant to Section 33-87 of the Duluth City Code. -- Received

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## REPORTS FROM OTHER OFFICERS

13-0610-02 Clerk application to conduct excluded bingo to the Minnesota gambling control board from Order of Ahepa Chapter #267 on November 17, 2013. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-0610-25 Alcohol, gambling and tobacco commission minutes of May 1, 2013, meeting. -- Received

13-0610-03 Civil service board minutes of March 5, 2013, meeting. -- Received

13-0610-04 Commission on disabilities minutes of April 3, 2013, meeting. -- Received

13-0610-05 Duluth economic development authority minutes of April 24, 2013, meeting. -- Received

13-0610-06 Duluth parking commission minutes of March 15, 2013, meeting. -- Received

13-0610-07 Duluth public utilities commission minutes of March 27, 2013, meeting. -- Received

13-0610-08 Duluth transit authority: (a) Minutes of March 27, 2013, meeting; (b) March 2013 financial statement. -- Received

13-0610-09 Library board minutes of April 23, 2013, meeting. -- Received

13-0610-26 Planning commission recommendation of June 6, 2013, meeting regarding the proposed licensing of synthetic drug establishments (13-039-O). -- Received

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## TABLED RESOLUTION

Councilor Gardner moved to remove Resolution 13-0282, amending Resolution 12-0608, adopting license, permit, fine, penalty and other charges for 2013, by adding a

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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license fee for synthetic drug establishments, from the table, which motion was seconded and unanimously carried.

- - -

Without objection, President Boyle stated that ordinances 13-038 and 13-039 would also be considered at this time.

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the second time:

BY COUNCILORS GARDNER AND KRUG

13-038 (10230) - AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 28, ADDING A NEW ARTICLE VIII PROHIBITING CONSUMPTION OF PRODUCTS LABELED NOT FOR HUMAN CONSUMPTION.

- - -

BY COUNCILORS GARDNER AND KRUG

13-039 (10231) - AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 5 ADDING A NEW ARTICLE VII REGARDING SYNTHETIC DRUG ESTABLISHMENTS.

- - -

The rules were suspended upon a unanimous vote to hear from speakers on the issue.

Jim Carlson, owner of Last Place On Earth (LPOE), stated that by licensing this product the city is admitting the legality of the product, and that the license fee is the cost of processing and regulating the license. He continued saying that if his business is going to be licensed, he should not have to continue paying the police \$40,000 a month and complained that the police officers are not writing tickets to anyone else other than the customers of LPOE. Mr. Carlson requested that the money, firearms and phones that the city took two years ago be returned to him as he has not been charged with anything.

Kristi Stokes, president of the Greater Downtown Council, urged the council to support these ordinances as synthetic drugs have had a big impact on the businesses throughout the Downtown and Medical Facility districts, and that these ordinances are another tool to control synthetic drugs in the community.

Councilor Stauber stated that he could not support Ordinance 13-039 as, by licensing the LPOE, the city is setting itself up for a lawsuit when the city revokes the license and the city will expend significant resources defending the lawsuit and nothing will be gained.

- - -

Resolution 13-0282 was adopted as follows:

BY COUNCILORS GARDNER AND KRUG:

RESOLVED, that Resolution 12-0608 adopting license, permit, fine, penalty and other charges for 2013 be amended by adopting the following new license fee for synthetic drug establishments, pursuant to Section 31-6(a) of the Duluth City Code, 1959, as amended, said new adopted fee shall be effective upon the effective date of Ordinance No. 13-039.

<b>Clerk</b>	
<b>Fee Name</b>	<b>New 2013 Fee</b>
Synthetic drug establishment - annual	\$140

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0282 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson and President Boyle -- 8

Nays: Councilor Stauber -- 1

Approved June 10, 2013

DON NESS, Mayor

- - -

Councilor Gardner moved passage of Ordinance 13-038 and the same was adopted upon a unanimous vote.

- - -

Councilor Gardner moved passage of Ordinance 13-039 and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson and President Boyle -- 8

Nays: Councilor Stauber -- 1

- - -

### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

Councilor Krause moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Chasers of Duluth, Inc. (Bedrock Bar), 2023 West Superior Street, for June 22, 2013, from 5:00 p.m. to 10:00 p.m.

The Lake Effect Restaurant, Inc. (Lake Avenue Café), 394 Lake Avenue South, for June 22 and 23, 2013, with music and serving ceasing at 1:00 a.m.

Canal Park Brewing Co, LLC (Canal Park Brewing Co), 300 Canal Park Drive, for June 22, 2013, with serving ceasing at 1:00 a.m.

Lemon Reef, Inc. (Reef Bar), 2002 London Road, for June 22, 2013, with serving ceasing at 4:00 p.m.

Resolution 13-0259 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2013, and subject to departmental approvals:

Just Take Action, Inc. (Tycoon's Alehouse & Eatery), 132 East Superior Street, to include the side outside seating area.

Resolution 13-0285 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals:

Duluth Softball Players Association, Wheeler Field, with John Vaydich, manager.

Resolution 13-0286 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor licenses, subject to departmental approvals with any specific restrictions:

Minnesota Craft Brewer's Guild (All Pints North), Bayfront Park, for July 13, 2013, from 3:00 p.m. to 7:00 p.m., with Amanda Buhman, manager.

Lake Superior Brewing Company, LLC (Lake Superior Brewing Company), Bayfront Park, in conjunction with Twin Ports Bridge Fest, for July 6, 2013, from 10:00 a.m. to 10:00 p.m.

Resolution 13-0287 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2013, subject to departmental approvals and the payment of sales and property taxes:

At Sara's Table Chester Creek Café, LLC (At Sara's Table Chester Creek Café), 1902 East Eighth Street, licensed premises to include main floor, deck, and conference room, with Carla Blumberg, 70 percent owner and Barbara Neubert, 30 percent owner.

Resolution 13-0288 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into a Minnesota historical and cultural grant agreement amendment with the Minnesota historical society, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0610-11, accepting a grant in the amount of \$12,000 related to a historical resources survey of the Central Hillside Residential Area - Phase V, payable into special projects fund, Finance Department 210-030-3150-4210-02 (miscellaneous federal grants).

Resolution 13-0290 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LaSalle Development Group, Ltd. and Walker Parking Consultants, a joint venture, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0610-12, to provide owner's agent services pertaining to the development, design and construction of the 425 Building project in the amount not to exceed \$497,500, payable from Fund 450-030-5441 CP2013-1316b (capital improvement fund, finance department, other

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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services and charges, corporate tower project public improvements).

Resolution 13-0308 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to execute and implement a contract, in substantially the form and containing substantially the terms of the contract on file of the city clerk as Public Document No. 13-0610-13, with, and accept funds from, the Minnesota department of employment and economic development to provide services under Title I of the Workforce Investment Act, the Minnesota youth program services, Minnesota state dislocated worker program services and older American program as defined in the local workforce investment plan, for the term beginning April 1, 2013, and ending March 31, 2018. Program funds will be accepted upon receipt of notices of funds available. For Title I Workforce Investment Act, Minnesota youth program services, and Minnesota state dislocated worker program services funds will be deposited into and paid from Fund 268. For older American program, funds will be deposited into and paid from Fund 270. City officials authorized to execute the contracts are the mayor, city clerk, city attorney, city auditor and manager of workforce development.

Resolution 13-0300 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc., for the 2012 flood repairs to Hawthorne Road, Vermilion Road, St. Marie Street and Bridge L8517 in the amount of \$1,188,679.50, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project Number 1172.

Resolution 13-0294 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc., for the 2012 flood repairs to Second Street, First Avenue West, First Avenue East, Second Avenue East, Third Avenue East, Tenth Avenue East, and Central Entrance in the amount of \$353,512.37, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project Number 1183.

Resolution 13-0295 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with RJS Construction Group, LLC for Lift Station No. 39 improvements in the amount of \$298,200, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1806 (utilities), Object 5401 (building/structure repair and maintenance), City Project No. 1167,

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Flood Site No. 429, Requisition No. 13-0192.

Resolution 13-0297 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Watters & Sons Excavating, LLC for replacement of the 20th Avenue East sanitary sewer in the amount of \$56,655.50, payable from Sanitary Sewer Fund 530, Department 500 (public works and utilities), Division 1905 (capital), Object 5555 (non-capital improvements), City Project No. 1243, Requisition No. 13-0331.

Resolution 13-0298 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement with the Minnesota department of public safety - fire marshal division, a copy of which amendment is on file in the office of the city clerk as Public Document No. 13-0610-14, pursuant to which the city's fire department would conduct inspections of hotels located within the city for compliance with Minnesota State Fire Code and the Minnesota State Fire Code interpretations of the state fire marshal.

Resolution 13-0291 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth city council hereby authorizes consumption of alcoholic beverages on the sidewalk in front of Little Angie's Cantina, 11 East Buchanan Street, starting approximately at 4:00 p.m. until 2:00 a.m. in conjunction with Grandma's Marathon on June 22, 2013, to coincide with the Greater Downtown Council's special events license, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 13-0314 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a first amendment to the agreement between the city of Duluth and the Duluth Softball Players Association for the operation of the Wheeler Field softball complex concessions building whereby the Duluth Softball Players Association is allowed to apply for an annual 3.2 malt liquor license for use by the association in conjunction with its concession operation; said first amendment substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0610-15.

Resolution 13-0284 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- - -

BY COUNCILOR LARSON:

RESOLVED, that the park area located above the newly constructed east interceptor sanitary sewer overflow facility as delineated on the map on file in the office of the city clerk as Public Document No. 13-0610-16, shall hereafter be referred to as Sister Cities Park.

Resolution 13-0293 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 13-0610-17, with the Park Point Community Club allowing them to use Park Point property to stage the Park Point Art Fair through 2017 in an amount not to exceed \$1,500 per year, payable to 205 (parks), 130 (community resources), 1219 (parks operating), 4170-01 (miscellaneous permits and licenses).

Resolution 13-0299 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0312, authorizing city officials to allocate \$37,000 from the tourism tax fund balance to the general fund for park rangers, was introduced by Councilor Hartman for discussion.

Robin Roeser, deputy police chief, urged councilors to support this resolution as the park rangers will: bring an increased presence to the Lakewalk and Downtown during the summer; be ambassadors to residents and visitors; provide safety and security for the public; report inappropriate behavior to police officers and to park officials; be identified as park rangers and have no police power.

Resolution 13-0312 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to allocate \$37,000 from restricted fund balance in the tourism tax fund, Fund 258, to General Fund 110 to support park rangers along the Lakewalk and Superior Street from mid-June through Labor Day.

Resolution 13-0312 was unanimously adopted.

Approved June 10, 2013

DON NESS, Mayor

- - -

Resolution 13-0301, authorizing a contract with Election Systems and Software, LLC, for the purchase and delivery of optical scan voting system equipment, software and related services for a total estimated amount of \$269,249.57, was introduced by Councilor Krause.

At the request of the administration, Councilor Krause moved to withdraw the resolution from the agenda, which motion was seconded and unanimously carried.

- - -

RESOLVED, that the proposed specifications for the new civil service classification of senior project engineer, which were approved by the civil service board on June 4, 2013, and which are filed with the city clerk as Public Document No. 13-0610-18, are approved; that said

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 39, \$5,445 to \$6,495 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0302 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of project engineer, which were approved by the civil service board on June 4, 2013, and which are filed with the city clerk as Public Document No. 13-0610-19, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall remain Pay Range 36, \$4,785 to \$5,691 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0303 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of safety and training officer, which were approved by the civil service board on June 4, 2013, and which are filed with the city clerk as Public Document No. 13-0610-20, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay ranges for said classification shall remain pay ranges 1100-1110, \$5,373 to \$6,851 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0304 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of database administrator, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0610-21, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 136, \$4,412 to

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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\$5,221 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for hiring one or more unit members consistent with this resolution.

Resolution 13-0305 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed specifications for the new civil service classification of applications administrator, which were approved by the civil service board on January 16, 2013, and which are filed with the city clerk as Public Document No. 13-0610-22, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 137, \$4,595 to \$5,455 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0306 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved June 10, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of property and facilities manager, which were approved by the civil service board on June 4, 2013 and which are filed with the city clerk as Public Document No. 13-0610-23, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its supervisory unit employees; and that pay range for said classification shall remain pay ranges 1115-1130, \$5,739 to \$7,404 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0307 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved June 10, 2013

DON NESS, Mayor

- - -

Resolution 13-0311, by councilors Gardner and Hartman, of intent to support the RC Limited Liability Corporation's request to the Minnesota housing finance agency for funding for the Pastoret Terrace project, was introduced for discussion.

Councilor Stauber stated his support for this project as that corner is a blight on the Downtown area. He continued saying there is a sense of urgency for this building as it is in major disrepair after a fire and if this developer does not move forward soon, this building may not survive the next winter. Councilor Stauber stated this project should be on a par with the Lincoln Park School project so the project can get started.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Hartman expressed his support for this project as: it would save an historically significant building in the community; the building is an eyesore to the Downtown; this plan uses tax credits and historical tax credits and easily could become a reality; the homeless problem has not gotten better and the city needs more housing for those who people who have been displaced and cannot afford their own housing. He continued saying this project is an opportunity to provide for housing now as there are no other short term or long term options that the city is pursuing for housing in that area.

Councilor Gardner reviewed that: the developer is committed to on-site mental health supportive services for those who need it; it is a very good and complete plan; the developer is talking to and negotiating with statewide management firm, Common Bond, and this is state money and the city is making a recommendation to the state. She continued saying that there is a legitimate concern if the housing is only for all low income people who have issues with independent living and there needs to be ongoing discussion for workforce housing so it is not one group of people in a concentrated area.

Chief Administrative Officer David Montgomery stated that the administration agrees with the importance of the building and desires to preserve the building and restore it, but this project is more than just restoring a building. He continued saying this is also about taking steps to restoring Downtown and bring a revitalized connection between First and Superior streets, and that this project sits on a key intersection of those two streets. Mr. Montgomery stated that the administration agrees there is an ongoing need for supportive housing in the community but disagrees that this is the place to put the same population that has been there and that this is not the answer to revitalizing Downtown.

Resolution 13-0311 failed upon the following vote (Public Document No. 13 0610 28):

Yeas: Councilors Gardner, Hartman and Stauber -- 3

Nays: Councilors Fosle, Julsrud, Krause, Krug, Larson and President Boyle -- 6

- - -

Resolution 13-0309, of intent to support the RC Limited Liability Corporation's request to the Minnesota housing finance agency for funding for the Pastoret Terrace project, was introduced by Councilor Stauber.

Councilor Krause stated that this resolution is supporting a project that does not have a finalized plan and the council should vote no on this resolution.

Councilor Hartman moved to table the resolution for more discussion on the project, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Krause and Krug -- 3

- - -

Resolution 13-0313, by Councilor Stauber, amending Resolution 12-0608, adopting license, permit, fine, penalty and other charges for 2013, amending and adding fees related to animal control, was introduced.

Councilor Stauber moved to table the resolution to be considered with companion Ordinance 13-040 at the next council meeting, which motion was seconded and carried upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

- - -

Resolution 13-0292, authorizing disbursement of grant funds in the amount of \$79,880 from parks fund neighborhood grants program, was introduced by Councilor Larson for

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

discussion.

Councilors Krause and Gardner moved to amend the resolution by:

(a) Deleting the following line item:

<b>Organization</b>	<b>Program Name</b>	<b>Rec Amt</b>
Friends of the Lakewalk	Informational kiosks along the Lakewalk	\$5,000

(b) Reducing the total amount of the grants by \$5,000, which motion was seconded.

Councilor Krause explained that tourism tax dollars would be a better source of funding for the informational kiosks along the Lakewalk, which would be used mostly by tourists, and instead put that \$5,000 towards community neighborhood needs within the parks such as club houses or youth activities.

Councilor Krause's amendment failed upon the following vote:

Yeas: Councilors Gardner and Krause -- 2

Nays: Councilors Fosle, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Resolution 13-0292 was adopted as follows:

RESOLVED, that the city council hereby authorizes the disbursement of grant funds from the parks fund neighborhood grants program to the following organizations in the following amounts, and further authorizes the proper city officials to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0610-24, with each organization receiving funds, amounts to be payable from Fund 205-130-1219-5439 (parks, community resources, parks operating, special projects and events):

<b>Organization</b>	<b>Program Name</b>	<b>Rec Amt</b>
Arrowhead Youth Soccer Association	Western Duluth Soccer Program	\$5,000
Cyclists of Gitchee Gumees Shores	Mountain Bike Trail System Sustainability Upgrades	\$5,000
Cyclists of Gitchee Gumees Shores	Trail signage for existing COGGS multi-use trail systems	\$5,000
Duluth Community Sailing Association	Purchase replacement 13 foot laser class sailboat	\$4,500
Duluth Cross-Country Ski Club	Spirit/Magney XC ski trails rock removal and grading	\$5,000
Duluth Cross-Country Ski Club	Grooming equipment for XC ski trails	\$2,450
Duluth Eastern Little League Baseball	Eastern Little League Park repair and maintenance	\$2,500
East Hillside Patch	Summer parks sampler	\$3,925
Friends of Keene Creek Dog Park	Dog park improvement	\$5,000
Friends of the Lakewalk	Informational kiosks along the Lakewalk	\$5,000
Lincoln Park Citizen Patrol	Safer Harrison Community Center	\$2,500
Men as Peacemakers	Champions Building Champions: Athletes Helping Youth Succeed	\$5,000
Piedmont Hockey Association	Building, grounds, accessibility and rink improvement project	\$5,000

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

<b>Organization</b>	<b>Program Name</b>	<b>Rec Amt</b>
The Salvation Army - Duluth	Rookie Basketball Association 3-On-3 Tournament	\$5,000
Valley Youth Center	Outdoor youth garden	\$5,000
Wise Fool Shakespeare	Lake Place Players	\$5,000
Woodland Hockey Association	Woodland outdoor public rink refurbishment	\$5,000
Neighborhood Youth Services	Beach sweeps and field trips	\$4,005
	<b>Totals</b>	<b>\$79,880</b>

Resolution 13-0292 was unanimously adopted.  
Approved June 10, 2013  
DON NESS, Mayor

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

BY COUNCILOR STAUBER

13-040 - AN ORDINANCE AMENDING CHAPTER 6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ANIMAL CONTROL AND LICENSING.

- - -

BY COUNCILOR FOSLE

13-041 - AN ORDINANCE AMENDING SECTION 29A-27 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING RENTAL LICENSING.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

13-029(b) (10232) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING DIMENSIONAL STANDARDS IN THE MU-N, MU-C, MU-B AND MU-W DISTRICTS.

Councilor Stauber moved passage of the ordinance, as previously amended, and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-037 (10233) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE BUSINESS (MU-B) TO MIXED USE NEIGHBORHOOD (MU-N) FOR PROPERTIES LOCATED AT 4502 EAST SUPERIOR STREET (GREG KLEIN).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 9:05 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for  
JEFFREY J. COX, City Clerk

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## ORDINANCE NO. 10230

BY COUNCILORS GARDNER AND KRUG:

AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 28, ADDING A NEW ARTICLE VIII PROHIBITING CONSUMPTION OF PRODUCTS LABELED NOT FOR HUMAN CONSUMPTION.

The city of Duluth does ordain:

Section 1. That Chapter 28 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Article VIII as follows:

### Article VIII. Consumption of Products Labeled Not For Human Consumption.

Sec. 28-73. Findings of fact and statement of purpose.

(a) The Duluth City Council finds the following facts to exist:

(1) The consumption of products labeled not for human consumption is a public health hazard, creates public nuisances and results in an increased need for public safety services; and

(2) Health hazards associated with the consumption of these products include addiction, psychosis, strokes, anxiety, stimulation, and other physical and mental disorders; and

(3) Prohibiting the consumption of products labeled not for human consumption will provide for better public health and safety.

Sec. 28-74. Other applicable laws.

This Article is intended to complement state and federal laws regulating products labeled not for human consumption including synthetic drugs.

Sec. 28-75. Violation and definition.

(a) It is a violation of this Article for any person to intentionally consume any product labeled not for human consumption;

(b) It is a violation of this Article to intentionally aid another in violation of this Article;

(c) For the purpose of this Article, consume or consumption shall include eating, drinking, smoking, injecting and inhalation;

(d) It is not a violation of this Article if a person is acting under the written direction and supervision of a medical doctor.

Sec. 28-76. Severability.

If any portion of this Article, or its application to any circumstances, is held invalid, the remaining provisions shall be considered severable, and shall be given effect to the maximum extent possible.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 11, 2013)

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 10, 2013  
Approved June 10, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10231**

BY COUNCILORS GARDNER AND KRUG:

AN ORDINANCE AMENDING THE DULUTH CITY CODE, 1959, AS AMENDED, AMENDING CHAPTER 5 ADDING A NEW ARTICLE VII REGARDING SYNTHETIC DRUG ESTABLISHMENTS.

The city of Duluth does ordain:

Section 1. That Chapter 5 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Article VII as follows:

Article VII. Synthetic Drug Establishments.

Sec. 5-43. Findings of fact and statement of purpose.

(a) The Duluth City Council finds the following facts to exist:

(1) Synthetic drugs are commonly marketed as a safe and legal alternative to marijuana or other controlled substances;

(2) Ingestion of synthetic drugs has been shown to produce dangerous side effects such as headaches, agitation, nausea, vomiting, hallucinations, loss of consciousness, elevated blood pressure, tremors, seizures, addiction, paranoid behavior, anxiety, increased heart rate, and even death;

(3) The Duluth police department has advised the city council of a significant increase in the use of synthetic drugs within the city and the manufacture and sale of synthetic drugs is negatively affecting the health, safety and welfare of the citizens of Duluth;

(4) Due to the manner in which these substances are marketed, the manufacture and sale of synthetic drugs is, purportedly, not currently regulated by the federal drug administration;

(5) Due to the ease of making slight molecular alterations to chemical compounds, law enforcement agencies have found it difficult to bring criminal charges against manufacturers and sellers of synthetic drug products;

(6) The purpose of this Article is not to condone illegal activity nor is it to legitimize activity that may now or in the future be considered illegal activity under state or federal laws;

(7) Synthetic drugs are currently being sold as legal products without even the basic regulation and licensing requirements that many other businesses have within the city.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### Sec. 5-44. Definitions.

For the purposes of this Article, the following words and phrases shall have the meaning hereinafter ascribed to them:

(a) Synthetic drug. The term synthetic drug means one or more of the following:

(1) A substance that a reasonable person would believe is a synthetic drug;

(2) A substance that a reasonable person would believe is being purchased or sold as a synthetic drug; or

(3) A substance that a person knows or should have known was intended to be consumed by injection, inhalation, ingestion, or any other immediate means, and consumption was intended to cause or simulate a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance on Schedule 1. Synthetic drug does not mean food and drug ingredients, alcohol, legend drugs, tobacco or dietary supplements;

(b) Synthetic drug establishment. Synthetic drug establishment means any business establishment where any person engages in the sale of synthetic drugs.

### Sec. 5-45. License required.

No person shall engage in the business of operating a synthetic drug establishment either exclusively or in connection with any other business enterprise without first obtaining a license for each synthetic drug establishment.

### Sec. 5-46. Application for license.

Application for a synthetic drug establishment license shall be made to the city clerk on forms supplied by the city containing the following information:

(a) A description of the business;

(b) A description of the location of the premises to be licensed;

(c) The full names and addresses of the property owner, business owner, lessee and manager, operator and the date of birth of each;

(d) If applicant is a partnership, the names and residence addresses of each of the partners including limited partners, and the address of the partnership itself, if different from the address of the synthetic drug establishment; and

(e) Whether any of the aforementioned individuals have ever been convicted of any crime or offense other than a traffic offense, and if so, a description of the offense as to time, place, date and disposition.

The annual license fee shall be set in accordance with Section 31-6(a) of this Code. A separate license shall be obtained for each place of business. The licensee shall display the license in a prominent place on the licensed premises at all times. A license, unless revoked, shall be effective August 1 through July 31 annually.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### Sec. 5-47. Issuance.

(a) No license under this Article shall be issued unless it is approved by the chief administrative officer upon advice from the police department and unless the establishment has passed fire and health inspections. The chief administrative officer shall not approve any license if he or she has reasonable grounds to believe:

(1) That the granting of said license would result in violations of the law;

(2) That the license application contains false and misleading statements; or

(3) That other good cause exists for denying the license;

(b) If the chief of police or the chief administrative officer finds that they do not have adequate information to evaluate the license application, they may direct the applicant, manager or agent to appear at any reasonable time and place to give under oath information concerning the application. No license shall be granted to any applicant who refuses to appear and cooperate with the investigation.

### Sec. 5-48. Prohibited acts.

(a) No synthetic drug establishment shall:

(1) Remain open between 8:00 p.m. and 8:00 a.m. on any day;

(2) Sell synthetic drug products that do not include the name, phone number and address of the manufacturer, packer and distributor of the product;

(3) Sell synthetic drug products that do not identify all commodities within the package, including organic and non-organic, chemically synthesized substances and compounds;

(4) Sell synthetic drug products to any individual under the age of 21;

(5) Sell synthetic drug products that do not comply with all state and federal laws and regulations, including those related to packaging, labeling and weights and measures; and

(6) Be located within 500 feet of any park, school, day care facility or area zoned residential or mixed-use neighborhood. This restriction shall not apply to a synthetic drug establishment that was conducting business at the location indicated in the application and making sales of synthetic drugs at that location on or before May 24, 2013.

### Sec. 5-49. Suspension and revocation of licenses.

The chief administrative officer may revoke or suspend any license issued pursuant to this Article, if, after giving the licensee an opportunity to be heard on the matter, such officer finds:

(a) The licensee has violated a provision of this Article or any other law relating to the conduct of its operation including, but not limited to state, federal or local laws; or

(b) The licensee secured the license through misrepresentation or fraud or misstated any material fact in the application; or

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(c) Failure of the licensee to cooperate with the police, fire or health officers in any investigation relating to their operations or failure to admit police officers into the establishment at any time when people are present in the establishment; or

(d) The establishment is operated in such a way as to endanger public health or safety; or

(e) The establishment is operated in such a way as to constitute a public nuisance as defined in Minnesota Statutes Section 609.74 or successor statute.

**Sec. 5-50. Appeals.**

Any person aggrieved by a licensing decision of the chief administrative officer under this Article may appeal such decision to the city council by filing a written notice of appeal with the city clerk within 15 days after such decision is rendered. The decision of the city council is the final administrative decision of the city.

**Sec. 5-51. Other applicable laws.**

This Article is intended to complement state and federal laws regulating synthetic drugs.

**Sec. 5-52. Severability.**

If any portion of this Article, or its application to any circumstances, is held invalid, the remaining provisions shall be considered severable, and shall be given effect to the maximum extent possible.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 11, 2013)

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson and President Boyle -- 8

Nays: Councilor Stauber -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 10, 2013  
Approved June 10, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10232**

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING DIMENSIONAL STANDARDS IN THE MU N, MU C, MU B AND MU W DISTRICTS.

The city of Duluth does ordain:

Section 1. That Section 50-15.2 of Chapter 50 be amended as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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

A. Purpose.

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

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

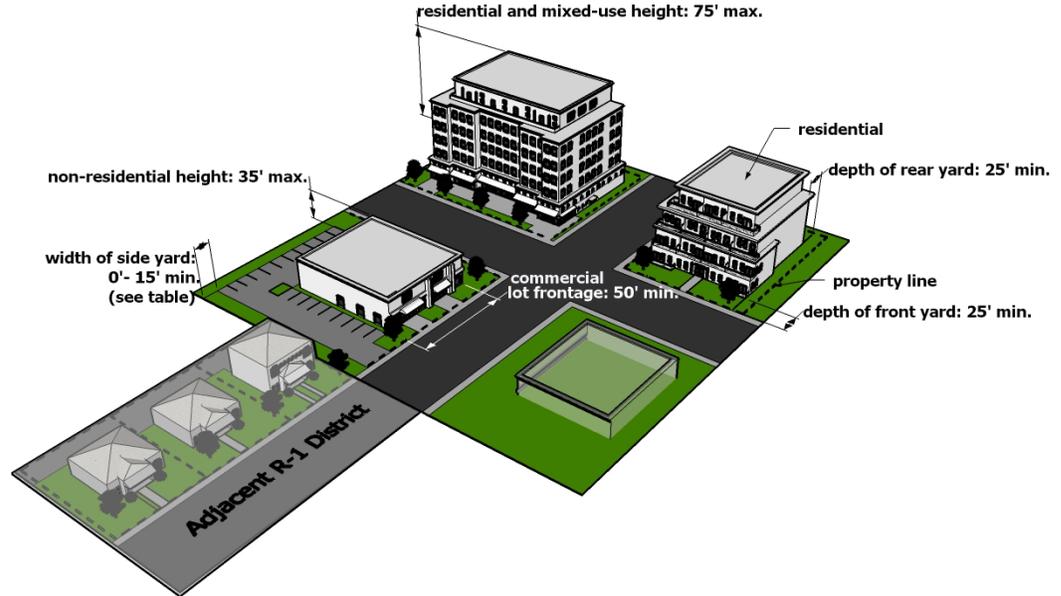
LOT STANDARDS		
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
	Townhouse or live-work dwelling	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use		
Minimum lot frontage	One-family, two-family or townhouse dwelling	30 ft.
	Multi-family or non-residential	50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard	One-family, nonresidential and mixed use	The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard	General, unless listed below	5 ft.
	Non-residential use adjacent to residential district or use	15 ft.
	Nonresidential use adjacent to nonresidential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
Minimum depth of rear yard	Multi-family adjacent to multi-family district or use	0 ft.
	Minimum depth of rear yard	25 ft.
STRUCTURE HEIGHT		
Maximum height of building	Non-residential use	35 ft.
	Residential or mixed use (general)	75 ft.
	Residential or mixed use (within 500 ft. of R-1)	35 ft.
	Residential or mixed use (within 500 ft. of R-2)	50 ft.
Section 50.21 Dimensional standards contains additional regulations applicable to this district.		

B. Example.

*MU-N Example Building Form*



C. Illustration.



Section 2. That Section 50-15.3 of Chapter 50 be amended as follows:

**50-15.3 Mixed Use-Commercial (MU-C).**

D. Purpose.

The MU-C district is established to provide for community and regional commercial development along commercial corridors and nodal centers. Intended non-residential uses include retail, lodging, service, and recreational facilities needed to support the community and region, as shown in Table 50-19.8. Development should facilitate pedestrian connections between residential and nonresidential uses;

**TABLE 50-15.3-1  
MU-C DISTRICT DIMENSIONAL STANDARDS**

		LOT STANDARDS
Minimum lot area per family	Live-work dwelling	2,200 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
Minimum lot frontage	Nonresidential or mixed use	0 ft.
	Multi-family	50 ft.
		STRUCTURE SETBACKS
Minimum depth of front yard		0 ft.
Minimum width of side yard and rear yard	Nonresidential district or use adjacent to residential or mixed use district or use	15 ft.
	Multi-family residential district or use adjacent to one-family residential district or use	10 ft.
	Nonresidential use adjacent to commercial use or multi-family use adjacent to multi-family use	0 ft.
		STRUCTURE HEIGHT
Maximum height of building	Nonresidential use	45 ft.
	Residential or mixed use	90 ft.
	Residential or mixed use within 500 ft. of R-1	35 ft.
	Residential or mixed use within 500 ft. of R-2	50 ft.

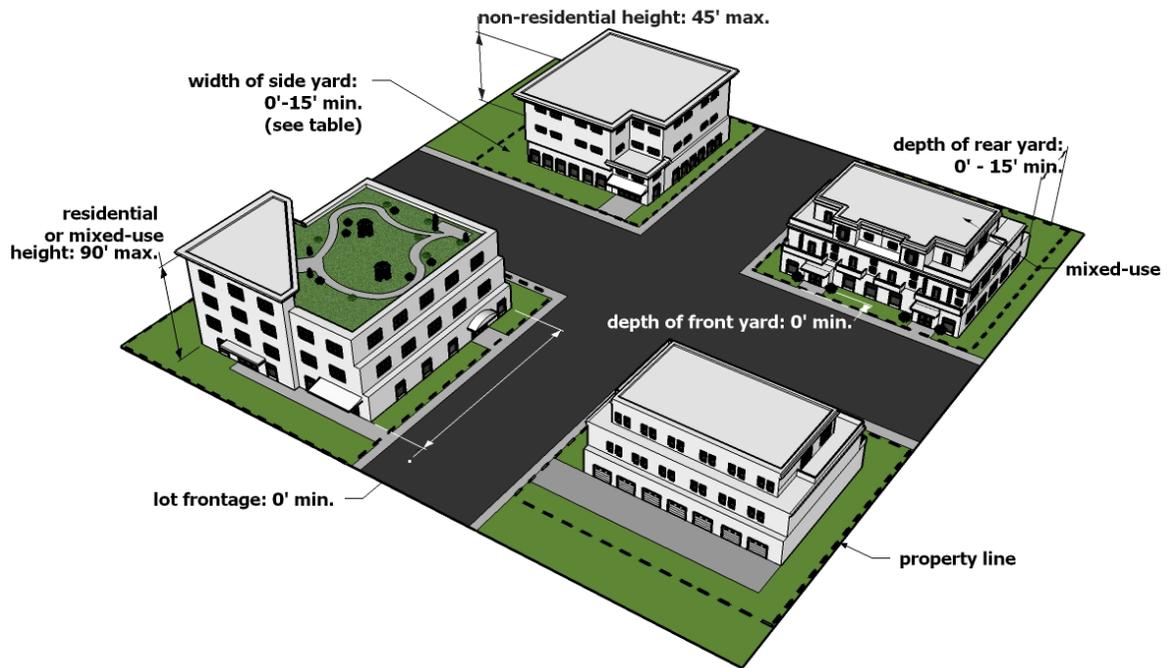
Section 50.21 *Dimensional standards* contains additional regulations applicable to this district.

E. Example.

*MU-C Example Building Forms*



F. Illustration.



G. Planning commission approval required.

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

1. Building construction or expansion of less than 500 square feet in area;

2. Building renovations that affect the exterior of structures that do not result in an increase in building square footage;
  3. Grading and construction of parking areas less than 3,000 square feet.
- Development may not proceed until the planning commission has approved the project through planning review;

**H. Development standards.**

1. The location, size and number of curb cuts 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;
2. 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.

Section 3. That Section 50-15.5 of Chapter 50 be amended as follows:

**50-15.5 Mixed Use-Business Park (MU-B).**

**A. Purpose.**

The MU-B district is intended to accommodate modern light industrial and technology-based developments of attractive integrated design and function. The development standards for this district are intended to ensure that projects minimize adverse impacts on surrounding uses and neighborhoods, reduce impacts on the natural environment, enhance the visual quality of development and ensure the provision of adequate and cost-efficient public facilities. Intended uses include wholesaling, industrial services, research laboratories, and light manufacturing needed to support the community and region at large, as shown in Table 50-19.8;

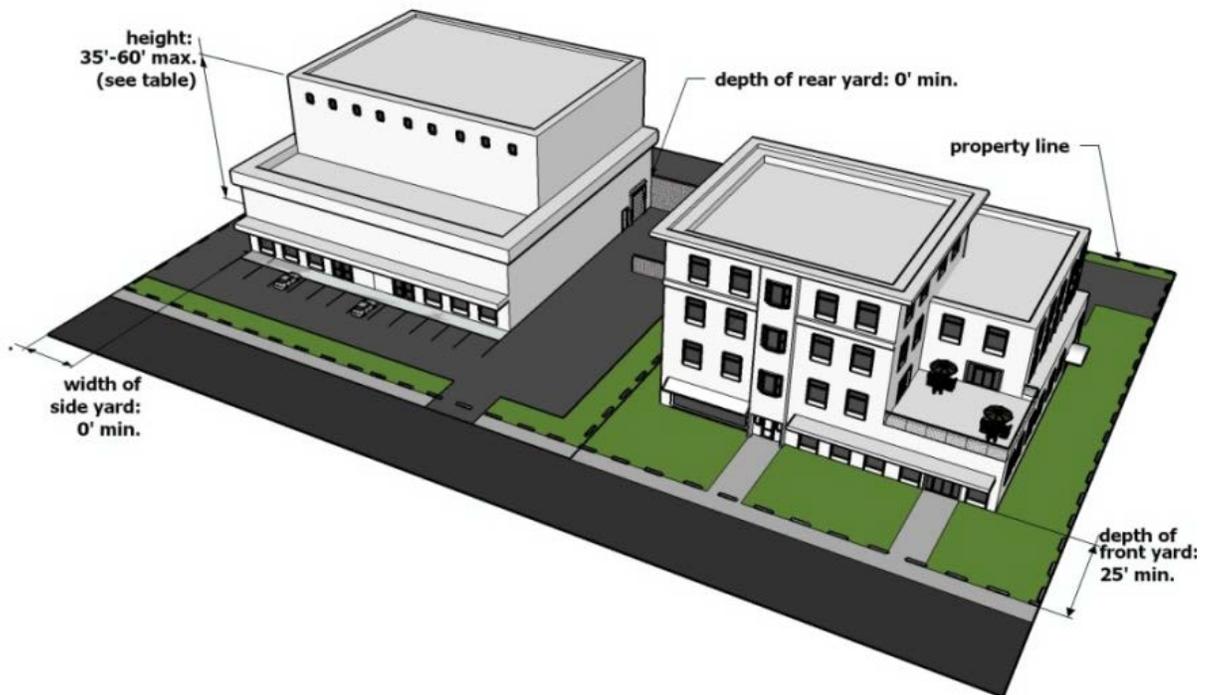
<b>TABLE 50-15.5-1 MU-B DISTRICT DIMENSIONAL STANDARDS</b>		
<b>STRUCTURE SETBACKS</b>		
Minimum depth of front yard	General	25 ft.
	Lots with less than 250 ft. average depth	Larger of 10 ft. or 10% of lot depth
Minimum width of side yard	Adjacent to residential use or district	6 ft.
	General	0 ft.
Minimum depth of rear yard	Adjacent to residential use or district	10 ft.
	General	0 ft.
<b>STRUCTURE HEIGHT</b>		
Maximum height of building	General	60 ft.
	Within <u>500</u> ft. of R-1 district	35 ft.
	Within <u>500</u> ft. of R-2 district	50 ft.
Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

B. Example.

*MU-B Example Building Forms*



C. Illustration.



D. Development standard.

In portions of the MU-B zone district developed after May 7, 1979, (a) all truck loading, unloading, and maneuvering areas shall be constructed in side or rear yard areas 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, and (b) all truck loading, unloading, and maneuvering operations shall be conducted so that no truck movement interferes with ingress or egress of traffic on a street and no truck shall be required to back into loading areas from a street.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

Section 4. That Section 50-15.6 of Chapter 50 be amended as follows:

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

**A. Purpose.**

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

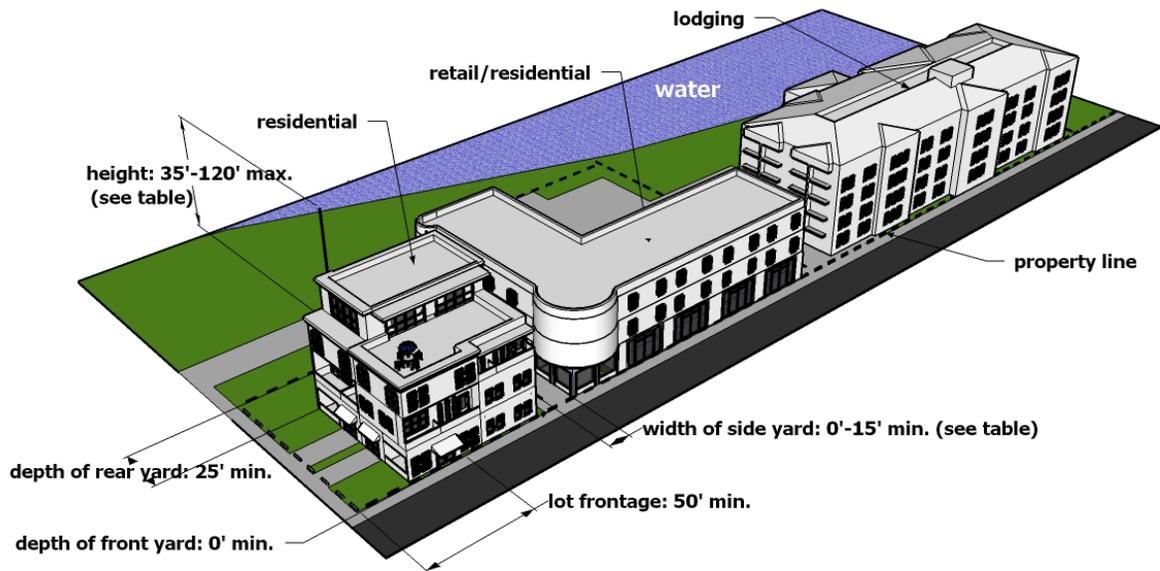
<b>TABLE 50-15.6-1 MU-W DISTRICT DIMENSIONAL STANDARDS</b>		
<b>LOT STANDARDS</b>		
Minimum lot area per family	Townhouse or live-work dwelling	2,200 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
Minimum lot frontage		50 ft.
<b>STRUCTURE SETBACKS</b>		
Minimum depth of front yard		0 ft.
Minimum width of side yard	Nonresidential use adjacent to residential district or use	15 ft.
	Nonresidential use adjacent to nonresidential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
<b>STRUCTURE HEIGHT</b>		
Maximum height of building	Residential or mixed use	120 ft.
	Nonresidential	45 ft.
	Within 500 ft. of R-1 district	35 ft.
	Within 500 ft. of R-2 district	50 ft.
Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

**B. Example.**

*MU-W Example Building Forms*



**C. Illustration.**



**D. Planning commission approval required.**

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

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

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

**E. Development standards.**

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

1. Proposed development shall be visually and functionally oriented toward the waterfront of Lake Superior, the harbor and the St. Louis River to the maximum extent possible so that users of buildings and associated outdoor areas have direct views and physical access to the waterfront;
2. To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all primary structures shall have a maximum width of 200 feet measured along the shoreline and shall be separated from other primary structures by a minimum of 50 feet. These requirements shall not apply to portions of buildings that do not block public views of Lake Superior, the harbor and the St. Louis River from the closest landward public street running approximately parallel to the water due to topography or the location;
3. Buildings shall have a primary façade, with a functioning entrance for residents, employees or patrons facing the waterfront, and a second primary façade with a similar functioning entrance facing at least one of the adjacent streets, to the maximum extent feasible;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 11, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 10, 2013  
Approved June 10, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10233**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM MIXED USE BUSINESS (MU-B) TO MIXED USE NEIGHBORHOOD (MU-N) FOR PROPERTIES LOCATED AT 4502 EAST SUPERIOR STREET (GREG KLEIN).

The city of Duluth does ordain:

Section 1. That the 22,000 square feet of the subject property located at 4502 East Superior Street and as more particularly described in Exhibit A and by the following:

010-3010-00050

be reclassified from MU-B to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, as amended, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

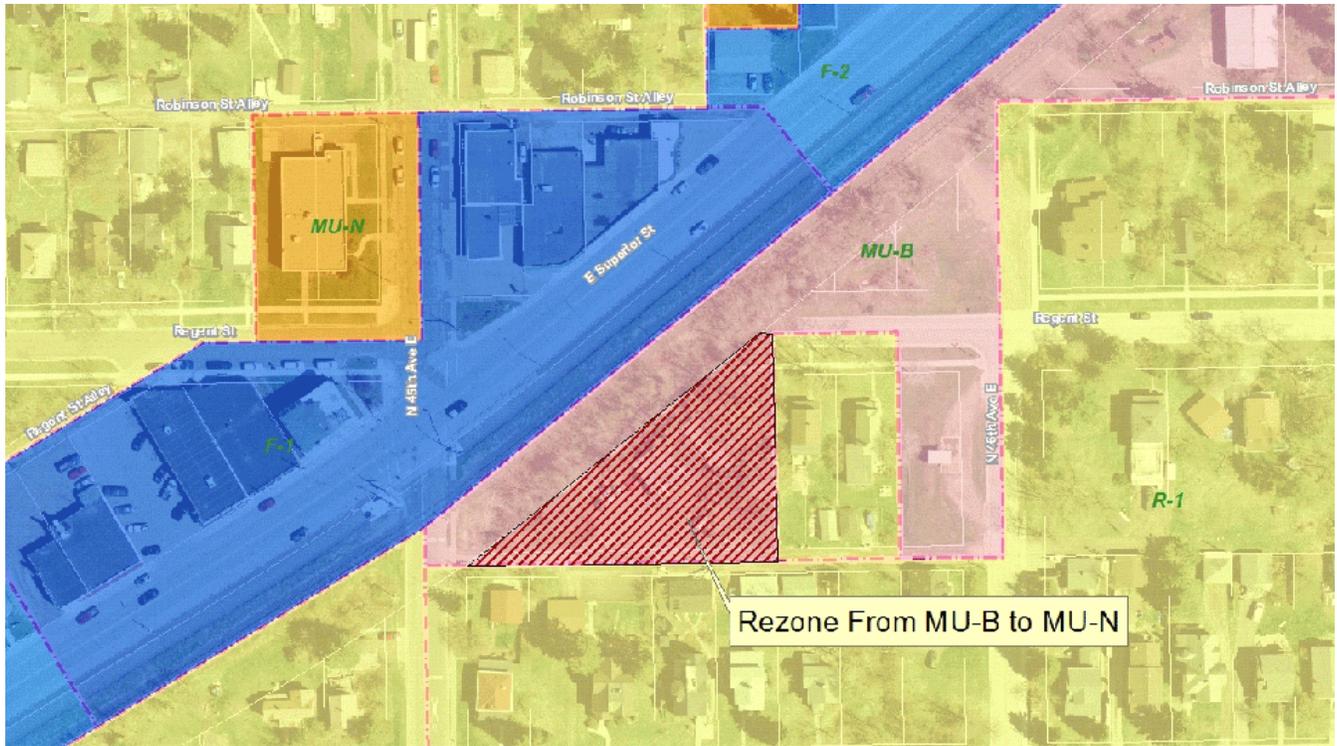


Exhibit A  
(Ref. File No. 13-057)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 11, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 10, 2013  
Approved June 10, 2013  
DON NESS, Mayor

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# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, June 24, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

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The minutes of the council meeting held on May 13, 2013, were unanimously approved.

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0624-01 Minnesota state auditor audit report of the Duluth airport authority for the years ended December 31, 2012 and 2011. -- Received

13-0624-16 Gary Kalligher communication regarding proposed ordinance related to rental licensing (13-041-O). -- Received

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## REPORTS FROM OTHER OFFICERS

13-0624-02 Assessor assessment roll of delinquent solid waste collecting expenses during the period of March 1, 2012, to June 1, 2013, for which the licensed collector has not been reimbursed. -- Received

13-0624-03 Clerk applications for exempt permits (raffles) to the Minnesota gambling control board from: (a) Duluth Retriever Club on September 1, 2013; (b) St. Margaret Mary Church on September 15, 2013. -- Received

--

## REPORTS OF BOARDS AND COMMISSIONS

13-0624-04 Duluth parking commission resolutions, pursuant to Section 33-85 of the Duluth City Code:

(a) Prohibiting parking on the south side of Mountain Shadow Drive, enabling everyday parking on the north side (2013-5);

(b) Installing a temporary parking zone for physically disabled persons at 420 North 19-1/2 Avenue West (2013-6);

(c) Increasing the monthly contract parking rates for the Technology Village Ramp (2013-7);

(d) Prohibiting parking on the south side of Water Street between 22nd Avenue East and 23rd Avenue East (2013-8);

(e) Recommending an amendment to Section 33-85 of the Duluth City Code to enable on street parking for up to 48 hours (2013-12). -- Received

13-0624-05 Housing and redevelopment authority of Duluth minutes of April 30, 2013, meeting. -- Received

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At this time, 7:01 p.m., the public hearing on the Minnesota investment fund (MIF) flood recovery grant amendment began. No one appeared who wished to be heard and the public hearing was adjourned at 7:02 p.m.

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### OPPORTUNITY FOR CITIZENS TO BE HEARD

Marsh Stenerson expressed his concern about the use of fireworks and that they go off late at night during June and July. He requested the city to enforce existing ordinances about their use.

- - -

Loren Martell commented that in the Duluth School District there are many needs not being met and there is a limited amount of wealth in the district that needs to be guarded very carefully.

- - -

### RESOLUTION TABLED

Councilor Stauber moved to remove Resolution 13-0313, amending Resolution 12-0608, adopting license, permit, fine, penalty and other charges for 2013, amending and adding fees related to animal control, from the table, which motion was seconded and unanimously carried.

- - -

At this time, Councilor Stauber moved to suspend the rules to consider Ordinance 13-040, which motion was seconded and unanimously carried.

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCE

The following entitled ordinance was read for the second time:

BY COUNCILOR STAUBER

13-040 (10234) - AN ORDINANCE AMENDING CHAPTER 6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ANIMAL CONTROL AND LICENSING.

Councilors Julsrud, Krause and Fosle expressed concerns of: the high fees that would be charged at the animal shelter for having a dog picked up for running at large or for not having their dog altered; this plan is not a good approach as an incentive; the fees proposed will not come close to fund facility improvements and the existing shelter will be overflowed with this plan because individuals will not be able to pay the fines and not pick up their animals.

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Julsrud and Krause -- 3

- - -

Resolution 13-0313 was adopted as follows:

BY COUNCILOR STAUBER:

RESOLVED, that Resolution 12-0608 adopting license, permit, fine, penalty and other charges for 2013 be amended by amending current and adopting new fees related to animal control, pursuant to sections 31-6 and 31-8 of the Duluth City Code, which shall be effective December 1, 2013.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

<b>Clerk</b>		
<b>License, Permit, Fee Name</b>	<b>Previous Fee</b>	<b>New 2013 Fee</b>
Pet license - annual compliant		\$10
Pet license - annual altered non-compliant		\$25
Pet license - annual unaltered	\$8	\$75
Pet license - lifetime license - compliant animal		\$60
Pet license - lifetime license - change of ownership		\$5
Pet license - duplicate tag	\$3	\$5
<b>Police</b>		
<b>License, Permit, Fee Name</b>	<b>Previous Fee</b>	<b>New 2013 Fee</b>
Animal shelter - impound fee altered but non-compliant		\$75
Animal shelter - impound fee compliant animal	\$41	\$25
Animal shelter - impound fee non-compliant animal		\$350
Animal shelter - nightly board fee		\$15
Animal shelter - microchip program fee		\$25
Animal shelter - quarantine fee - compliant animal	\$170	\$150
Animal shelter - quarantine fee - non-compliant animal		\$500
<b>Public Administration</b>		
<b>License, Permit, Fee Name</b>	<b>Previous Fee</b>	<b>New 2013 Fee</b>
Administrative enforcement program - appeal of potentially dangerous or dangerous dog designation		\$250

RESOLVED FURTHER, that the following fees are hereby eliminated:

<b>Eliminated Fees</b>		
<b>Dept./Div.</b>	<b>License, Permit, Fee Name</b>	<b>Current Fee</b>
Clerk	Pet license - altered annual	\$8
Police	Animal shelter - daily board fee	\$35
	Animal shelter - nonresident owner surrender	\$93
	Animal shelter - rabies deposit	\$31
	Animal shelter - resident owner surrender	\$90

Resolution 13-0313 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Julsrud and Krause -- 3

Approved June 24, 2013

DON NESS, Mayor

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 13-0624-06, which is levied against property to collect delinquent property violation administration penalty citations for the period of March 1, 2012, to March 1, 2013, as authorized in Chapter 12 of the Duluth City Code, 1959, as amended, is hereby confirmed.

Resolution 13-0317 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 13-0624-07, which is levied to collect delinquent sewer and water utility fees payable during the period of January 1, 2012, to December 31, 2012, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 13-0318 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied for reassessment of a canceled razing (#4949 - Fund 110) at the following location is set forth below:

Plat 2530, Parcel 11420; total assessable: \$2,533.80

The total assessable amount is \$2,533.80 and this assessment roll is hereby confirmed.

Resolution 13-0320 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the assessment roll levied for reassessment of a canceled garbage assessment (#2006310, #2007310 and \$2008310) at the following location is set forth below:

Plat 4500, Parcel 00880; total assessable: \$1,396.20

The total assessable amount is \$1,396.20 and this assessment roll is hereby confirmed.

Resolution 13-0321 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Election Systems and Software, LLC, substantially the same as that on file as Public Document No. 13-0624-08 with the office of the city clerk, for the purchase and delivery of optical scan voting system equipment, software and related services, in accordance with the Hennepin County agreement specifications and pricing, for an estimated amount of \$252,941.20 plus \$16,665.77 sales tax, for a combined estimated total of \$269,606.97, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year), Object 5580 (capital equipment), Project CE250-E310.

Resolution 13-0344 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Hospitality of Duluth, LLC (Aces on First), 113 West First Street for July 12, 2013, (rain date July 13) in conjunction with Downtown Sidewalk Days from 6:00 p.m. to midnight.

Rosberg, Inc. (Roscoe's Pioneer Bar), 323 West First Street, for July 12, 2013, in conjunction with Downtown Sidewalk Days from 6:00 p.m. to midnight.

Grandma's Sport Bar & Grill, Inc. (Grandma's Sports Garden), 425 Lake Avenue South, for July 25-28, 2013, in conjunction with Tall Ships, with serving ceasing at 1:00 a.m.

Resolution 13-0347 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following off sale intoxicating liquor license for the period ending August 31, 2013, subject to departmental approvals, the payment of sales and property taxes, and further subject to the liquor control commissioner:

Broad Eaves, LLC (Piedmont Liquor), 2818 Piedmont Avenue, Suite C, with Scott Kuiti, 100 percent owner, transferred from Bunsie, Inc. (Spirit Bottle Shoppe), 5801 Grand Avenue.

Resolution 13-0348 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Duluth Amateur Hockey Association (Blues Fest), Bayfront Park, for August 9-11, 2013, with the serving ceasing at 10:00 p.m. with Clark Coole, manager.

Resolution 13-0349 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council hereby grants William Michels an interim use permit to operate a vacation dwelling unit located at 1520 Minnesota Avenue and as described by the following:

Lots 71 and 73, Upper Duluth, Minnesota Avenue, and Lot 74, Upper Duluth, Lake Avenue (PID 010-4390-00390); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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referred to the city planning commission (PL 13-075); the commission gave due notice of public hearing and considered the application during a public hearing occurring on June 11, 2013; and

(f) The city planning commission, at their regular meeting on June 11, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until an operational permit has been granted by the Fire Department and a lodging license has been granted by the State of Minnesota; and

(b) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet of the subject property; and

(c) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(d) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(e) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0336 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to make the following fund decrease in the federal HOME investment partnerships program, Fund 260, Agency 020, Object 5434, 2013 HUD-funded community development account as set forth below:

2013 HOME Program - Fund 260, Project CD13HM					
Sub-Project	Activity	Project	Amount	New Grant	Difference
GN13	1737	Tenant-based rental assistance administration	\$7,500	\$10,000	\$2,500
GN13	1738	Homeowner rehabilitation housing resource	\$79,619	\$73,244	(\$6,375)
GN13	AD01	Program administration	\$44,450	\$40,582	(\$3,868)
CH13	6915	Hillside Apts-One Roof	\$250,000	\$244,000	(\$6,000)

Resolution 13-0337 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to make the following fund decrease in the federal HOME investment partnerships program, Fund 262, Agency 020, Object 5434, 2013 HUD-funded community development account as set forth below:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

2013 ESG PROGRAM - FUND 262, AGENCY 020, OBJECT 5434, PROJECT CD13ES				
Activity	Project	Amount	New Grant	Difference
1244	CHUM emergency shelter	\$31,744	\$28,626	(\$3,118)
2109	MACV - Duluth	\$4,608	\$4,140	(\$468)
2509	Battered women's shelter - Safe Haven	\$19,968	\$18,000	(\$1,968)
2511	Transitional housing - Salvation Army	\$27,136	\$24,648	(\$2,668)
1974	HMIS data collection - Life House	\$7,680	\$6,912	(\$768)
1226	Transitional housing - Center City Housing Corporation	\$31,232	\$28,164	(\$3,068)
1050	Transitional housing and shelter - AICHO	\$10,752	\$9,684	(\$1,068)
6092	HMIS data administration - Wilder Foundation	\$8,000	\$4,000	(\$4,000)
AD-05	Prevention and rapid re-housing assistance	\$64,346	\$20,294	(\$44,052)
AD-04	Program administration - city	\$16,672	\$11,698	(\$4,974)

Resolution 13-0338 was unanimously adopted.  
 Approved June 24, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to make the following fund transfers within the 2012 and 2013 CDBG programs thereby decreasing the 2012 HUD-funded community development account by \$225,000 and increasing the 2013 community development account by \$225,000 from accounts as set forth below:

2012 CDBG Program – Fund 262 - Agency 020 - Object 5434 - Project CD12CD

Sub-project	Activity	Project	Amount	New Grant	Difference
HOUS	1734	Duluth property rehabilitation program	\$550,659	\$325,659	(\$225,000)

2013 CDBG Program – Fund 262 – Agency 020 – Object 5434 – Project CD13CD

Sub-project	Activity	Project	Amount	New Grant	Difference
HOUS	1734	Housing resource connection	\$514,400	\$589,400	\$75,000
HOUS	1091	Weatherization program	\$180,407	\$330,407	\$150,000

Resolution 13-0343 was unanimously adopted.  
 Approved June 24, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept an Urban Waters small grant from the U.S. environmental protection agency (EPA), region 5, in the amount of \$60,000, payable into Fund 255 (economic development fund), and to execute

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Assistance Agreement No. UW-00E00119 substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0624-09, in connection therewith.

Resolution 13-0345 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept an additional grant from the state of Minnesota, department of employment and economic development in the amount of \$2,000,000, and to execute an amendment to Grant Agreement No. DRLF-12-0002-V-FY13 (City Contract No. 21824), for the purpose of providing loans to additional businesses impacted by the June 2012 flood, funds to be deposited in Fund No. 235 (Duluth recovery loan program fund).

Resolution 13-0346 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC., for the 2012 flood repair project, 45th Avenue East in the amount of \$524,045.80, payable out of disaster recovery fund 225, Department/Agency 125, Object 5403, City Project Number 1250, S.A.P. 118-170-003.

Resolution 13-0315 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into Agreement No. 04029, a copy of which is on file with the office of the city clerk as Public Document No. 13-0624-10, with the Minnesota department of transportation to provide compensation to the city of Duluth in the estimated amount of \$3,673.60 for maintenance and road life consumed as part of the T.H. 23 detour, S.P. 6910-82 (T.H. 23 = 185), Federal Project No. STPM 6913 (145).

Resolution 13-0316 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to continue a proprietary annual contract with Dakota Supply Group (DSG), the state's certified distributor and sole supplier of Badger water meters, for the purchase and delivery of Badger water meters during fiscal year 2013 for a total of \$64,602 plus \$4,441.39 sales tax, for a combined total amount of \$69,043.39, terms net 30, FOB destination, payable from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1940 (customer services), Cost Center 2410 (service), Object (utility system maintenance supplies) 5227.

Resolution 13-0327 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with SEH, Inc. for professional engineering services to provide design engineering for the Tenth Avenue East reconstruction project in the amount of \$134,327, payable from

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0753TR.

Resolution 13-0339 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of Vinland Street between Irwin Avenue and Boundary Avenue, City Project No. 1155.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$161,429.02.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, subdivision 5, clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement, on file in the office of the city clerk as Public Document No. 13-0624-11, concerning the above referenced grant. Grant monies shall be deposited into Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1155, S.P. 118-102-004.

Resolution 13-0340 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, by Resolution of Intent 13-0257, the council requested the administration prepare plans and specifications for the construction of signal and intersection improvements at the intersection of Woodland Avenue and Summit Street.

FURTHER RESOLVED, that said work be constructed and that the estimated total cost of said improvement, as estimated by the city engineer, not exceed \$400,000, with the full amount of these costs assessed to benefitting properties, and payable from Fund 410, Department 038, Object 5530 (special assessment fund, special assessment contracts, improvements other than buildings).

FURTHER RESOLVED, that assessment shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in 15 annual installments at the municipal bond index fund rate plus 1.5 percent.

FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter and that said improvement be hereby ordered.

Resolution 13-0352 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zones are established:

in front of 1528 East Fourth Street;

in front of 411 North 26th Avenue West.

Resolution 13-0324 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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The following resolutions were also considered:

Resolution 13-0335, granting an interim use permit for a vacation dwelling unit at 702 North Seventh Avenue East (Charles D. Sill and Linda M. Simmons), was introduced by Councilor Stauber.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

John Peterson expressed concerns that this neighborhood is already very tight on parking, but that there is space on this property to create off street parking.

Resolution 13-0335 was adopted as follows:

RESOLVED, that:

(a) The city council hereby grants Charles D. Sill and Linda M. Simmons an interim use permit to operate a vacation dwelling unit located at 702 North Seventh Avenue East and as described by the following:

Southerly 45 feet of Lots 1 and 2, Block 10, Norton's Division (PID 010-3490-01450); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 13-056); the commission gave due notice of public hearing and considered the application during a public hearing occurring on June 11, 2013; and

(f) The city planning commission, at their regular meeting on June 11, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until an operational permit has been granted by the Fire Department and a lodging license has been granted by the State of Minnesota; and

(b) The applicant shall be regulated as an R-2 vacation dwelling unit with respect to the minimum rental period; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0335 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0319, confirming the assessment roll of delinquent stormwater and lights utility fees during the period of January 1, 2012, to December 31, 2012, as provided for in Article XI of Chapter 43 of the Duluth City Code, was introduced by Councilor Hartman for discussion.

Councilor Krause supported the delinquent fee component, but opposed the light utility fee and therefore would oppose the resolution.

Resolution 13-0319 was adopted as follows:

RESOLVED, that the assessment roll on file in the office of the city clerk as Public Document No. 13-0624-12, which is levied to collect delinquent stormwater and lights utility fees payable during the period of January 1, 2012, to December 31, 2012, as provided for in Article XI of Chapter 43 of the Duluth City Code, is hereby confirmed.

Resolution 13-0319 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

Approved June 24, 2013

DON NESS, Mayor

- - -

Resolution 13-0350, approving job specifications for appointed position of deputy fire chief and specifying contract benefits for same, was introduced by Councilor Gardner.

Councilor Gardner move to return the resolution to the administration as per their request, which motion was seconded and unanimously carried.

- - -

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the unimproved right-of-way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, June 11, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. 13-0624-13:

### VACATION LEGAL DESCRIPTION:

Beginning at the southeast corner of Block 27, Myers and Whipple's Addition to Duluth; thence easterly on the easterly extension of the southerly line of Block 27 to the southwest corner of Block 26, Myers and Whipple's Addition to Duluth; thence northerly on the west line of Block 26 to the northwest corner of Block 26; thence westerly on the westerly extension of the northerly line of Block 26 to the northeast corner of Block 27; thence southerly along the easterly line of Block 27 to the point of beginning.

### UTILITY EASEMENT LEGAL DESCRIPTION:

Beginning at the southeast corner of Block 27, Myers and Whipple's Addition to Duluth; thence easterly on the easterly extension of the southerly line of Block 27 to the southwest corner of Block 26, Myers and Whipple's Addition to Duluth; thence northerly on

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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the west line of Block 26 to the northwest corner of Block 26; thence westerly on the westerly extension of the northerly line of Block 26 for a distance of ten feet; thence southerly on a line parallel to and ten feet westerly of the westerly line of Block 26 for a distance of 105 feet; thence westerly on a line parallel to and 20 feet northerly of the easterly extension of the southerly line of Block 27 for a distance of 56 feet to a point on the east line of Block 27 20 feet northerly of the point of beginning; thence southerly 20 feet along the east line of Block 27 to the point of beginning.

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 13-0624-13 showing the platted easement to be vacated.

Resolution 13-0329 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

Resolution 13-0326, by Councilor Krug, regarding prevention of invasive Asian carp entering the Great Lakes, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Dave Zenter expressed support for this resolution, noting the biological, economic and recreational damage caused and the need to unify communities around the Great Lakes to communicate the message to federal agencies and Congress.

Resolution 13-0326 was adopted as follows:

BY COUNCILOR KRUG:

WHEREAS, the Great Lakes and St. Lawrence Seaway represent the largest body of surface freshwater in the world and are a vibrant, diverse ecosystem that is critically important to the economic well-being and quality of life of regional citizens; and

WHEREAS, over 180 invasive species have entered the Great Lakes and connecting waterways causing widespread damage and disruption to the natural balance of the ecosystem, as well as significant economic damage; and

WHEREAS, once an invasive species establishes itself in an ecosystem, it is exceedingly difficult, if not impossible, to eradicate, and it often inflicts serious damage on the ecosystem and imposes major costs in efforts to control it; and

WHEREAS, one of the most significant threats presented by invasive species comes from Asian carp, including silver, bighead, and black varieties; and

WHEREAS, invasive carp are threatening to enter the Great Lakes at a number of points across the region including from the Mississippi river system; and

WHEREAS, both Canadian and U.S. citizens across the region have expressed serious concern about the invasive carp, and are demanding prompt action.

THEREFORE, BE IT RESOLVED, that invasive Asian carp in the Mississippi river system pose one of the greatest threats to the economic and ecological integrity of the Great Lakes basin, including Lake Superior, and that preventing Asian carp from entering the basin needs to be approached with a great sense of urgency by all those responsible for addressing this issue.

FURTHER RESOLVED, that the city council hereby urges all involved parties and agencies to identify a preferred solution to prevent invasive Asian carp from entering the Great

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Lakes basin and to move forward to implement that solution with the greatest sense of urgency.

Resolution 13-0326 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

BY COUNCILOR KRAUSE:

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of 27th Avenue West between Third Street and 11th Street, City Project No. 1156.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$92,683.30.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, subdivision 5, clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement, on file in the office of the city clerk as Public Document No. 13-0624-14, concerning the above referenced grant. Grant monies shall be deposited into Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. 1156, S.P. 118-115-008.

Resolution 13-0341 was unanimously adopted.

Approved June 24, 2013

DON NESS, Mayor

- - -

Resolution 13-0333, awarding a contract to progressive Trail Design, LLC, for the Traverse Trail Phase I - Mission Creek project in the amount of \$240,453; and Resolution 13-0334, awarding a contract to progressive Trail Design, LLC for the Traverse Trail Phase I - Lester Park project in the amount of \$121,409, were introduced by Councilor Larson for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Erik Viken, member of the COGS bicycle group, reviewed how his group works with the parks and recreation staff on trail improvements and issues. He also noted support for this firm's qualifications and the scope of what the resolutions will create.

Councilors Fosle and Krause expressed concerns that: some of the funding for this could be used on parks for youth and maintenance of community centers; the western part of the city has had many community centers closed and there will be maintenance costs down the road with creating these trails.

Chief Administrative Officer David Montgomery commented on how the desires of the public have changed over the years, noting that some community centers have more use than others.

Resolutions 13-0333 and 13-0334 were adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Progressive Trail Design, LLC for the Traverse Trail Phase I - Mission Creek project in the amount of \$240,453, payable from Parks Fund 205, Department/Agency 130 (community

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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resources), Division 1220 (parks capital), Object 5530 (improvements other than buildings), Project No. cm205-travrs, Bid No. 13-10DS, Requisition No. 13-0400, City Project No. 1224.

Resolution 13-0333 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

Approved June 24, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Progressive Trail Design, LLC for the Traverse Trail Phase I - Lester Park project in the amount of \$121,409, payable from Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5530 (improvements other than buildings), Project No. cm205-travrs, Bid No. 13-09DS, Requisition No. 13-0399, City Project No. 1223.

Resolution 13-0334 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause - 2

Approved June 24, 2013

DON NESS, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following ordinances were read for the first time:

INTRODUCED BY COUNCILOR STAUBER

13-044 - AN ORDINANCE GRANTING TO DANIEL NEFF A CONCURRENT USE PERMIT FOR THE INSTALLATION OF AN EXHAUST FAN TO PROJECT THREE FEET ONTO THE SOUTH SECOND AVENUE EAST RIGHT-OF-WAY.

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INTRODUCED BY COUNCILOR STAUBER

13-045 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO PARK AND OPEN SPACE (P-1), THE WHEELER ATHLETIC COMPLEX LOCATED AT 3501 GRAND, AND THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) TO PARK AND OPEN SPACE (P-1) THE WADE SPORTS COMPLEX LOCATED AT 101 NORTH 35TH AVENUE WEST (CITY OF DULUTH PLANNING DIVISION).

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INTRODUCED BY COUNCILOR JULSRUD

13-043 - AN ORDINANCE REPEALING SECTION 48-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PLUMBING CONNECTIONS MADE BY AUTHORIZED PERSONS.

The rules were suspended upon a unanimous vote to hear from a speaker on the ordinance.

Jeff Daveau, a master plumber, opposed the ordinance for reasons of safety to individuals and property.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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The following ordinance was read for the second time:

BY COUNCILOR FOSLE

13-041 - AN ORDINANCE AMENDING SECTION 29A-27 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING RENTAL LICENSING.

The rules were suspended upon a unanimous vote to hear from speakers on the ordinance.

Dick Florey, Barb Monte and John Peterson opposed the ordinance for reasons of: expanding this just adds another level of confusion; this would be difficult to enforce; note the individual that wants this changed; there would be a whole range of ramifications from this; this would open the door to problems and questioned how a primary residence could be registered.

The ordinance failed upon the following vote (Public Document No. 13-0624-15):

Yeas: Councilors Fosle and Krause -- 2

Nays: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

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The meeting was adjourned at 8:20 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10234**

BY COUNCILOR STAUBER:

AN ORDINANCE AMENDING CHAPTER 6 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO ANIMAL CONTROL AND LICENSING.

The city of Duluth does ordain:

Section 1. That Section 6-1 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-1. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

(a) Altered. That an animal has been surgically sterilized by a veterinarian and/or that the owner is able to provide documentation that a veterinarian has examined the animal and determined that it has been spayed or neutered;

(b) Animal. Includes all mammals, reptiles and fowl kept, harbored, controlled or owned by a person or persons residing in Duluth or business or licensee doing business in Duluth;

(c) Animal control authority. The Duluth animal control officer or designee;

(d) Animal control officer. Any officer employed by the city either part-time or full-time, temporary or permanent, which is responsible for animal control enforcement within the city;

(e) Cat. Includes any male or female domesticated feline animal;

(f) Compliant. The animal is currently vaccinated against rabies and altered;

(g) Dog. Includes any male or female animal of the dog kind;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(h) Noncompliant. That an animal does not meet any or all of the following requirements: vaccinated against rabies, altered and/or licensed;

(i) Owner. The license holder or any other person or persons, partnership, including limited partnership, nonprofit corporation, firm, association or corporation owning, keeping or harboring an animal. Any person keeping or harboring an animal for five consecutive days shall, for the purposes of this Chapter, be deemed to be an owner thereof;

(j) Unaltered. Any animal for which the owner is unable to provide documentation that the animal has been altered.

Section 2. That Section 6-2 of the Duluth City Code, 1959, as amended, is hereby repealed.

Section 3. That Section 6-3 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-3. Impoundment--authorized; redemption fee of certain dogs.

(a) Police officers and animal control officers shall have the authority to seize, take up and impound all animals:

(1) Which may be found running at large contrary to the provisions of this Chapter. It shall also be the duty of the animal control officers to see that animals required to be licensed are in fact so licensed;

(2) Which are found to be in an environment or subject to conditions which would, to a reasonable person, evidence that the animal's health, safety or well-being is endangered due to adverse weather conditions or in other circumstances set forth in Article VI of this Chapter;

(3) Which constitute a nuisance under this Chapter;

(4) Which are found to be in circumstances, such as the animal exhibiting fresh wounds, scarring, or is observed in a fight, or other indications which, to a reasonable person, evidence that animal has been or will be used, trained or encouraged to fight with another animal, or the owner of such animal has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such animal to be fought with another animal;

(b) Any person may seize, impound or restrain any animal which is found running at large in the city of Duluth and hold such animal for the animal control officer or deliver such animal to the city animal shelter;

(c) The animal control officer shall cause to be held such animals until they are claimed by their owners or until disposed of in accordance with Section 6-4 of this Article. All unclaimed animals shall be held for not less than five business days before being disposed of by the animal control authority. However, if it is the opinion of a licensed veterinarian that a critically injured or diseased animal will unnecessarily suffer, such animal may be humanely euthanized prior to the five day holding period even though attempts to locate or notify the owner have been unsuccessful. The owner shall be responsible for the cost of euthanization and/or the reasonable costs of the care and treatment;

(d) Any animal impounded under the provisions of this Article shall be released only upon the payment of the expenses of taking and keeping the animal. If the animal is unlicensed, in addition to the impounding and boarding fee, the animal shall not be released without payment of the prescribed license fee. Impound fees for compliant and licensed animals shall be lower than fees

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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for noncompliant animals. The city council shall set the amount of impound and boarding fees by resolution;

(e) The animal control officer shall provide necessary and humane care for all animals impounded and the expenses thereof shall be paid by the owner or the person claiming the same.

Section 4. That Section 6-12 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-12. License fees.

(a) Any person owning or possessing a dog or cat shall pay an annual or lifetime license fee for each such dog or cat. The city council shall, by resolution, set such license fees;

(b) License fees for new residents owning or harboring a dog or cat are due and payable when such owner begins residency in Duluth;

(c) No license shall be required for dogs or cats brought into the city for the purpose of participating in any shows;

(d) Any properly identified service dog which aids persons who are totally or partially blind or deaf or have physical or sensory disabilities and qualifies as a service animal under the Americans with Disabilities Act, 28 C.F.R. §36.104, or successor, or in accordance with the Fair Housing Act, 49 U.S.C. §3601 et. seq, or successor, or the Rehabilitation Act of 1973, 29 U.S.C. §794, or successor, shall be issued a dog license at no charge;

(e) License fees for altered dogs and cats shall be, at most, half the amount of the fee for unaltered dogs and cats;

(f) All proceeds from the license fees set forth in this Section, minus any city administrative costs, shall be placed into a fund from which all expenditures are directed specifically to the operation of the city animal control program. This fund shall supplement animal control operations.

Section 5. That Section 6-13 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 6-13. License applications.

(a) Dog and cat licenses shall be issued on an annual or lifetime basis;

(b) Before the first day of January of each year, it shall be the duty of the city clerk to send to all dog or cat owners who hold a valid annual license a notice that licenses required herein are due on January first following and informing such persons of the penalties for failure to procure such license. Annual licenses shall be in effect beginning on the first day of January and expiring on the last day of December of that calendar year. All dog and cat licenses issued after the first day of January and before the last day of December shall expire on the last day of December of that same calendar year;

(c) Lifetime licenses shall be in effect during the lifetime of the licensed pet unless revoked pursuant to this Section. In order to obtain a lifetime pet license, a person must provide proof that the animal is compliant. In order to maintain a lifetime pet license an owner must maintain current rabies vaccinations and file proof of such vaccination with the city. A lifetime license may be revoked if proof of vaccination is not provided. In the event of the transfer of ownership of a pet with a lifetime license, the license may remain with the pet subject to a notice of the transfer of ownership being filed with the city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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and payment of an applicable fee. The city council shall, by resolution, set a fee amount to obtain a transfer of ownership;

(d) When application is made for a license on a spayed female, or a neutered male, said application shall require the owner to supply the name, age, breed, sex, color and markings, and present a statement from a qualified veterinarian to the effect that the dog or cat has been altered;

(e) Owners or persons claiming an impounded and unlicensed cat or dog that is kept in the city of Duluth shall complete a license application and purchase a cat or dog license prior to the release of the animal;

(f) When an owner is seeking to license a dog that has been designated as dangerous pursuant to Article IX, or Minnesota statutes section 347.50, or successor statute, the application shall require proof of public liability insurance in the minimum of \$300,000 and proof of microchip identification;

(g) A dog designated as dangerous shall not be eligible to obtain a lifetime license during the time the dog carries such designation. If a dog carries a lifetime license at the time of such designation, the lifetime license shall be revoked and the owner must obtain an annual license pursuant to the requirements of this Section.

Section 6. That this ordinance shall take effect December 1, 2013. (Effective date: December 1, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Julsrud and Krause -- 3

ATTEST:  
JEFFREY J. COX, City Clerk

Passed June 24, 2013  
Approved June 24, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 1, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0701-13 Sandy Robinson communication regarding proposed resolution authorizing removal of structurally unsound buildings (13-0355R). -- Received

- - -

## REPORTS OF BOARDS AND COMMISSIONS

13-0701-01 Duluth airport authority minutes of May 14, 2013, meeting. -- Received

13-0701-02 Duluth parking commission resolutions, pursuant to Section 33-85 of the Duluth City Code:

(a) Converting 46th Avenue East between Gladstone Street and McCulloch Street to a new configuration of parking only on the east side (2013-9);

(b) Establishing event parking rates for city-owned parking facilities for June 22, 2013, and July 4, 2013 (2013-10);

(c) Offering a monthly contract parking option on Lot A and accepting donations on the Water Street Lot (2013-11). -- Received

13-0701-03 Duluth transit authority: (a) Minutes of April 24, 2013, meeting; (b) April 2013 financial statement. -- Received

13-0701-04 Entertainment and convention center authority minutes of: (a) January 29; (b) February 26; (c) March 26, 2013, meetings. -- Received

13-0701-05 Spirit Mountain recreation area authority minutes of May 16, 2013, meeting. -- Received

- - -

## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that city officials are hereby authorized to contract with Astleford International Trucks for the purchase of two 2014 International Model 7600 6x4 tandem axle cab and chassis units for street maintenance in accordance with Minnesota State Contract 61013, Release T-647(5), specifications and pricing for a total of \$213,976.42, plus \$13,908.47 for vehicle sales tax (6-1/2 percent), plus \$250 for license, registration, and tax-exempt plates, for a combined total amount of \$228,134.89, terms net 30, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year-2013), Object 5580 (capital equipment), Project CE250-V1304.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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RESOLVED FURTHER, that the two International units will be drop-shipped to an outfitter at no expense to the city.

Resolution 13-0358 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that city officials are hereby authorized to contract with Crysteel Manufacturing, Inc., dba TBEI, Inc., and J-Craft, Inc., for the complete outfitting of two 2014 International Model 7600 6x4 tandem axle cab and chassis units for street maintenance to include the installation of dump bodies, hoist, and power take-off in accordance with Minnesota State Contract 61343, Release S-863(5) specifications and pricing for a total of \$55,418 plus \$3,809.99 sales tax for a combined total of \$59,227.99, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year-2013), Object 5580 (capital equipment), Project CE250-V1304.

Resolution 13-0359 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness of Kenneth J. Stromquist to the Duluth airport authority for a term expiring on July 1, 2016, is confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness of Heather Rand to the Duluth airport authority for a term expiring on July 1, 2016, replacing John Eagleton, is confirmed.

Resolution 13-0330 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Tim McShane to the Duluth economic development authority (at large) for a term expiring on May 26, 2019, replacing Christine Townsend, is confirmed.

Resolution 13-0331 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the reappointment by Mayor Ness of David M. Ross to the entertainment and convention center authority for a term expiring on June 30, 2016, is confirmed.

FURTHER RESOLVED, that the appointments by Mayor Ness of Crystal Pelkey and Karen Pionk to the entertainment and convention center authority for terms expiring on June 30, 2016, replacing James Laumeyer and Darlene Marshall, are confirmed.

Resolution 13-0332 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the appointment by Mayor Ness of Lindsay Bartholomew-Kolu to the alcohol, gambling and tobacco commission for a term expiring on March 31, 2015, replacing George Hanson, is confirmed.

Resolution 13-0360 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Julene Boe to the sanitary sewer board of the Western Lake Superior Sanitary District for a term expiring on July 1, 2016, replacing William Majewski, is confirmed.

Resolution 13-0362 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointments by Mayor Ness of Randy Brody and Harrison Dudley to the community development committee for terms expiring on March 31, 2016 and 2015, respectively, replacing Bill Kimbler and Michael Ramsey who resigned, are confirmed.

Resolution 13-0366 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the council finds as follows:

(a) That the building official of the city of Duluth duly issued condemnation orders for structures located upon the parcels of land described below within the city of Duluth after determining that criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

Parcel 1: 1114 East Tenth Street, legally described as Westerly 28 feet, Lot 7, Block 9, Chester Park Division of Duluth. Notification of order for condemnation for demolition to owner, Gregg Schmaedeke, delivered by registered mail on February 2, 2012; and

Parcel 2: 117 West Central Entrance, legally described as Lot 16, Block 31, Duluth Heights Sixth Division. Notification of order for condemnation for demolition to owner, DJN Properties, delivered by registered mail on March 3, 2012; and

Parcel 3: 3221 Chestnut Street, legally described as Easterly 40 feet, Lot 9, Block 5, Bryant Addition to Duluth First Division. Notification of order for condemnation for demolition to owner, Steven R. Hutchinson, publication in Duluth News Tribune February 10, 2012, and February 17, 2012; and

Parcel 4: 822 and 824 East Second Street, legally described as Lots Nine through 12, Block 42, Portland Division of Duluth. Notification of order for condemnation for demolition to owner, Duncan Hazlitt, publication in Duluth News Tribune April 28, 2011 and May 2, 2011; and

Parcel 5: 121 East Seventh Street, legally described as Ex Easterly 29 feet of Northerly 70 feet and Easterly 21 feet of Southerly 70 feet, Lot 27, Block 87, Duluth Proper Third Division. Notification of order for condemnation for demolition to owner, Dianne C. Stone, delivered by registered mail on May 25, 2012; and

Parcel 6: 43 Piedmont Avenue, legally described as Easterly 1/2, Lot 278, Block 56, Duluth Proper Second Division. Notification of order for condemnation for demolition to owner, RWR, LLC., delivered by registered mail on May 23, 2013; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Parcel 7: 2732 Woodland Avenue, legally described as all Block Ten Ex Northerly 345 feet of Easterly 75 feet, Woodland Park Sixth Division Duluth. Notification of order for condemnation for demolition to owners, Joel and Kristine Zamzow. No record in file of method or confirmation of delivery. Written letter responding to demolition order from Joel and Kristine Zamzow is dated April 26, 2008; and

Parcel 8: 2006 Hutchinson Road, legally described as Lot 16, Hutchinson Division Duluth. Notification of order for condemnation for demolition to owner, Brenton Netz, hand delivered on March 31, 2011; and

Parcel 9: 3406 West First Street, legally described as Lots Four, Five and Six, Block Four, Wheelers Addition to Duluth First Division. Notification of order for condemnation for demolition to owners, John V. Jablonski and Vincent Jablonski, delivered by registered mail on October 2, 2012; and

Parcel 10: 4109 Grand Avenue, legally described as Lot 21, Block Three, Chandler Park Addition to Duluth. Notification of order for condemnation for demolition to owner, Margaret Campbell, publication in Duluth News Tribune October 14, 2012 and October 15, 2012.

(b) All such orders are now final; and

(c) The cost for demolition of the structures has been estimated to not exceed \$200,000, and there is a current unobligated balance in Fund 110-132-1504-5453 in the amount of \$49,235.80; and

(d) Fire escrow monies are being held for the removal of structures on Parcel One in the amount of \$29,250 and Parcel Seven in the amount of \$40,000.

BE IT RESOLVED, that pursuant to Section 10-3(b) of the city of Duluth Legislative Code the building official is authorized to:

(a) Proceed with the work ordered or to contract to have the work done, payable from Fund 110-132-1504-1543; and

(b) Should the sale of the salvage from such work exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto; and

(c) Submit to the city council a statement of the cost of such work for its further determination of the manner by which such costs shall be recouped as provided by Section 10-3(b) of the city of Duluth Legislative Code.

Resolution 13-0355 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into a second amendment to an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0701-09, to the HOME program to assist low- to moderate-income homeowners to rehabilitate their homes, extending the term of the agreement to December 31, 2013.

Resolution 13-0357 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an amended and restated Lake Superior drug and violent crime task force joint powers agreement; said amended and restated joint powers agreement to be substantially in the form of that on file in

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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the office of the city clerk as Public Document No. 13-0701-08, allowing the U.S. Immigration and Customs Enforcement to participate on the task force.

Resolution 13-0325 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota department of commerce, in the amount of \$171,790, such funds to be used to employ an auto theft investigator within the Duluth police department, and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0701-09, funds to be deposited in fund number 215-200-2266-4220-02 (Duluth police grant fund, police department, Minnesota auto theft grant, state of MN operating).

Resolution 13-0328 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zone is established: in front of 513 Spear Avenue.

Resolution 13-0351 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept a grant from the city of Minneapolis, Minnesota, in an amount of up to \$5,325.46, said funds to be deposited in the General Fund 110, Agency, 150 (fire department), Organization 1505 (hazardous materials team budget), for the purpose of reimbursing the city for the costs of participation by members of the city's HAZ-MAT team in training focusing on clandestine labs, fixed facility haz-mat response, transportation haz-mat response and haz-mat planning.

Resolution 13-0353 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a license agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0701-10 with the Duluth airport authority for the display of local artists' work in the city's wooden display cases at the new airport terminal at no cost to the city.

Resolution 13-0354 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0365, approving a collective bargaining agreement between the city of Duluth and Local 66 of AFSCME Council 5 for the years 2013-2015, was introduced by Councilor Hartman.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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William Goode questioned if the issue of overtime was addressed in the proposed AFSCME contract as overtime costs the city a lot of money and is not always necessary.

Resolution 13-0365 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute and implement a collective bargaining agreement with Local 66 of AFSCME Council 5, containing the same terms and conditions, and being substantially the same as that on file in the office of the city clerk as Public Document No. 13-0701-06, covering the years 2013-2015.

Resolution 13-0365 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0701-11 and subject to further legal review and approvals, with CVS 6686 MN, L.L.C., accepting the grant of a utility easement, in trust for the general public, over certain property in the vicinity of 46th Avenue West and Grand Avenue.

Resolution 13-0367 was unanimously adopted.

Approved July 1, 2013

DON NESS, Mayor

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

13-046 - AN ORDINANCE DEDICATING AN EASEMENT FOR STREET RIGHT-OF-WAY PURPOSES FOR WEST FIRST STREET BETWEEN 14TH AVENUE WEST AND 17TH AVENUE WEST.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR STAUBER

13-044 (10235) - AN ORDINANCE GRANTING TO DANIEL NEFF A CONCURRENT USE PERMIT FOR THE INSTALLATION OF AN EXHAUST FAN TO PROJECT THREE FEET ONTO THE SOUTH SECOND AVENUE EAST RIGHT-OF-WAY.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-045 (10236) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO PARK AND OPEN SPACE (P-1), THE WHEELER ATHLETIC COMPLEX LOCATED AT 3501 GRAND, AND THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) TO PARK AND OPEN SPACE (P-1) THE WADE SPORTS COMPLEX LOCATED AT 101 NORTH 35TH AVENUE WEST (CITY OF DULUTH PLANNING DIVISION).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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INTRODUCED BY COUNCILOR JULSRUD

13-043 - AN ORDINANCE REPEALING SECTION 48-26 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PLUMBING CONNECTIONS MADE BY AUTHORIZED PERSONS.

Without objection, President Boyle removed the ordinance from the agenda at the request of the administration.

- - -

The meeting was adjourned at 7:20 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10235**

AN ORDINANCE GRANTING TO DANIEL NEFF A CONCURRENT USE PERMIT FOR THE INSTALLATION OF AN EXHAUST FAN TO PROJECT THREE FEET ONTO THE SOUTH SECOND AVENUE EAST RIGHT-OF-WAY.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Daniel Neff and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) An externally mounted exhaust fan to the existing building at 202 East Superior Street and extending outward three and a half feet from at a height of 16 feet over the sidewalk, on the described property as shown in Public Document No. 13-0701-12.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to save harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 13-0701-12; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 120 days after this ordinance takes effect.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication. (Effective date: August 1, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 1, 2013  
Approved July 1, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10236**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-TRADITIONAL (R-1) TO PARK AND OPEN SPACE (P-1) THE WHEELER ATHLETIC COMPLEX LOCATED AT 3501 GRAND AVENUE, AND THE RECLASSIFICATION FROM MIXED USE-BUSINESS (MU-B) TO PARK AND OPEN SPACE (P-1) THE WADE SPORTS COMPLEX LOCATED AT 101 NORTH 35TH AVENUE WEST (CITY OF DULUTH PLANNING DIVISION).

The city of Duluth does ordain:

Section 1. That the 11 Parcels of the subject property located at Wheeler Athletic Complex located at 3501 Grand and as more particularly described in Exhibit A and by the following:

010-4010-01650	010-3230-00040
010-4010-01940	010-3230-00070
010-4010-00100	010-3230-00080
010-4010-00110	010-3230-00090
010-4010-00460	010-3230-00230
010-3230-00010	

be reclassified from R-1 to P-1.

Section 2. That the six Parcels of the subject property located at Wade Sports Complex located at 101 North 35th Avenue West and as more particularly described in Exhibit A and by the following:

010-3590-00760	010-3590-00100
010-3590-00870	010-3590-00150
010-3590-01490	010-2700-00130

be reclassified from MU-B to P-1, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Exhibit A  
(Ref. File No. 13-079)

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 1, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 1, 2013  
Approved July 1, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, July 15, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Stauber and President Boyle -- 7

Absent: Krause and Larson -- 2

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0715-01 Franklin Johnson, et al. (two signatures) petition for sanitary sewer extension in Swan Lake Place from Swan Lake Road to 270 feet westerly. -- Assessor

13-0715-02 Minnesota state auditor management and compliance report for the year ended December 31, 2012, of the Duluth economic development authority. -- Received

13-0715-15 Cynthia Ruce communication regarding proposed resolution prohibiting truck traffic on Piedmont Avenue from Third Street to Trunk Highway 53 (13-0364R). -- Received

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## REPORTS FROM OTHER OFFICERS

13-0715-03 Acting assessor letter of sufficiency regarding petition for sanitary sewer extension in Swan Lake Place from Swan Lake Road to 270 feet westerly. -- Received

13-0715-04 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Circle of Hope on October 20, 2013 (raffle); (b) March of Dimes Foundation - Minnesota Chapter on November 7, 2013 (raffle); (c) Women's Care Center Duluth on November 3, 2013 (bingo, raffle, paddlewheels, pull-tabs, tipboards). -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-0715-05 Civil service board minutes of May 7, 2013, meeting. -- Received

13-0715-06 Duluth citizen review board minutes of May 28, 2013, meeting. -- Received

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At this time, 7:01 p.m., the public hearing on the Northstar Aerospace loan and promissory note agreement amendments began.

None appeared who wished to be heard.

At this time, 7:02 p.m. the public hearing was declared closed and the regular order of business resumed.

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## OPPORTUNITY FOR CITIZENS TO BE HEARD

Ricky DeFoe, chairperson of the American Indian commission, also known as the Indigenous commission, expressed his concerns regarding: how things are seen at the community level by people of color, such as the special temporal iconic metaphor establishment in Duluth of systemic racism, oppression, repression and resistance and the commission has not been able to have a committee meeting of the whole with the council and a meeting with the community regarding the removal of the eagle staff by the city.

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Gabriel Peltier, Rebecca Domagla and Allen Richardson expressed their concerns about the removal of the eagle staff, feeling that: it is a civil rights violation; the eagle staff should be respected as much the American flag and this land was originally owned by the Native American community.

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Loren Martell expressed concerns about the Duluth School District.

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Joan Linski spoke of her concern about the fireworks ordinance being enforced. She noted that fireworks in her Lincoln Park neighborhood go off from after Memorial Day to long after the Fourth of July.

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Derrick Passe addressed his concern of having his view from the former water and gas building across from City Hall being blocked with a new proposed parking ramp structure 30 feet from his window. He questioned: how a parking structure could be built in an area that is not zoned for it; that all access would come from off the alley, which would produce a large amount of fumes and noise just below his windows and that the visibility westerly would not be safe for exiting.

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David Gaskell expressed his concerns about his safety with a house that has been vacant for five years within ten feet of his house.

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Robert Owens, representing the Hawk Ridge Observatory, stated that his organization has not gotten involved with the former Rockridge school issue, other than if a new structure is put on that site it should not be over three stories high.

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### RESOLUTION TABLED

Councilor Gardner moved to remove Resolution 13-0309, of intent to support the RC Limited Liability Corporation's request to the Minnesota housing finance agency for funding for the Pastoret Terrace project, introduced by Councilor Stauber, from the table, which motion was seconded and unanimously carried.

Councilor Gardner moved to return the resolution to the administration because the developer is pursuing other financial fund sources, which motion was seconded and unanimously carried.

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### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the assessment roll levied to defray the assessable portion of demolitions at the following locations be confirmed.

315 East First Street	3830-03300	\$37,990.64
820 Lake Avenue North	1350-06050	\$19,588.92

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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The total assessable amount of this project (Contract 9902920 - Fund 110) is \$57,579.56.  
Resolution 13-0375 was unanimously adopted.

Approved July 15, 2013  
DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

D & D Enterprises of Cloquet, Inc. (Mr. D's Bar and Grill), 5622 Grand Avenue, in conjunction with Spirit Valley Days, for July 31 and August 1, 2013, from 6:00 p.m. to 11:00 p.m., and on August 2, 2013, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

Rustic Bar, Inc. (Rustic Bar), 401 North Central Avenue, in conjunction with Spirit Valley Days, for July 31 and August 1, 2013, from 6:00 p.m. to 11:00 p.m., and on August 2, 2013, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

JMMP Enterprises, LLC (Kom on Inn), 332 North 57th Avenue West, in conjunction with Spirit Valley Days, for July 31 and August 1, 2013, from 6:00 p.m. to 11:00 p.m., and on August 2, 2013, from 6:00 p.m. to 1:00 a.m. with the music and serving ceasing at 1:00 a.m.

Sir Benedicts III, Inc. (Sir Benedict's Tavern), 805 East Superior Street, for July 27, 2013, from 10:00 a.m. to 6:00 p.m.

Resolution 13-0384 was unanimously adopted.  
Approved July 15, 2013  
DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor licenses, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

Duluth-Superior GLBT Pride, Inc, (Duluth-Superior GLBT Pride Festival), Bayfront Park, for August 31, 2013, from 11:00 a.m. to 7:00 p.m. with Carolyn Reisberg, manager.

Northland Country Club, 3901 East Superior Street, for July 31, 2013, with Joe O'Connor, manager.

Ridgeview Country Club, 700 West Redwing Street, for July 25-28, 2013, with Clint Johnson, manager.

Resolution 13-0386 was unanimously adopted.  
Approved July, 2013  
DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves the permanent expansion of the designated serving area of the following on sale intoxicating liquor license for the period ending August 31, 2013, subject to departmental approvals, with any specific restrictions:

PDL of Duluth, Inc. (Club Saratoga), 331 Canal Park Drive, to include an outside seating area on the front sidewalk, with the following conditions:

The sidewalk area closes at 10:00 p.m.

All fencing, tables and chairs must be removed from the sidewalk after closing.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Two servers are required to be in expanded area when the area is in use.  
Resolution 13-0387 was unanimously adopted.  
Approved July 15, 2013  
DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of janitor I, which were approved by the civil service board on July 9, 2013, and which are filed with the city clerk as Public Document No. 13-0715-07, are approved. This classification shall remain subject to the city's collective bargaining agreement with its basic unit employees and compensated at Pay Range 121, \$2,427 to \$2,829 per month.

Resolution 13-0377 was unanimously adopted.  
Approved July 15, 2013  
DON NESS, Mayor

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RESOLVED, that the reappointments by Mayor Ness to the Duluth transit authority of John Brostrom (District 3) and David Schaeffer (District 2) for terms expiring on June 30, 2016, are confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the Duluth transit authority of Anna Marie Friesen (District 4) for a term expiring on June 30, 2014, replacing Brandon Maurisak, who resigned, is confirmed.

FURTHER RESOLVED, that the appointment by Mayor Ness to the Duluth transit authority of Tom Griffin (at large) for a term expiring on June 30, 2016, replacing Alexis Livadaros, is confirmed.

Resolution 13-0390 was unanimously adopted.  
Approved July 15, 2013  
DON NESS, Mayor

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RESOLVED, that the reappointment by Mayor Ness to the Duluth public arts commission of Pete Dingels for a term expiring on March 31, 2016, is confirmed.

FURTHER RESOLVED, that the appointments by Mayor Ness to the Duluth public arts commission of Jodi Broadwell, Sophie Gray and Joan Henrik for terms expiring on March 31, 2014, replacing Katheryn Krikorian, Edgewood Smith and Magdalena Wallhoff, who resigned, are confirmed.

FURTHER RESOLVED, that the appointments by Mayor Ness to the Duluth public arts commission of Mary Mathews and Laurel Sanders for terms expiring on March 31, 2015, replacing Jonathan Lee and Megan Swap, who resigned, are confirmed.

Resolution 13-0391 was unanimously adopted.  
Approved July 15, 2013  
DON NESS, Mayor

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WHEREAS, pursuant to Chapter IV, Section 22 of the Duluth Home Rule Charter, the city council shall approve the pay and benefits plan for the appointed city attorney upon recommendation by the mayor; and

WHEREAS, Gunnar B. Johnson was appointed as city attorney and duly confirmed by the city council on June 19, 2008, Resolution No. 08-0411; and

WHEREAS, the employment contract establishing the pay and benefits plan for the city attorney expired prior to January 1, 2012.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute employment documents necessary to compensate the appointed city attorney with base monthly salary at Job Range Number 1170, Step E (\$9,415 in 2012, \$9,556 in 2013, and \$9,748 in 2014), as a department head pursuant to Article 8.4, including all other benefits as established further-described in the 2012-2014 collective bargaining agreement between the city and City of Duluth Supervisory Association, which is on file as City Contract No. 21731.

FURTHER RESOLVED, that the appointed city attorney shall earn and accrue benefits at the higher rate further-described in the 2012-2014 collective bargaining agreement.

FURTHER RESOLVED, that the appointed city attorney Gunnar B. Johnson shall not be deemed eligible for extra duty pay pursuant to Article 8.6, and for employer-paid retiree hospital-medical insurance pursuant to Article 14.1(a), 14.1(b), 14.1(c) and 14.1(e) of the 2012-2014 collective bargaining agreement.

RESOLVED FURTHER, that the provisions of council resolutions 07-0041 and 08-0315, to the extent that provisions in those resolutions relate to compensation and benefits for the appointed city attorney, are superseded by this resolution.

Resolution 13-0394 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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WHEREAS, pursuant to Chapter IV, Section 19 of the Duluth Home Rule Charter, the city council shall approve the pay and benefits plan for the appointed chief administrative officer upon recommendation by the mayor; and

WHEREAS, David W. Montgomery was appointed as city chief administrative officer and duly confirmed by the city council effective July 21, 2009; and

WHEREAS, the employment contract establishing the pay and benefits plan for the city chief administrative officer has expired.

THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to execute the employment contract on file in the office of the city clerk as Public Document No.13-0715-08 necessary to compensate city chief administrative officer David W. Montgomery with base monthly salary of \$10,416.66, including benefits further-described in said employment contract.

RESOLVED FURTHER, that said employment contract shall remain in effect until further modified by a successor contract or pay and benefits plan recommended by the mayor and approved council resolution.

Resolution 13-0395 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an eighth amendment to the MIF loan agreement and an eighth promissory note modification agreement substantially in the form of those on file in the office of the city clerk as Public Document No. 13-0715-09 with Northstar Machine and Tool, Inc., d.b.a Northstar Aerospace ("Northstar"), allowing Northstar to make payments of interest plus an amount equal to one-fourth of the principal payment provided for under the note for a six-month period, from July 1, 2013, through December 31, 2013.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an eighth amendment to the grant agreement with the state of Minnesota, such amendment to

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

reflect the eighth amendment to the MIF loan agreement and eighth promissory modification agreement with Northstar.

Resolution 13-0342 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the division of homeland security and emergency management in the Minnesota department of public safety requires the city of Duluth and Saint Louis County to adopt the hazard mitigation plan in order to receive hazard mitigation assistance, approved by the city on February 11, 2013.

Resolution 13-0369 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to make the following fund transfers within the 2010 and 2013 CDBG programs thereby decreasing the 2010 HUD-funded community development account by \$42,020 and increasing the 2013 community development account by \$42,020 from accounts as set forth below:

2010 CDBG Program – Fund 262 - Agency 020 - Object 5434 - Project CD10CD

<u>Sub-project</u>	<u>Activity</u>	<u>Project</u>	<u>Amount</u>	<u>New Grant</u>	<u>Difference</u>
PFAC	PF01	curb and sidewalk improvements	\$42,020	\$0	(\$42,020)

2013 CDBG Program – Fund 262 – Agency 020 – Object 5434 – Project CD13CD

<u>Sub-project</u>	<u>Activity</u>	<u>Project</u>	<u>Amount</u>	<u>New Grant</u>	<u>Difference</u>
HOUS	1291	FAIM-individual development accounts-community action	\$0	\$42,020	\$42,020

Resolution 13-0378 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of the easement described in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the utility easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, April 9, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described utility easement described below and as described and depicted on Public Document No. 13-0715-10:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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The West 25 feet of the East 35 feet of the utility and storm drain easement described in Document Number 433793 lying South of the Southerly right-of-way line of Maple Grove Road and North of the North line of the South 10 feet of the North 22 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof, St. Louis County, Minnesota;

And:

The West 25 feet of the East 35 feet of the utility and storm drain easement described in Document Number 433793 lying North of the Northerly right-of-way line of Mountain Shadow Drive and South of the South line of the North 22 feet of Lot 2, Block 2, VILLAGE MALL, according to the recorded plat thereof, St. Louis County, Minnesota;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 13-0715-10 showing the utility easement to be vacated.

Resolution 13-0388 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0715-11 with Bluestone Commons, LLC, pursuant to which the city will reimburse Bluestone Commons, LLC for the cost of intersection and signalization improvements to be constructed by them at the intersection of Woodland Avenue and Summit Street in an amount of not to exceed \$400,000, payable from Fund 0410, Department 038, Object 5530 (special assessment fund, special assessment contracts, improvements other than buildings) and assess the cost thereof against the benefitted property as defined therein.

Resolution 13-0356 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with Utility Systems of America, Inc., for the demolition of the old Westminster Presbyterian Church building and related storm sewer repair work at 4441 Grand Avenue in accordance with city-approved Specifications #968-32C2, dated May 20, 2013, and the contractor's low bid of \$97,500, payable as follows:

(a) \$84,000 from Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1809 (flood hazard mitigation), Object 5510 (land);

(b) \$13,500 from Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5535 (non-capital improvements).

Resolution 13-0368 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of 45th Avenue East between Superior Street and Glenwood Street, City Project No. 1250.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$312,234.40.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, Subdivision 5, Clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement, on file in the office of the city clerk as Public Document No. 13-0715-12, concerning the above referenced grant. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges) Object 5403 (street repair and maintenance), City Project No. 1250, S.A.P. 118-170-003.

Resolution 13-0372 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Northland Constructors of Duluth, LLC, for the 2012 flood repair project on 47th Avenue East and 52nd Avenue East in the amount of \$581,198.90, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1173, S.P 118-169-008 and 118-167-006.

Resolution 13-0373 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Urban Companies, LLC, for the Merritt Creek flood repairs project in the amount of \$57,278, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1202.

Resolution 13-0374 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that city officials are hereby authorized to contract with Thermacor Process Inc. for the purchase and delivery of 500 feet of six-inch pipe for the Duluth steam plant in accordance with city-approved specifications and conforming bid from Thermacor's representative Fluid Technology Corporation, in the amount of \$50,456.29, terms net 30, FOB job site, and payable from the Steam Fund 540, Department/Agency 920 (steam department), Organization 1499 (steam non-operating), Object 5530 (improvements other than buildings).

Resolution 13-0376 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the city of Duluth has applied to the commissioner of transportation for grants from the Minnesota state transportation fund for reconstruction at various locations, City Project No. 1183.

FURTHER RESOLVED, that the grants have been approved.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, Subdivision 5, Clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute these grant agreements concerning the above-referenced grants. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Object 5403 (street repair and maintenance), City Project No. 1183, S.P. Nos. 118-130-006, 118-139-008, 118-141-014, 118-143-008, 118-144-009, 118-148-010, and 118-192-003.

LOCATION	S.P. NO.	FLOOD BOND AGREEMENT NO.	AMOUNT
Second Street	118-130-006	03656	\$11,606.74
First Avenue West	118-139-008	03657	\$11,911.83
First Avenue East	118-141-014	03658	\$59,931.60
Second Avenue East	118-143-008	03659	\$56,115.63
Third Avenue East	118-144-009	03660	\$12,499.32
Tenth Avenue East	118-148-010	03661	\$ 8,032.36
Central Entrance	118-192-003	03662	\$10,564.99

Resolution 13-0379 was unanimously adopted.  
 Approved July 15, 2013  
 DON NESS, Mayor

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RESOLVED, that Billman Construction Inc., be and hereby is awarded a contract to construct sanitary sewer in Lakeside Court Easement for the engineering division in accordance with its low specification bid of \$34,485 payable from Fund 530, Department 500, Cost Center 1905, Object 5535, (sanitary sewer, public works and utilities, capital, non-capital improvements); Project Number 1150.

Resolution 13-0380 was unanimously adopted.  
 Approved July 15, 2013  
 DON NESS, Mayor

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RESOLVED, that Watters & Sons Excavating LLC, be and hereby is awarded a contract to construct sanitary sewer in Lawn Street for the engineering division in accordance with its specification bid of \$50,569 with \$34,843 payable from Fund 530, Department 500, Cost Center 1905, Object 5535, (sanitary sewer, public works and utilities, capital, non-capital improvements). The remaining \$15,726 will be payable from Fund 510, Department 500, Division 1905, Object 5535 (water fund, public works and utilities, capital, non-capital improvements); Project Number 1151.

Resolution 13-0381 was unanimously adopted.  
 Approved July 15, 2013  
 DON NESS, Mayor

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RESOLVED, that Watters & Sons Excavating LLC, be and hereby is awarded a contract to construct storm sewer in Penton Boulevard for the engineering division in accordance with its low specification bid of \$296,155 payable from Fund 535, Department 500, Division 1905,

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Object 5533 (storm sewer, public works and utilities, capital, capital improvements - revenue);  
Project Number 1228.

Resolution 13-0382 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the city council hereby approves settlement with Wagner Construction, Inc., related to the reconstruction of Glenwood Street under city of Duluth Project No. 0647TR, S.P. No. 118-162-13, and Minn. Project No. STPX 6910(212) and further authorizes the proper city officials to execute a settlement agreement and mutual release, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0715-13, and to take all actions necessary to conclude this matter on a full, final and complete basis.

Resolution 13-0389 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the city of Duluth has applied to the commissioner of transportation for grants from the Minnesota state transportation fund for reconstruction at various locations, City Project No. 1172.

FURTHER RESOLVED, that the grants have been approved.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grants consistent with Minnesota Statutes, Section 174.50, Subdivision 5, Clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute these grant agreements concerning the above-referenced grants. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Object 5403 (street repair and maintenance), City Project No. 1172, S.P. Nos. 118-134-016 and 118-156-011, and S.A.P. No. 118-080-049.

<b>LOCATION</b>	<b>S.P./S.A.P NO.</b>	<b>FLOOD BOND AGREEMENT NO.</b>	<b>AMOUNT</b>
Hawthorne Road	S.P. 118-134-016	03654	\$258,798.54
Vermilion Road/St. Marie Street	S.P. 118-156-011	03653	\$127,780.09
Bridge L8517	S.A.P. 118-080-049	03565	\$ 54,986.52

Resolution 13-0393 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to execute a joint powers agreement, substantially the same as that on file with the city clerk as Public Document No. 13-0715-14, with the St. Paul police department, providing for the participation by the city of Duluth police department on the Gerald D. Vick human trafficking task force and providing for the reimbursement of overtime salary costs and other pre-approved expenses

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incurred by the Duluth police department, funds to be deposited in Fund 110-160-1610-4209-02 (general, police, administration and investigation, direct federal grants operating).

Resolution 13-0296 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are authorized to accept Grant Agreement No. EMW-2012-FP-00272 from the U.S. department of homeland security, federal emergency management agency, assistance to firefighters grant program, fire prevention and safety grant in the amount of \$9,244, said funds to be deposited in Fund 210-030-3186-4209-02 (special projects, finance, 2012 assistance to firefighters, direct federal grants - operating), for the purpose of purchasing a fire extinguisher simulator, and committing \$2,310 as the city's local share cost of said grant, said sum to be paid from Fund 110-150-1503-5459 (general fund, fire department, life safety division, fire safety education account).

Resolution 13-0370 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on portions of Ramsey Street, Bristol Street and 57th Avenue West between Grand Avenue and Central Avenue from July 31 and August 1-2, 2013, in conjunction with Spirit Valley Days, provided that all alcoholic beverages consumed outside of the designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 13-0383 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 13-0371, of intent to construct 270 feet of sanitary sewer in Swan Lake Place beginning at Swan Lake Road and extending westerly and to assess the costs thereof, was introduced by Councilor Julsrud.

Councilor Julsrud moved to return the resolution to the administration because the property owner is now going with a private septic tank instead, which motion was seconded and unanimously carried.

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Resolution 13-0363, adding Piedmont Avenue from Third Street to Trunk Highway 53 to the municipal state aid (MSA) system; and Resolution 13-0364, prohibiting truck traffic on Piedmont Avenue from Third Street to Trunk Highway 53, were introduced by councilors Julsrud and Fosle, respectively, for discussion.

Councilor Julsrud moved to suspend the rules to hear speakers on the resolutions, which motion was seconded and unanimously carried.

Caroline Pelzel, Joan Linski, Dan Williams and Jefferson Campbell supported Resolution 13-0364 because: of the loud noises from trucks shifting gears coming up

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Piedmont Avenue; there already is a designated truck route for trucks to use; that trucks are disruptive to the quality of life in this neighborhood; more than 60 trucks go by in an hour and houses vibrate with these trucks going by from 5:00 a.m. to 11:00 p.m.

Resolution 13-0363 failed upon a unanimous vote (Public Document No. 13-0715-17).

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Resolution 13-0364 was adopted as follows:

RESOLVED, that Section 33-49 of the city of Duluth Legislative Code establishes truck routes in the city of Duluth.

FURTHER RESOLVED, that the portion of the street described as follows be designated as "No Trucks":

Piedmont Avenue from Third Street to Trunk Highway 53 (+ 0.45 miles).

Resolution 13-0364 was unanimously adopted.

Approved July 15, 2013

DON NESS, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HARTMAN

13-047 - AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10181, ADOPTED ON OCTOBER 22, 2012, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION LAKEWALK EXTENSION BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-048 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$875,000 OF THE CITY OF DULUTH TO FINANCE CROSS CITY TRAIL PHASE I UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

13-046 (10237) - AN ORDINANCE DEDICATING AN EASEMENT FOR STREET RIGHT-OF-WAY PURPOSES FOR WEST FIRST STREET BETWEEN 14TH AVENUE WEST AND 17TH AVENUE WEST.

Councilor Julsrud moved passage of the ordinance and the same was adopted upon a unanimous vote.

The meeting was adjourned at 8:00 p.m.

JEFFREY J. COX, City Clerk

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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**ORDINANCE NO. 10237**

AN ORDINANCE DEDICATING AN EASEMENT FOR STREET  
RIGHT-OF-WAY PURPOSES FOR WEST FIRST STREET  
BETWEEN 14TH AVENUE WEST AND 17TH AVENUE WEST.

The city of Duluth does ordain:

Section 1. That the city of Duluth does hereby dedicate to the general public a perpetual easement for street and utility right-of-way purposes for West First Street between 14th and 17th avenues West over, under and upon the property in St. Louis County, Minnesota described on Public Document No. 13-0715-16 on file in the office of the city clerk.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: August 19, 2013)

Councilor Julsrud moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Stauber and President Boyle -- 7

Nays: None -- 0

Absent: Councilors Krause and Larson -- 2

ATTEST:  
JEFFREY J. COX, City Clerk

Passed July 15, 2013  
Approved July 15, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 12, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: -- 0

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## REPORTS FROM THE ADMINISTRATION

Chief Administrative Officer David Montgomery reviewed at length the status of federal and state funding from the flood in 2012.

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## REPORTS FROM OTHER OFFICERS

13-0812-08 Chief finance officer operational comparison statistics for the cities of Bloomington, Rochester, St. Cloud, Minneapolis and St. Paul, pursuant to Resolution 13-0061. -- Received

13-0812-01 Clerk applications for exempt permits to the Minnesota gambling control board from: (a) Holy Family Catholic Church on November 3, 2013 (bingo); (b) Lake Superior Zoological Society on September 19, 2013 (raffle); (c) Lincoln Park Business Group on November 21, 2013 (bingo, raffle). -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-0812-02 Duluth airport authority minutes of June 19, 2013, meeting. -- Received

13-0812-03 Duluth citizen review board minutes of June 25, 2013, meeting. -- Received

13-0812-04 Duluth economic development authority minutes of May 22, 2013, meeting. - Received

13-0812-05 Duluth parking commission: (a) Minutes of: (1) April 30; (2) May 31; (3) June 21, 2013, meetings; (b) Resolutions, pursuant to Section 33-85 of the Duluth City Code, to: (1) Establish a monthly contract parking option for the Library/Depot Upper Lot (2013-13); (2) Establish a new hourly parking rate structure for the Library/Depot Upper Lot (2013-14); (3) Prohibit parking in front of Bethany Lutheran Church during Sunday church services (2013-15); (4) Establish event parking rates for city-owned parking facilities for July 25, 2013, through July 28, 2013 (2013-16). -- Received

13-0812-06 Duluth Seaway Port authority minutes of: (a) March 21; (b) April 25; (c) May 23, 2013, meetings. -- Received

13-0812-07 Spirit Mountain recreation area authority minutes of June 20, 2013, meeting. -- Received

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals and any specific restrictions:

AAD Temple Building Association (KIA of Duluth Car Show and Time Trials), 350 Garfield Avenue, for September 7 and 8, 2013, with Ryan Kern, manager.

Resolution 13-0385 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Donald Holm Construction, Inc., for repair work on the skywalk tunnel system connecting the Radisson Hotel and Duluth public library in accordance with city-approved specifications and the vendor's low bid of \$73,285, payable from the General Fund 110, Department/Agency 121 (public administration), Division 1222 (facilities management), Object 5399 (skywalk expenses).

Resolution 13-0413 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor licenses, and a one day dance license, subject to departmental approvals with any further restrictions and further subject to approval of the liquor control commissioner:

AAD Temple Building Association (Duluth Balloon Festival), Bayfront Park, for September 20-22, 2013, with Ryan Kern, manager.

AAD Temple Building Association (Haunted Hangar on the Hill), 4960 Airport Road, for October 26, 2013, with Ryan Kern, manager.

Resolution 13-0414 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2013, subject to departmental approvals, and the payment of sales and property taxes:

North Pole Bar, Inc. (North Pole Bar), 5606-5610 Raleigh Street, with Barbara Stevens, 100 percent stockholder, transferred from Scott Sutherland, LLC (North Pole Bar), same address.

Resolution 13-0415 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license and dancing

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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license for the period ending August 31, 2013, subject to departmental approvals, and the payment of sales and property taxes:

Wayzata Duluth Hospitality Associates, LLC (Radisson Hotel Duluth Harborview), 505 West Superior Street, with Lee Fundanet, 16.67 percent, Pam Snyder, 16.67 percent, PRS Family Trust, 16.66 percent, Bay Ridge Properties, 10 percent and undesignated currently 40 percent, transferred from TB Duluth, LLC (Radisson Hotel Duluth Harborview), same address.

Resolution 13-0416 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Duluth East Athletic Association and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0417 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following temporary on sale 3.2 percent malt liquor license, subject to departmental approvals with any specific restrictions:

College of St. Scholastica (Homecoming Tailgate Party), 1200 Kenwood Avenue, for September 28, 2013, with Carrie Emslander, manager.

Resolution 13-0419 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) The city council hereby grants Jennifer Beckey and Steven R. McDonald an interim use permit to operate a vacation dwelling unit located at 2931 Lake Avenue South and as described by the following:

South ten feet of Lot 213 except north five feet of south ten feet of west 37 feet and all of Lot 215, Lower Duluth, Lake Avenue (PID 010-3100-01090); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 13-076); the commission gave due notice of

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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public hearing and considered the application during a public hearing occurring on July 9, 2013; and

(f) The city planning commission, at their regular meeting on July 9, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until an operational permit has been granted by the fire department and a lodging license has been granted by the state of Minnesota; and

(b) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet of the subject property; and

(c) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(d) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(e) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0403 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that Section 2-176 of the Duluth City Code, 1959, as amended requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

FURTHER RESOLVED, that the Duluth City Council hereby states its intention to offer for sale or conveyance property in the Lincoln Park neighborhood shown on Public Document No. 13-0812-09, legal description to include portions of lots 342, 340 and 338, Duluth Proper Second Division, St. Louis County, Minnesota, final legal description be determined pursuant to a survey.

Resolution 13-0405 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that Section 2-176 of the Duluth City Code, 1959, as amended, requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

FURTHER RESOLVED, that the Duluth city council hereby states its intention to offer for sale or conveyance property in the Duluth Heights neighborhood shown on Public Document No. 13-0812-10, legally described as Lot 47, Block 179, Duluth Proper Third Division, St. Louis County, Minnesota.

Resolution 13-0406 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that:

(a) The city council hereby grants Connie and Lee Hoffman an interim use permit to operate a vacation dwelling unit located at 611 West Skyline Parkway and as described by the following:

Lot 101 except South 17 feet for boulevard, Block 96, Duluth Proper Third Division (PID 010-1350-02900); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 13-084); the commission gave due notice of public hearing and considered the application during a public hearing occurring on July 9, 2013; and

(f) The city planning commission, at their regular meeting on July 9, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until an operational permit has been granted by the fire department and a lodging license has been granted by the state of Minnesota; and

(b) The interim use permit shall not be effective after November 1, 2013, if the applicant has not reduced the parking in front of the home to one car width and returned the remainder to grass and other natural materials; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 13-0409 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file with the office of the city clerk as Public Document No. 13-0812-11, with Senior Service America, Inc. (SSAI) to serve Duluth residents age 55 and older with work experience training and services in the amount of \$232,177 for the period of July 1, 2013, through June 30, 2014. Monies received shall be deposited into Senior Programs Fund 270, Grants Division Agency 031, SCSEP SSAI Federal Organization 6330.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0392 was unanimously adopted.  
Approved August 12, 2013  
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the September 10, 2013, municipal and school board primary election and the November 5, 2013, municipal and school board general election, as listed in Public Document No. 13-0812-12.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$8 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.55 per mile; payable from General Fund 110, Department 121 (public administration), Organization 1211 (city clerk), Object 5441 (other services and charges).

RESOLVED FURTHER, if any person who is named on the list as a judge is unable to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

Resolution 13-0398 was unanimously adopted.  
Approved August 12, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into six contracts with the Natural Resources Conservation Service (69-6322-13-0-05, 69-6322-13-0-06, 69-6322-13-0-08, 69-6322-13-0-09, 69-6322-13-0-11 and 69-6322-13-0-12) for bank stabilization and removal of debris and sediment from public waters in the estimated amount of \$761,920, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1807 (parks, recreation and other), Object 5503 (engineering services), City Project No. 1186.

Resolution 13-0397 was unanimously adopted.  
Approved August 12, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three-year contract with Venture Fuels for the purchase and delivery of up to 56,000 tons of western sub-bituminous coal per year to the Duluth steam plant, located at One Lake Place Drive, for calendar years 2014, 2015 and 2016 in accordance with city-approved specifications and the vendor's bid of \$46.67 per delivered ton at an estimated cost of \$2,613,520 per year, beginning with 2014, terms net 10, FOB destination, payable from Steam Fund 540, Department/Agency 920 (steam department), Organization 1490 (steam production), Object 5387 (coal).

RESOLVED FURTHER, that the total estimated contract value of 168,000 tons for fiscal years 2014, 2015 and 2016 is \$7,840,560, payable from the steam fund.

RESOLVED FURTHER, that the base price is subject to changes in diesel fuel prices, indexed rail prices and other price adjustments as indicated in the vendor's proposal.

Resolution 13-0404 was unanimously adopted.  
Approved August 12, 2013  
DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

---

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A-1 Excavating, Inc., for the 2012 flood repair project on Bridge 69K15 on Triggs Avenue in the amount of \$202,589.75, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1145, S.A.P. 118-080-045.

Resolution 13-0410 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that two out of four property owners signed a petition to pave Plum Street from Ninth Avenue East to Skywood Lane, with 72 percent of frontage signed.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said contract as estimated by the city engineer is \$29,000, payable from Special Assessment Fund 410, Department 038 (special assessment contracts), Object 5530 (improvements other than buildings), City Project No. 1061, with 100 percent of the costs assessable to the benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in ten annual installments at municipal bond index plus 1.50 percent interest.

Resolution 13-0412 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Barr Engineering for professional engineering design services for stream restoration, bank stabilization and debris removal as a result of the June 2012 flooding in the estimated amount of \$198,500, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

Resolution 13-0421 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Limnotech for professional engineering design services for stream restoration, bank stabilization and debris removal as a result of the June 2012 flooding in the estimated amount of \$207,000, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

Resolution 13-0422 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

WHEREAS, the Duluth City Council approved a three-year contract with Venture Fuels for the purchase and delivery of coal to the Duluth steam plant with passage of Resolution 10-0495 on September 27, 2010; and

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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WHEREAS, the city council approved Resolution 13-0040 on January 28, 2013, authorizing an increase of \$250,000 to Contract C21251 to fully cover price adjustments as provided in the contract and increased fuel consumption; and

WHEREAS, the city now finds that it requires a second increase of \$550,000 because (a) the previous resolutions did not include an estimate for coal to be purchased in November and December of 2013, and (b) the overall cost of coal is higher than anticipated.

NOW, THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to implement a second increase of \$550,000 to Contract C21251 with Venture Fuels for the purchase and delivery of coal in November and December of 2013, for a new estimated contract total of \$8,440,640 to be paid from Steam Fund 540, Department/Agency 920 (steam department), Organization 1490 (steam production), Object 5387 (coal).

Resolution 13-0424 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a second amendment to the agreement for services between the city of Duluth and the city of Superior, whereby the city of Superior as fiscal agent of a 2011 child sexual predator program grant from the community oriented policing services (COPS) of the U.S. department of justice, provides reimbursement funding for one officer position with the city of Duluth police department; said second amendment substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0812-13, extending the termination date to January 30, 2014, reimbursement funds to be deposited in Fund Number 215-200-2203-4210-02 (federal pass through city of Superior revenues).

Resolution 13-0396 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept the donation of unconditional monetary gifts from individuals, civic groups, corporations and other groups for the establishment of a police department mounted patrol in the Downtown Duluth area; and that such donations are committed for the establishment of the mounted patrol and shall be deposited in Fund 210-030-3135-4660 (special projects fund, finance mounted patrol, gifts and donations).

Resolution 13-0407 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept grants from the Minnesota board of firefighter training and education in the amount of \$26,600 and \$13,965 (2013) \$13,053.95 and \$13,546.05 (2012) said funds to be deposited in Fund 210, Agency 030, Organization 3178, Revenue Source 4220-02 (special projects, finance, fire training fund, state of Minnesota), and committed for the purpose of supporting the Duluth fire department personnel training.

Resolution 13-0411 was unanimously adopted.

Approved August 12, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zone is established:

in front of 2705 West Second Street  
Resolution 13-0426 was unanimously adopted.  
Approved August 12, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are authorized and directed to execute the agreement filed in the office of the city clerk as Public Document No. 13-0812-14 between the city of Duluth and Bentleyville Tours of Lights, Inc., a Minnesota nonprofit corporation, providing a permit to Bentleyville Tour of Lights, Inc., the exclusive use of the Bayfront Festival Park for production, promotion and management of the 2013, 2014 and 2015 Bentleyville Tour of Lights, fees to be deposited into the city's Fund 0237, Agency 015, Revenue Source 4623 (Bayfront Festival Park fund, public administration department, rent of land).

Resolution 13-0427 was unanimously adopted.  
Approved August 12, 2013  
DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0399, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2014 debt service tax levy, was introduced by Councilor Hartman.

Councilor Hartman moved to remove the resolution from the agenda and return it the administration for further review, which motion was seconded and unanimously carried.

- - -

Resolution 13-0402, authorizing a contract with Astleford International Trucks for the purchase of three 2014 International Model 7500, 4x2 single axle cab and chassis units for street maintenance in the amount of \$281,256.47, was introduced by Councilor Krause for discussion.

Councilors Fosle and Stauber expressed concerns that: the vehicles being replaced should still last a long time before they need to be replaced and the city has high maintenance costs that they charge back.

Mr. Montgomery and councilors discussed at length the issues of maintenance costs and vehicle replacement timing.

Resolution 13-0402 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to contract with Astleford International Trucks for the purchase of three 2014 International Model 7500, 4x2 single axle cab and chassis units for street maintenance in accordance with Minnesota State Contract 60983, Release T-647(5), specifications and pricing for a total of \$263,583.54, plus \$17,132.93 for vehicle sales tax (6-1/2 percent), plus \$540 for license, registration, and tax exempt plates, for a combined total amount of \$281,256.47, terms net 30, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year-2013), Object 5580 (capital equipment), Project CE250-V1304.

Resolution 13-0402 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson and President Boyle -- 7

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

---

Nays: Councilors Fosle and Stauber -- 2  
Approved August 12, 2013  
DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale intoxicating liquor license and on sale Sunday license for the period ending August 31, 2013, subject to departmental approvals and the payment of sales and property taxes:

Hacienda Del Sol, Inc. (Hacienda Del Sol), 319 East Superior Street, with Kevin Deutsch, 100 percent stockholder.

Resolution 13-0408 was unanimously adopted.  
Approved August 12, 2013  
DON NESS, Mayor

- - -

Resolution 13-0418, approving the permanent expansion of the on sale intoxicating liquor license of the Flame Nightclub, Inc. (Flame Nightclub), 28 South First Avenue West, was introduced by Councilor Krause for discussion.

President Boyle noted that he discussed with one of the owners the concerns that the police department has raised and the owner stated that he is working with the police department and, if this is not approved at this time, they would reapply later in the year after their new procedures have been reviewed by the police department.

Resolution 13-0418 failed upon the following vote (Public Document No. 13-0812-15):

Yeas: Councilors Gardner and Hartman -- 2

Nays: Councilors Fosle, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 7

- - -

Resolution 13-0425, by Councilor Larson, of support for an assessment of the main Duluth public library facility, was introduced for discussion.

Councilor Fosle expressed his concerns of: the cost for the "needs" assessment; there are many buildings that are much older that need repairs and the library is open, but some community clubs are closed which could be used by the youth.

Councilors and the administration discussed the issue of needs to city buildings at length, use of buildings energy efficiencies and that this is just the first step to assess the condition of this building.

Resolution 13-0425 was adopted as follows:

BY COUNCILOR LARSON:

WHEREAS, the main Duluth public library facility was designed more than 30 years ago, when library services and needs were much different than they are today; and

WHEREAS, the main library was used nearly 275,000 times in 2012; and the public computers, which did not exist when the building opened, were used approximately 64,000 times; and

WHEREAS, concerns have been raised that the facility requires significant improvements in order to meet the needs of the community now and in the future; and

WHEREAS, at its meeting on April 23, 2013, the Duluth public library board recommended hiring a consultant to establish a citizen committee and conduct an assessment of needs and to recommend steps for improving the facility; and

WHEREAS, the library board further recommended utilizing funds from the 2011 capital budget for this purpose; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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WHEREAS, the city council is supportive of this initiative.

THEREFORE, BE IT RESOLVED, that the Duluth City Council hereby requests city administration begin the process of hiring a consultant to establish a citizen committee, conduct an assessment of needs and recommend steps for improving the facility per the recommendation of the library board.

Resolution 13-0425 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved August 12, 2013

DON NESS, Mayor

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HARTMAN

13-052 - AN ORDINANCE AMENDING SECTION 1-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO FINE FEES.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-051 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL 1 (RR-1) TO MIXED USE INSTITUTIONAL (MU-I) FOR PROPERTIES LOCATED AT 4000 WEST NINTH STREET (NORTHWOOD CHILDREN'S SERVICES).

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HARTMAN

13-047 - AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10181, ADOPTED ON OCTOBER 22, 2012, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION LAKEWALK EXTENSION BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Hartman moved to table the ordinance so that the administration could rebid this and the next ordinance, which motion was seconded and carried upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-048 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$875,000 OF THE CITY OF DULUTH TO FINANCE CROSS CITY TRAIL PHASE I UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Hartman moved to table the ordinance, which motion was seconded and carried upon the following vote:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

- - -

The meeting was adjourned at 8:06 p.m.

JEFFREY J. COX, City Clerk

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, August 26, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: -- 0

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0826-10 The following communications regarding the proposed regulation of electronic cigarettes (13-059-O and 13-060-O): (a) Yvonne Anderson; (b) Amy Burke; (c) Alex Carlson; (d) David Dallmann. -- Received.

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## REPORTS FROM THE ADMINISTRATION

13-0826-11 Mayor proposed 2014 levy and budget. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-0826-01 Alcohol, gambling and tobacco commission minutes of: (a) June 5; (b) July 3, 2013, meetings. -- Received

13-0826-02 Duluth housing and redevelopment authority minutes of June 25, 2013, meeting. -- Received

13-0826-03 Spirit Mountain recreation area authority minutes of July 18, 2013, meeting. -- Received

--

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Jeffrey Maas, representing the Duluth Children's Museum, reviewed how they have been granted ten minutes to talk to the astronauts aboard the International Space Station and that it has been a wonderful learning experience for the children to prepare for this event.

--

Linda Ross-Sellner expressed her concern about two purchases of road salt, questioning if there was duplication and why one resolution is a tax-exempt purchase.

Chief Administrative Officer David Montgomery explained that there is no duplication and that one resolution is for the anticipated amount of salt that will be needed yet this year and that the larger purchase is for 2014, with the new state law that allows municipalities to purchase certain items without having to pay Minnesota sales tax on the purchase.

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that Resolution 12-0608 adopting license, permit, fine, penalty and other

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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charges for 2013 be amended by adding the following, pursuant to Section 84 of the Duluth City Charter, which shall be effective August 28, 2013.

<b>Public Administration</b>	
<b>License, Permit, Penalty or Other Charge Name</b>	<b>2013 Fee</b>
Franchise failure to comply liability - per day	100.00

Resolution 13-0423 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the temporary expansion of the designated serving area of the following on sale intoxicating liquor licenses, subject to departmental approvals, with any specific restrictions:

Historic Union Depot, Inc. (The Depot), 506 West Michigan Street, for August 29, 2013, from 4:00 p.m. to 8:00 p.m.

Historic Union Depot, Inc. (The Depot), 506 West Michigan Street, for September 1, 2013, from 1:30 p.m. to 3:30 p.m.

Resolution 13-0432 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the renewal and issuance of 84 on sale intoxicating liquor, 85 on sale Sunday intoxicating liquor, seven additional bar, 18 on sale dancing, and 36 2:00 a.m. beverage licenses, for the period beginning September 1, 2013, and ending August 31, 2014, subject to departmental approvals and the payment of sales and property taxes, as provided in the Duluth City Code, as listed on Public Document No. 13-0826-04.

Resolution 13-0433 was unanimously adopted.

Approved August 28, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 14 on sale wine licenses for the period beginning September 1, 2013, and ending August 31, 2014, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 13-0826-05.

Resolution 13-0434 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of seven on sale club liquor licenses for the period beginning September 1, 2013, and ending August 31, 2014, for issuance by the liquor control commissioner and further subject to

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 13-0826-06.

Resolution 13-0435 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of 20 off sale intoxicating liquor licenses for the period beginning September 1, 2013, and ending August 31, 2014, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 13-0826-07.

Resolution 13-0436 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves renewal of five brewery malt liquor off sale intoxicating liquor licenses and two brewery malt liquor on sale intoxicating liquor licenses for the period beginning September 1, 2013, and ending August 31, 2014, for issuance by the liquor control commissioner and further subject to departmental approvals, the payment of sales and property taxes, as provided for in the Duluth City Code, as listed on Public Document No. 13-0826-08.

Resolution 13-0437 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with North American Salt Company for the purchase and delivery of 8,900 tons of road salt for year 2014 in accordance with Minnesota State Contract 62343, Release S-803(5) specifications and pricing at \$59.16 per ton for a total amount of \$526,524, terms net 30, FOB destination, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5223-01 (salt/sand salt).

RESOLVED FURTHER, that this purchase is exempt from state sales tax as a result of legislative changes signed into law in 2013.

Resolution 13-0447 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointment of Phil Rolle by Mayor Ness to the housing and redevelopment authority of Duluth for a term expiring on January 1, 2018, replacing Teresa O'Toole, is confirmed.

Resolution 13-0428 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the appointment by Mayor Ness of Andy McDonald to the Duluth parking commission for a term expiring on March 31, 2016, replacing Debbie Isabell-Nelson who resigned, is confirmed.

Resolution 13-0429 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are authorized to accept \$7,340 in cooperative agreement funding from the U.S. department of housing and urban development under the authority of City Contract No. 20095 in award funds providing for enforcement of federal fair housing laws and processing of related complaints by the city human rights office and other related matters, a copy of which is on file with the city clerk as Public Document No. 13-0826-09, funds to be deposited in Fund 110-110-1104-4209-02 (general, legislative and executive, attorney and human rights).

Resolution 13-0448 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc. for the East Third Street and Bent Creek down drain project in the amount of \$68,891, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1197.

Resolution 13-0441 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Ulland Brothers, Inc. for the East Fourth Street and Old Howard Mill Road storm down drain repair project in the amount of \$39,828, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1264.

Resolution 13-0442 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A Plus Landscaping, LLC for the 108th Avenue West culvert replacement project in the amount of \$109,405, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1260.

Resolution 13-0443 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Urban Companies, LLC for the 43rd Avenue East creek outlet repair project in the amount

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

of \$70,600, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1198. Resolution 13-0444 was unanimously adopted.

Approved August 26, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for grants from the Minnesota state transportation fund for reconstruction at various locations, City Project No. 1173.

FURTHER RESOLVED, that the grants have been approved.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, Subdivision 5, Clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute these grant agreements concerning the above-referenced grants. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Object 5403 (street repair and maintenance), City Project No. 1173, S.P. Nos. 118-167-006 and 118-169-008.

<b>LOCATION</b>	<b>S.P./S.A.P NO.</b>	<b>FLOOD BOND AGREEMENT NO.</b>	<b>AMOUNT</b>
52nd Avenue East	S.P. 118-167-006	3779	\$134,234.58
47th Avenue East	S.P. 118-169-008	3778	\$263,247.76

Resolution 13-0445 was unanimously adopted.  
Approved August 26, 2013  
DON NESS, Mayor

- - -

BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages in public places on Michigan Street, between Fifth and Sixth Avenues West on August 29, 2013, in conjunction with the Mayor's Pride Reception at the Historic Union Depot, provided that all alcoholic beverages consumed outside of designated serving areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 13-0431 was unanimously adopted.  
Approved August 26, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with L-3 Communications Mobile-Vision, Inc., for the tax-exempt purchase and delivery of ten MVD-FB3DVS Flashback 3 in-car digital video systems for Duluth police emergency vehicles in accordance with Minnesota State Swift Contract 15951, Release I-57(5) specifications and pricing in the amount of \$59,899.50, payable from Capital Equipment Fund 250,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Department/Agency 015 (public administration), Division 2013 (fiscal year), Object 5580 (capital equipment), Project No. CE250-V1302.

Resolution 13-0439 was unanimously adopted.

Approved August 26, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0438, authorizing a contract with North American Salt Company for the purchase of road salt for October through December 2013 in the amount of \$252,909, was introduced by Councilor Krause.

Councilor Krause moved to table the resolution to have the wording reviewed and clarified, which motion was seconded and unanimously carried.

- - -

Resolution 13-0399, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2014 debt service tax levy, was introduced by Councilor Hartman for discussion.

Mr. Montgomery reviewed at length the purpose and intent of this resolution.

Councilors Fosle, Krause and Stauber expressed concerns of: that funding is still owed on long term retirees healthcare; that the city rating by the bonding companies has been lowered over the years; the balance in the community investment trust fund has gone down over the years, being spent on debt rather than actual street improvements as it was intended; paying this bill should have been planned for prior to this; there has been a change in how debt is paid from this fund versus levying for it; that this reduction could adversely affect the city's bond rating and, other than raising the levy, the city has been adding new special fees.

Councilors and the administration discussed at great length the merits of this resolution, other options and the recently council-approved change as to how street improvements are funded to resolve this issue.

Resolution 13-0399 failed upon the following vote (Public Document No. 13-0826-12):

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

*[Editor's Note: A 7/9ths vote was required for passage of this resolution.]*

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

#### ORDINANCE TABLED

INTRODUCED BY COUNCILOR HARTMAN

13-047 (10238) - AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10181, ADOPTED ON OCTOBER 22, 2012, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION LAKEWALK EXTENSION BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Hartman moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Fosle expressed his concerns of: adding more debt; street repair is not being done and now the city is creating bicycle trails.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

- - -

The following entitled ordinances were read for the first time:

BY COUNCILOR GARDNER

13-061 - AN ORDINANCE PROHIBITING SMOKING OF ANY KIND IN CENTRAL HILLSIDE PARK, AMENDING SECTIONS 28-63 AND 28-64 TO CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-054 - AN ORDINANCE AMENDING SECTION 33-97.11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PARKING CAMPER TRAILERS AND RECREATION VEHICLES.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-055 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON OR IN THE DULUTH HEIGHTS NEIGHBORHOOD TO ETHAN C. AND LAURA L. COLE FOR \$1,600.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-056 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM MIXED USE BUSINESS (MU-B) TO MIXED USE NEIGHBORHOOD (MU-N), FOR PROPERTIES LOCATED AT THE NORTHWEST CORNER OF COMMONWEALTH AVENUE AND EAST CARTERETT STREET (SMR ACQUISITIONS COMPANY, LLC).

- - -

INTRODUCED BY PRESIDENT BOYLE

13-057 - AN ORDINANCE AUTHORIZING THE CHIEF ADMINISTRATIVE OFFICER OR DESIGNEE TO EXECUTE AGREEMENTS WITH ARTISTS FOR THE DISPLAY OF ARTWORK.

- - -

BY COUNCILORS JULSRUD AND KRUG

13-058 - AN ORDINANCE AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE INGESTION OF PROHIBITED SUBSTANCES.

- - -

BY COUNCILORS JULSRUD AND KRUG

13-059 - AN ORDINANCE AMENDING SECTIONS 28-63 AND 28-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE USE OF ELECTRONIC CIGARETTES.

- - -

BY COUNCILORS JULSRUD AND KRUG

13-060 - AN ORDINANCE AMENDED CHAPTER 11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF ELECTRONIC CIGARETTES.

The rules were suspended upon a unanimous vote to hear from speakers on the ordinance.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Brian Annis expressed concerns about the regulation of electronic cigarettes in that: they are helpful to stop smoking; there are no health risks; use of them in public places would encourage others to switch to them; they do not violate the Minnesota Clean Indoor Air Act; potential tax dollars are not being seen because they are being purchased online and banning the sampling at stores would reduce sales.

Jill Doberstein, American Lung Association, noted that: the state law does not prohibit cities from further regulating this form of smoking; there already are FDA approved smoking cessation techniques and devices; these devices normalize the behavior of smoking to youth; with the many flavors, it will encourage new and traditional smokers to smoke everywhere and anywhere and local businesses have been requesting electronic cigarette users not to use them in their places of business.

- - -

INTRODUCED BY COUNCILOR FOSLE

13-049 - AN ORDINANCE AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING NOTICE OF DEMOLITION ORDERS.

- - -

INTRODUCED BY COUNCILOR FOSLE

13-050 - AN ORDINANCE AMENDING SECTION 10-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TRANSFERRING JURISDICTION OF LOCAL BUILDING CODE APPEALS TO THE STATE APPEALS BOARD.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HARTMAN

13-052 (10239) - AN ORDINANCE AMENDING SECTION 1-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO FINE FEES.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

- - -

INTRODUCED BY COUNCILOR STAUBER

13-051 (10240) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL 1 (RR-1) TO MIXED USE INSTITUTIONAL (MU-I) FOR PROPERTIES LOCATED AT 4000 WEST NINTH STREET(NORTHWOOD CHILDREN'S SERVICES).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:30 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10238**

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 10181, ADOPTED ON OCTOBER 22, 2012, AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### OBLIGATION LAKEWALK EXTENSION BONDS OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

Section 1. That Ordinance No. 10181 is hereby repealed and replaced as follows:

Section 2. BOND PURPOSE AND AUTHORIZATION.

2.01 The City Council has determined it to be necessary and expedient and in the public interest that the city extend the Lakewalk pursuant to the Lakewalk East Extension Phase V plan (the "Project").

2.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the City Council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the city's boundaries, which bonds are to be supported by the full faith and credit of the city and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The Project is of the nature contemplated by said law. The city has been awarded grants of state and federal funds for the Project, and it is estimated that such funds, together with the proceeds of bonds issued by the city in an amount not to exceed \$850,000 plus other city funds, will be sufficient to pay the total project costs of \$2,520,328, and that the amount of the city's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

2.03 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Lakewalk Extension Bonds of the city in an amount not to exceed \$850,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

Section 3. TERMS OF BONDS.

3.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

Section 4. REVENUES AND ACCOUNTS.

4.01 The city has created and maintains the lakewalk construction account in the capital improvement fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with any additional funds which may be available and are appropriated for the Project or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

4.02 The City Council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

Section 5. TAX LEVY.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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5.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate 2013 lakewalk extension bonds debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from such debt service account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the City Council in any year shall make an irrevocable appropriation to said account of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis county the fact and amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this ordinance has been published and becomes effective, the City Council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

### Section 6. CERTIFICATE OF PROCEEDINGS.

6.01 The city clerk is directed to file with the county auditor of St. Louis county a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

6.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

### Section 7. EFFECTIVE DATE.

7.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days. (Effective date: September 28, 2013)

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

ATTEST:  
JEFFREY J. COX, City Clerk

Passed August 26, 2013  
Approved August 26, 2013  
DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- - -

**ORDINANCE NO. 10239**

AN ORDINANCE AMENDING SECTION 1-7 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO FINE FEES.

The city of Duluth does ordain:

Section 1. That Section 1-7 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 1-7. General penalty; continuing violations.

Whenever in this Code or in any other ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor the violation of any such provision of this Code or any other ordinance of the city shall be punished by a fine not to exceed \$1,000, or less if specifically set in accordance with Section 31-8 of this Code.

Every day any violation of this Code or any other ordinance of the city shall continue shall constitute a separate offense.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 28, 2013)

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Krause -- 1

Passed August 26, 2013  
Approved August 26, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10240**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RURAL RESIDENTIAL 1 (RR-1) TO MIXED USE INSTITUTIONAL (MU-I) FOR PROPERTIES LOCATED AT 4000 WEST NINTH STREET (NORTHWOOD CHILDREN'S SERVICES).

The city of Duluth does ordain:

Section 1. That the 38 acres of the subject property located at 4000 West Ninth Street, and as more particularly described in Exhibit A and by the following:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

010-2700-00260	010-4590-01150	010-4750-01330
010-2700-00270	010-4590-01160	010-4750-01360
010-2700-00390	010-4590-01220	010-4750-01370
010-2700-00400	010-4590-01390	010-4750-01380
010-2700-00430	010-4590-01440	010-4750-01390
010-2700-00435	010-4590-01450	010-4750-01450
010-4590-00200	010-4590-01460	010-4750-01460
010-4590-00270	010-4590-01470	010-4750-01470
010-4590-00280	010-4590-01530	010-4750-01480
010-4590-00440	010-4590-01540	010-4750-01490
010-4590-00490	010-4590-01850	010-4750-01810
010-4590-00600	010-4590-02190	010-4750-01850
010-4590-00670	010-4590-02230	010-4750-01860
010-4590-00870	010-4590-02420	010-4750-01870
010-4590-00950	010-4590-02480	010-4750-01930
010-4590-01040	010-4590-02530	010-4750-01940
010-4590-01080	010-4590-02540	010-4750-01950
010-4590-01090	010-4590-02550	010-4750-02310
010-4590-01100	010-4590-02560	010-4750-02350
010-4590-01110	010-4590-02580	010-4750-02360
010-4590-01120	010-4590-02590	010-4750-02370
010-4590-01130	010-4590-03140	010-4750-02380
010-4590-01140	010-4590-03290	

be reclassified from RR-1 to MU-I, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

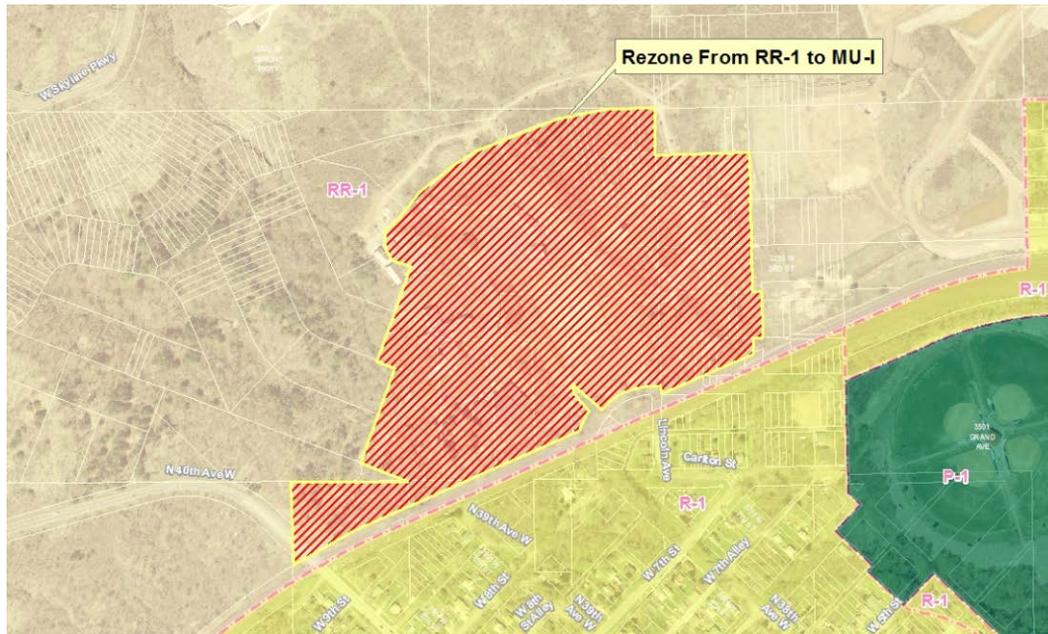


Exhibit A  
(Ref. File No. 13-077)

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: September 28, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed August 26, 2013  
Approved August 26, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 9, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0909-09 Councilor Garry Krause resignation from the office of Fourth District City Councilor. -- Received

13-0909-01 The following communications regarding the proposed regulation of electronic cigarettes (13-059-O and 13-060-O): (a) Lindsay Aijala; (b) American Cancer Society Cancer Action Network; (c) American Lung Association in Minnesota (5); (d) Peggy Anderson; (e) Brian Annis; (f) Arrowhead Youth Soccer Association; (g) Association for Nonsmokers-Minnesota; (h) Jessica Backe-Zweifel; (i) Lisa Bell; (j) Laura Bennett; (k) Jodi Broadwell; (l) Terry and Clifford Bronniche; (m) Mark R. Brown; (n) Terry Clark; (o) ClearWay Minnesota; (p) Consumer Advocates for Smoke-free Alternatives Association; (q) Ann Doberstein; (r) Duluth Transit Authority; (s) Bernadette Furey; (t) Mary Gallegos; (u) Cassie Grubbe; (v) Thomas J. Hagen; (w) Martin Herman; (x) Kelly Higgins Kleven; (y) Richard D. Hurt; (z) Frank J. Kampa; (aa) Lindsay Kolquist; (bb) Amy Lee; (cc) Karen Lewis; (dd) Addie Licari; (ee) Kim Mitchell; (ff) Randy and Julie Myhre; (gg) Angie Nolle; (hh) Jenny Peterson; (ii) Jim and Evie Pollock; (jj) Colene Rose; (kk) Rainbow Health Initiative; (ll) Andrew Roseth; (mm) Mary Streufert; (nn) Danny Strohman; (oo) Liz Taylor; (pp) Ladona Tornabene; (qq) Lisa Vogelsang; (rr) Ashley Wallace; (ss) Allise Wuorio; (tt) Zeppa Foundation and Zeitgeist Arts. -- Received

- - -

## REPORTS OF BOARDS AND COMMISSIONS

13-0909-02 Commission on disabilities minutes of June 5, 2013, meeting. -- Received

13-0909-03 Duluth human rights commission minutes of July 10, 2013, meeting. -- Received

13-0909-04 Duluth public utilities commission: (a) Minutes of June 18, 2013, meeting; (b) Resolution establishing natural gas rates effective with meter reading after September 30, 2013; amending fixed monthly charges and volumetric charges; superseding all prior inconsistent or conflicting rates as of October 1, 2013 (13PUC-006). -- Received

13-0909-05 Duluth transit authority: (a) Minutes of May 29, 2013, meeting; (b) May 2013 financial statement. -- Received

13-0909-06 Duluth Seaway Port authority budget summary of July 2013. -- Received

13-0909-07 Entertainment and convention center authority minutes of: (a) April 30; (b) May 28; (c) June 25, 2013, meetings. -- Received

13-0909-08 Housing and redevelopment authority of Duluth minutes: (a) May 28; (b) July 15; (c) July 30, meetings. -- Received

- - -

**OPPORTUNITY FOR CITIZENS TO BE HEARD**

Karen Lewis commented on: the frequent occurrence of the same problems with the slip bridge and that the contractor should be responsible for not fixing it properly; the slip should remain open with the charter boat docking relocated west of the Duluth Entertainment Convention Center; the outdoor lighting at the new housing on First Avenue West and West Fourth Street should be directed downward to minimize glare and city lighting in general should be examined with the use of solar lighting.

- - -

**RESOLUTION TABLED**

Councilor Krug moved to remove Resolution 13-0438, authorizing a contract with North American Salt Company for the purchase of road salt for October through December 2013 in the amount of \$252,909, from the table, which motion was seconded and unanimously carried.

Councilor Krug moved to suspend the rules to hear a speaker on the resolution, which motion was seconded and unanimously carried.

Linda Ross Sellner expressed concern that: snow with road salt melts and flows into the stormwater system and streams and thus empties into Lake Superior, the source of water for thousands of individuals and a high level of electric connectivity adversely affects aquatic life and that there needs to be an attempt to minimize the amount of road salt requested.

Resolution 13-0438 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to contract with North American Salt Company for the purchase and delivery of 4,000 tons of road salt for October through December of year 2013 in accordance with Minnesota State Contract 62343, Release S-803(5), specifications and pricing at \$59.16 per ton for a total of \$236,640 plus \$16,269 sales tax for a combined total of \$252,909, terms net 30, FOB destination, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2140 (street maintenance), Object 5223-01 (salt/sand salt).

Resolution 13-0438 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to contract with SHI International Corporation for the purchase and delivery of computer PC (personal computer) replacements and accessories as needed in fiscal year 2013 for all city departments in accordance with Minnesota State Swift Contract 48196, Release C-1046(5), specification and pricing, not to exceed the budget allocation of \$275,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations and objects.

Resolution 13-0400 was unanimously adopted.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Approved September 9, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with CDW Government, Inc., for the purchase and delivery of computer laptop replacements and accessories as needed in fiscal year 2013 in accordance with National Joint Powers Alliance Contract 111309-CDW specifications and pricing, not to exceed the budget allocation of \$95,000, terms net 30, FOB destination, payable from various funds, departments/agencies, organizations and objects.

Resolution 13-0401 was unanimously adopted.

Approved September 9, 2013  
DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Regents of the University of Minnesota Duluth and St. Michael's Church and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0470 was unanimously adopted.

Approved September 9, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of signal technician, which were approved by the civil service board on September 3, 2013, and which are filed with the city clerk as Public Document No. 13-0909-10, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 30, \$3,822 to \$4,521, to Pay Range 31, \$3,979 to \$4,690 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0469 was unanimously adopted.

Approved September 9, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the city council hereby accepts \$2,481,395 in lead-based paint hazard control grant program funds from the U.S. department of housing and urban development's office of healthy homes and lead hazard control to address lead-based paint in Duluth residential properties and authorizes proper city officials to enter into contracts (Public Document No. 13-0909-11) for implementing the city's program with the Duluth housing and redevelopment authority for \$2,255,000 and the American Lung Association in Minnesota for \$181,395, contingent upon the completion of the environmental review process and payable from Fund 262 (community development), Agency 020 (planning department), Object 5434 (grants and awards).

Resolution 13-0458 was unanimously adopted.

Approved September 9, 2013  
DON NESS, Mayor

- - -

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

RESOLVED, that the proper city officials are authorized to execute and implement a one-year agreement with United Way of Greater Duluth to serve as fiscal host and provide after school and summer youth programming at various city or school district locations, substantially the same as that on file with the city clerk as Public Document No. 13-0909-12, and providing for a total of \$150,000, payments to be made from Fund 205 (parks), Agency 130 (community resources), Organization 1219 (parks operating), Object 5310 (contract services).

Resolution 13-0464 was unanimously adopted.  
 Approved September 9, 2013  
 DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with Lipe Brothers Construction, Inc., for renovation work on the Central Hillside Community Center located at 12 East Fourth Street to remove and replace the windows and doors of the facility in accordance with city-approved specifications and the vendor's low bid of \$236,900, payable from the Fund 262 (community development), Agency 020 (planning department), Object 5434 (grants and awards), Project 13.

Resolution 13-0465 was unanimously adopted.  
 Approved September 9, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that the city council hereby amends the 2013 annual action plan to add \$236,916 in CDBG funds for the project Central Hillside Community Center exterior window and door replacement, which will include the removal and replacement of windows and doors at the center.

2009 CDBG Program Fund 262, Agency 020, Object 5434, Project CD09CD				
Project	Activity	Original Budget	New Grant	Difference
ECDV-1244	CHUM employment	112,500	51,000	(61,500)
ECDV- 2805	NYS JET employment	37,500	29,000	(8,500)
2010 CDBG Program Fund 262, Agency 020, Object 5434, Project CD10CD				
Project	Activity	Original Budget	New Grant	Difference
PF-01	Memorial Community Center	250,000	245,500	(500)
2011 CDBG Program Fund 262, Agency 020, Object 5434, Project CD11CD				
Project	Activity	Original Budget	New Grant	Difference
PF-01	Curbs and sidewalks acc	61,495	24,000	(37,495)

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

ADMC-AD07	Housing for inmates	15,000	13,500	(1,500)
ADMC-AD08	At Home neighbor plan	10,000	7,500	(2,500)
2013 CDBG Program Fund 262, Agency 020, Object 5434, Project CD13CD				
<b>Project</b>	<b>Activity</b>	<b>Original Budget</b>	<b>New Grant</b>	<b>Difference</b>
PF-05	Central Hillside windows and door	0	236,916	236,916

Resolution 13-0466 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that:

(a) Resolution 10-0402 is amended by amending the following:

(1) Subparagraph (3) of paragraph (f) is hereby amended as follows:

Vacating that part of Chestnut Street lying southwesterly of a line beginning at a point on the northerly extension of the West line of Lot 11, Block 1, extended north 16.50 feet and being the centerline of said Chestnut Street, to the northeast corner of Lot 12 of said Block 1; all in CENTREDALE ADDITION TO DULUTH, city of Duluth, St. Louis County, Minnesota; TOGETHER WITH that part of Chestnut Street lying west of the northerly extension of the east line of Lot 10, Block 1, CENTREDALE ADDITION TO DULUTH and 50 feet northeasterly of the original rail alignment of the Duluth Missabe & Iron Range Railway; TOGETHER WITH all of Chestnut Street in BRYANT ADDITION TO DULUTH, FIRST DIVISION, city of Duluth, St. Louis County, Minnesota; subject to the retention of a utility easement in that part of vacated Chestnut Street lying between the northerly extension of the west and east lines of Lot 10, Block 1, CENTREDALE ADDITION TO DULUTH, city of Duluth, St. Louis County, Minnesota; TOGETHER WITH that part of vacated Chestnut Street lying southwesterly of a line beginning at a point on the northerly extension of the west line Lot 11, Block 1, extended north 16.50 feet and being the centerline of said Chestnut Street, to the northeast corner of Lot 12 of said Block 1; all in CENTREDALE ADDITION TO DULUTH, city of Duluth, St. Louis County, Minnesota; and

(2) Subparagraph (4) of paragraph (f) is hereby amended as follows:

Vacating all that part of the alley adjacent to Lot 18, Block 5, BRYANT ADDITION TO DULUTH, THIRD DIVISION, lying southerly of the south line of the adjacent alley in Block 6, BRYANT ADDITION TO DULUTH, extended west, city of Duluth, St. Louis County, Minnesota; and

(b) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 13-0909-13 showing the portions of the streets and alleys to be vacated, utility easements retained and alley dedicated.

Resolution 13-0472 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 13-0909-14 with Independent School District No. 709, accepting an easement across certain property therein-described which property is part of the campus of the new East High School at no cost to the city.

Resolution 13-0456 was unanimously adopted.  
Approved September 9, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Utility Systems of America, Inc., for the Chester Park Ski Trail Bridge 2 project in the amount of \$204,927, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1170, Flood Site No. 305B.

Resolution 13-0459 was unanimously adopted.  
Approved September 9, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the construction of Bridge No. 69K15 on Triggs Avenue, City Project No. 1145.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$69,828.75.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, subdivision 5, clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement concerning the above referenced grant. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges) Object 5403 (street repair and maintenance), City Project No. 1145, S.A.P. 118-080-045, Flood Site No. 021.

Resolution 13-0461 was unanimously adopted.  
Approved September 9, 2013  
DON NESS, Mayor

- - -

RESOLVED, that Contract 21888 with Northland Constructors of Duluth, LLC for the mill and overlay of Vinland Street from Irwin Avenue to Boundary Avenue and 27th Avenue West from Third Street to 11th Street be amended for an increase in the amount of \$307,667 for a new total of \$775,000. This increase is payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1155, S.P. 118-115-008 and 118-102-004, flood sites 052, 267 and 388.

Resolution 13-0462 was unanimously adopted.  
Approved September 9, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a CodeRed service agreement, substantially in the form of that agreement on file in the office of the city

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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clerk as Public Document No. 13-0909-15 and a CodeRED weather warning service addendum, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0909-15 with Emergency Communications Network, LLC, for the provision of simultaneous notification to specified data bases which will include city staff and members of the public of information or directives needing high-speed and targeted communications at a total cost of not to exceed \$19,871.24, payable in the following amounts from the following funds:

110-150-1501-5440 (general fund, fire department, administration, emergency management)	\$13,696.24
510-500-1915-5441 (water, public works and utilities utility general expenses, other services and charges)	\$ 1,543.75
520-500-1915-5441 (gas, public works and utilities utility general expenses, other services and charges)	\$ 1,543.75
530-500-1915-5441 (sewer, public works and utilities utility general expenses, other services and charges)	\$ 1,543.75
535-500-1915-5441 (stormwater, public works and utilities utility general expenses, other services and charges)	\$ 1,543.75

Resolution 13-0446 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Nelson Auto Center, Inc., for the purchase and delivery of nine 2014 Ford patrol interceptor AWD (all wheel drive) utility vehicles - to include eight Model F Duluth K8A and one Model F Duluth K8A AC - for the Duluth police department in accordance with Minnesota State Contract 37669, Release A-174(5), specifications and pricing for a total of \$251,288.38, terms net 30, FOB destination, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year), Object 5580 (capital equipment), Project CE250-V1302.

RESOLVED FURTHER, that this purchase is tax-exempt since these vehicles will be used as marked squads.

Resolution 13-0449 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute a joint powers agreement, substantially the same as that on file with the city clerk as Public Document No. 13-0909-16, with the state of Minnesota, department of public safety, bureau of criminal apprehension, providing for the continued participation by the city of Duluth police department in the Minnesota internet crimes against children task force program through May 31, 2016.

Resolution 13-0451 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zones are established:

In front of 211 West Fourth Street;

In front of 215 West Fourth Street.

Resolution 13-0457 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby authorizes the proper city officials to execute a mutual aid agreement with the city of Hibbing, city of Virginia and the Cloquet Area Fire District, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0909-17, authorizing mutual aid for training for fire protection and ambulance services.

Resolution 13-0467 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, a copy of which is on file in the office of the city clerk as Public Document No. 13-0909-18, with the Duluth Friends of Tennis, Inc., to operate, manage and use certain portions of Longview tennis facility for advancement of their mission and to provide mission-related services to the community.

FURTHER RESOLVED, that the city of Duluth will provide not more than \$50,000 to Duluth Friends of Tennis, Inc., to be used exclusively for resurfacing tennis courts at Longview tennis facility. The source of funding for said project is 205 (parks), 130 (community resources), 1220 (parks capital), 5530 (improvements other than buildings), Project Number CM205mpcrts.

Resolution 13-0473 was unanimously adopted.

Approved September 9, 2013

DON NESS, Mayor

- - -

Councilor Julsrud moved to suspend the rules to consider ordinances 13-058, 13-059 and 13-060 at this time, which motion was seconded and unanimously carried.

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the second time:

BY COUNCILORS JULSRUD AND KRUG

13-058 (10241) - AN ORDINANCE AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE INGESTION OF PROHIBITED SUBSTANCES.

- - -

BY COUNCILORS JULSRUD AND KRUG

13-059 (10242) - AN ORDINANCE AMENDING SECTIONS 28-63 AND 28-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE USE OF ELECTRONIC CIGARETTES.

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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BY COUNCILORS JULSRUD AND KRUG

13-060 (10243) - AN ORDINANCE AMENDED CHAPTER 11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF ELECTRONIC CIGARETTES.

Councilor Julsrud moved to suspend the rules to hear speakers on this this issue, which motion was seconded and unanimously carried.

Rosemarie Mitchell, Donald Poe, Marjorie Johnson, representing the American Cancer Society, Julie Zaruba Fountaine, St. Scholastica wellness coordinator , Mike McAvoy, administrative leader at Essentia Health, Karen Lewis, Bridget Benson, tobacco treatment specialist at Essentia Health, Sharon Lund, Terry Clark, retired lung disease physician, and Pat McKone, executive director of the American Lung Association Duluth, supported the ordinances for reasons of: the protection of children from the influence of cigarettes; the food and drug administration (FDA) has not yet approved electronic cigarettes (e-cigarettes) and/or stated that these are safe; it is meant to encourage, not reduce, smoking; the vapors from these also produce unknown noxious chemicals; the American Cancer Society supports these ordinances; college students and youth are the target of e-cigarette proponents; the use of e-cigarettes stimulates and glamorizes smoking; e-cigarettes are being prohibited in hospital areas just like regular cigarettes; we should have learned from the lessons on the types of sales from the Last Place On Earth store and e-cigarette equipment should be tested for drug residue; e-cigarettes are proven to not be an safe alternative to smoking or tobacco concession.

William Rees and Brian Annis opposed the ordinances for reasons of: these e-cigarettes have not been proven to be a health hazard; there is no connection to smoking, because there is no odor or tobacco; the environmental protection agency (EPA) has only an opinion on this issue, not a ruling; multiple studies have shown that e-cigarettes are much less harmful than tobacco cigarettes; e-cigarettes are just as successful as other products to curb cigarette smoking and sampling allows customers to be informed on how to use it and determine the flavor they prefer.

Mike Damron suggested postponing action on this issue until more information is available.

Councilor Fosle stated that he opposes all the ordinances for reasons that any business can ban these e-cigarettes at their business and why worry about what is being a sampled by adults inside a store.

Councilor Krause moved to amend Ordinance 13-058, by adding the following language to Subsection 28-64(a)(7) as follows: "except where the sampling is of a non-tobacco electronic cigarette at an establishment where 80 percent or more of the sales at the establishment are of electronic cigarettes and electronic cigarette components, parts or accessories," which motion was seconded and failed as follows:

Yeas: Councilors Gardner, Krause and Stauber -- 3

Nays: Councilors Fosle, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Councilors Krause and Gardner spoke at length on: the aspect of private business rights; the harmful effects of other common items if they are taken in excess and that all the scientific information is not in yet.

Councilors Julsrud and Krug moved passage of Ordinance 13-058 and the same was adopted upon the following vote:

Yeas: Councilors Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Gardner and Krause -- 3

- - -

Councilors supporting the ordinance spoke at length on the merits of the ordinance.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- - -

Councilors Julsrud and Krug moved passage of Ordinance 13-059 and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

- - -

Councilors Julsrud and Krug moved passage of Ordinance 13-060 and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

- - -

The following resolutions were also considered:

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy:

Section 1. That sum to be raised by taxation for the year 2014 for the special parks fund levy is hereby determined to be the sum of \$2,600,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section:

Section 2. That pursuant to Ordinance 10134, approved by voter referendum on November 9, 2011, pursuant to the authority contained in Laws of Minnesota, 1953, Chapter 560, Section 1, there will be levied for the parks fund the sum of \$2,600,000.

Resolution 13-0450 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes, Section 469.033, Subdivision 6, the city council adopts the following proposed property tax levy:

Section 1. The sum to be raised by taxation for the year 2014 for the housing and redevelopment authority taxing district's operation is hereby determined to be the sum of \$936,947 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statute 469.033, subdivision 6, there will be levied for the purpose of providing for the housing and redevelopment authority special taxing district the sum of \$936,947.

Resolution 13-0452 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes, Sec. 275.065, the city council adopts the following proposed tax levy:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 1. The sum to be raised by taxation for the year 2014 for Duluth transit authority special taxing district's operations is hereby determined to be the sum of \$1,391,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section, viz:

Section 2. That pursuant to Minnesota Statutes, Sec. 485A.31, Subd. 1, there will be levied for transit operations the sum of \$1,391,900.

Resolution 13-0453 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes, Section 275.065, the city council adopts the following proposed tax levy:

Section 1. The sum to be raised by taxation for the year 2014 for general operations is hereby determined to be the sum of \$19,441,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections, viz:

Section 2. There will be levied for the support of the general fund the sum of \$12,869,100.

Section 3. For the payment of debt, there will be levied for the general obligation debt fund the sum of \$6,291,900.

Section 4. That pursuant to Laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$280,000.

Resolution 13-0454 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved September 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that in accordance with Minnesota Statutes, Sec. 275.065, the city council hereby adopts the following proposed budget for the fiscal year beginning January 1 and ending December 31, 2014.

GENERAL		
010	Total legislative and executive	2,627,500
121	Total public administration	22,523,100
125	Total finance	2,602,400
132	Total planning and construction services	2,282,000
135	Total business and community development	735,100
150	Total fire	14,524,900

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

GENERAL		
160	Total police	19,111,200
500	Total public works	1,735,800
700	Total transfers	9,958,000
110	General fund total	76,100,000

Resolution 13-0455 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved September 9, 2013

DON NESS, Mayor

- - -

Resolution 13-0475, transferring monies to street improvement debt service fund from the community investment trust (CIT) fund to cancel 2014 debt service tax levy and to replenish the community investment trust fund, was introduced by Councilor Hartman; and Resolution 13-0474, by Councilor Krause, transferring monies to street improvement debt service fund from the community investment trust fund and general fund reserve to cancel 2014 debt service tax levy, were introduced for discussion.

Councilor Krause commented that: the desirable debt levies should be no more than nine percent; that the CIT balance is being reduced after being told that it would not be; that a budget should be balanced and past debts should be kept under control.

Councilor Gardner moved to table both resolutions for further discussion, which motion was seconded and failed upon the following vote:

Yeas: Councilors Gardner and Julsrud -- 2

Nays: Councilors Fosle, Hartman, Krause, Krug, Larson Stauber and President Boyle -- 7

Councilors commented at length about the issues, history and options associated with these resolutions.

Resolution 13-0475 failed upon the following vote (Public Document No. 13-0909-19):

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

*[Editor's Note: This resolution needed a 7/9ths vote to be approved.]*

- - -

Resolution 13-0474 failed upon the following vote (Public Document No. 13-0909-20):

Yeas: Councilor Krause -- 1

Nays: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

- - -

Resolution 13-0477, by Councilor Gardner, establishing a procedure for selecting a candidate to fill the prospective vacancy of the Fourth District council seat of Garry Krause, was introduced for discussion.

Councilors Stauber, Fosle and Krause raised concerns of: appointing someone just before there is an election for that district and that the person elected for the next term should just be appointed to fill the balance of this current term.

Resolution 13-0477 was adopted as follows:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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BY COUNCILOR GARDNER:

RESOLVED, that the city council desires to establish a procedure for selecting a candidate for the fourth district council seat currently held by Garry Krause as follows:

(a) Candidate applications shall be immediately available in the city clerk's office and must be submitted to the city clerk by 12:00 p.m. on September 16, 2013;

(b) The city council shall conduct preliminary interviews with applicants on September 19, 2013. At a special council meeting on September 23, 2013, each councilor shall rank their top three candidates with #1 receiving three points, #2 receiving two points and #3 receiving one point. Councilors will submit their selections to the city clerk who will tabulate them by the end of the special council meeting on September 23, 2013. The top three candidates will then be voted on by the council;

(c) If in the event the council president determines that the council is not able to agree upon a candidate using the resolution process described above, the council shall proceed to ranked choice voting to select a winner.

Resolution 13-0477 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle, Krause and Stauber -- 3

Approved September 9, 2013

DON NESS, Mayor

- - -

Resolution 13-0468, by Councilor Stauber, vetoing DPUC Resolution 13PUC-006 establishing natural gas rates effective after September 30, 2013, was introduced for discussion.

Councilors Fosle, Krause and Stauber expressed concerns of: the history of rate increases; the consultant's comments about the questionable quality of data received from the gas utility; that the consultant does not recommend this increase to this level and that if there is a reserve, the rates should not be raised.

Councilors Gardner, Hartman, Julsrud and Krug opposed the resolution, noting: the actual small dollar amount of the increase to individuals; that the infrastructure needs to be repaired and that there were public hearings and there is support for this increase.

Resolution 13-0468 failed upon the following vote (Public Document No. 13-0909-21):

Yeas: Councilors Fosle, Krause and Stauber -- 3

Nays: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

- - -

RESOLVED, that the city council hereby authorizes settlement in the matter of *Steve Jankowski and Peter Scott v. City of Duluth*, filed in the United States District Court, District of Minnesota, File No.: 11-3392, pursuant to the terms and conditions of the proposed consent decree and judgment, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0909-22, which includes payment of attorney fees in the amount of \$177,500, payable from Fund 610-036-1651-5841, and further authorizes the proper city officials to take all actions necessary to conclude this matter on a full, final and complete basis.

Resolution 13-0460 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved September 9, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0463, authorizing an agreement with LHB, Inc. for professional engineering services to provide planning and preliminary design services for the Superior Street reconstruction project in the amount of \$361,568, was introduced by Councilor Julsrud for discussion.

Councilors Fosle and Krause opposed the resolution for reasons of: that this is just going to be the start of a large amount of spending for the streets and infrastructure, including the replacement of the steam lines, and a funding source for the total project needs to be in place first.

Resolution 13-0463 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc., for professional engineering services to provide planning and preliminary design services for the Superior Street reconstruction project in Downtown Duluth in the amount of \$361,568, payable from Permanent Improvement Fund 411, Department 035 (capital projects), Object 5530 (improvements other than buildings), City Project No. 0923TR.

Resolution 13-0463 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

Approved September 9, 2013

DON NESS, Mayor

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR STAUBER

13-062 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-URBAN (R-2) TO MIXED USE-NEIGHBORHOOD (MU-N), FOR PROPERTIES BETWEEN NORTH 24TH AVENUE WEST AND NORTH 28TH AVENUE WEST FROM THE WEST FOURTH STREET ALLEY TO THE WEST THIRD STREET ALLEY (CITY OF DULUTH).

- - -

The following entitled ordinances were read for the second time:

BY COUNCILOR GARDNER

13-061 (10244) - AN ORDINANCE PROHIBITING SMOKING OF ANY KIND IN CENTRAL HILLSIDE PARK, AMENDING SECTIONS 28-63 AND 28-64 TO CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Gardner moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-054 (10245) - AN ORDINANCE AMENDING SECTION 33-97.11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PARKING CAMPER TRAILERS AND RECREATION VEHICLES.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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INTRODUCED BY COUNCILOR STAUBER

13-055 (10246) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON OR IN THE DULUTH HEIGHTS NEIGHBORHOOD TO ETHAN C. AND LAURA L. COLE FOR \$1,600.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-056 (10247) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM MIXED USE BUSINESS (MU-B) TO MIXED USE NEIGHBORHOOD (MU-N), FOR PROPERTIES LOCATED AT THE NORTHWEST CORNER OF COMMONWEALTH AVENUE AND EAST CARTERETT STREET (SMR ACQUISITIONS COMPANY, LLC).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY PRESIDENT BOYLE

13-057 (10248) - AN ORDINANCE AUTHORIZING THE CHIEF ADMINISTRATIVE OFFICER OR DESIGNEE TO EXECUTE AGREEMENTS WITH ARTISTS FOR THE DISPLAY OF ARTWORK.

President Boyle moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR FOSLE

13-049 (10249) - AN ORDINANCE AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING NOTICE OF DEMOLITION ORDERS.

Councilor Fosle moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR FOSLE

13-050 (10250) - AN ORDINANCE AMENDING SECTION 10-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TRANSFERRING JURISDICTION OF LOCAL BUILDING CODE APPEALS TO THE STATE APPEALS BOARD.

Councilor Fosle moved passage of the ordinance and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 10:50 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10241**

BY COUNCILORS JULSRUD AND KRUG:

AN ORDINANCE AMENDING SECTION 28-64 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE INGESTION OF PROHIBITED SUBSTANCES.

The city of Duluth does ordain:

Section 1. That Section 28-64 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Sec. 28-64. Ingesting a prohibited substance--prohibited in certain places.

(a) No person shall ingest by smoking or chewing any prohibited substance at or in any of the following locations:

(1) Anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act;

(2) Inside any Duluth Transit Authority transit shelter;

(3) Within 15 feet from the nearest point of any Duluth Transit Authority transit shelter which displays at least two signs visible from the exterior of the shelter providing notice of this prohibition, said 15 feet measured in a straight line of constant elevation;

(4) Anywhere in Wade Stadium that is open to the public except in areas designated for such consumption;

(5) Within 100 feet of the nearest property line of a medical facility, said 100 feet measured in a straight line of constant elevation; provided that this prohibition does not apply to a person inside an enclosed motor vehicle in motion on a public street or alley;

(6) On the Lakewalk, on Lake Place or in Leif Ericson Park;

(7) Within the indoor area of any establishment with a retail tobacco license, including smoking for the purpose of sampling prohibited substances;

(b) Any person violating this Section is guilty of a petty misdemeanor or may be penalized under Chapter 12 of the Duluth City Code, 1959, as amended;

(c) Signage to enforce the provisions of this ordinance shall be approved by the city of Duluth.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Julsrud moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle, Gardner and Krause -- 3

Passed September 9, 2013

Approved September 9, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10242**

BY COUNCILORS JULSRUD AND KRUG:

AN ORDINANCE AMENDING SECTIONS 28-63 AND 28-72 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE USE OF ELECTRONIC CIGARETTES.

The city of Duluth does ordain:

Section 1. That Section 28-63 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 28-63. Definitions.

For the purposes of this Article, the following words and phrases shall have the meaning hereinafter ascribed to them:

(a) Electronic cigarette shall mean any electronic-smoking device that can be used to deliver nicotine or any other substances to the person inhaling

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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from the device. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name;

(b) Kitchi Gammi Park, for the purposes of this Article only, shall mean that park located on land located between Congdon Boulevard and Lake Superior and between the Lester River and 69th Avenue East;

(c) Lake Place shall mean that structure elevated over the right-of-way of Interstate Highway 35 between Lake Avenue and Fourth Avenue East containing park-like amenities;

(d) Lakewalk shall mean the constructed trail surface of that recreational trail running in close proximity to Lake Superior from the Duluth Aerial Lift Bridge to 26th Avenue East and from there following the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad to east side of the Lester River and thereafter connecting to and located in Kitchi Gammi Park;

(e) Leif Ericson Park shall mean that property used for park purposes located between the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad and the shoreline of Lake Superior and between Eighth Avenue East and 13th Avenue East;

(f) Medical facility shall mean any medical hospital, medical or dental clinic;

(g) Prohibited substances shall mean any tobacco related product, electronic cigarette and any other substance labeled as not safe for or intended for human consumption;

(h) Public place shall mean any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility;

(i) Smoke shall mean the gases, particles or vapors released into the atmosphere as a result of combustion, electrical ignition or vaporization of or by any prohibited substance;

(j) Smoking shall mean inhaling or exhaling smoke from any instrumentality, including but not limited to any cigar, cigarette, pipe, hookah pipe or an operating electronic cigarette, or having in possession any such instrumentality producing smoke or engaging in any act that generates smoke;

(k) Tobacco related products shall mean any product containing, made or derived from tobacco that is intended for human consumption, or any component, part, or accessory of a tobacco product, including but not limited to tobacco found in cigars and cigarettes, tobacco intended to be used in pipes or cigarettes, chewing tobacco, moist or dry snuff, dissolvable tobacco products and electronic cigarettes and any other product containing, made or derived from tobacco that is intended or expected to be consumed with or without being combusted but does not include any tobacco product that has been approved by the United States food and drug administration for sale as a tobacco cessation product, tobacco dependent product or for other medical purposes and is marketed and sold only for those purposes.

Section 2. That Section 28-72 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 28-72. Smoking outdoors--near medical facilities.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(a) Medical facility means any medical hospital, medical or dental clinic;

(b) Public place means any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility;

(c) Smoke or smoking means the use or possession of a lighted cigar, cigarette, electronic cigarette, pipe, tobacco smoking device or any other lighted smoking equipment;

(d) No person shall smoke in any public place within 100 feet of the nearest property line of a medical facility, said 100 feet measured in a straight line of constant elevation;

(e) The prohibition of (d), above, does not apply to a person inside an enclosed motor vehicle in motion on a public street or alley.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Julsrud moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilors Fosle and Krause -- 2

Passed September 9, 2013  
Approved September 9, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10243**

BY COUNCILORS JULSRUD AND KRUG:

AN ORDINANCE AMENDED CHAPTER 11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE SALE OF ELECTRONIC CIGARETTES.

The city of Duluth does ordain:

Section 1. That Section 11-1 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 11-1. License to sell--required; definitions.

(a) For the purposes of this Chapter, the terms "tobacco" and "tobacco related devices" shall have the meanings given them in Section 609.685 of the Minnesota Statutes and as the same may from time to time be amended, and shall include electronic cigarettes defined as any electronic-smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name;

(b) No person or any clerk, servant, employee or agent of any such person shall, within the city, directly or indirectly upon any pretense manufacture, sell, exchange, barter or keep for sale any tobacco or tobacco related devices without first having obtained a license therefor.

Section 2. That Section 11-4 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Sec. 11-4. Same--Character of applicant; movable places of business and vending machines licenses prohibited; to be issued for sale only at single location.

No license required by this Chapter shall be issued except to a person of good moral character. No license shall be issued to an applicant for sale of tobacco or tobacco related devices at any place other than his established place of business. No license shall be issued for the sale of tobacco or tobacco related devices at a movable place of business, nor shall any license be issued for the sale of tobacco or tobacco related devices at more than one place of business. No license shall be issued authorizing the sale of tobacco or tobacco related devices from a vending machine or any other mechanical device.

Section 3. That Section 11-7 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 11-7. Sales from vending machines prohibited.

No person shall sell or offer for sale any tobacco or tobacco related devices from a vending machine or other mechanical device. The presence of a cigarette vending machine containing tobacco or tobacco related devices on any business premises other than that of a supplier, repairer or distributor of cigarette vending machines shall constitute prima facie evidence of such business offering for sale tobacco or tobacco related devices through the use of a vending machine.

Section 4. That Section 11-9 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 11-9. Smoking by minors, possession or purchase of tobacco prohibited.

(a) The smoking or use of tobacco or tobacco related devices within the city by any person below the age of 18 years is hereby prohibited. Any person of such minor age found smoking or using tobacco or tobacco related devices shall be guilty of a misdemeanor;

(b) No person under 18 years of age shall possess any tobacco or tobacco related devices on his or her person;

(c) No person under 18 years of age shall purchase, attempt to purchase, or conspire to have another person purchase for him or her any tobacco or tobacco related devices.

Section 5. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Julsrud moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 9, 2013  
Approved September 9, 2013  
DON NESS, Mayor

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# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## ORDINANCE NO. 10244

BY COUNCILOR GARDNER:

AN ORDINANCE PROHIBITING SMOKING OF ANY KIND IN CENTRAL HILLSIDE PARK, AMENDING SECTIONS 28-63 AND 28-64 TO CHAPTER 28 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 28-63 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 28-63. Definitions.

For the purposes of this Article, the following words and phrases shall have the meaning hereinafter ascribed to them:

(a) Central Hillside Park shall mean that property bounded by Lake Avenue, Third Street, First Avenue East and Fourth Street, commonly referred to as "Central Hillside Park":

(b) Kitchi Gammi Park, for the purposes of this Article only, shall mean that park located on land located between Congdon Boulevard and Lake Superior and between the Lester River and 69th Avenue East;

(c) Lake Place shall mean that structure elevated over the right-of-way of Interstate Highway 35 between Lake Avenue and Fourth Avenue East containing park-like amenities;

(d) Lakewalk shall mean the constructed trail surface of that recreational trail running in close proximity to Lake Superior from the Duluth Aerial Lift Bridge to 26th Avenue East and from there following the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad to east side of the Lester River and thereafter connecting to and located in Kitchi Gammi Park;

(e) Leif Ericson Park shall mean that property used for park purposes located between the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad and the shoreline of Lake Superior and between Eighth Avenue East and 13th Avenue East;

(f) Medical facility shall mean any medical hospital, medical or dental clinic;

(g) Prohibited substances shall mean any tobacco related product and any other substance labeled as not safe for or intended for human consumption;

(h) Public place shall mean any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility;

(i) Smoke shall mean the gases, particles or vapors released into the atmosphere as a result of combustion, electrical ignition or vaporization of or by any prohibited substance;

(j) Smoking shall mean inhaling or exhaling smoke from any instrumentality, including but not limited to any cigar, cigarette, pipe, hookah pipe or an operating electronic cigarette, or having in possession any such instrumentality producing smoke or engaging in any act that generates smoke;

(k) Tobacco related products shall mean any product containing, made or derived from tobacco that is intended for human consumption, or any

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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component, part, or accessory of a tobacco product, including but not limited to tobacco found in cigars and cigarettes, tobacco intended to be used in pipes or cigarettes, chewing tobacco, moist or dry snuff, dissolvable tobacco products and electronic cigarettes and any other product containing, made or derived from tobacco that is intended or expected to be consumed with or without being combusted but does not include any tobacco product that has been approved by the United States food and drug administration for sale as a tobacco cessation product, tobacco dependent product or for other medical purposes and is marketed and sold only for those purposes.

Section 2. That Section 28-64 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 28-64. Ingesting a prohibited substance--prohibited in certain places.

(a) No person shall ingest by smoking or chewing any prohibited substance at or in any of the following locations:

(1) Anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act;

(2) Inside any Duluth Transit Authority transit shelter;

(3) Within 15 feet from the nearest point of any Duluth Transit Authority transit shelter which displays at least two signs visible from the exterior of the shelter providing notice of this prohibition, said 15 feet measured in a straight line of constant elevation;

(4) Anywhere in Wade Stadium that is open to the public except in areas designated for such consumption;

(5) Within 100 feet of the nearest property line of a medical facility, said 100 feet measured in a straight line of constant elevation; provided that this prohibition does not apply to a person inside an enclosed motor vehicle in motion on a public street or alley;

(6) On the Lakewalk, on Lake Place or in Leif Ericson Park;

(7) In Central Hillside Park;

(b) Any person violating this Section is guilty of a petty misdemeanor or may be penalized under Chapter 12 of the Duluth City Code, 1959, as amended;

(c) Signage to enforce the provisions of this ordinance shall be approved by the city of Duluth.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 9, 2013  
Approved September 9, 2013  
DON NESS, Mayor

- - -

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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**ORDINANCE NO. 10245**

AN ORDINANCE AMENDING SECTION 33-97.11 OF THE DULUTH CITY CODE, 1959, AS AMENDED, PERTAINING TO PARKING CAMPER TRAILERS AND RECREATION VEHICLES.

The city of Duluth does ordain:

Section 1. That Section 33.97-11 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 33-97.11. Parking camping trailers or recreational vehicles.

No person shall park, store or occupy any trailer or recreational vehicle in, on or upon any place or premises situated outside an approved and duly licensed trailer camp; but nothing contained in this ordinance shall prohibit the parking or storing of only one unoccupied trailer in a private garage, driveway or in a rear yard located anywhere within the city of Duluth, provided that no living quarters shall be maintained, for a period in excess of 35 consecutive days and 60 total days in any calendar year, nor any business carried on, or profession practiced in such trailer, during all of the time such trailer is so parked or stored.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed September 9, 2013

Approved September 9, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10246**

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY ON OR IN THE DULUTH HEIGHTS NEIGHBORHOOD TO ETHAN C. AND LAURA L. COLE FOR \$1,600.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the Code), the city council finds that:

(a) City Resolution 13-0406 approved the sale or conveyance of certain property in the Duluth Heights neighborhood;

(b) As per Section 2-178 of the Duluth City Code, 1959, as amended (the Code), if, due to existing laws or regulations, no building can legally be constructed on a parcel, the city may directly sell such parcel by ordinance to an adjacent owner or adjacent owners without competitively bidding but at a price at least equal to its market value as determined by the city assessor;

(c) The manager of the city's physical planning division has reviewed the parcel in question and determined that due to existing laws, no building can be legally constructed on it;

(d) As per Section 2-176(c) of the Code, the county assessor has provided an estimate of the market value to be \$1,600;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(e) The property described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale and pursuant to Article XXXIII of Chapter 2 of the Code.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Ethan C. and Laura L. Cole, husband and wife, as joint tenants, for the amount of \$1,600 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

Lot 47, Block 179, DULUTH PROPER THIRD DIVISION.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed September 9, 2013

Approved September 9, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10247**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION, FROM MIXED USE BUSINESS (MU-B) TO MIXED USE NEIGHBORHOOD (MU-N), FOR PROPERTIES LOCATED AT THE NORTHWEST CORNER OF COMMONWEALTH AVENUE AND EAST CARTERETT STREET (SMR ACQUISITIONS COMPANY, LLC).

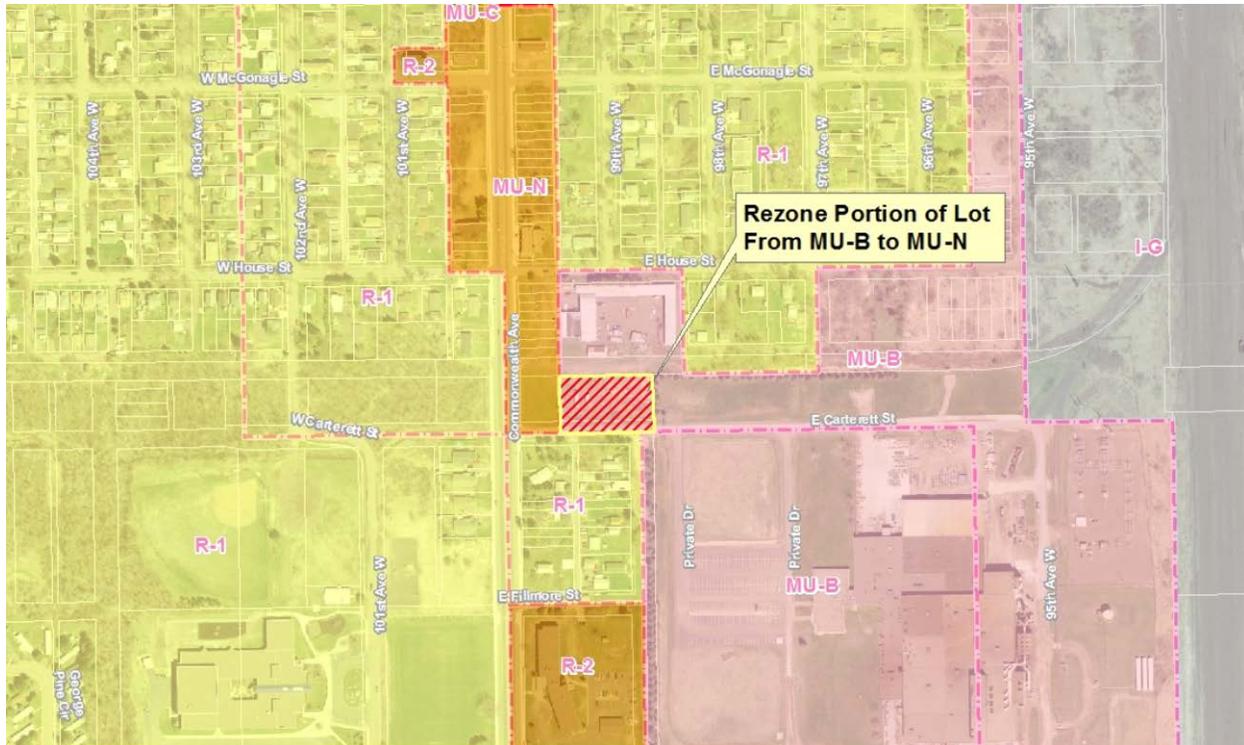
The city of Duluth does ordain:

Section 1. That portions of the 1 acre subject property located at the corner of Commonwealth Avenue and East Carterett Street, and as more particularly described in Exhibit A and by the following:

010-2730-00272

be reclassified from MU-B to MU-N, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013



Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed September 9, 2013  
Approved September 9, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10248**

AN ORDINANCE AUTHORIZING THE CHIEF ADMINISTRATIVE OFFICER OR DESIGNEE TO EXECUTE AGREEMENTS WITH ARTISTS FOR THE DISPLAY OF ARTWORK.

The city of Duluth does ordain:

Section 1. That pursuant to Section 32 of the Home Rule Charter of the city of Duluth, the chief administrative officer or his/her designee is hereby authorized to enter into agreements substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0909-23 with local artists for the display of artwork throughout the city, including the Duluth International Airport, beginning on the effective date of this ordinance through December 31, 2018, at no cost to the city.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

President Boyle moved passage of the ordinance and the same was adopted upon the following vote:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 9, 2013  
Approved September 9, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10249**

AN ORDINANCE AMENDING SECTION 10-3 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING NOTICE OF DEMOLITION ORDERS.

The city of Duluth does ordain:

Section 1. That Section 10-3 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 10-3. Demolition procedure.

(a) General. Whenever it comes to the notice of the building official that any building or structure is in a damaged, dilapidated or dangerous condition, it shall be his or her duty to make an inspection of such building or structure. It shall be unlawful to repair or alter any building or structure located in the city if, in the opinion of the building official based upon information documented in the official file and records, such building or structure has been damaged or deteriorated from any cause to the extent that the building official's good faith, reasonable estimate of the cost of repairing and restoring the building is more than 60 percent of the current fair market value of the building, as shown in the records of the city assessor or as adjusted by the assessor for accuracy, and all such buildings or structures so damaged or deteriorated shall be torn down and removed when so ordered by the building official; provided, however, that the building official, or the building appeal board in cases appealed to it, may allow such a damaged or deteriorated building to be repaired, for good cause shown related to the use, location or unique characteristics of the building, when the owner shows that he or she has dedicated sufficient funds to pay for the repair, have entered into a valid contract to have the repair completed, and will complete all the repair and restoration work within a reasonable time, not to exceed 18 months;

(b) Orders for demolition and assessment of costs. All orders for the demolition of a dangerous, defective or deteriorated building, or for repairs to the same, shall be in writing, signed by the building official, and shall allow not less than 30 days in which to comply with said order. Each order shall identify the structure, state the legal basis of the order, the date of the order, the fair market value of the building, the building official's good faith, reasonable estimate of the cost of repairs, the calculation that forms the basis for the opinion that the damage requires that the building be demolished, the time and procedure for appeal, and other information deemed relevant by the building official. Should any such order not be complied with within the time allowed therefor or, should the structure constitute an immediate threat of bodily harm to the public, or the appeal provided for in Section 10-5 of this Chapter not be taken, the building official shall, in writing, communicate such information to the city council. The

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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city council may direct the building official to proceed with the work ordered, or to contract to have the work done. In case of the demolition of a building, should the sale of the salvage from such building exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto. A statement of the cost of such work shall be transmitted to the city council which may cause the same to be charged against the land on which the building existed as a municipal lien, which lien shall be recorded with the register of deeds or registrar of titles as a lien against such land, or to be recovered in a suit at law against the owner, or to cause any or all of such costs to be assessed against the property from which such removal takes place. If the city council decides to assess the cost of demolition against the affected property, such assessment shall be made by resolution of the council, and such resolution shall state a time by which such assessment shall be payable, which time shall be not less than 30 days after publication of such resolution and service of notice of the assessment upon the property owner. Notice of such assessment and the time within which it shall be paid, shall be served on the owner of such property in the manner provided in Subsection (c) of this Section below, except that it shall not be necessary to post such notice on the affected property or to publish such notice other than to publish in the regular manner the resolution by which such assessment is made. Delinquent assessments shall be certified to the county auditor of St. Louis County for collection in the same manner as other assessments, pursuant to Section 70 of the Duluth City Charter;

(c) Notice to owner. Except as otherwise provided for in Subsection (b) above, service of all orders provided for in this Section shall be made as follows:

(1) Upon an individual owner, residing within the city of Duluth, by delivering a copy to him or her personally or by leaving a copy at his or her usual place of abode with some person of suitable age and discretion then residing therein. If the owner does not reside within the city of Duluth, by sending a copy of such order by certified mail to his or her last known address, and in addition a copy of such order shall be posted in a conspicuous place in the building to which it relates. Such mailing and posting shall be deemed adequate service. If it should come to the attention of the building official that the owner, as shown by the land records of the register of deeds or the registrar of titles of the county of St. Louis, Minnesota, is deceased, such order shall be sent by certified mail to the known heirs of the deceased owner if the building official is reasonably able to ascertain such heirs. In addition, a copy of the said order shall be posted in a conspicuous place on the building to which it relates, and said order shall be published in the official newspaper of the city of Duluth for one day in each of two consecutive weeks during the period to which the order relates. Such mailing, posting and publication shall be deemed adequate service;

(2) If the owner is confined to a state institution, by serving also the chief executive officer of the institution;

(3) If the owner be an infant under the age of 14 years, by serving a resident guardian, and if he or she has none, then by serving the person having control of such infant or with whom he or she resides;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(4) If the owner be a partnership or association, by delivering the order to a member or the managing agent of the partnership or association;

(5) If the owner be a domestic or foreign corporation, by delivering the order to an officer or managing agent. If such corporation be a foreign corporation and has no such agent in the city of Duluth, then service may be made upon any such agent of the corporation within the state;

(d) In addition to other provisions of the Code, this Section 10-3(d) is enacted;

(1) Policy. Pursuant to authority provided in Minnesota Statutes, Section 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in Section (2); and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements;

(2) Findings. The city council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and that the unkempt grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated;

(3) Securing vacant buildings;

(A) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the building official may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six days after the order is served, the

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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building official shall cause the building to be boarded up or otherwise properly secured;

(B) Emergency. When it is determined by the building official or the chief of police, or the fire chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the building official or the chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:

1. The conditions showing the existence of an exigency are documented in writing by the building official or the chief of police or the fire chief or their designees;

2. Notice be mailed immediately by the department invoking this Section to the address of the owner and taxpayer, and, if recorded on the assessor's rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefore;

(C) After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the building official shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee shall be set in accordance with Section 31-6(a) of this Code and all other costs incurred by the city for boarding or otherwise securing a building under this Chapter, including, but not limited to the actual costs for boarding, posting and monitoring the building, building and housing code compliance inspections, police or fire department inspection, response, or protection; public health and safety investigation; control of people or property wrongfully on the premises shall be assessed as provided in Duluth City Code Section 10-3. The above fees, when collected, shall be dedicated to the use of the department(s) that administer(s) the enforcement actions. Owner, for the purposes of this Section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the city assessor on the homestead record; or, if none, the taxpayer as shown by the records of the city assessor;

(4) Vacant building registration;

(A) The owner of a residential building or building located in a residentially zoned area shall register the building with the building official within 30 days after it becomes a vacant building. In this Section, a vacant building is at least one of the following:

1. Condemned;

2. Unoccupied and unsecured for 30 days or more;

3. Unoccupied and secured by means other than those normally used in the design of the building for 30 days or more;

4. Unoccupied and has multiple housing maintenance, fire or building code violations existing for 30 days or more;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(B) The registration shall be submitted on forms provided by the building official and shall include the following information supplied by the owner:

1. A description of the premises;
2. The names and addresses of the owner or owners;
3. The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
4. The period of time the building is expected to remain vacant; and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building;

(C) The owner shall submit a plan and timetable that must comply with the guidelines adopted by the building official. The guidelines are adopted for purposes of preventing nuisance conditions and maintaining compliance with this Code. These guidelines shall be made available to building owners. The plan shall be submitted at the time of registration, or within a reasonable period of time thereafter to be determined by the building official;

(D) The owner shall comply with all applicable laws and codes. The owner shall notify the building official of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the building official;

(E) The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed;

(F) Failure of the owner or any subsequent owner to maintain the building and premises that result in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law;

(G) The new owner(s) shall register or re-register the vacant building with the building official within 30 days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the building official;

(H) The building official shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building;

(I) Vacant building fees:

1. The owner of a vacant building shall pay an annual fee, which shall be set in accordance with Section 31-6(a) of this Code. The fee is imposed to defray the administrative costs for registering and processing the vacant building registration form and for the costs of the city in monitoring the vacant building site;

2. The first annual fee shall be paid no later than 30 days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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3. Unpaid fees shall be levied and collected as a special assessment against the property as provided for under Section 10-3, with interest at the rate set in accordance with Section 31-8 of this Code per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees;

(J) A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this Chapter.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Fosle moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed September 9, 2013

Approved September 9, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10250**

AN ORDINANCE AMENDING SECTION 10-5 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TRANSFERRING JURISDICTION OF LOCAL BUILDING CODE APPEALS TO THE STATE APPEALS BOARD.

The city of Duluth does ordain:

Section 1. That Section 10-5 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 10-5. Building appeal board.

(a) There is hereby established a building appeal board, which shall hear and determine appeals under the State Fire Code and Duluth Housing Code. Such board shall consist of 12 members who shall be appointed by the mayor, subject to the approval of the city council and who shall serve without compensation. The Duluth fire chief and building official shall be appointed as ex officio members of the board. The building official shall have no vote on any matter before the board and shall act as secretary of the board. One member of the board shall work in the area of finance; one member shall be a registered architect; one member shall be a registered engineer working in the area of building construction design; one member shall be engaged in the business of residential building construction; one member shall be engaged in the business of commercial building construction; one member shall work in the area of building materials supply; one member shall be a member of a building trade union; one member shall be a realtor or real estate manager; and two members shall be appointed from the general citizenry of the city of Duluth. Of the first persons appointed for membership on the board, four shall be appointed for three years, four shall be appointed for two years, and three shall be appointed for one year. Thereafter, all appointments shall be for a term of three years,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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except that vacancies caused by death, resignation or otherwise may be filled for the remaining unexpired term;

(b) Within 30 days after the initial appointments, the board shall meet and elect a chairman and vice chairman. Thereafter, the board shall meet at stated intervals fixed by resolution of the board, or at the call of the chairman or of any three members of the board. The board may adopt reasonable rules and regulations for conducting its investigations and hearings;

(c) The board shall have jurisdiction to perform the following functions:

(1) To hear appeals from decisions made by the building official in enforcing or interpreting the Duluth Housing Code, Chapter 29A, of the Duluth City Code;

(2) To hear appeals from decisions of the fire chief which arise under Chapter 21 of the Duluth City Code;

(3) To hear appeals from an order of the building official which applies Article II or III of Chapter 10 of Duluth City Code, as amended, or its successor, which includes orders for demolition or other decisions under Article II or III of Chapter 10, Duluth City Code;

(d) Any owner or occupant who wishes to appeal a decision of the building official or fire marshal shall serve written notice of appeal upon the building official within 15 days after receiving notice of such decision and pay the appeal fee. The appeal fee shall be set in accordance with Section 31-6(a) of this Code. The notice of appeal shall contain a complete statement of the matter in controversy and relief requested. If the appeal is from a decision of the fire chief, the building official shall forward a copy of the notice of appeal to the fire chief. The building official shall notify the appellant of the time and place of the hearing. If the appellant withdraws his or her appeal in writing prior to the date and time set therefore, the building official shall refund the aforesaid fee. At the hearing, the board shall hear all relevant evidence and arguments. After due deliberation, the board shall render its decision in writing and notify the appellant of its decision by U.S. mail, electronic means or personal service. The building official shall keep an indexed record of decisions of the board. If the board grants an appellant an extension of time to do an act, then, at the next meeting after expiration of that period of time, the matter shall be set on the meeting agenda for the board's review and action;

(e) In making its decisions, the board shall use the following criteria:

(1) Housing code appeals and appeals of demolition or other orders. The board may remedy any error it has found the building official has made in the interpretation of the housing code or of Article II or III of Chapter 10, Duluth City Code, or their successors. The board may also grant such relief as it deems reasonable from strict compliance with each provision of these parts of Duluth City Code, but no relief shall be granted unless it is found that:

(A) There is substantial compliance with the provisions of the Code;

(B) No detriment to public health or safety will result from granting such relief;

(C) The intent of the Code is not compromised;

(D) The relief granted will not result in increased cost expense to the city;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(2) Variances from the minimum requirements of the fire code may be recommended to the state fire marshal only if:

(A) There is substantial compliance with the provisions of the fire code;

(B) The safety of the building occupants and general public will not be jeopardized;

(C) Undue hardship will result to the applicant if relief is not granted;

(f) Any owner or occupant aggrieved by a decision of the board which involves a housing code matter, except a demolition matter under Section 10-3 of this Code, or its successor, may appeal such decision to the city council by filing a notice of appeal with the building official within 15 days after receiving notice of the board's decision. Such notice of appeal shall be addressed to the city council and shall state the grounds upon which the appeal is taken. The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. The building official shall file all appeal notices with the city council. The city council shall hear the appeal within 30 days after the notice of appeal is filed and shall affirm, modify or reverse the decision of the board. The board's decision on demolition orders or any matter arising under Section 10-3 of this Code, or its successor, shall be appealed to the appellate courts pursuant to Minnesota Statutes Section 606.01.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 11, 2013)

Councilor Fosle moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 9, 2013  
Approved September 9, 2013  
DON NESS, Mayor

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# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, September 12, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Krause, Krug, Larson, Stauber and President Boyle -- 6

Absent: Councilors Gardner, Hartman and Julsrud -- 3

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## MOTIONS AND RESOLUTIONS

The council finds as follows:

(a) On September 10, 2013, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a primary municipal election for the purpose of electing certain city officers;

(b) The judges of the election districts in the city have made their returns of said election and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 13-0912-01) at 5:00 p.m., September 12, 2013, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 6,283 cast ballots;

(c) Votes were cast for the office of city councilor at large in the following manner:

Zack Filipovich	3,081
Barb Russ	3,943
Ray (Skip) Sandman	1,175
Ryan Stauber	2,295
Ray Whitledge III	525

NOW, THEREFORE, BE IT RESOLVED, that Zack Filipovich, Barb Russ, Ray (Skip) Sandman and Ryan Stauber, having received the four largest numbers of the votes cast at said election for city councilor at large, are hereby certified to have their names placed on the general municipal election ballot and the city clerk is hereby directed to place their names on the general municipal election ballot.

Resolution 13-0476 was unanimously adopted.

Approved September 12, 2013

DON NESS, Mayor

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The meeting was adjourned at 5:17 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for  
JEFFREY J. COX, City Clerk

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Monday, September 23, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and President Boyle -- 8

Absent: Councilor Krug -- 1

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## MOTIONS AND RESOLUTIONS

Resolution 13-0491, by Councilor Gardner, appointing \_\_\_\_\_ to fill the prospective vacancy of the fourth district city council seat, was introduced for discussion.

Councilors Stauber and Fosle expressed concerns on the process of: that there should have been a public hearing for citizens to comment on who they preferred; that this should be not be done by resolution because it allows the decision to be vetoed by the mayor or reconsidered at the next meeting and that this appointment term should last only to the next municipal general election.

Councilor Gardner reviewed the history of how this process was used in the past.

City Attorney Gunnar Johnson reviewed that the past precedent for this has been that the appointment has been until the end of the existing term in January, but that technically after reviewing Section 4 of the City Charter, the appointment should only be until after the election in mid-November.

Councilors Gardner, Hartman, Julsrud and Larson commented on the merits and quality of appointing Gary Eckenberg.

Gary Eckenberg commented that a three month appointment makes sense, but that a two meeting appointment does not make sense for him and withdrew his name.

To Councilor Fosle's inquiry, Mr. Johnson felt that legally this appointment should only run to after the election.

Councilor Gardner stressed the aspect that the Charter states that "the council shall without delay appoint a replacement."

Councilor Julsrud moved that the resolution be removed from the agenda, which motion was seconded and carried as follows:

Yeas: Councilors Fosle, Julsrud, Stauber and President Boyle -- 4

Nays: Councilors Gardner, Hartman and Larson -- 3

Abstention: Councilor Krause -- 1

Absent: Councilor Krug -- 1

- - -

The meeting was adjourned at 7:30 p.m.

JEFFREY J. COX, City Clerk

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, September 23, 2013, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and President Boyle -- 8

Absent: Krug -- 1

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-0923-01 Robyn Christianson, et al. (four signatures) petition for watermain in Oxford, Livingston and Glenwood streets. -- Assessor

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## REPORTS FROM OTHER OFFICERS

13-0923-02 Clerk application for exempt permit to the Minnesota gambling control board from The ALS Association, MN/ND/SD Chapter on February 1, 2014 (raffle). -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-0923-03 Civil service board minutes of: (a) June 4; (b) June 25, 2013, meetings. -- Received

13-0923-04 Duluth parking commission: (a) Minutes of July 12, 2013, meeting; (b) Resolutions, pursuant to Section 33-85 of the Duluth City Code, to: (1) Prohibit parking on the south side of Linzie Road (2013-17); (2) Prohibit parking on both sides of 12th Avenue East between First Street and Second Street (2013-18). -- Received

13-0923-05 Library board minutes of: (a) May 28; (b) June 25, 2013, meetings. -- Received

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At this time, 7:31 p.m., the public hearing on the proposed amended and restated Loan B agreement with AAR Aircraft Services, Inc., began.

At this time, 7:32 p.m. the public hearing was declared closed.

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Chief Administrative Officer David Montgomery thanked Councilor Krause for his service on the council and congratulated him on his new job. Mr. Montgomery presented a plaque to Councilor Krause on behalf of the administration and staff.

Councilor Krause thanked everyone for the gift and stated he has enjoyed working for the citizens of Duluth and working with the administration and staff.

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the city council hereby authorizes a line of credit in the amount of \$300,000 for the Arrowhead Zoological Society subject to a fully executed promissory note,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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substantially the same as that on file in the office of the city clerk as Public Document No. 13-0923-06, requiring loan repayment at 2.5 percent interest with the entire outstanding principal amount due and payable on October 1, 2016, funds to be paid from the zoo fund, loans receivable (Fund 200-1330).

Resolution 13-0481 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to accept a Minnesota cross country trail assistance program grant, a copy of which is on file in the office of the city clerk as Public Document No. 13-0923-07, with the Minnesota department of natural resources for the maintenance of the Duluth cross country trails for the 2013-2014 season in the amount of \$11,000; said funds to be deposited in the General Fund-110, Public Administration-121, Maintenance Operations/Buildings and Grounds-1217-2150, Ski Trail Reimbursement-4225.

Resolution 13-0483 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to transfer \$50,000 from Fund 258, the tourism tax fund balance restricted for capital improvements, to the Great Lakes Aquarium to provide a local match to the \$200,000 allocation of arts and cultural heritage funding authorized by the Minnesota legislature, 2013 Minnesota Session Laws, Chapter 137, Article 4, Section 2, Subdivision 6(e), for the development of an exhibit to examine the effect that aquatic environments have on shipwrecks and to preserve Minnesota's history and cultural heritage.

Resolution 13-0493 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

WHEREAS, the city purchasing division issued the original purchase order to Titan Machinery, Inc., on January 15, 2013, in the amount of \$48,000, an amount not requiring city council approval; and the fleet services division finds now that it must increase the purchase order due to increased usage and the need for repairs and maintenance during year 2013.

RESOLVED, that the proper city officials are hereby authorized to increase the purchase order to Titan Machinery, Inc., for OEM (original equipment manufacturer) replacement parts and labor for Case backhoes and loaders by \$20,000 for a new contract total of \$68,000, terms net 30, Minnesota state discount of ten percent on current pricing list, payable as follows:

(a) \$15,000 from Fleet Services Fund 660, Department/Agency 015 (public administration), Object 5221 (equipment repair supplies);

(b) \$5,000 from Fleet Services Fund 660, Department/Agency 015 (public administration), Object 5404 (equipment/machinery repair and maintenance).

Resolution 13-0480 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an amended and restated Loan B agreement, substantially in the form of that on file in the office

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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of the city clerk as Public Document No. 13-0923-08(a), with AAR Aircraft Services, Inc. ("AAR") in an amount not to exceed \$500,000, payable from Fund 255 (economic development), Agency 020 (planning), Object 5434 (grants and awards).

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter into a first amendment to the Minnesota investment fund ("MIF") grant agreement (#CDAP-12-0010-H-FY12), substantially in the form of that on file in the office of the city clerk as Public Document No. 13-0923-08(b), with the Minnesota department of employment and economic development ("DEED") in an amount not to exceed \$1,000,000 relating to both the Loan A and Loan B agreements with AAR, payable into Fund 255 (economic development), Agency 020 (planning), Object 4220-02 (state of Minnesota operating).

Resolution 13-0478 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that the council finds as follows:

(a) That the building official for the city of Duluth duly issued condemnation orders for structures located upon the parcels of land described below within the city of Duluth after determining that criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

Parcel 1: 7445 East Superior Street, Tax Parcel Number 010-0280-00590. Notification of order for condemnation for demolition to owner, Matthew Todd Christensen, publication in Duluth News Tribune August 6, 2010, and August 13, 2010; and

Parcel 2: 1624 Sundby Road, Tax Parcel Number 010-2710-04555. Notification of order for condemnation for demolition to owner, Arrowhead Commercial Partners, delivered by registered mail on February 3, 2012; and

Parcel 3: 30 East Ninth Street, Tax Parcel Number 010-1350-06290. Notification of order for condemnation for demolition to owner, Jason Lindelof, delivered by registered mail on June 28, 2012; and

Parcel 4: 614 North Seventh Avenue East, Tax Parcel Number 010-3490-00110. Notification of order for condemnation for demolition to owner, Matthew E. Russell, delivered by registered mail on March 7, 2012; and

Parcel 5: 225 East Fourth Street, Tax Parcel Number 010-0990-00290. Notification of order for condemnation for demolition to owner, Bellagrace Properties, LLC, delivered by registered mail on March 25, 2011; and

Parcel 6: 1117 West Second Street, Tax Parcel Number 010-1160-00430. Notification of order for condemnation for demolition to owner, James R. Wilton, delivered by registered mail on September 10, 2010; and

Parcel 7: 6303 Nashua Street, Tax Parcel Number 010-2660-02180. Notification of order for condemnation for demolition to owner, James Olcott C., et al., delivered by registered mail on March 25, 2011; and

Parcel 8: 641 North 59th Avenue West, Tax Parcel Number 010-4520-09510. Notification of order for condemnation for demolition to owner, state of Minnesota for Adam D. Adams, delivered by personal service to Adam D. Adams in City Hall on May 2, 2012; and

Parcel 9: 17 South 63rd Avenue West, Tax Parcel Number 010-4540-02030. Notification of order for condemnation for demolition to owner, Michael T. Priola, publication in Duluth News Tribune February 10, 2012, and February 17, 2012; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Parcel 10: 21 East Ninth Street, Tax Parcel Number 010-1350-09230. Notification of order for condemnation for demolition to owner, Harold Gooler A., et al., publication in Duluth News Tribune February 10, 2012, and February 17, 2012; and

Parcel 11: 118 Fir Avenue, Tax Parcel Number 010-1130-00280. Notification of order for condemnation for demolition to owner, James D. McCauley, delivered by registered mail on February 2, 2012; and

Parcel 12: 3607 Piedmont Avenue, Tax Parcel Number 010-0265-00020. Notification of order for condemnation for demolition to owner, state of Minnesota C278 L35, delivered by registered mail to Saint Louis County land department on June 20, 2013;

Parcel 13: 1724 East Fifth Street, Tax Parcel Number 010-1480-07450. Notification of order for condemnation for demolition to owners, Colin R. Kistner and Jeanni Bolte, delivered by registered mail on June 22, 2013;

(b) All such orders are now final; and

(c) The cost for demolition of the structures has been estimated to not exceed \$260,000, and there is a current unobligated balance in Fund 110-132-1304-5453 in the amount of \$39,090.

BE IT RESOLVED, that pursuant to Section 10-3(b) of the city of Duluth Legislative Code the building official is authorized to:

(a) Proceed with the work ordered or to contract to have the work done, payable from Fund 110-132-1304-5453; and

(b) Should the sale of the salvage from such work exceed the cost of the demolition, the balance in excess of the cost shall be paid to the owner of said building or to such other persons as may by law be entitled thereto; and

(c) Submit to the city council a statement of the cost of such work for its further determination of the manner by which such costs shall be recouped as provided by Section 10-3(b) of the city of Duluth Legislative Code.

Resolution 13-0486 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with VONCO V Duluth, LLC, for certain demolition, transportation, disposal and site restoration services to be provided in accordance with a special environmental project set forth in a stipulation agreement to be executed by VONCO V Duluth, LLC, and the Minnesota pollution control agency, a copy of which is on file in the office of the city clerk as Public Document No. 13-0923-09.

Resolution 13-0487 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that pursuant to Section 61 of the City Charter, the city council hereby expresses its intent to cause the properties named below to be improved with public watermain and services as part of the city's 2012 municipal state aid project, and hereby requests that the mayor prepare or cause to have prepared plans, specifications and estimates therefor, and file such plans and estimates with the special assessment board together with a recommendation as to what portion of the cost shall be paid by special assessment and what part, if any, shall be a general obligation of the city, the number of installments in which assessments may be paid, and the lands which should include the special assessment:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

---

2315 Livingston Avenue;  
2319 Livingston Avenue;  
2331 Livingston Avenue.

Resolution 13-0488 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that two out of four property owners signed a petition to pave Plum Street from Ninth Avenue East to Skywood Lane, with 72 percent of frontage signed.

FURTHER RESOLVED, that construction documents were prepared and advertised for public bid. No bids were received.

FURTHER RESOLVED, that continuous erosion of gravel surfaces necessitates excessive maintenance by homeowners and city maintenance operations, cleaning eroded material and road bed restoration.

FURTHER RESOLVED, that city maintenance operations purchase materials to pave Plum Street by employment of day labor. A detailed account of materials, labor and equipment will be filed with the city clerk.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in five annual installments at municipal bond index plus 1.5 percent interest.

Resolution 13-0489 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council hereby authorizes the proper city officials to execute a first amendment to the orphanage water tower site lease agreement between New Cingular Wireless, PCS, LLC, and the city of Duluth, substantially the same as that on file in the office of the city clerk as Public Document No. 13-0923-10, which lease agreement is for the location and operation by New Cingular of wireless communication equipment on the Orphanage Water Tower, payments to be paid to the Water Fund 510, Agency 500, Revenue Source 4809.

Resolution 13-0490 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zones are established:

in front of 5302 Ramsey Street;  
in front of 1517 Jefferson Street.

Resolution 13-0482 was unanimously adopted.

Approved September 23, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered.

Resolution 13-0479, resolution authorizing an agreement with St. Louis County for lighting and maintenance of the CSAH 91 (Haines Road) pedestrian underpass, was introduced by Councilor Julsrud.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Fosle questioned why the county puts in a road and then asks the city to pay for it when the city does not have the money to pay for the bills it has now.

Resolution 13-0497 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with St. Louis County, a copy of which is on file in the office of the city clerk as Public Document No. 13-0923-11, to maintain the lighting improvements to the CSAH 91 (Haines Road) underpass to serve the Superior Hiking Trail, payable from General Fund 110, Department/Agency 121 (public administration), Division 1217 (maintenance operations), Cost Center 2120 (architecture and facilities management), Object 5381 (electricity), S.P. 69-691-020, City Project No. 0927TR.

Resolution 13-0479 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Larson, Stauber and President Boyle -- 6

Nays: Councilors Fosle and Krause -- 2

Absent: Councilor Krug -- 1

Approved September 23, 2013

DON NESS, Mayor

- - -

Resolution 13-0485, awarding a contract to Northland Constructors of Duluth, LLC, for construction of the cross city trail Phase I in the amount of \$1,367,452.19, was introduced by Councilor Julsrud for discussion.

Councilor Stauber expressed concern that the city is bonding for a trail when the condition of our streets deteriorate every day.

Councilor Fosle questioned if the city has the authority to bond for trails as it is not authorized in the City Charter.

Mr. Montgomery stated the trails around the city are economic generators for the city as they are an investment with a proven economic impact.

Councilor Krause moved to table the resolution until Ordinance 13-048 is considered, which motion was seconded and unanimously carried.

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

#### ORDINANCE TABLED

INTRODUCED BY COUNCILOR HARTMAN

13-048 (10251) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$875,000 OF THE CITY OF DULUTH TO FINANCE CROSS CITY TRAIL PHASE I UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Julsrud moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilors Krause, Stauber and Fosle expressed concerns of: the existing bonding debt; on what bonds could be issued for and how the community club and youth activities are in need of maintenance and care.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Larson and President Boyle -- 5

Nays: Councilors Fosle, Krause and Stauber -- 3

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Absent: Councilor Krug -- 1

- - -

At this time, Councilor Gardner moved to remove Resolution 13-0485 from the table, which motion was seconded and passes as follows:

Yeas: Councilors Gardner, Hartman, Julsrud, Larson and President Boyle -- 5

Nays: Councilors Fosle, Krause and Stauber -- 3

Absent: Councilor Krug -- 1

To Councilor Hartman's inquiry, Mr. Montgomery explained how this expenditure will be paid for.

Councilors Fosle, Krause and Stauber expressed concerns of: where the actual trail will go; the amount of money previously spent on trails; how limited funds should not be spent just because dollars can be leveraged.

Resolution 13-0485 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to award a contract to Northland Constructors of Duluth, LLC, for construction of the Cross City Trail Phase I in the amount of \$1,367,452.19, payable from Capital Improvement Fund 450, Department 030 (finance), Object 5530 (improvements other than buildings), City Project No. 0568TR.

Resolution 13-0485 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Larson and President Boyle -- 5

Nays: Councilors Fosle, Krause and Stauber -- 3

Absent: Councilor Krug -- 1

Approved September 23, 2013

DON NESS, Mayor

- - -

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HARTMAN

13-064 - AN ORDINANCE AMENDING SECTION 1-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING CITY ASSESSOR DEFINITION.

- - -

INTRODUCED BY COUNCILOR GARDNER

13-053 - AN ORDINANCE AMENDING ARTICLE XXVIII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE AMERICAN INDIAN COMMISSION.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-065 - AN ORDINANCE GRANTING TO WHOLE FOODS CO-OP A CONCURRENT USE PERMIT FOR THE INSTALLATION OF AN ELECTRICAL CONNECTION UNDER EAST FOURTH ALLEY.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

13-062 (10252) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-URBAN (R-2) TO MIXED USE-NEIGHBORHOOD (MU-N) FOR PROPERTIES BETWEEN NORTH 24TH AVENUE WEST AND NORTH 28TH AVENUE WEST FROM THE WEST FOURTH STREET ALLEY TO THE WEST THIRD STREET ALLEY (CITY OF DULUTH).

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

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The meeting was adjourned at 8:00 p.m.

JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 10251

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION BONDS IN THE MAXIMUM AMOUNT OF \$875,000 OF THE CITY OF DULUTH TO FINANCE CROSS CITY TRAIL PHASE I UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

The city of Duluth does ordain:

#### Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 The City Council has determined it to be necessary and expedient and in the public interest that the City construct a cross city trail and to begin such construction of Phase I from Sister Cities Park to 30th Avenue West (the "Project").

1.02 Under the provisions of Minnesota Laws 1974, Chapter 130, the City Council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the City's boundaries, which bonds are to be supported by the full faith and credit of the City and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the City's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The Project is of the nature contemplated by said law. The City has been awarded grants of state and federal funds for the Project, and it is estimated that such funds, together with the proceeds of bonds issued by the City in an amount not to exceed \$875,000 plus other City funds, will be sufficient to pay the total project costs of \$2,196,813.87, and that the amount of the City's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.03 Pursuant to the authority herein recited, the City Council hereby authorizes and directs the issuance and sale of General Obligation Bonds of the City in an amount not to exceed \$875,000 to finance the Project, and pledges the full faith and credit and taxing powers of the City irrevocably for the payment of the principal and interest when due on such bonds.

#### Section 2. TERMS OF BONDS.

2.01 The City Council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates, redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

#### Section 3. REVENUES AND ACCOUNTS.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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3.01 The City has created and maintains the cross city trail construction account in the capital improvement fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with any additional funds which may be available and are appropriated for the Project or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The City Council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

### Section 4. TAX LEVY.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the City will also maintain a separate 2013 cross city trail bonds debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from such debt service account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the City Council in any year shall make an irrevocable appropriation to said account of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this ordinance has been published and becomes effective, the City Council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

### Section 5. CERTIFICATE OF PROCEEDINGS.

5.01 The City clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

5.02 The officers of the City and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the City relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of the facts recited therein and the action stated therein to have been taken.

### Section 6. EFFECTIVE DATE.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the City's official

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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website and remain on such website for a period of at least 30 days. (Effective date: October 24, 2013)

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Larson and President Boyle -- 5

Nays: Councilors Fosle, Krause and Stauber -- 3

Absent: Councilor Krug -- 1

Passed September 23, 2013

Approved September 23, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10252**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-URBAN (R-2) TO MIXED USE-NEIGHBORHOOD (MU-N), FOR PROPERTIES BETWEEN NORTH 24TH AVENUE WEST AND NORTH 28TH AVENUE WEST FROM THE WEST FOURTH STREET ALLEY TO THE WEST THIRD STREET ALLEY (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That portions of the subject property located in the Upper Lincoln Park neighborhood area bordered by 24th Avenue West to North 28th Avenue West and West Fourth Street Alley and the West Third Street Alley; and as more particularly described in Exhibit A and by the following:

010-1180-01560	010-1180-02080	010-1140-03700
010-1180-01570	010-1180-02090	010-1140-03690
010-1180-01580	010-1180-02120	010-1140-03685
010-1180-01630	010-1180-02110	010-1140-03680
010-1180-01620	010-1180-02180	010-1140-03670
010-1180-01610	010-1180-02160	010-1140-04120
010-1180-01585	010-1180-02190	010-1140-04110
010-1180-01650	010-1140-04260	010-1140-04090
010-1180-01670	010-1140-04250	010-1140-04070
010-1180-01700	010-1140-04240	010-1140-04060
010-1180-01710	010-1140-04270	010-1140-04050
010-1180-01690	010-1140-04310	010-1140-04040
010-1180-01730	010-1140-04290	010-1140-04030
010-1180-01740	010-1140-04280	010-1140-04020
010-1180-01720	010-1140-04330	010-1140-04010
010-1180-01760	010-1140-04520	010-1140-04000
010-1180-01750	010-1140-04360	010-1140-03990
010-1180-01840	010-1140-03790	010-1140-03980
010-1180-01800	010-1140-03780	010-1180-02430
010-1180-01820	010-1140-03770	010-1180-02435
010-1180-01780	010-1140-03760	010-1180-02440
010-1180-01770	010-1140-03750	010-1180-02450

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

010-1180-01775  
010-1180-02150  
010-1180-02140

010-1140-03740  
010-1140-03730  
010-1140-03710

010-1180-02460  
010-1180-02480  
010-1180-02490

be reclassified from Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N) and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:

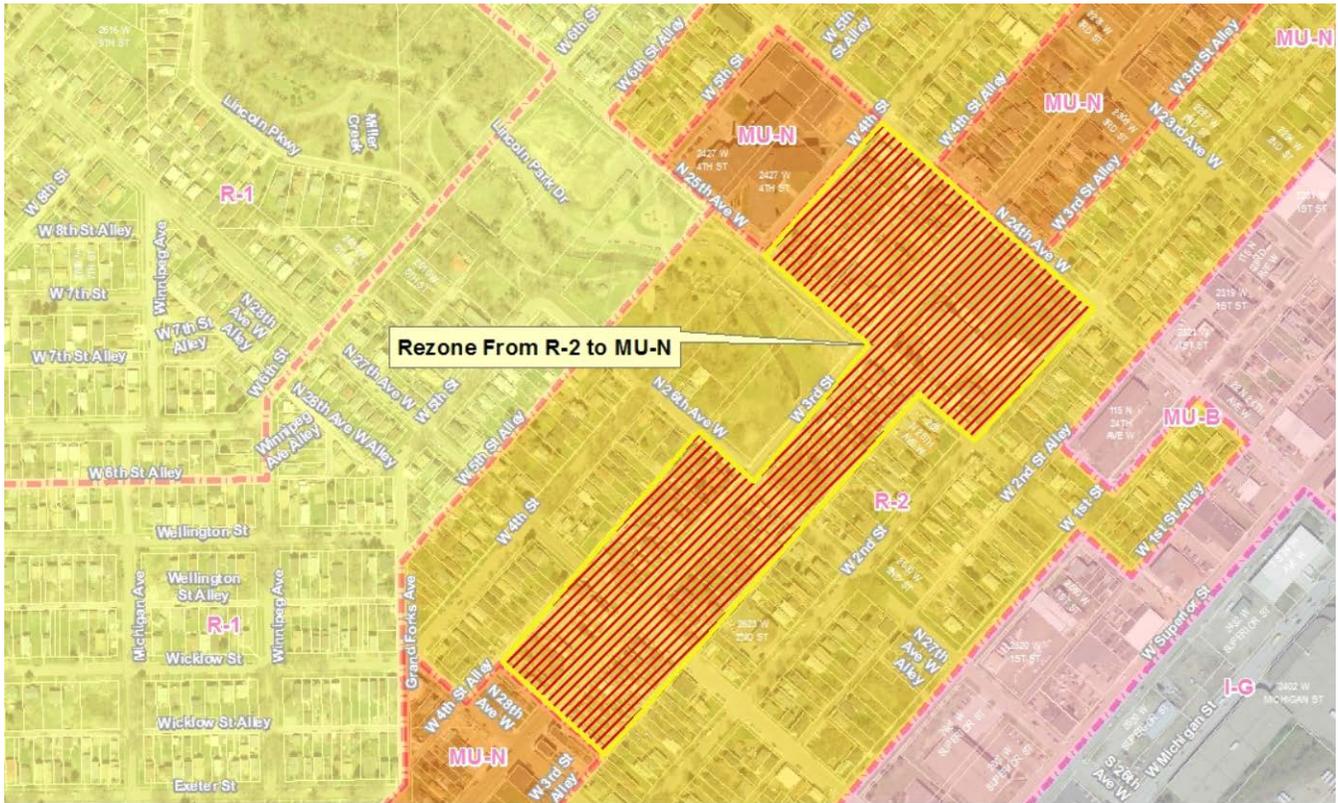


Exhibit A  
(Ref. File No. 13-108)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: October 24, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krause, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Absent: Councilor Krug -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed September 23, 2013  
Approved September 23, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 14, 2013, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Absent: None -- 0

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The minutes of the council meetings held on May 28 and June 10, 2013, were approved upon a unanimous vote.

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## REPORTS FROM OTHER OFFICERS

13-1014-01 Clerk application for exempt permit to the Minnesota gambling control board from Lake Superior Chapter 33 Muskies, Inc., on February 8, 2014 (raffle). -- Received

13-1014-02 Purchasing agent emergency order for the replacement of steam pipe for the Duluth Steam Plant awarded to A.G. O'Brien for \$160,740. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-1014-26 Alcohol, gambling and tobacco commission minutes of August 7, 2013, meeting. -- Received

13-1014-03 Building appeal board minutes of August 14, 2013, meeting. -- Received

13-1014-04 Commission on disabilities minutes of August 7, 2013, meeting. -- Received

13-1014-05 Duluth airport authority minutes of: (a) August 20; (b) August 26, 2013, meetings. -- Received

13-1014-06 Duluth citizen review board minutes of: (a) July 23; (b) August 27, 2013, meetings. -- Received

13-1014-07 Duluth economic development authority minutes of July 24, 2013, meeting. -- Received

13-1014-08 Duluth public utilities commission minutes of August 20, 2013, meeting. -- Received

13-1014-09 Duluth transit authority: (a) Minutes of June 26, 2013, meeting; (b) Financial statements for: (1) June; (2) July, 2013. -- Received

13-1014-10 Spirit Mountain recreation area authority minutes of August 15, 2013, meeting. -- Received

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## REPORTS OF COUNCIL OPEN ISSUES

Councilor Krug reviewed the action of the council at the past special council meeting that she missed regarding the appointment of the Fourth District councilor. She felt that the council should have appointed the other applicant based on the one candidate withdrawing and that the term should run until January. She added that she will work to bring back a resolution appointing a person to the Fourth District.

- - -

Councilor Larson reported that Congressman Noland is working to remove logging trucks from Superior Street.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilors commented at length about the issues of the options for filling the Fourth District council vacancy and the logging trucks on Superior Street.

- - -

### OPPORTUNITY FOR CITIZENS TO BE HEARD

Jerry Schlafer reviewed that the national debt will soon be \$20 trillion and cited examples of how the government is wasting money, from the president on down in the government, and there is no accountability or penalty. He felt that is why there is no money in the budget for programs.

- - -

Rich Jawerski, vice president of operations for the Duluth Children's Museum, played the opening communication from NASA's Mission Control and the International Space Station to Mission Control at the Children's Museum on October 7. He stated it was a once in a lifetime opportunity for the children and people from around the world, including NASA, to be listening to this broadcast. Mr. Jawerski introduced some of the youth who participated to describe the program.

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Joel Heller and Joan Linski felt that: although there have not been a lot of people at the council meeting talking to the council about the Fourth District vacancy, the constituents expect to have representation in the Fourth District; the council should make sure the Fourth District is represented and that individuals are asking the council to please listen to the people of the fourth council district.

- - -

Peggy Johnson explained the creation of the Duluth Police Foundation, whose mission is to create partnerships which fund and support community safety initiatives, technology and training for the police department and citizens, to keep Duluth a safe and inviting city for all.

- - -

Loren Martell stated the public has a right to understand about the taxes going to the school district and that the information should be accurate. He explained what the tax impact would be if the tax levy questions pass in the November election and the levy limit passed by the school board in December.

- - -

### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

Councilor Gardner moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the Minnesota department of commerce has determined that the city of Duluth, the Duluth airport authority, the Duluth entertainment and convention center and the Duluth housing and redevelopment authority operate a joint enterprise for health and dental insurance, including a joint self-insurance pool, referred to as the Duluth joint powers enterprise trust, a political subdivision self-insurance pool established pursuant to Minnesota Statutes Section 471.69 and Minnesota Rules Chapter 2785.

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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the agreement for professional services with the Duluth joint powers enterprise trust, together with the supporting documents, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1014-11, to provide professional services to the Duluth joint powers enterprise trust, which includes the city's group health and dental insurance plan.

FURTHER RESOLVED, the proper city officials are hereby authorized to accept \$255,000 annually for the years 2014, 2015 and 2016 for professional services further described in those documents referenced above, said funds payable to Fund No. 110-125-1214-4315-12 (general fund, finance department, auditor, cost allocation charges group health).

Resolution 13-0494 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city acting through the city treasurer, shall make available to the Spirit Mountain recreation area authority a revolving line of credit not to exceed \$900,000, to be drawn as needed to assist in the management of its cash flow within the annual operating budget as approved by the city council. The revolving line of credit shall be repaid in full (to a zero balance) by December 31, 2014. Interest at a rate of 2.5 percent per annum shall be charged on drawn funds.

Resolution 13-0510 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with PB Distributing, Inc., dba Phil's Garage Door Service for the purchase, delivery, and installation of six overhead doors for fire stations two and eight in accordance with Minnesota State Contract 13005, Release 0-85(5) specifications and pricing for \$60,971, terms net 30, FOB job site, and payable from Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), CP 2013-1313b.

RESOLVED FURTHER, that sales tax on incoming materials will be paid by Phil's Garage Door Service and not the city of Duluth.

Resolution 13-0500 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute Amendment One to the city's Agreement C21707 with Architectural Resources, Inc., a copy of which is on file in the office of the city clerk as Public Document No. 13-1014-12, for professional landscape and architectural design services for portions of the Duluth Traverse Trail at Mission Creek and Lester Park in the amount of \$7,800, for a total contract amount of \$30,600, payable from Park Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5530 (improvements other than buildings), Project CM205-Travrs.

Resolution 13-0502 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Diverse Construction Services, LLC, for materials and labor required for replacement of

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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the roof of the City Center West building located at 5830 Grand Avenue in Duluth, in accordance with plans and specifications prepared by the city's consultant, Krech Ojard & Associates, Inc., dated September 5, 2013, and the contractor's low bid of \$230,750, dated September 26, 2013, payable from the Capital Improvements Fund 450, Department/Agency 030 (finance), Object 5520 (buildings and structures), Project No. CP2013-1307B, Requisition 13-0581.

Resolution 13-0504 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption (bingo) to St. John the Evangelist Church and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions.

BE IT FURTHER RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption (raffle) to Program for Victims of Sexual Assault, Inc. and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemptions

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0515 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the Duluth city council hereby approves of the Minnesota department of commerce issuing a 2014 currency exchange license to Pawn America Minnesota, LLC, 339 East Central Entrance.

Resolution 13-0522 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Joan McNamara to the Duluth citizen review board for a term expiring on March 31, 2014, replacing David Baker who resigned, is confirmed.

Resolution 13-0521 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth does hereby approve the land sale agreement on file in the office of the city clerk as Public Document No. 13-1014-13, between the Duluth economic development authority (DEDA) and Northern Health Care Properties, LLC (developer), related to the acquisition and sale of MnDOT property in the Duluth Heights neighborhood for purposes of the construction of a senior assisted living facility, all amounts to be paid by DEDA for acquisition (anticipated to be approximately \$127,000) to be reimbursed by developer.

Resolution 13-0499 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proper city officials are authorized to apply for and accept a grant from the Minnesota historical society (MHS) in the amount of \$4,900 and to execute grant contract, substantially the same as that on file in the office of the city clerk as Public Document No. 13-1014-14, for the purpose of Duluth's I-35 area construction oral history project and agreeing to provide the city's in-kind contribution of \$200 in the form of city staff services, funds to be deposited in Fund 265 (community development and housing administration), Agency 020 (planning), Object 5441 (other services and charges).

Resolution 13-0513 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, Section 2-176 of the Duluth City Code, 1959, as amended, requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

FURTHER RESOLVED, that the Duluth city council hereby states its intention to offer for sale or conveyance property in the Irving neighborhood shown on Public Document No. 13-1014-15 legally described as Block 21, Lots 1, 2, 31 and 32 and Block 20, Lots 1 and 2 of Hunter and Markell's Grassy Point Addition to Duluth, including those portions of vacated 69th Avenue West, 69th Avenue West Alley adjoining said lots and the east half of vacated 70th Avenue West adjoining Block 21, Lots 31 and 32 of Hunter and Markell's Grassy Point Addition to Duluth, St. Louis County, Minnesota, subject to survey.

Resolution 13-0514 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council of the city of Duluth does hereby approve an amendment to the development agreement on file in the office of the city clerk as Public Document No. 13-1014-16, between the Duluth economic development authority (DEDA) and Ramsey III, LLC ("developer"), related to the Ramsey neighborhood townhome development providing an additional \$60,000 to developer, for a total of \$540,000.

Resolution 13-0516 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to acquire from Ronald A. Weber and Marie A. Weber a utility easement as described on Public Document No. 13-1014-17, said document being on file in the office of the city clerk, over property in Riverside at the end of Industrial Avenue in the total amount of \$4,000, payable from Fund 535, Division 1905, Object 5533, Project No. 0699SN/TR (stormwater fund, public works and utilities, capital, capital improvements—revenue).

Resolution 13-0498 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that Resolution 13-0489, approved at the September 23, 2013, council meeting, stated that the estimated cost of the paving of Plum Street from Skywood Lane to Ninth Avenue East was \$10,000.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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FURTHER RESOLVED, that the \$10,000 cost is the estimate for construction and does not include design engineering costs or the assessment fees.

FURTHER RESOLVED, that the June 25, 2013, public hearing for this project stated that assessed costs are to include construction cost, engineering cost, assessment fees (\$122.75 per parcel) and interest.

FURTHER RESOLVED, that the revised estimated cost is \$10,000 construction and \$3,000 design engineering, \$13,000 total, plus assessment fees and interest.

Resolution 13-0506 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an amendment to the agreement for services between the city of Duluth and St. Louis County, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1014-18, whereby such amendment extends the termination date to September 30, 2014; said agreement sets out the responsibilities of the parties in relation to maintenance and plowing of various roads during a ten year term; and payments deposited in Fund No. 110-121-1217-2140-4260 (general fund, public administration, maintenance operations, street maintenance).

Resolution 13-0507 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized and directed to execute an agreement between the city of Duluth and the Minnesota Department of Transportation (MnDOT), a copy of which is on file in the office of the city clerk as Public Document No. 13-1014-19, for pedestrian curb ramps, bituminous reclaim and overlay on West First Street from Mesaba Avenue to Piedmont Avenue, at an estimated cost of \$230,640.

Resolution 13-0509 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of West First Street between Mesaba Avenue and Piedmont Avenue, City Project No. 1159.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$104,874.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, subdivision 5, clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement, on file in the office of the city clerk as Public Document No. 13-1014-20, concerning the above referenced grant. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges) Object 5403 (street repair and maintenance), City Project No. 1159, S.A.P. 118-173-009.

Resolution 13-0512 was unanimously adopted.

Approved October 14, 2013

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit Companies for flood debris removal and bank stabilization at Mission Creek in the amount of \$519,950, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1807 (parks, recreation and others), Object 5303 (engineering services), City Project No. 1271.

Resolution 13-0518 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Sunram Construction, Inc. for flood debris removal and bank stabilization at Kingsbury Creek in the amount of \$338,237.49, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1807 (parks, recreation and others), Object 5303 (engineering services), City Project No. 1271.

Resolution 13-0519 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a supplemental grant in the amount of \$200,000 from the U.S. department of justice office of violence against women to be used for the Blueprint for Safety adaptation demonstration project, and to execute the grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-1014-21, funds to be deposited in Fund 210-030-3180-4209-02 (special projects fund, finance department, Blueprint for Safety grant, direct federal grants - operating).

FURTHER RESOLVED, that the proper city officials are authorized to enter into an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-1014-21, with Domestic Abuse Intervention Programs, for services to be conducted in accordance with the terms and conditions of the grant application and grant agreement, funds to be paid from Fund 210-030-3180-5319 (special projects fund, finance department, Blueprint for Safety grant, other professional services).

Resolution 13-0496 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zones are established:

in front of 2319 West Third Street.

Resolution 13-0497 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept two grants from Enbridge Energy Company, Inc., in the amounts of \$1,000 (2012) and \$1,000 (2013); said funds to be deposited in Fund 110, Agency 150, Organization 1501, Revenue Source 4270 (general fund, fire department, administration, other grants), and committed for the purpose of

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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purchasing water rescue equipment for the Duluth fire department.

Resolution 13-0503 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zones are established:

in front of 513 Spear Avenue;

in front of 4428 Cambridge Street.

Resolution 13-0517 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute the agreement for professional services with the Arrowhead Regional Development Commission, together with the supporting documents, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1014-22, to provide professional services to the city related to the Heart of the Continent Partnership National Geographic Geo-tourism project.

FURTHER RESOLVED, the proper city officials are hereby authorized to pay \$40,000 for professional services further described in those documents referenced above, said funds payable to Fund No. 256-030-5436-11 (tourism tax fund, finance department, finance, tourism tax allocation, other promotional programs).

Resolution 13-0495 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that city act as legal sponsor for the project contained in the park legacy application to be submitted on or before October 25, 2013, and that the city's chief administrative officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project on behalf of city.

FURTHER RESOLVED, that city has the legal authority to apply for financial assistance and financial capability to ensure adequate construction, operation, maintenance, and replacement of the proposed project for its design life.

FURTHER RESOLVED, that city has not incurred any development costs or entered into a written purchase agreement to acquire the property in connection with the project.

FURTHER RESOLVED, that if the aforesaid grant is offered, the proper city officials are authorized to enter into a grant agreement with the MnDNR agreeing to the project with grant funds to be deposited in Fund 225-125-1808-4220-06 (disaster recovery fund, finance department, disaster aid and revenue, state of Minnesota legacy funds). This grant is one of ten legislatively designated appropriations for the purpose of restoration of parks and trails in the Duluth area impacted by the flood of 2012 and requires no in-kind (match) contribution by the city.

Resolution 13-0508 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0501, authorizing a contract with Graybar Electric Company, Inc., for the purchase of LED light fixtures to replace HID fixtures on poles along Lakewalk in the amount of \$51,652.69, was introduced by Councilor Hartman.

Councilor Hartman moved that the resolution be returned to the administration based on their request, which motion was seconded and unanimously carried.

- - -

Resolution 13-0524, confirming the appointment of James Filby Williams as director of public administration for the city of Duluth, was introduced by Councilor Gardner for discussion.

Councilor Fosle stated that while he has no objections to this specific person, this department head position was originally created by the Mayor, just like the public relations position, and that he felt the city is top heavy with supervisory employees.

Resolution 13-0524 was adopted as follows:

WHEREAS, the chief administrative officer upon the direction of the mayor has recommended the appointment of James Filby Williams to the position of director of public administration; and

WHEREAS, the City Charter requires the city council confirm this appointment.

THEREFORE, BE IT RESOLVED, that the city council hereby confirms the appointment of James Filby Williams to the position of director public administration for the city of Duluth.

Resolution 13-0524 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: Councilor Fosle -- 1

Approved October 14, 2013

DON NESS, Mayor

- - -

Resolution 13-0505, authorizing a license agreement with the Duluth economic development authority (DEDA) to dispose of snow on property owned by DEDA Lot D located west of Bayfront Park at no cost to the city, was introduced by Councilor Stauber for discussion.

Councilors Stauber and Fosle voiced their concern that the snow from Downtown is being dumped so close to the St. Louis River.

Resolution 13-0505 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute a license agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1014-23, with the Duluth economic development authority (DEDA), to allow the city to dispose of snow from street plowing operations on certain DEDA-owned property known as DEDA Lot D located west of Bayfront Park.

Resolution 13-0505 was adopted upon the following vote:

Yeas: Councilors Hartman, Julsrud, Krug, Larson and President Boyle -- 5

Nays: Councilors Fosle, Gardner and Stauber -- 3

Approved October 14, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a FY2013 port security grant program award from the United States department of homeland security, in the amount of \$44,611 with matching funds in the total amount of \$15,537, with \$7,000 of the

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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match coming from Fund Number 210-030-3123-5441 (special projects, finance, K-9 accounts, auction proceeds, other services and charges) and the remaining \$8,537 match coming from Fund Number 110-160-1640-2232-5441 (general, police, police special accounts, auction proceeds, other services and charges) to be used to purchase an explosive detection canine and to provide training and equipment as well as partial salary reimbursement for the explosive detection canine team within the Duluth police department.

FURTHER RESOLVED, that the proper city officials are authorized to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-1014-24, funds to be deposited in Fund Number 215-200-2207-4210-02 (Duluth police grant programs, police, 2013 port security grant program, pass-thru federal grants operating).

Resolution 13-0492 was unanimously adopted.

Approved October 14, 2013

DON NESS, Mayor

- - -

Resolution 13-0520, authorizing application for and acceptance of a parks and trails legacy grant of \$2,240,000 for completion of the Duluth Traverse Trail, was introduced by Councilor Larson for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Adam Sundberg urged the council to support this resolution to fund construction of the Duluth Traverse Trail, which is a multi-use trail from Lester Park to Chambers Grove connecting all existing parks. He continued by saying that this trail plan has gone through the public process and has been in place for several years and that this organization would partner with community organizations volunteering to maintain and administer trails.

Councilors Stauber and Fosle expressed concerns of: where the city's share of the cost would be coming from; that the cost of trail expansion is getting out of hand and that the existing trails should also be allowing ATV's and snowmobiles.

Councilors supporting the resolution commented at length as to the benefits of this resolution.

Resolution 13-0520 was adopted as follows:

RESOLVED, that city act as legal sponsor for the project contained in the parks and trails legacy grant application to be submitted on or before October 25, 2013, and that the city's chief administrative officer is hereby authorized to apply to the Minnesota department of natural resources (MnDNR) for funding of this project on behalf of city.

FURTHER RESOLVED, that the city of Duluth has the legal authority to apply for the money, and the financial, technical, and managerial capacity to ensure proper construction, operation, and maintenance of the project for no less than 20 years.

FURTHER RESOLVED, that if the city of Duluth is awarded aforesaid grant, the city of Duluth agrees to accept the grant award and the proper city officials are authorized to enter into a grant agreement with the MnDNR agreeing to the project with grant funds to be deposited in Fund 450-030-4220-01 (capital improvements fund, finance department, state of Minnesota capital grants).

FURTHER RESOLVED, that the city of Duluth estimates the total project cost to be \$2,990,000 including the grant amount of \$2,240,000; as well as matching funds as follows: \$150,000 from the federal recreational trails program; \$575,000 from the city of Duluth; and \$25,000 from the Cyclists of Gitchee Gumees Shores. Matching funds for the city of Duluth

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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shall be from city general obligation grant matching traverse trail bonds.

FURTHER RESOLVED, that the city of Duluth will comply with all applicable laws, environmental requirements, and regulations stated in the grant agreement.

FURTHER RESOLVED, that the city council of the city of Duluth names the fiscal agent for the city of Duluth for this project as:

Wayne Parson  
City Auditor  
City of Duluth  
411 West First Street  
Duluth, MN 55802

Resolution 13-0520 was adopted upon the following vote:

Yeas: Councilors Gardner, Hartman, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilors Fosle and Stauber -- 2

Approved October 14, 2013

DON NESS, Mayor

- - -

### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HARTMAN

13-063 - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION AIRPORT IMPROVEMENT BONDS IN THE MAXIMUM AMOUNT OF \$3,400,000 OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-066 - AN ORDINANCE AMENDING THE APPROVED REGULATING PLAN FOR RAMSEY VILLAGE TO AMEND THE PERMITTED BUILDING TYPES TO INCLUDE FOUR UNIT APARTMENTS (RAMSEY TOWNHOUSES III, LLC).

- - -

INTRODUCED BY COUNCILOR STAUBER

13-067 - AN ORDINANCE AMENDING THE APPROVED REGULATING PLAN FOR BAYHILL COVE TO REDUCE THE NUMBER OF APPROVED BUILDING SITES FROM 15 TO 14 (S.V. BAYHILL COVE, LLC).

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HARTMAN

13-064 (10253) - AN ORDINANCE AMENDING SECTION 1-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING CITY ASSESSOR DEFINITION.

Councilor Hartman moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR GARDNER

13-053 - AN ORDINANCE AMENDING ARTICLE XXVIII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE AMERICAN INDIAN COMMISSION.

Gardner moved to table the ordinance, which motion was seconded and unanimously

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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carried.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-065 (10254) - AN ORDINANCE GRANTING TO WHOLE FOODS CO-OP A CONCURRENT USE PERMIT FOR THE INSTALLATION OF AN ELECTRICAL CONNECTION UNDER EAST FOURTH ALLEY.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:30 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10253**

AN ORDINANCE AMENDING SECTION 1-2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING CITY ASSESSOR DEFINITION.

The city of Duluth does ordain:

Section 1. That Section 1-2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code, and of all ordinances of the city, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council or context clearly requires otherwise:

Building official. Unless otherwise provided in this Code, whenever the words "building official" are used in this Code, they shall mean the person, or the person's designee, having supervisory authority of the administrative division of the city responsible for administering the specified powers or duties.

City. The words "the city" or "this city" shall be construed as if followed by the words "of Duluth."

City assessor. Whenever the words "city assessor" are used in this Code, they shall mean the persons, which may include city employees, or entity retained to perform property assessment functions on behalf of the city.

Code. The words "the code" or "this code" shall mean "The Legislative Code of the city of Duluth, Minnesota, 1959."

Computation of time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or a holiday and then it is also excluded.

Council. Whenever the word "council" is used in this Code, it shall be construed to mean the city council of the city of Duluth.

County. The words "the county" or "this county" shall mean the county of St. Louis.

Day. A day is the period of time between any midnight and the midnight following.

Daytime, nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Gender. The masculine gender includes the feminine and neuter.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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In the city. The words "in the city" shall mean and include all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Month. The word "month" shall mean a calendar month.

Number. The singular number includes the plural, and the plural the singular.

Oath. "Oath" includes an affirmation.

Officers, departments, etc. Officers, departments, boards, commissions and employees referred to in this Code shall mean officers, departments, boards, commissions and employees of the city of Duluth, unless the context clearly indicates otherwise.

Official time. Whenever certain hours are named in this Code, they shall mean Central Standard Time or Daylight Saving Time, as may be in current use in the city.

Or, and. "Or" may be read "and," and "and" may be read "or," if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. "Person" includes bodies politic and corporate, trustees, receivers, assignees, personal representatives and partnerships and other unincorporated associations.

Personal property. Includes every species of property, except real property, as defined in this Section.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Process. Includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Property. The word "property" shall include real and personal property.

Real property. Shall include lands, tenements and hereditaments.

Shall, may. "Shall" is mandatory and "may" is permissive.

Signature or subscription by mark. The signature of a person, when required by law, shall be in the handwriting of the person or, if he is unable to write, he may make his mark or his name may be written by pencil or by pen and ink, but shall be by pen and ink when so required by law by some person at his request and in his presence.

State. The words "the state" or "this state" shall be construed to mean the state of Minnesota.

Tenant or occupant. The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or an oral lease of, or who occupies the whole or a part of such building or land, either alone or with others.

Tenses. The present tense includes the past and future tenses, and the future includes the present.

Week. A week consists of seven consecutive days.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Writing. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language, unless it is expressly provided otherwise.

Year. The word "year" shall mean a calendar year, except where otherwise provided.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 15, 2013)

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Passed October 14, 2013  
Approved October 14, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10254**

**AN ORDINANCE GRANTING TO WHOLE FOODS CO-OP A  
CONCURRENT USE PERMIT FOR THE INSTALLATION OF AN  
ELECTRICAL CONNECTION UNDER EAST FOURTH ALLEY.**

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to the Whole Foods Co-op and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) An underground electrical connection located in the right-of-way of East Fourth Alley (alley between East Fourth Street and East Third Street), as shown in Public Document No. 13-1014-25.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

(c) The insurance policy shall be approved by the city attorney; and

(d) The policy shall contain a condition that it may not be cancelled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(e) The city of Duluth shall be named as an additional insured; and

(f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permittee shall remain responsible for the ownership, operation and maintenance of the utilities, including performing utility locates in accordance with the Gopher State One Call rules.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Section 4. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 5. By accepting the terms of this ordinance, the permittee agrees to save harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 6. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 7. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 8. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 9. The permittee shall observe the following conditions:

(a) Permittee's use of the public easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 13-1014-25; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 10. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 120 days after this ordinance takes effect.

Section 11. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 15, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed October 14, 2013

Approved October 14, 2013

DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, October 28, 2013, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Absent: Councilor Hartman -- 1

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## REPORTS FROM THE ADMINISTRATION

Christopher Eng, director of business and economic development, provided an update on the 425 project. He reported that: the estimated completion date is December 2015; the project will produce 150 new jobs and 250 local construction jobs; the facility will be 200,000 square feet, stand 10-12 stories tall and will house 500 parking spaces; Atwater Group will develop 15,000 square feet of commercial and retail space on the Superior Street ground level; the project will cost \$70 million to build with Maurices providing \$50 million up front; Atwater is committing \$3 million, and the city of Duluth and Minnesota department of employment and economic development are committing \$17 million through a matching grant program. He further reported that the parking ramp would be funded with tax increment financing instead of a parking revenue bond, with Maurices fronting the ramp construction costs.

Mr. Eng and representatives of Maurices and Atwater Group answered councilor questions.

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## REPORTS FROM OTHER OFFICERS

13-1028-04 Engineering division report of city day labor used to overlay Plum Street. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-1028-01 Commission on disabilities minutes of September 4, 2013, meeting. -- Received

13-1028-02 Duluth airport authority minutes of September 17, 2013, meeting. -- Received

13-1028-03 Duluth public utilities commission minutes of September 17, 2013, meeting. -- Received

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## OPPORTUNITY FOR CITIZENS TO BE HEARD

Tia Conley, Sheila Armstrong, Jodie Blegen, Lorrie Johnson, Leslie McCabe and Jessica Lewandowski spoke about: heroin in the community; the negative impacts it has had on their families and friends; the link between prescription opiates and heroin and emphasized the need for a change in public perception regarding prescriptions.

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Loren Martell spoke of his concerns that: very little the school district is requesting with the upcoming school levy question will be used to address problems like class size; any

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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approved funding would be used for debt service on the red plan and the district's fiscal house is in bad shape.

- - -

Jerry Schaffer spoke about the public looking at facts and coming to the wrong conclusion as to locations, in addition to the Last Place On Earth, that are also selling these drugs which is the problem. He also stressed that prevention and treatment is more important than going after the dealers.

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### MOTIONS AND RESOLUTIONS

#### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the proper city officials are hereby authorized to allocate \$78,000 from the undesignated fund balance in the Tourism Tax Fund 258 to General Fund 110 as reimbursement of unanticipated expenses for repairing city property prior to peak tourist season.

Resolution 13-0530 was unanimously adopted.

Approved October 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the assessment rolls levied to defray the assessable portions of the following:

(a) Lawn Street sanitary sewer extension - Contract #9902970 - assessable amount \$33,593.10 to be deposited in Fund 530; and

(b) Lakeside Court easement sanitary sewer extension - Contract #9902830 - assessable amount \$37,827.04 to be deposited in Fund 530; are hereby confirmed.

Resolution 13-0533 was unanimously adopted.

Approved October 28, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth city council hereby approves the transfer of the following on sale intoxicating liquor license, on sale Sunday license, dancing license, and approves the application of a 2:00 a.m. alcohol beverage license for the period ending August 31, 2014, subject to departmental approvals, the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Wessman Estate, LLC (Twins Bar), 501-505 East Fourth Street (main floor), with Carl Lee Green, 100 percent owner, transferred from CW Chips, Grill & Bar, Inc. (Twins Bar), same address.

Resolution 13-0471 was unanimously adopted.

Approved October 28, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proper city officials are hereby authorized to contract with Utility Systems of America, Inc., for the hazardous waste disposal and demolition of the Memorial Community Center, located at 5315 Grand Avenue in Duluth, Minnesota, in accordance with a city-approved hazardous assessment report and demolition specification and the vendor's qualified bid of \$54,942, payable from Parks Fund 205, Department/Agency 130 (community resources), Division 1220 (parks capital), Object 5453 (building demolition), Project CM205-Memorl.

Resolution 13-0531 was unanimously adopted.  
Approved October 28, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Emergent Networks, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1028-05, including authorization of sales and service orders and end-user licensing agreements, for the purchase, installation, and five-year servicing of an enterprise backup system for all city departments, for a total amount not to exceed \$325,000, including applicable sales tax, payable from the following accounts: \$180,000, including applicable sales tax, from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2012 (fiscal year), Object 5580 (capital equipment), Project CE250-1202; and \$145,000, including applicable sales tax, from Capital Equipment Fund 250, Department/Agency 015 (administrative services), Division 2013 (fiscal year), Object 5580 (capital equipment), Project CE250-1304.

Resolution 13-0532 was unanimously adopted.  
Approved October 28, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to execute the Minnesota snowmobile trails assistance program grant agreement, a copy of which is on file in the office of the city clerk as Public Document No. 13-1028-06, with the Minnesota department of natural resources for the maintenance of the Duluth snowmobile trails for the 2013-2014 season in the amount of \$13,025; said funds to be deposited in the General Fund-110, Public Administration-121, Maintenance Operations/Park Maintenance 1217-2145, Snowmobile Trail Grants-4226.

Resolution 13-0535 was unanimously adopted.  
Approved October 28, 2013  
DON NESS, Mayor

- - -

RESOLVED, that:

- (a) The city council hereby grants Katherine Hanten an interim use permit to operate a vacation dwelling unit located at 123 Chester Way and as described by the following:  
PIDs 010-0520-00130, 010-0520-00145, 010-0520-00164; and
- (b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and
- (c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL 13-118); the commission gave due notice of public hearing and considered the application during a public hearing occurring on October 8, 2013; and

(f) The city planning commission, at their regular meeting on October 8, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below.

FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet; and

(b) The interim use permit shall not be effective until the applicant has received a hotel/motel license from the city of Duluth; and

(c) The applicant shall adhere to the terms and conditions listed in the interim use permit document and any modifications deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from Chapter 50.

Resolution 13-0534 was unanimously adopted.

Approved October 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth established the initial municipal state aid system of streets by a resolution approved October 28, 1957, under provisions of Minnesota Laws 1957, Chapter 943.

RESOLVED, that it now appears that revisions in the municipal state aid system are necessary.

FURTHER RESOLVED, that the following existing municipal state aid roads in the city of Duluth, described as follows, to-wit:

- Joshua Avenue from Maple Grove Road to Arrowhead Road;
- Clover Street from Woodland Avenue to Eighth Street;
- Eighth Street from Clover Street to Wallace Avenue;
- Third Street from Piedmont Avenue to Tenth Avenue West;
- Piedmont Avenue from First Street to Third Street;
- Chestnut Street from Third Street to Truck Center Drive;
- 30- Avenue West from Truck Center Drive to Superior Street;
- Oakley Street from 58th Avenue East to 52nd Avenue East;
- 60th Avenue East from Glenwood Street to 58th Avenue East;
- 58th Avenue East from 60th Avenue East to Oakley Street;

be, and hereby are, revoked as municipal state aid routes subject to the approval of the commissioner of transportation of the state of Minnesota.

FURTHER RESOLVED, that portions of the streets described as follows here and hereby are designated as municipal state aid streets of the city of Duluth, subject to the approval of the commissioner of transportation of the state of Minnesota, including

- Basswood Avenue from Swan Lake Road to Central Entrance;

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Buchanan Street from Canal Park Drive to Lake Avenue;  
Canal Park Drive from Railroad Street to Buchanan Street;  
Chambersburg Avenue from Anderson Road to Piedmont Avenue;  
Mall Drive from Trinity Road to Central Entrance;  
Maple Grove Road from Joshua Avenue to Swan Lake Road;  
Observation Road from Arlington Avenue to Skyline Parkway;  
Swan Lake Road from Arrowhead Road to Basswood Avenue;  
11th Avenue East from Ninth Street to Skyline Parkway.

FURTHER RESOLVED, that the existing Oakley Street segment be revised to include 52nd Avenue East to Crosley Avenue with no increase or decrease in mileage.

Resolution 13-0525 was unanimously adopted.

Approved October 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a FY2013 justice assistance grant program award from the United States department of justice, bureau of justice assistance, office of justice programs, in the amount of \$38,486 to be used for state and local initiatives including the first witness child abuse and resource center, St. Louis County mental health court, and to help fund the mounted patrol, technical assistance, equipment, supplies, contractual support, and criminal justice information systems; and further are authorized to execute any documents required to be executed to accept said grant, funds to be deposited in Fund 215-200-2300-4209-02 (Duluth police grant programs, police, 2013 JAG, direct federal grants operating), reimbursement payments to St. Louis County to be paid from Fund 215-200-2300-5447 (Duluth police grant programs, police, 2013 JAG, payment to other government agencies) and other expenses to be paid from Fund 215-200-2300-5441 (Duluth police grant programs, police, 2013 JAG, other services and charges).

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-1028-07, with the St. Louis County sheriff's office, who is a partner of the city under this grant.

Resolution 13-0484 was unanimously adopted.

Approved October 28, 2013

DON NESS, Mayor

- - -

RESOLVED, the city council hereby authorizes the proper city officials to execute an agreement with the University of Minnesota-Duluth through its police department for the allocation of fine revenues received from DWI arrests made by university police officers off-campus but within the city of Duluth.

Resolution 13-0526 was unanimously adopted.

Approved October 28, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a three year agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1028-08, with the Arrowhead Economic Opportunity Agency (AEOA) for the use of space in the Central Hillside Center for AEOA's program with rent payments payable to Fund 110-121-1222-4622 (general fund, department of public administration, property and facilities management).

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Resolution 13-0537 was unanimously adopted.  
 Approved October 28, 2013  
 DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0528, by Councilor Hartman, requesting the state legislature amend election law to provide a process for a candidate in a non-partisan election to withdraw and remove their name from the ballot, was introduced by President Boyle.

President Boyle noted that Councilor Hartman was absent but previously requested that this resolution be tabled for further discussion at the next meeting, which motion was seconded and unanimously carried.

- - -

RESOLVED, that the 2014 tourism taxes of hotel-motel and food and beverages, as estimated, be distributed in the following manner:

	3% Hotel	1% Hotel-Motel	1.75% Food and Beverage	Additional 2% Hotel-Motel	Total
DECC Amsoil Arena debt service	1,281,700		1,576,900		\$2,858,600
Visit Duluth	690,100	196,100	600,000	113,800	\$1,600,000
Transfer to general fund	103,800	276,300	287,000	160,800	\$827,900
Lake Superior Zoo fund			403,800	106,200	\$510,000
Spirit Mountain debt/capital				500,000	\$500,000
Additional Spirit Mountain allocation				145,700	\$145,700
Great Lakes Aquarium operations		102,000	135,300	112,700	\$350,000
Business improvement district			200,000		\$200,000
Heritage & Arts Center		81,500	73,000	22,300	\$176,800
Capital projects			17,500	82,500	\$100,000
Other promotional programs			234,000		\$234,000
DECC - Bayfront Park		36,000	52,000		\$88,000
Undesignated fund balance			34,900		\$34,900

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

	3% Hotel	1% Hotel-Motel	1.75% Food and Beverage	Additional 2% Hotel-Motel	Total
Public arts fund			30,000	20,000	\$50,000
Duluth Sister Cities International			15,000	15,000	\$30,000
Lake Superior and Mississippi RR			20,000		\$20,000
Rail alliance				12,500	\$12,500
<b>TOTALS</b>	<b>\$2,075,600</b>	<b>\$691,900</b>	<b>\$3,679,400</b>	<b>\$1,291,500</b>	<b>\$7,738,400</b>

Resolution 13-0538 was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Julsrud, Krug, Larson and President Boyle -- 6

Nays: Councilor Stauber -- 1

Absent: Councilor Hartman -- 1

Approved October 28, 2013

DON NESS, Mayor

- - -

Resolution 13-0529, authorizing an agreement with TKDA for professional engineering and architectural services in the addition to and remodeling of Fire Station One for an amount not to exceed \$41,000, was introduced by Councilor Gardner.

Councilor Gardner moved that the resolution be returned to the administration per their request, which motion was seconded and unanimously carried.

- - -

**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

**ORDINANCE TABLED**

BY COUNCILOR GARDNER

13-053 (10255) - AN ORDINANCE AMENDING ARTICLE XXVIII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE AMERICAN INDIAN COMMISSION.

Councilor Gardner moved to remove the ordinance from the table, which motion was seconded and unanimously carried.

Councilor Gardner moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR STAUBER

13-068 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND R-P TO R-2 AND MU-B THE PROPERTY LOCATED AT 800 EAST CENTRAL ENTRANCE (INDEPENDENT SCHOOL DISTRICT 709).

- - -

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR JULSRUD

13-063 (10256) - AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION AIRPORT IMPROVEMENT BONDS IN THE MAXIMUM AMOUNT OF \$3,400,000 OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF.

Councilor Julsrud moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-066 (10257) - AN ORDINANCE AMENDING THE APPROVED REGULATING PLAN FOR RAMSEY VILLAGE TO AMEND THE PERMITTED BUILDING TYPES TO INCLUDE FOUR UNIT APARTMENTS (RAMSEY TOWNHOUSES III, LLC).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-067 (10258) - AN ORDINANCE AMENDING THE APPROVED REGULATING PLAN FOR BAYHILL COVE TO REDUCE THE NUMBER OF APPROVED BUILDING SITES FROM 15 TO 14 (S.V. BAYHILL COVE, LLC).

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 7:49 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10255**

BY COUNCILOR GARDNER:

AN ORDINANCE AMENDING ARTICLE XXVIII OF CHAPTER 2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE AMERICAN INDIAN COMMISSION.

The city of Duluth does ordain:

Section 1. That Article XXVIII of Chapter 2 of the Duluth City Code, 1959, as amended, be amended to read as follows:

Article XXVIII. Duluth Indigenous Commission.

Sec. 2-148. Commission created; purpose; membership.

There is hereby established an Indigenous commission. The purpose of this commission is to ensure that the views of the Indigenous community are incorporated in the decision making, future planning, and stewardship of the city of Duluth. The commission will endeavor to act as a guide in the development of public policy, planning and services so that the Indigenous community is adequately represented in these processes. The commission will also endeavor to increase understanding and acceptance of the Indigenous community and culture and to increase Indigenous community involvement in all aspects of community affairs in Duluth. The commission shall consist of 11 members and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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shall reflect Indigenous diversity in the area. A majority of the members shall be residents of Duluth. Members shall be appointed by the mayor with approval of the city council. Of the first 11 appointments, four shall be for three years, four shall be for two years and three shall be for one year. Thereafter, all appointments shall be for a term of three years. Members shall not serve for more than two consecutive terms.

Sec. 2-149. Officers; meetings; conduct of business.

The Indigenous commission shall meet within 60 days after all its members are appointed to elect its officers, which shall consist of a chair, a vice-chair and a secretary. Thereafter the commission shall meet at stated intervals fixed by resolution of the commission. The commission may adopt reasonable bylaws, rules and regulations for the conduct of its business.

Sec. 2-150. Staff support.

Staff support, including clerical services and incidental expenses, shall be provided by the city.

Sec. 2-151. Duties.

The Indigenous commission shall have the following duties:

(a) To advise the mayor and city council about issues concerning services, policies and facilities that are of concern to the Indigenous community;

(b) To serve as a forum for citizen involvement and expressions on issues affecting the community;

(c) To identify and apply for funds and grants on behalf of the Indigenous community;

(d) To make recommendations to the city council regarding community development planning;

(e) To recommend to the city council legislation that empowers and promotes Indigenous community development;

(f) To increase public understanding and acceptance of the Indigenous community and culture;

(g) To develop a process to institutionalize a dialog with the city council, the mayor's office and city departments;

(h) To foster programs that will increase Indigenous community involvement in all aspects of community affairs;

(i) To develop research and information about the Indigenous community;

(j) To establish community development objectives and policies;

(k) To develop a strategic plan for the Indigenous community.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 29, 2013)

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: None -- 0

Absent: Councilor Hartman -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed October 28, 2013  
Approved October 28, 2013  
DON NESS, Mayor

- - -

**ORDINANCE NO. 10256**

AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION AIRPORT IMPROVEMENT BONDS IN THE MAXIMUM AMOUNT OF \$3,400,000 OF THE CITY OF DULUTH UPON TERMS AND CONDITIONS TO BE PROVIDED BY RESOLUTIONS OF THE CITY COUNCIL AND LEVYING TAXES FOR THE PAYMENT THEREOF

The city of Duluth does ordain:

Section 1. BOND PURPOSE AND AUTHORIZATION.

1.01 Pursuant to Minnesota Laws 1969, Chapter 577, as amended, the city was authorized to and did organize the Duluth airport authority (the "authority") to administer, promote, control, direct, manage and operate all airports of the city. The authority is in the process of constructing a new terminal facility at the Duluth International Airport, including a new parking ramp, access road and aprons (the "project").

1.02 The city has received grants from the state of Minnesota in the amount of \$16,600,000 for the project, and the authority has received grants for the project from the federal aviation administration and TSA in the amount of \$48,088,363 and from the state of Minnesota in the amount of \$4,500,000.

1.03 The city has provided a portion of the matching grant funds through the issuance of its \$7,650,000 Taxable General Obligation Airport Improvement Bonds, Series 2012B, dated May 24, 2012. The authority needs additional matching funds in an amount not to exceed \$3,400,000 for completion of the project, costs of issuance and capitalized interest.

1.04 Under the provisions of Minnesota Laws 1974, Chapter 130, the city council may by ordinance provide for the issuance of general obligation bonds to provide the funds necessary to match state, private or federal grant funds for projects within the city's boundaries, which bonds are to be supported by the full faith and credit of the city and are to be issued subject to the provisions of Minnesota Statutes, Section 475, except that they may exceed the limitations in Minnesota Statutes, Section 475.53, by an amount not to exceed \$2,000,000, and they may not be issued if the city's contribution to the project, including the proceeds of the bonds, exceeds 60% of the total project cost where such contribution is used to match state or federal grants, or 70% where it is used to match government and private grants, or 80% where it is used to match private grants alone. The project is of the nature contemplated by said law. The city and the authority have been awarded grants of state and federal funds and other funds for the project, and it is estimated that such funds, together with the proceeds of bonds issued by the city in an amount not to exceed \$3,400,000, will be sufficient to pay the total project costs estimated at \$75,465,821, and that the amount of the city's contribution, from the proceeds of the bonds or otherwise, will not exceed the limitations set forth in said law.

1.05 Pursuant to the authority herein recited, the city council hereby authorizes and directs the issuance and sale of General Obligation Airport Improvement Bonds of the city in an amount not to exceed \$3,400,000, and pledges the full faith and credit and taxing powers of the city irrevocably for the payment of the principal and interest when due on such bonds.

Section 2. TERMS OF BONDS.

2.01 The city council shall, by resolution or resolutions, provide for the issuance and sale of such bonds in one or more series and shall fix the precise maturities, interest rates,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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redemption provisions and other terms and conditions of such bonds, and prescribe the form thereof, and offer to sell such bonds in such a manner and at such time or times as shall be deemed in the public interest, all in accordance with the provisions of Minnesota Statutes, Chapter 475 and of Minnesota Laws 1974, Chapter 130, and of other applicable laws.

### Section 3. REVENUES AND ACCOUNTS.

3.01 The city has created and maintains the airport construction fund to which there shall be credited all or a portion of the proceeds of the bonds, as provided by Council resolution, together with any additional funds which may be available and are appropriated for the project or which may be advanced to such fund on condition that such amounts be reimbursed from bond proceeds.

3.02 The city council may, by resolution or resolutions, establish such further accounts and credit monies from the proceeds of the bonds herein authorized to accounts, all in accordance with Section 54 of the City Charter and Chapter 475 of Minnesota Statutes.

### Section 4. TAX LEVY.

4.01 There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the city, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on such bonds as such principal and interest respectively become due. Until the bonds to be issued hereunder are fully paid or duly called for redemption, the city will also maintain a separate 2013 airport improvement bond debt service account within the debt service fund created by Section 54 of the City Charter, to be used solely for the payment of the interest and the principal, respectively, as such principal and interest become due and payable, on the bonds issued hereunder and on any other bonds which have been or may be issued and made payable from said account. If the balance is ever insufficient to pay all principal and interest then due on the bonds issued hereunder, the treasurer shall nevertheless provide sufficient money from any other funds of the city which are available for that purpose, and such other funds shall be reimbursed from such debt service account when the balance therein is sufficient. All proceeds of said taxes are hereby appropriated and shall be paid when collected into such account. Said taxes shall be irrevocable until the bonds and interest are fully paid, except that if the city council in any year shall make an irrevocable appropriation to said account of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared. After this ordinance has been published and becomes effective, the city council shall by resolution fix the precise amounts of such tax levies to be placed upon the tax rolls for each of the respective years required to comply with the provisions of this ordinance.

### Section 5. CERTIFICATE OF PROCEEDINGS.

5.01 The city clerk is directed to file with the county auditor of St. Louis County a certified copy of this ordinance, and such other information as the county may require, and to obtain from the county auditor a certificate stating that the bonds herein authorized have been duly entered on his register.

5.02 The officers of the city and the county auditor are authorized and directed to prepare and furnish to the purchasers of the bonds, and to bond counsel, certified copies of all proceedings and records of the city relating to the authorization and issuance of the bonds and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the bonds as such facts appear from the official books and records in the officers' custody or are otherwise known to them. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

city as to the correctness of the facts recited therein and the action stated therein to have been taken.

### Section 6. EFFECTIVE DATE.

6.01 This ordinance shall take effect and be in force 30 days from and after its passage and publication. This ordinance shall be published one time on the city's official website and remain on such website for a period of at least 30 days. (Effective date: November 29, 2013)

Councilor Julsrud moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: None -- 0

Absent: Councilor Hartman -- 1

Passed October 28, 2013  
Approved October 28, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

### ORDINANCE NO. 10257

AN ORDINANCE AMENDING THE APPROVED REGULATING PLAN FOR RAMSEY VILLAGE TO AMEND THE PERMITTED BUILDING TYPES TO INCLUDE FOUR UNIT APARTMENTS (RAMSEY TOWNHOUSES III, LLC).

The city of Duluth does ordain:

Section 1. That the regulating plan for Ramsey Village, as it relates to the subject property located at the northwest corner of Ramsey Street and North 54th Avenue West, be amended to allow, in addition to the currently permitted Type II (detached single family), Type III (twin home), and Type VII (eight unit apartment) and Type VIII (mixed use building with residential and commercial/retail), the construction of Type VI structures (four unit apartments). The subject property is described in Exhibit A and by the following:

Lots 9, 10, 11, 12, 13, 14, 15 and 16 of Block 5 West Duluth First Division.



**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

Exhibit A  
(Ref. File No. 13-119)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 29, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: None -- 0

Absent: Councilor Hartman -- 1

Passed October 28, 2013  
Approved October 28, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10258**

AN ORDINANCE AMENDING THE APPROVED REGULATING PLAN FOR BAYHILL COVE TO REDUCE THE NUMBER OF APPROVED BUILDING SITES FROM 15 TO 14 (S.V. BAYHILL COVE, LLC).

The city of Duluth does ordain:

Section 1. That the approved regulating plan for Bayhill Cove be amended to reduce the number of previously approved building sites from 15 to 14 and that two of the remaining undeveloped building sites are allowed to be combined into one larger building site. The subject property is described in Exhibit A and by the following:

010-2460-00070 and 010-2460-00080



Exhibit A  
(Ref. File No. 13-119)

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: November 29, 2013)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Julsrud, Krug, Larson, Stauber and President Boyle -- 7

Nays: None -- 0

Absent: Councilor Hartman -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed October 28, 2013  
Approved October 28, 2013  
DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, November 7, 2013, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Absent: None -- 0

- - -

### MOTIONS AND RESOLUTIONS

Resolution 13-0547, appointing \_\_\_\_\_ to fill the vacant fourth district city council seat, was introduced by Councilor Gardner for discussion.

Councilor Gardner moved to amend the resolution by inserting the name "Howie Hanson" in the blanks of the title and body, which motion was seconded and unanimously carried.

President Boyle clarified the process for the seating of the newly-elected fourth district councilor, Howie Hanson. He questioned if Mr. Hanson could be seated at the agenda session since there were no voting issues. Assistant City Attorney Joan Christensen replied that the proper procedure would be to wait until after Mr. Hanson was sworn in on Friday by the city clerk.

Resolution 13-0547, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

BE IT RESOLVED, that the city council hereby appoints Howie Hanson to fill the vacant Fourth District city council seat for the term expiring January 6, 2014, effective immediately.

Resolution 13-0547, as amended, was unanimously adopted.

Approved November 7, 2013

DON NESS, Mayor

- - -

The meeting was adjourned at 5:20 p.m.

MARTHA A. OSWALD, Assistant City Clerk, for  
JEFFREY J. COX, City Clerk

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Tuesday, November 12, 2013, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-1112-08 The following communications regarding the proposed identification of sites for the future development of dog parks (13-0556R): (a) Benjamin Albert; (b) Kristin D. Anderson (McKean); (c) Hunter Cummins; (d) Ginger Johnson; (e) Denette Lynch; (f) William Lynch; (g) Megan Stanton; (h) Jeff Urbaniak; (i) Amy VanGuilder; (j) Zach Walters. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-1112-01 Civil service board minutes of: (a) June 4, (b) June 25, 2013, meetings. -- Received

13-1112-02 Duluth citizen review board minutes of September 24, 2013, meeting. -- Received

13-1112-03 Duluth economic development authority minutes of September 25, 2013, meeting. -- Received

13-1112-04 Duluth Seaway Port authority budget summary of October 2013. -- Received

13-1112-05 Duluth transit authority: (a) Minutes of August 28, 2013, meeting; (b) August 2013 financial statement. -- Received

13-1112-06 Housing and redevelopment authority minutes of: (a) August 27, (b) September 24, 2013, meetings. -- Received

13-1112-07 Library board minutes of September 24, 2012, meeting. -- Received

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)

Councilor Hartman moved passage of the consent agenda, which motion was seconded and unanimously carried.

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue taxable general obligation airport improvement bonds, Series 2013B, in the maximum amount of \$3,375,000 (the "bonds"), pursuant to Ordinance No. 10256 adopted October 28, 2013, Minnesota Statutes, Chapter 475, Minnesota Laws 1974, Chapter 130 and the home rule charter of the city, for the purpose of providing the local match for state of Minnesota grants and federal grants for the completion of the construction of a new terminal facility at the Duluth International Airport, including a new parking ramp, access road and aprons.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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2. Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 13-1112-09. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed therein to consider bids for the purchase of the bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the bonds.

3. Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for the bonds in accordance with Minnesota Statutes, Section 475.60, Subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolutions. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 13-0551 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with Crysteel Truck Equipment, Inc., for the complete outfitting of three 2014 International Model 7500 4x2 single axle cab and chassis units for fleet services/street maintenance in accordance with Minnesota State Contract 61340, Release S-863(5) specifications and pricing for a total of \$231,815.41 plus \$15,937.31 sales tax, for total of \$247,752.72, payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year-2013), Object 5580 (capital equipment), Project CE250-V1304.

Resolution 13-0544 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following temporary on sale intoxicating liquor license by the liquor control commissioner, subject to departmental approvals and any specific restrictions:

Duluth Library Foundation (Libations at the Library), 520 West Superior Street, for December 3, 2013, with Patra Sevastiades, manager.

Resolution 13-0565 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, that the Duluth City Council hereby approves of the Minnesota gambling control board issuing a lawful gambling exemption to Duluth Playhouse, Inc., and does hereby waive the 60 day waiting period which it has to object to the issuance of said exemption.

RESOLVED FURTHER, that the city clerk is hereby authorized and directed to send a copy of this resolution to the Minnesota gambling control board immediately after its passage.

Resolution 13-0566 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the council finds as follows:

(a) That the building official of the city of Duluth duly issued condemnation orders for structures located upon the parcels of land described below within the city of Duluth after determining that criteria of Section 10-3 of the city of Duluth Legislative Code was met in each case:

Parcel 1: 1315 Commonwealth Avenue, Tax Parcel Number 010-1800-06080. Notification of order for condemnation for demolition to St. Louis County land office by certified mail on October 18, 2013; and

Parcel 2: 1318 Commonwealth Avenue, Tax Parcel Number 010-1800-06280. Notification of order of condemnation for demolition to St. Louis County land office by certified mail on October 18, 2013;

(b) All such orders will be final on November 18, 2013;

(c) Hazardous materials abatement for the structures will be paid by St. Louis County;

(d) Resolution 13-0487 authorizes contracting with Vonco V to perform demolition, transportation, disposal and site restoration services.

BE IT RESOLVED, that pursuant to Section 10-3(b) of the city of Duluth Legislative Code the building official is authorized to:

(a) Contract to have the demolition work done by Vonco V.

Resolution 13-0545 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officers are hereby authorized to enter into an agreement with Summit Envirosolutions, Inc., substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1112-10, to implement the historic resources survey of the east end residential area – Phase V, in the amount of \$12,000 payable from Fund 210 (special projects), Agency 030 (finance), Organization 3150 (miscellaneous), Object 5441 (other services and charges) and \$5,000 payable from Fund 265 (community development), Agency 020 (planning), Object 5441 (other services and charges).

Resolution 13-0561 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1112-11, with St. Luke's Hospital of Duluth for the restoration of St. Luke's records damaged as a result of the June 2012 flood event, in an amount not to exceed \$289,899.43, payable from Fund 235 (Duluth recovery loan program fund), Agency 020 (planning), Object 5434 (grants and awards), contingent upon receipt by the city of a Minnesota investment fund grant – 2012 disaster recovery program from the Minnesota department of employment and economic development (DEED) pursuant to grant #DRLF-12-0002-V-FY13 (the "MIF grant").

Resolution 13-0562 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1112-12, with BNSF Railway Company (BNSF) and Tate & Lyle Ingredients Americas LLC (Tate & Lyle) as co-borrowers for replacement of a BNSF rail and bridge tracks located over Kingsbury Creek in Duluth damaged as a result of the June 2012 flood event, in an amount not to exceed \$688,642.59, payable from Fund 235 (Duluth recovery loan program fund), Agency 020 (planning), Object 5434 (grants and awards), contingent upon receipt by the city of a Minnesota investment fund grant – 2012 disaster recovery program from the Minnesota department of employment and economic development (DEED) pursuant to grant #DRLF-12-0002-V-FY13 (the “MIF grant”).

Resolution 13-0564 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

WHEREAS, on November 5, 2013, there was held in the city of Duluth, pursuant to the provisions of Laws of Minnesota, 1973, Chapter 281, a general municipal election for the purpose of electing certain city officers; and

WHEREAS, the judges of the election precincts in the city have made their returns of said election, and the city council, acting as a canvassing board, has duly canvassed said returns (Public Document No. 13-1112-13) at 7:00 p.m., November 12, 2013, and ascertained the number of ballots cast at said election and thereby declared that at said election there were 17,718 cast ballots;

(a) That for the offices of councilor at large, Zack Filipovich received 9,658 votes, Barb Russ received 9,364 votes, Ray (Skip) Sandman received 2,490 votes, Ryan Stauber received 7,884 votes and 115 write-in votes;

(b) That for the office of councilor, second district, Patrick Boyle received 2,195 votes and 61 write-in votes;

(c) That for the office of councilor, fourth district, Howie Hanson received 1,853 votes, Garry Krause received 1,153 votes and 44 write-in votes.

NOW, THEREFORE, BE IT RESOLVED, that Zack Filipovich and Barb Russ, having received the majority of all votes cast at said election for the offices of councilor at large are hereby declared duly elected for terms of four years.

FURTHER RESOLVED, that Patrick Boyle, having received the majority of all votes cast at said election for the office of councilor, second district, is hereby duly elected for a term of four years.

FURTHER RESOLVED, that Howie Hanson, having received the majority of all votes cast at said election for the office of councilor, fourth district, is hereby duly elected for a term of four years.

Resolution 13-0548 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that Contract No. 21800 with Barr Engineering for professional services for assistance in evaluating, assessing and preparing applications to the Minnesota Recovers Task Force (MRTF) and other granting agencies for stream restoration work as a result of the June 2012 flooding to repair and restore city-owned property along streams that were damaged and/or are in need of flood protection in the estimated amount of \$25,000 for a new total of \$200,000, payable from Disaster Recovery Fund 225, Department 125 (finance),

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Division 1807 (parks, recreation and other), Object 5303 (engineering services), City Project No. 1186.

Resolution 13-0540 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Veit & Company, Inc. for the 2012 flood repair project, Amity Creek bridges, in the amount of \$286,900, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project 1226, S.A.P. 118-080-048.

Resolution 13-0542 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc. for professional engineering services related to the design and construction of flood repair of Bridge No. L8496, Toledo Street at Chester Creek, in an amount not to exceed \$37,274, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1233, S.A.P. 118-080-046, Requisition No. 13-0621.

Resolution 13-0555 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement with LHB, Inc. for professional engineering services related to the design of flood repair of multiple bridges in an amount not to exceed \$196,998, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), Requisition No. 13-0625.

<b>BRIDGE NO.</b>	<b>PROJECT NO.</b>	<b>S.A.P./S.P. NO.</b>	<b>AMOUNT</b>
88552	1178	S.P. 118-126-021	\$18,867
91143	1175	S.P. 118-126-020	\$40,741
66113	1176	S.P. 118-133-007	\$64,729
92277 A-G, I, K	1235	S.A.P. 118-080-050 through 118-080-057 and 118-173-010	\$49,991
92277 H & J	1304	S.P. 118-109-019 and 118-194-007	\$22,670

Resolution 13-0558 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of Vinland Street between Irwin Avenue and Boundary Avenue, City Project No. 1155.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$214,093.15.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, Subdivision 5, Clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement, on file in the office of the city clerk as Public Document No. 13-1112-14, concerning the above referenced grant. Grant monies shall be deposited into Disaster Recovery Fund 225, Department 125 (finance), Organization 1808 (disaster aid and revenues), Source 4220-05 (state of Minnesota flood bonds), City Project 1155, S.P. 118-102-004.

Resolution 13-0559 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the reconstruction of 27th Avenue West between Third Street and 11th Street, City Project No. 1156.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$138,180.37.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, Subdivision 5, Clause (3), and will pay any additional amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement, on file in the office of the city clerk as Public Document No. 13-1112-15, concerning the above referenced grant. Grant monies shall be deposited into Disaster Recovery Fund 225, Department 125 (finance), Organization 1808 (disaster aid and revenues), Source 4220-05 (state of Minnesota flood bonds), City Project No. 1156, S.P. 118-115-008.

Resolution 13-0560 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that by resolution of intent numbered 13-0488 the council did request the administration to prepare plans and specifications for the construction of approximately 266 feet of water main in Livingston Avenue (City Project No. 0439TR). It is hereby ordered that said water main be improved.

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$19,040, assessable to benefitting properties and payable from Water Fund 510, Department 500 (public works and utilities), Organization 1900 (public works) Source 4854 (utility assessments), City Project No. 0439TR.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in 15 annual installments at municipal bond index fund rate plus 1.50 percent interest.

Resolution 13-0563 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

- - -

RESOLVED, that in accordance with the provisions of Section 33-88.2 of the Duluth City Code, 1959, as amended, the following accessible parking zones are established:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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in front of 2324 West Tenth Street  
in front of 2904 Exeter Street  
Resolution 13-0527 was unanimously adopted.  
Approved November 12, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Motorola, Inc., for the purchase and delivery of 27 portable KTS 2500 Model II portable radios, five mobile XTL2500 MantaRey radios, and two desktop MCD 5000 control station systems, all items of 800 MHz, for use by the Duluth police department in accordance with Minnesota SWIFT Contract 40071, Release R651(5) specifications and pricing, and revised vendor quote, dated October 17, 2013, in the amount of \$104,723.31 plus \$7,199.73 sales tax, for a total of \$111,923.04, terms net 30, FOB destination, and payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2012 (fiscal year 2012), Object 5580 (capital equipment), Project CE250-E1211.

Resolution 13-0543 was unanimously adopted.  
Approved November 12, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the state of Minnesota in the amount of \$320,000, such funds to be used to support the operation of the Lake Superior Zoo, and to execute a grant agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-1112-16, funds to be deposited in Fund 200-130-4220-02 (zoo, community resources).

Resolution 13-0541 was unanimously adopted.  
Approved November 12, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Lloyd K. Johnson Foundation in the amount of \$1,500, payable into 205 - parks, 130 - community resources, 1219 - parks operation, 4207 - other grants. Payments will be made from 205 - parks, 130 - community resources, 1219 - parks operation, 5103 - other grants.

Resolution 13-0546 was unanimously adopted.  
Approved November 12, 2013  
DON NESS, Mayor

- - -

The following resolutions were also considered:

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of notes. The city council adopted Resolution No. 12-0594 on December 3, 2012, declaring its intent to issue general obligation capital equipment notes in 2013 in an amount up to \$4,419,300 plus costs of issuance and discount. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue general obligation capital equipment notes, Series 2013A, in the approximate amount of \$3,775,000 (the "notes"), pursuant to Minnesota Statutes, Sections 410.32 and 412.301 (the "act"), and Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of providing approximately \$3,902,300 to purchase capital equipment,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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as permitted by the act, having an expected useful life at least as long as the term of the notes. The city's financial advisor is anticipating receipt of bids with original issue premium.

2. Issuance and sale of notes. The terms and conditions of the notes and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 13-1112-17. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the notes and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the notes. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the notes.

3. Competitive sale of notes. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for the notes in accordance with Minnesota Statutes, Section 475.60, Subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolutions. The form, specifications and provisions for repayment of the notes shall be set forth in a subsequent resolution of this city council.

Resolution 13-0550 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved November 12, 2013

DON NESS, Mayor

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BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of bonds. The city council adopted Resolution No. 12-0603 on December 3, 2012, declaring its intent to issue capital improvement bonds in 2013 in an amount not to exceed \$1,900,000. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue general obligation capital improvement bonds, Series 2013C, in the approximate amount of \$1,765,000 (the "bonds"), pursuant to Minnesota Statutes, Section 475.521 and Chapter 475, and the City Charter, for the purpose providing approximately \$1,825,000 for capital improvements projects pursuant to an approved capital improvement plan. The city's financial advisor is anticipating receipt of bids with original issue premium.

2. Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 13-1112-18. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the bonds.

3. Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for the bonds in accordance with Minnesota Statutes, Section 475.60, Subdivision 3, and in accordance with the official terms of offering.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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4. Subsequent resolutions. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 13-0552 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved November 12, 2013

DON NESS, Mayor

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BE IT RESOLVED, by the city council of the city of Duluth, Minnesota, as follows:

1. Authorization of bonds. It is hereby found, determined, and declared to be necessary, and in the best interests of the city and its residents, that the city should issue general obligation bonds (Lakewalk extension and cross city trail), Series 2013D, in the maximum amount of \$1,445,000 (the "bonds"), pursuant to Ordinance No. 10238 adopted August 26, 2013 (authorizing general obligation bonds in an amount not to exceed \$850,000 for the Lakewalk extension), Ordinance No. 10251 adopted September 23, 2013 (authorizing general obligation bonds in an amount not to exceed \$875,000 for the cross city trail), Minnesota Statutes, Chapter 475, and the City Charter, for the purpose of providing funds for the local match for state of Minnesota grants and federal grants in the approximate amount of \$750,000 for the construction of Phase I of a cross city trail from Sister Cities Park to 30th Avenue West, and in the approximate amount of \$725,000 to extend the Lakewalk pursuant to the Lakewalk east extension phase V plan. The city's financial advisor is anticipating receipt of bids with original issue premium.

2. Issuance and sale of bonds. The terms and conditions of the bonds and the sale thereof are set forth in the official terms of offering on file with the city clerk as Public Document No. 13-1112-19. Each and all of the terms and provisions set forth in the official terms of offering are adopted and confirmed as the terms and conditions of the bonds and the sale thereof, and the city council shall meet at the time and place fixed herein to consider bids for the purchase of the bonds. Due to changes in the municipal bond market, the city's chief administrative officer, with the advice of the city's financial consultant, may modify the official terms of offering regarding the maturity schedule, the minimum bid and the maximum bid prior to the sale of the bonds.

3. Competitive sale of bonds. Public Financial Management, Inc., independent financial advisor to the city, is hereby authorized to provide the notice of the sale for the bonds in accordance with Minnesota Statutes, Section 475.60, Subdivision 3, and in accordance with the official terms of offering.

4. Subsequent resolutions. The form, specifications and provisions for repayment of the bonds shall be set forth in a subsequent resolution of this city council.

Resolution 13-0553 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved November 12, 2013

DON NESS, Mayor

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Resolution 13-0556, by Councilor Hartman, identifying Russell Square and Observation Park as sites for the future development of dog parks, was introduced for discussion.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Denette Lynch, William Lynch and Annie Ingualdson spoke in favor of the resolution for the following reasons: although there already is one dog park, it does not mean there cannot be more; Keene Creek dog park is always busy so there is a need for more parks; the cost for a dog park is not much, as a fence is all that is needed; two more parks would make the parks evenly spaced in Duluth; more dog parks would make it easier for people to access one; the current dog park does not disturb the surrounding neighborhood and a dog park is a place to have dogs off leash legally and safely.

Denise Valure Foro stated she was not in favor of the proposed Lakeside dog park as it would be in her front yard, the street is only three blocks long, and there should be a better place in Lakeside to have a dog park.

Zach Walters and Al Sands expressed opposition to the proposed dog park at Observation Park as they are using the building and field for the training of their athletes.

Councilor Hartman reviewed the yearlong process of how these two potential dog locations were chosen. He explained that the parks and recreation commission wants to get the support of the council for the projects before city staff spends time and money on creating a plan for both dog parks.

Councilor Fosle voiced concern that if the council approves this resolution of intent, staff will expect the council to approve the final dog park plans. He also stated that he has a problem with the process that has already taken a year and that more people should have known about this project.

To Councilor Fosle's questioning if there is a liability issue for the city with a dog park, City Attorney Gunnar Johnson replied that the liability would be between individual dog owners and not the city.

Councilor Julsrud stated neighborhoods should be more involved in the designation of an area for a dog park and urged the councilors to vote against the resolution.

Resolution 13-0556 was adopted as follows:

BY COUNCILOR HARTMAN:

WHEREAS, the city council, by Resolution 13-0101 adopted February 13, 2013, requested the parks and recreation commission review possible locations for additional dog parks in central and eastern Duluth; and

WHEREAS, the commission, through a task force and public meeting held on September 25, 2013, has recommended that Russell Square and a portion of Observation Park be considered as locations for additional dog parks.

THEREFORE, BE IT RESOLVED, that the city council hereby identifies Russell Square and Observation Park as two locations for the development of city dog parks and further requests that city administration begin the necessary planning, budgetary and public hearing processes for the development of said parks.

Resolution 13-0556 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved November 12, 2013

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0557, authorizing the city of Duluth to discharge the housing investment fund loan made to Neighborhood Housing Services of Duluth related to the Lake Superior View Condominiums, was introduced by Councilor Stauber.

Councilor Stauber reviewed the process of funding this project and other projects out of the community investment trust fund and expressed frustration that this project never came to fruition.

Resolution 13-0557 was adopted as follows:

RESOLVED, that the city of Duluth hereby discharges the Housing Investment Fund (HIF) forgivable loan, Fund 266, made to Neighborhood Housing Services of Duluth in the amount of \$120,000, subject to receiving payment in the amount of \$46,000, payable into Community Investment Trust Fund 256, and authorizes the city's manager of community development to execute a release substantially in the form of that on file in the office of the city clerk as Public Document No. 13-112-20.

Resolution 13-0557 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

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Resolution 13-0554, awarding a contract to Utility Systems of America, Inc. for the 2012 flood repair project on Bridge 88547 in the Duluth Armory Building in the amount of \$797,686, was introduced by Councilor Julsrud.

Councilor Julsrud stated that while she understands the culvert is the city's responsibility, she is concerned about spending this much public money on a project that seems to have stalled and the building condemned.

Resolution 13-0554 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Utility Systems of America, Inc. for the 2012 Flood Repair Project on Bridge 88547 in the Duluth Armory Building in the amount of \$797,686, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project 1226, S.P. 118-193-002.

Resolution 13-0554 was unanimously adopted.

Approved November 12, 2013

DON NESS, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR STAUBER

13-069 - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE IRVING NEIGHBORHOOD TO NORMAN M. OPACK AND VIANN M. RASK FOR \$17,724.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

13-068 (10259) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND R-P TO R-2

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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AND MU-B THE PROPERTY LOCATED AT 800 EAST CENTRAL ENTRANCE (INDEPENDENT SCHOOL DISTRICT 709).

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Hanson -- 1

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The meeting was adjourned at 8:07 p.m.

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10259**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND R-P TO R-2 AND MU-B THE PROPERTY LOCATED AT 800 EAST CENTRAL ENTRANCE (INDEPENDENT SCHOOL DISTRICT 709).

The city of Duluth does ordain:

Section 1. That the approximately six acres of the subject property located at 800 East Central Entrance (former Central High School site) and as more particularly described in Exhibit A and by the following:

Part of the East Half of the Southeast Quarter of Section Twenty-One (21), Township Fifty (50) North, Range Fourteen (14) West of the Fourth (4th) Principal Meridian, City of Duluth, St. Louis County, Minnesota; excepting therefrom REGISTERED LAND SURVEY No. 82 (R.L.S. 82), and lying south of the following described line:

Commencing at the Southeast Corner of Section 21, Township 50 North, Range 14 West; thence North 5 degrees 00 minutes 00 seconds West along the east line of said Section 21, a distance of 410.24 feet; thence North 89 degrees 57 minutes 00 seconds West, a distance of 451.75; thence North 5 degrees 00 minutes 00 seconds West, a distance of 275.00 feet; thence South 5 degrees 00 minutes 00 seconds East, a distance of 72.73 feet to the northern most corner of REGISTERED LAND SURVEY No. 65 (R.L.S. 65) and the POINT OF BEGINNING of the line to be described; thence South 51 degrees 34 minutes 29 seconds West, a distance of 1038.35 feet more or less to a point on the west line of said East Half of the Southeast Quarter being 100.00 feet northerly of the Southwest Corner of said East Half of the Southeast Quarter, as measured along said west line, and said line there terminating;

be reclassified from R-1 to R-2.

Section 2. That the approximately 65 acres of the subject property located at 800 East Central Entrance (former Central High School site) and as more particularly described in Exhibit A and by the following:

Block Two (2), CLEARVIEW PARK, according to the recorded plat thereof on file and of record in the office of the Register of Deeds, St. Louis County, Minnesota, together with those portions of streets and alleys appurtenant thereto;

AND

Lots One (1) and Seventeen (17) and the east one-half of Lots Two (2) and Sixteen (16), Block Three (3), CLEARVIEW PARK, according to the recorded plat thereof on

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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file and of record in the office of the Register of Deeds, St. Louis County, Minnesota, together with those portions of streets and alleys appurtenant thereto;

AND

GREAT VIEW ADDITION TO DULUTH, according to the recorded plat thereof on file and of record in the office of the Register of Deeds, St. Louis County, Minnesota, together with those portions of streets and alleys appurtenant thereto;

AND

The East Half (E1/2) of the Southeast Quarter (SE1/4) of Section Twenty One (21), Township Fifty (50) North, Range Fourteen (14) West of the Fourth (4th) Principal Meridian, EXCEPT those parts described as follows:

1. That part of REGISTERED LAND SURVEY No. 82 (R.L.S. 82), being more particularly described as follows:

That part of the SE1/4 of the SE1/4 of Section 21 Township 50 North of Range 14 described as follows:

Commencing at a Granite Monument at the Southeast corner of said Section 21, thence North 5 degrees 00 minutes West (magnetic bearing) along the common section line of said Section 21 and Section 22 a distance of 410.24 feet to a concrete monument, said monument being the point of beginning, thence North 89 degrees 57 minutes West a distance of 451.75 feet to a concrete monument; thence North 5 degrees 00 minutes West a distance of 275.00 feet to a concrete monument, thence North 19 degrees 24 minutes East, a distance of 649.90 feet to a concrete monument on the North line of said SE1/4 of SE 1/4, thence North 83 degrees 59 minutes East along said North line, a distance of 80.00 feet to a concrete monument, thence South 53 degrees 55 minutes East, a distance of 134.61 feet to a point on the common section line of Section 21 and Section 22, thence South 5 degrees 00 minutes East along said Section line, a distance of 819.50 feet to the point of beginning;

2. That part of the Easterly 1/2 of the SE1/4 of Section 21 in Township 50 North of Range 14 West of the Fourth Principal Meridian lying Northerly of the Central Entrance, a public highway, as the same is laid out and constructed over and across said SE1/4;

3. That portion thereof bounded as follows:

On the Northwest by the Southeasterly line of Fourteenth Street, produced Southwesterly in the same straight line until it intersects the Northeasterly line of First Avenue East produced Northwesterly in the same straight line; on the Southwest by the Northeasterly line of First Avenue East produced Northwesterly in the same straight line until it intersects the Southeasterly line of Fourteenth Street produced Southwesterly in the same straight line; and on the East by the Westerly line of Block 193, Duluth Proper, Third Division according to the recorded plat thereof on file and of record in the office of the Register of Deeds;

4. That portion of the above described premises bounded by the following described lines:

The Westerly line of the E1/2 of SE1/4 of Section 21 Township 50 North, Range 14 West of the Fourth Principal Meridian; the Southerly line of Swan Lake Road (also known as Sundby Road) and The center line of Highway 194;

5. Part of the East Half of the Southeast Quarter of Section Twenty-One (21), Township Fifty (50) North, Range Fourteen (14) West of the Fourth (4th) Principal Meridian, City of Duluth, St. Louis County, Minnesota; excepting therefrom REGISTERED LAND SURVEY No. 82 (R.L.S. 82), and lying south of the following described line:



**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Abstention: Councilor Hanson -- 1

ATTEST:

JEFFREY J. COX, City Clerk

Passed November 12, 2013

Approved November 12, 2013

DON NESS, Mayor

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# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, November 25, 2013, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Absent: Councilor Fosle -- 1

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## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-1125-08 The following communications regarding the proposed resolution establishing salary for the mayor and establishment of a salary review committee (13-0580R): (a) Yvonne Anderson; (b) J. Mark Borak; (c) Pat Castellano; (d) Karen B. Holden; (e) Garner Moffat; (f) C. Roger and Lydia S. Pellet. -- Received

13-1125-09 Carolyn Sundquist communication regarding the proposed designation of local historic landmarks by the heritage preservation commission (13-073-O). -- Received

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## REPORTS FROM OTHER OFFICERS

13-1125-01 Assessor amended assessment roll of delinquent garbage assessments for 2013. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-1125-02 Duluth human rights commission minutes of August 14, 2013, meeting. -- Received

13-1125-03 Parks and recreation commission minutes of: (a) June 12; (b) July 10; (c) August 14; (d) September 11, 2013, meetings -- Received

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At this time, 7:01 p.m., the public hearing on the corporate tower tax increment financing plan began.

St. Louis County Commissioner Keith Nelson expressed concerns that: the large double digit amount of tax increment financing districts in Duluth is a greater tax burden on ordinary people; the property on this site should be considered blighted and a ten year abatement should be considered instead of a 25 year tax increment financing district and 8.3 percent of the city's net tax capacity lies within tax increment financing districts.

At this time, 7:05 p.m., the public hearing was declared closed and the regular order of business resumed.

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## MOTIONS AND RESOLUTIONS CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the Duluth City Council hereby approves of the Minnesota department of commerce issuing a 2014 currency exchange license to Pawn America Minnesota, LLC, 22 North Second Avenue West.

Resolution 13-0568 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the appointment by Mayor Ness of Bryn Pollard to the alcohol, gambling and tobacco commission for a term expiring on March 31, 2014, replacing Jon Donahue, who resigned, is confirmed.

Resolution 13-0549 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

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RESOLVED, Section 2-176 of the Duluth City Code, 1959, as amended requires that prior to any city-owned property being offered for sale or conveyance the city council shall, by resolution, state its intention to sell or convey such property.

FURTHER RESOLVED, that the Duluth City Council hereby states its intention to offer for sale or conveyance property in the Gary New Duluth neighborhood shown on Public Document No. 13-1125-04, legally described as Lots 1 and 2, Block 26, New Duluth First Division, St. Louis County, Minnesota.

Resolution 13-0571 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

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BE IT RESOLVED by the city council (the "council") of the city of Duluth, Minnesota (the "city"), as follows:

Section 1. Recitals.

1.01 The council desires to promote redevelopment, specifically the area located in the city's central business district generally bounded by Superior Street, Fourth Avenue West, Fifth Avenue West and First Alley, plus the Duluth News Tribune warehouse parcel located on First Street (the "project site"). Maurices, Incorporated, has proposed to acquire the project site, demolish the existing structures and construct a 185,000 square foot office building with an additional 15,000 square feet of retail space, and the city will cause to be constructed a public parking facility and skywalks in and adjacent to such development project (the "project").

1.02 In order to promote redevelopment, the city has previously established Development District No. 17 pursuant to Minnesota Statutes, Sections 469.124 through 469.133 (the "Development District Act"), and adopted a development program for such district. The city proposes to modify the development program for Development District No. 17, but not the boundaries, and to establish Tax Financing District No. 26 (the "TIF district") within Development District No. 17 and adopt a tax increment financing plan (the "TIF plan") therefor, pursuant to Minnesota Statutes, Sections 469.174 through 469.1794 (the "TIF Act"), to provide assistance in developing the project and encouraging investment in Development District No. 17. The proposed project lies within Development District No. 17 and the TIF district. The city has prepared the TIF plan in accordance with the TIF Act.

1.03 Pursuant to the Development District Act and Section 469.175, Subdivision 3 of the TIF Act, the city held a public hearing on the modification of the development program and the TIF plan on November 25, 2013, at which the views of all interested parties were heard.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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1.04 Pursuant to Section 469.175, Subdivision 2a of the TIF Act, the city has delivered written notice of the TIF district to the county commissioner who represents the area proposed to be included within the TIF district. The notice contained a general description of the TIF district, the proposed activities to be financed by the TIF district, and an offer to meet and discuss the TIF district along with a solicitation of such commissioner's comments with respect to the TIF district.

1.05 Pursuant to Section 469.175, Subdivision 2 of the TIF Act, the city has provided the St. Louis County auditor and the clerk of the school board of Independent School District No. 709 with a copy of the proposed TIF plan, which includes the city's estimate of the fiscal and economic implications of the proposed TIF district.

1.06 Certain written reports (the "reports") relating to the modification of the development program and the TIF plan (the "plans") and to the activities contemplated therein have heretofore been prepared by staff and consultants and submitted to the council and/or made a part of the city files and proceedings on the plans. The reports, including the redevelopment qualifications reports and planning documents, include data, information and/or substantiation constituting or relating to the basis for the other findings and determinations made in the resolution. The council hereby confirms, ratifies and adopts the reports, which are hereby incorporated into and made as fully a part of this resolution to the same extent as if set forth in full herein.

1.07 After investigation of the facts, the council is of the opinion that: it is necessary for the sound and orderly development of Development District No. 17 and of the city as a whole and for the protection and preservation of the public health, safety and general welfare, that the powers authorized by the Development District Act and the TIF Act (the "acts") be exercised by the city to provide public financial assistance to the project; proper development of Development District No. 17 in accordance with the city's long range plans is essential to the economic viability of the project, the economic well-being of the city and its residents and the orderly development of the city; it is necessary for the orderly and beneficial development of Development District No. 17 to provide for the cost of certain improvements within the TIF district, including acquiring properties containing structurally substandard buildings or improvements, acquiring adjacent parcels necessary to provide a site of sufficient size to permit development, demolition, clearing of land, installation of utilities, streets and sidewalks and parking facilities; there is a need for redevelopment within Development District No. 17 to provide retention of and creation of employment opportunities for residents of the city, the surrounding communities and the state of Minnesota (the "state"), to improve the tax base of the city and the state, to improve the general economy of the city and the state, and to provide other facilities as identified in the plans; creation of the TIF district is in the public interest and will result in increased employment in the city and in the preservation and enhancement of the tax base of the city; that the TIF district is intended and, in the judgment of the council, its effect will be to promote the public purposes and accomplish the objectives specified in the TIF plan, which are all consistent with the efforts already made for the development within Development District No. 17.

1.08 The council has fully reviewed the contents of the modification to the development program of Development District No. 17 and the TIF plan, which are incorporated herein.

Section 2. Intent. It is declared to be the intent of the city that the city use the powers of the acts to achieve the objectives thereof.

Section 3. Approval of the modification of the development plan. The council approves the modification of the development plan for Development District No. 17 and hereby

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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finds that such modification is consistent with and will further the goals and objectives of the development program for Development District No. 17.

Section 4. Findings for the establishment of tax increment financing District No. 26.

4.01 The council hereby finds that the TIF district is in the public interest and is a "redevelopment district" under Minnesota Statutes, Section 469.174, Subd. 10(a)(1).

4.02 The council further finds that the proposed redevelopment would not occur solely through private investment within the reasonably foreseeable future and that the increased market value of the project site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the TIF plan, that the plans conform to the general plan for the development or redevelopment of the city as a whole; and that the plans will afford maximum opportunity consistent with the sound needs of the city as a whole, for the development or redevelopment of the TIF district by private enterprise.

4.03 The council further finds, declares and determines that the findings stated in this section are based on the reasons and supporting facts for each determination, as follows:

A. The TIF district consists of three parcels, each occupied with buildings and/or parking areas, with plans to redevelop the project site with a building containing approximately 185,000 square feet of office space, approximately 15,000 square feet of retail space, a public parking facility with approximately 500 parking spaces and public skywalks. At least 70 percent of the area of the parcels in the TIF district is occupied by buildings, streets, utilities, paved or gravel parking lots or other similar structures, and more than 50 percent of the buildings in the district, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance. (See Appendix F of the TIF plan.)

B. The proposed development, in the opinion of the council, would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future. The project site is occupied by three buildings. The proposed development will require (i) acquisition of the project site, (ii) demolition and clearance of the project site, and (iii) construction of the public parking facility and skywalk system in and adjacent to the project site. The development of the office and retail space would not occur without an \$8,500,000 grant from the state of Minnesota and the tax increment generated from the proposed development. It is noted that redevelopment of property within the city does not generally occur without public assistance, as development costs are significantly less on green field sites.

C. The increased market value of the site to be included in the TIF district that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from redevelopment in the TIF district after subtracting the present value of the projected tax increments for the maximum duration of the TIF district permitted by the TIF plan:

(i) The city and the council estimate that the amount by which the market value of the entire TIF district would increase without the use of tax increment financing is in an amount from \$0 to some modest amount of land value appreciation.

(ii) If the project is constructed in the TIF district, the total increase in market value is estimated to be \$15,817,400 from its current market value of \$2,512,600 to an estimated market value of \$18,330,000 upon completion of the project.

(iii) The present value of the tax increments from the TIF district for the maximum duration of the TIF district permitted by the TIF plan is estimated to be \$9,622,986.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(iv) Even if some development other than the proposed project were to occur, the council finds that no alternative would occur that would produce a market value increase greater than \$6,194,414 (the amount of subparagraph (ii) less the amount of subparagraph (iii) above) without tax increment assistance.

D. Based on information contained in the TIF plan, the TIF plan conforms to the general plan for the redevelopment of the city as a whole. The council finds that adoption of the TIF plan would encourage redevelopment in the city, provide economic opportunities, improve the tax base and improve the general economy of the city and the state.

E. Based on information contained in the plans, the plans will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the redevelopment of Development District No. 17 by private enterprise.

4.04 Pursuant to Section 469.175, Subd. 1(b) of the TIF Act, the council elects to receive the first tax increment from the TIF district in 2017, which is no later than four years following the year of approval of the TIF district.

Section 5. Public purpose. The adoption of the plans conforms in all respects to the requirements of the Development District Act and the TIF Act and will help fulfill a need to develop an area of the city which is already built up, to provide employment opportunities, to improve the tax base and to improve the general economy of the state and thereby serves a public purpose. For the reasons described in Section 4, the city believes these benefits directly derive from the tax increment assistance provided under the TIF plan. A private developer will receive only the assistance needed to make this development financially feasible. As such, any private benefits received by a developer are incidental and do not outweigh the primary public benefits.

Section 6. Approval and adoption of the plans.

6.01 The plans, as presented to the council on this date, including without limitation the findings and statements of objectives contained therein, are hereby approved, ratified, established and adopted and shall be placed on file in the office of the city clerk as Public Document No. 13-1125-10.

6.02 The staff of the city, the city's advisors and legal counsel are authorized and directed to proceed with the implementation of the plans and to negotiate, draft, prepare and present to this council for its consideration all further plans, resolutions, documents and contracts necessary for this purpose.

6.03 The auditor of St. Louis County is requested to certify the original net tax capacity of the TIF district, as described in the plans, and to certify in each year thereafter the amount by which the original net tax capacity has increased or decreased; and the city clerk is authorized and directed to forthwith transmit this request to the county auditor in such form and content as the auditor may specify, together with a list of all properties within the TIF district, for which building permits have been issued during the 18 months immediately preceding the adoption of this resolution.

6.04 The city clerk is further authorized and directed to file a copy of the plans with the commissioner of the Minnesota department of revenue and the office of the state auditor pursuant to Minnesota Statutes 469.175, Subd. 4a.

Resolution 13-0575 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with RJS Construction Group, LLC for removal of a flood-damaged bridge and construction of

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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a box culvert at Bristol Street over Keene Creek in the amount of \$539,700, payable from Disaster Recovery Fund 225, Department 125 (finance), Division 1803 (roads and bridges) Object 5403 (street repair and maintenance), City Project No. 1127, S.A.P. 118-080-047, Flood Site No. 29, Requisition No. 13-0592.

Resolution 13-0567 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept from Hartley Nature Center Corporation, a Minnesota non-profit corporation, the donation of an easement for street and utility purposes as described on Public Document No. 13-1125-05, said document being on file in the office of the city clerk, over property in the Hartley Nature Center at no cost to the city.

Resolution 13-0570 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

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THE CITY COUNCIL FINDS:

(a) That it is deemed necessary for the public conveyance and safety that Tenth Avenue East between Superior Street and Fifth Street (City Project No. 0753TR) be reconstructed; and

(b) That this project will not be eligible for municipal state aid funds unless it is constructed to state aid standards for arterial roadways of urban (new or reconstruction) projects, or unless a variance is granted; and

(c) Practical limitations require that tighter vertical curves than dictated by standards be used. The cross streets at intersections cause a 30 mph design speed, which requires a variance from the commissioner of transportation in accordance with Minnesota Rules Chapter 8820.3300.

RESOLVED, that the city of Duluth requests the commissioner of transportation for a variance from Minnesota Rules for State Aid Operations 8820.9936, whereby the minimum design standards for urban (new or reconstruction) projects be reduced for this project, allowing for a 30' vertical curve length instead of the required standard of 90' vertical curve length at the Tenth Avenue East approaches to intersections with Superior Street, First Street, Second Street, Third Street, Fourth Street and Fifth Street, and further agrees to indemnify, save, and hold harmless the causes of actions arising out of or by reason of the reconstruction of Tenth Avenue East in any manner other than in accordance with Minnesota Rule 8820.9936, and further agrees to defend at its sole cost and expense any action or proceeding commenced for the purpose of asserting any claim whatsoever arising as a result of the granting of this variance.

Resolution 13-0573 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

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RESOLVED, that the city of Duluth established the initial municipal state aid system of streets by a resolution approved October 28, 1957, under provision of Minnesota Laws 1957, Chapter 943.

RESOLVED, that it now appears that revisions in the municipal state aid system are necessary.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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FURTHER RESOLVED, that the following existing municipal state aid road in the city of Duluth, described as follows, to-wit:

Truck Center Drive from 30-1/2 Avenue West to Carlton Street  
be, and hereby is, revoked as a municipal state aid route subject to the approval of the commissioner of transportation of the state of Minnesota.

Resolution 13-0574 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city council authorizes settlement in the matter of W.W. Goetsch, Inc. v. city of Duluth, filed in Minnesota district court, sixth judicial district, File No. 69DU-CV-13-1227, pursuant to the terms and conditions of the mediated settlement agreement, a copy of which is on file with the city clerk as Public Document No. 13-1125-06. The settlement terms require payment by the city in the amount of \$95,580, payable to W.W. Goetsch Associates, Inc., from Fund 530-500-1945-5227 (sanitary sewer fund 530), in exchange for delivery to the city of the 40 control panels produced by plaintiff following the June, 2012 flood.

FURTHER RESOLVED, that proper city officials shall take all actions necessary to conclude this matter on a full, final and complete basis.

Resolution 13-0581 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1125-07(a), in conjunction with the Duluth transit authority ("DTA") for the purchase and installation of transit signal priority ("TSP"), emergency vehicle priority ("EVP") and signal control system with Hunt Electric Corp. of Duluth in the amount of \$815,039, payable from DTA funds.

FURTHER RESOLVED, that the proper city officials are hereby authorized to enter in to an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1125-07(b) with the DTA to operate and maintain the TSP/EVP and signal control system for its useful life.

Resolution 13-0582 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to contract with Emergency Automotive Technologies, Inc., for the tax-exempt purchase and delivery of police equipment for nine marked squads in accordance with Minnesota Swift State Contract 65679, Release V30(5) specifications and pricing and vendor quotes AW1007 13-43 and AW1017 13-42 in the amount of \$58,187.02, terms net 30, FOB destination, and payable from Capital Equipment Fund 250, Department/Agency 015 (public administration), Division 2013 (fiscal year), Object 5580 (capital equipment), Project No. CE250-V1302.

Resolution 13-0569 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

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## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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RESOLVED, that the proper city officials are hereby authorized to accept a ballistic vest reimbursement grant from the United States department of justice, bureau of justice assistance, office of justice programs, in an amount not to exceed \$5,843.85 to be deposited in Fund 110-160-1610-4209-02 (general fund, police department, administration and investigation, federal operating grants), and to execute any documents required to be executed to accept such grant.

FURTHER RESOLVED, that the proper city officials are authorized to accept a ballistic vest reimbursement grant from the Minnesota department of public safety in an amount not to exceed \$7,875 to be deposited in Fund 110-160-1610-4220-02 (general fund, police department, administration and investigation, Minnesota operating grants), and to execute any documents required to be executed to accept such grant.

Resolution 13-0577 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the Duluth legacy endowment fund in the amount of \$2,500 for the Hawk Ridge Bird Observatory stewardship management plan; said sum to be deposited in Fund 205-130-1219-4270 (parks fund, community resources, parks operating, miscellaneous grants), and to execute all documents necessary thereto.

Resolution 13-0579 was unanimously adopted.

Approved November 25, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0580, establishing salary for the mayor pursuant to Chapter II, Section 5 of the Duluth Home Rule Charter and establishing salary review committee, was introduced for discussion.

Councilor Gardner reviewed and commented at length on: the history of past changes to the mayor's salary; other similar-sized cities and forms of government comparisons and the establishment of a mayor's salary review committee.

Councilor Larson moved to amend the fifth paragraph of the resolution by deleting "January" and inserting "December," which motion was seconded.

Chief Administrative Officer David Montgomery stated the mayor did not support the resolution as initially drafted, but that he would not oppose the resolution if amended.

Councilors Larson's amendment carried unanimously.

Councilor Stauber and President Boyle expressed concerns of: that in the past there has been extensive internal studies and deliberations by the council and professional analysis of the mayor's salary, which should be done here, but now it is just a resolution introduced last week; that a small modest raise might be appropriate; comparison should be based on Minnesota cities on per population basis and this city has a professional chief administrative officer who should rightfully get paid for directing all the city operations.

Councilors supporting the resolution noted at length: that the mayor is accountable to all the citizens; that good individuals do not consider this office because the salary is not enough for them do this full time; most of the cities in Minnesota only have a ceremonial mayor, so comparison is difficult; the major direction and policy come from the mayor; the council has the legal responsibility to review the mayor's salary; it has been 14 years since the

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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mayor's position had a pay raise; this is about respect for the job we expect from the mayor; the consumer price index would make this position at a higher amount than what is being proposed and elected officials from St. Louis County give themselves the same percentage raise that was approved for the county's employees of AFSCME.

Resolution 13-0580 was adopted as follows:

BY COUNCILOR GARDNER:

WHEREAS, pursuant to Chapter II, Section 5 of the Duluth Home Rule Charter, the city council shall set the salary for the mayor; and

WHEREAS, the mayor's current salary was set on January 3, 2000, by the city council pursuant to Resolution No. 99-0570; and

WHEREAS, the former city council recommended that changes to the mayor's salary be considered by the city council no less than once every four years pursuant to Resolution No. 94-0055, approved on January 18, 1994; and

WHEREAS, the city council has not considered changes to the mayor's salary since January 3, 2000.

THEREFORE, BE IT RESOLVED, that the proper city officials are hereby authorized to compensate, and execute all employment documents necessary to compensate, the mayor a base annual salary of \$97,500, effective December 1, 2013.

FURTHER RESOLVED, that the city council hereby establishes a mayor salary review committee, which shall be a group comprised of the city council personnel committee and three community leaders who are selected, appointed and approved by city council resolution.

FURTHER RESOLVED, that going forward, the mayor salary review committee shall meet as necessary to annually review and establish, by majority vote, its recommendations regarding changes to the mayor's salary, and then present those recommendations to the city council during an open city council meeting.

RESOLVED FURTHER, that the provisions of Resolution No. 94-0055 are superceded by this resolution.

Resolution 13-0580, as amended, was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Julsrud, Krug and Larson -- 5

Nays: Councilors Hanson, Stauber and President Boyle -- 3

Absent: Councilor Fosle -- 1

Adopted November 25, 2013, pursuant to Section 12 of the Duluth City Charter.

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Resolution 13-0578, authorizing disbursement of grant funds in the amount of \$56,000 from parks fund neighborhood grants program, was introduced.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Liz McKay and Kathy Hogan thanked the council for the past grants and reviewed the activities that were funded on Park Point and in the Hillside.

Resolution 13-0578 was adopted as follows:

RESOLVED, that the city council hereby authorizes the disbursement of grant funds from the Parks fund neighborhood grants program to the following organizations in the following amounts, and further authorizes the proper city officials to execute a grant agreement with each organization receiving funds, amounts to be payable from Fund 205-130-1219-5439 (parks, community resources, parks operating, special projects and events):

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

<b>Organization</b>	<b>Program Name</b>	<b>Rec Amt</b>
Chester Bowl Improvement Club (CBIC)	Chester Bowl youth programming improvements	\$4,500
COGGS	Duluth multi-use trail improvements and construction	\$5,000
Courage Kenny Northland	Courage Kenny Northland "mobility mat" project	\$3,000
Duluth Area Horse Trail Alliance	Master equestrian trail plan for western Duluth	\$5,000
Duluth YMCA	Tot-time upgrades	\$5,000
Hartley Nature Center	Year-round environmental education classroom	\$5,000
Healthy Duluth Area Coalition	Cycle aid station project	\$5,000
Lincoln Park Business Group	Cross city trail	\$5,000
Park Point Community Club	Lafayette summer youth program	\$3,500
Valley Youth Center	Memorial Park ice rink	\$5,000
Woodland Hills - neighborhood youth	Winter Warmth	\$5,000
Youth of Duluth	Youth of Duluth study ball program	\$5,000
	<b>TOTAL</b>	<b>\$56,000</b>

Resolution 13-0578 was unanimously adopted.  
 Approved November 25, 2013  
 DON NESS, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

BY COUNCILORS GARDNER AND HARTMAN

13-073 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING DESIGNATION OF LOCAL HISTORIC LANDMARKS BY THE HERITAGE PRESERVATION COMMISSION.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-071 - AN ORDINANCE GRANTING TO SCALZO PROPERTIES, LLC, A CONCURRENT USE PERMIT FOR TWO OFF STREET PARKING SPACES LOCATED IN THE EAST FIFTH STREET PUBLIC RIGHT-OF-WAY.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-072 - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING ADAPTIVE REUSE OF LOCAL HISTORIC LANDMARKS.

- - -

INTRODUCED BY COUNCILOR JULSRUD

13-070 - AN ORDINANCE AUTHORIZING DULUTH PUBLIC UTILITIES COMMISSION TO APPROVE PROGRAMS TO FUND GAS MAIN EXTENSIONS, AMENDING SECTION 48-214 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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BY COUNCILOR LARSON

13-074 - AN ORDINANCE AMENDING SECTIONS 27-6, 27-17, 27-18, 27-21 AND 27-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO PEDDLERS AND MOBILE FOOD CARTS AND VEHICLES.

- - -

The following entitled ordinance was read for the second time:

INTRODUCED BY COUNCILOR STAUBER

13-069 (10260) - AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE IRVING NEIGHBORHOOD TO NORMAN M. OPACK AND VIANN M. RASK FOR \$17,724.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

The meeting was adjourned at 8:01 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10260**

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY IN THE IRVING NEIGHBORHOOD TO NORMAN M. OPACK AND VIANN M. RASK FOR \$17,724.

The city of Duluth does ordain:

Section 1. That pursuant to Section 2-176 of the Duluth City Code, 1959, as amended (the Code), the city council finds that:

(a) City Resolution 13-5146 approved the sale or conveyance of certain property in the Irving neighborhood;

(b) As per Section 2-178, of the Duluth City Code, 1959, as amended (the Code), if, due to existing laws or regulations, no building can legally be constructed on a parcel, the city may directly sell such parcel by ordinance to an adjacent owner or adjacent owners without competitively bidding but at a price at least equal to its market value as determined by the city assessor;

(c) The manager of the city's physical planning division has reviewed the parcels in question and determined that due to existing conditions, no building can be legally constructed on it;

(d) As per Section 2-176(c) of the Code, the county assessor has provided an estimate of the market value to be \$17,724;

(e) The property described in Section 2 below is hereby determined to be surplus to the city's future needs and is therefore appropriate for sale and pursuant to Article XXXIII of Chapter 2 of the Code.

Section 2. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota, by quit claim deed, to Norman M. Opack and ViAnn M. Rask, husband and wife, as joint tenants, for the amount of \$17,724 to be deposited into Fund 110 (general), Agency 700 (transfers and other functions), Organization 1420 (capital programs), Object 4640 (sale of land), and further to execute all documents necessary with regard to said conveyance:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Block 21, Lots 1, 2, 31 and 32 and Block 20, Lots 1 and 2 of Hunter and Markell's Grassy Point Addition to Duluth, including those portions of vacated 69th Avenue West, 69th Avenue West Alley adjoining said lots and the east half of vacated 70th Avenue West adjoining Block 21, Lots 31 and 32 of Hunter and Markell's Grassy Point Addition to Duluth, St. Louis County, Minnesota.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 2, 2014)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: None -- 0

Absent: Councilor Fosle -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed November 25, 2013  
Approved November 25, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Special meeting of the Duluth City Council held on Thursday, December 5, 2013, 5:15 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Stauber and President Boyle -- 8

Absent: Councilor Larson -- 1

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## MOTIONS AND RESOLUTIONS

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Notes Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Sections 410.32(g) and 412.301 and Minnesota Statutes, Chapter 475 (collectively, the "Act"), and the City Charter, the City is authorized to issue its general obligation capital equipment notes to provide funds to purchase capital equipment having an expected useful life at least as long as the term of the capital equipment notes.

1.02 The city council adopted Resolution No. 12-0594R on December 3, 2012 (the "Intent Resolution"), declaring the intention of the City to issue such capital equipment notes in the maximum amount of \$4,419,300 to finance the purchase of capital equipment authorized by the Act plus costs of issuance and discount on such capital equipment notes. It is hereby certified that the amount of the capital equipment notes to be issued by the City pursuant to this resolution is less than 0.25% of the estimated market value of the taxable property of the City.

1.03 The city council hereby determines that it is necessary and expedient to issue \$3,835,000 General Obligation Capital Equipment Notes, Series 2013A, of the City (the "Notes") to provide funds to purchase capital equipment authorized by the Act, to pay certain expenses incurred in the issuance of the Notes and to pay a portion of the interest cost of the issue, as allowed by Minnesota Statutes, Section 475.56. The capital equipment to be purchased with the proceeds of the Notes will have a useful life of more than the term of the Notes.

1.04 Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile or electronic data transmission to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Notes at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Notes.

1.05 Pursuant to such solicitation for bids for the sale of the Notes, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Stifel, Nicolaus & Co., Inc. of Memphis, Tennessee (the "Purchaser"), to purchase the Notes at a cash price of \$3,944,326.35, upon condition that the Notes mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such bid reasonable and proper and the bid of the Purchaser is hereby accepted. Upon receipt of the good faith deposit, the mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Notes in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder. All actions of the mayor and the clerk

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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and Public Financial Management, Inc., independent financial advisor to the City, taken with regard to the sale of the Notes are hereby ratified and approved.

### Section 2. Terms, Execution and Delivery of the Notes.

2.01 The Notes to be issued hereunder shall be dated the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Notes shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

Year	Amount	Interest Rate
2015	\$730,000	2.00%
2016	750,000	2.00%
2017	770,000	2.00%
2018	785,000	2.00%
2019	800,000	2.00%

2.02 The Notes are not subject to redemption and prepayment before maturity.

2.03 The interest shall be payable semiannually on February 1 and August 1 and in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2014. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The Bond Registrar designated below shall make all interest payments with respect to the Notes by check or draft mailed to the registered owners of the Notes shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 The Notes shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Notes shall cease to be an officer before delivery of the Notes, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery. The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Note.

2.05 The city council hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Notes (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Note shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Note, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Notes need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Note shall be conclusive evidence that it has been authenticated and delivered under this resolution.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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2.06 (a) In order to make the Notes eligible for the services provided by The Depository Trust Company, New York, New York (“DTC”), the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the “Representation Letter”).

(b) Notwithstanding any provision herein to the contrary, so long as the Notes shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Notes shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar’s receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Notes which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Notes of such stated maturity of any Notes in Book-Entry Form shall be issued and remain in a single note certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Notes of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Notes of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Notes.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Note in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new note in Book-Entry Form in exchange for a previous note, the Bond Registrar shall designate thereon the principal balance remaining on such note according to the Bond Registrar’s books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Note in Book-Entry Form or entitled to receive any note certificate. The beneficial ownership interest in any Note in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Notes of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Note, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Note.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Note in Book-Entry Form shall be transmitted to beneficial owners of such Notes at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(f) All payments of principal, redemption price of and interest on any Notes in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Notes and the registration of transfers of the Notes entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Note at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Notes of the like aggregate principal amount, as requested by the transferor.

2.08 Each Note delivered upon transfer of or in exchange for or in lieu of any other Note shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Note. Each Note shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Notes called for redemption or to make any such exchange or transfer of the Notes during the 15 days next preceding the date of the first publication of the notice of redemption in the case of a proposed redemption of the Notes.

2.09 The City and the Bond Registrar may treat the person in whose name any Note is registered as the owner of such Note for the purpose of receiving payment of principal of and interest on such Note and for all other purposes whatsoever, whether or not such Note be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Notes shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Notes shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH

GENERAL OBLIGATION CAPITAL EQUIPMENT NOTE, SERIES 2013A

R-\_\_ \$\_\_\_\_\_

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2013	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2014. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Note on the Interest Payment Date directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Note, the presentation or surrender of this Note, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Note to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

The City has designated the Note as a qualified tax-exempt obligation pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

This Note is one of a series issued by the City in the aggregate amount of \$3,835,000, all of like date and tenor, except as to number, amount, maturity date and interest rate, pursuant to the authority contained in Minnesota Statutes, Sections 410.32(g) and 412.301 and Chapter 475, the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on December 5, 2013 (the "Resolution"), and is issued for the purpose of providing money, together with other available funds, for the purchase of capital equipment. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Notes, as such principal and interest respectively come due. The Notes are not subject to redemption and prepayment before maturity.

The Notes of this series are issued as fully registered obligations without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Note is transferable by the registered owner hereof upon surrender of this Note for transfer at the principal corporate

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office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Note, one or more new fully registered Notes in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Note, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Note in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest thereon when due, without limitation as to rate or amount; and that the issuance of this Note does not cause the indebtedness of the City to exceed any constitutional or statutory limitation.

This Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the city of Duluth, by its city council, has caused this Note to be executed in its name by the facsimile signatures of the mayor and the city clerk.

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of a Note registered in the name of the owner named above, in the principal amount stated above, and this Note is one of the Notes of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Bond Registrar

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

By \_\_\_\_\_  
Authorized Representative

REGISTRATION CERTIFICATE

This Note must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Note shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Note and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/___/2013	Cede & Co. c/o The Depository Trust Company 570 Washington Blvd. Jersey City, NJ 07310 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto

\_\_\_\_\_  
\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

the within Note and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Note is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”), to the City or its agent for registration of transfer, exchange, or payment, and any Note issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**Section 3. Covenants, Accounts and Representations.**

3.01 The City has created a separate acquisition account within the Capital Equipment Fund 250 to which there shall be credited \$3,939,300 from the proceeds for the Notes, together with any additional funds which may be available and are appropriated for the capital equipment purchase program. This account shall be used only to pay or reimburse other City funds or accounts for “capital equipment,” as described in Minnesota Statutes, Section 412.301, with an expected useful life of at least the term of the Notes, and costs of issuance of the Notes, as such payments become due. The City’s intent is to acquire and finance the capital equipment listed in the Intent Resolution with the proceeds of the Notes.

3.02 (a) There shall be and is hereby levied a direct, annual, ad valorem tax upon all taxable property within the City, which shall be extended upon the tax rolls for the years and in amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Notes as such principal and interest respectively become due as follows:

<b>Levy Year</b>	<b>Collection Year</b>	<b>Tax Levy</b>
2013	2014	\$856,655
2014	2015	852,705
2015	2016	857,955
2016	2017	857,535
2017	2018	856,800

(b) A separate debt service account is hereby created and designated as the “2013 G.O. Capital Equipment Notes Debt Service Account” (the “Debt Service Fund”) within the City’s debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Notes; provided, however, that

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited the amount of accrued interest, if any, and the rounding amount (\$5,026.35) paid by the Purchaser upon closing and delivery of the Notes.

3.03 If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Notes, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient. All proceeds of said taxes will be appropriated and paid when collected into the Debt Service Fund. Said taxes shall be irrevocable until the Notes and interest are fully paid, except that if the City in any year shall make an irrevocable appropriation to said accounts of monies actually on hand, the city clerk shall certify to the county auditor of St. Louis County the fact and the amount thereof, and the county auditor shall reduce by the amount so certified the amount otherwise to be included in the rolls next thereafter prepared.

3.04 The full faith and credit and taxing power of the City are irrevocably pledged for the prompt and full payment of the Notes and the interest thereon, in accordance with the terms set forth in this resolution.

3.05 Proceeds of the Notes on deposit in the acquisition account created in Section 3.01 and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Section 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the equipment purchases and/or payment of the principal and interest on the Notes when due.

### Section 4. Tax Covenants.

4.01 The City covenants and agrees with the holders of the Notes that the City will (i) take all action on its part necessary to assure that the interest on the Notes will be excluded from gross income for federal income taxes including, without limitations, restricting, to the extent necessary, the yield on investments made with the proceeds of the Notes and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Notes to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Notes and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Notes shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (i) for a reasonable temporary period until such proceeds are needed for the purpose for which the Notes were issued, and (ii) in addition to the above, in an amount not greater than the lesser of five percent of the proceeds of the Notes or \$100,000. To this effect, any proceeds of the Notes and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Notes) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Notes and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Notes to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

(c) The City hereby covenants not to use the proceeds of the Notes, or to cause or permit them to be used, in such a manner as to cause the Notes to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby represents that with respect to the gross proceeds of the Notes, the following schedule is expected to be met: (i) at least 15% of the gross proceeds of the Notes will be allocated to expenditures for the governmental purpose of the Notes within six months of the date of issue of the Notes; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18 month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Notes, and that 100% of the available proceeds of the Notes will be allocated within 30 months from the date of issue of the Notes.

(b) The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

4.04 In addition to the Notes, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Capital Improvement Bonds, Series 2013C (the "Series 2013C Bonds"), and General Obligation Bonds (Lakewalk Extension and Cross City Trail), Series 2013D (the "Series 2013D Bonds"). The Notes, the Series 2013C Bonds and the Series 2013D Bonds are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

4.05 In order to qualify the Notes as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code, the City makes the following factual statements and representations:

(a) the Notes are not "private activity bonds" as defined in Section 141 of the Code;

(b) the City designates the Notes as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code;

(c) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities whose obligations will be aggregated with those of the City) during the calendar year in which the Notes are being issued will not exceed \$10,000,000; and

(d) not more than \$10,000,000 of obligations issued by the City during the calendar year in which the Notes are being issued have been designated for purposes of Section 265(b)(3) of the Code.

Section 5. Continuing Disclosure. The City acknowledges that the Notes are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Notes. To provide for the public availability of certain information relating to the Notes and the security therefor and to permit underwriters of the Notes to comply with the Rule, which will enhance the marketability of the Notes, the mayor and the

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate on file in the office of the city clerk as Public Document No. 13-1205-01.

### Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file in the office of the county auditor of St. Louis County a certified copy of this resolution, and such other information as the county auditor may require, and to obtain from the county auditor and provide to bond counsel a certificate stating that the Notes herein authorized have been duly entered on the county auditor's register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City pertaining to the authorization, issuance, and sale of the Notes and such other affidavits and certificates as may reasonably be required to show the facts relating to the legality and marketability of the Notes, as such facts appear from the official books and records of the officers' custody or are otherwise known. All such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The mayor and the city clerk are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the issuance and sale of the Notes and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as for the date of the official statement.

6.04 In the event of the absence or disability of the mayor or the city clerk, such officers as in the opinion of the City attorney, may act in their behalf, shall without further act or authorization, execute and deliver the Notes, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Resolution 13-0583 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug and President Boyle -- 6

Nays: Councilors Fosle and Stauber -- 2

Absent: Councilor Larson -- 1

Approved December 5, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the "City"), as follows:

### Section 1. Bond Purpose and Authorization.

1.01 (a) Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

(b) The city council has, by Ordinance No. 10256 adopted October 28, 2012, authorized the issuance and sale of general obligation bonds of the City in the maximum amount of \$3,400,000 for the purpose of providing the local match for State of Minnesota grants and federal grants for the completion of the construction of a new terminal facility at the Duluth International Airport, including a new parking ramp, access road and aprons (the "Project").

(c) Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$3,400,000 Taxable General Obligation Airport Improvement Bonds,

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Series 2013B, to be dated the date of delivery as the date of original issue (the “Bonds”) for financing the Project.

1.02 Public Financial Management, Inc., financial consultant to the City, has given notification to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds.

1.03 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of Piper Jaffray of Minneapolis, Minnesota (the “Purchaser”), to purchase the Bonds at a cash price of \$3,373,456.12, and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser’s bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

### Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated the date of delivery as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts stated and shall bear interest as follows:

<b>Year</b>	<b>Amount</b>	<b>Interest Rate</b>
2017	\$220,000	1.550%
2018	225,000	2.000%
2019	225,000	2.500%
2020	230,000	2.900%
2021	240,000	3.100%
2022	245,000	3.400%
2023	255,000	3.750%
2024	265,000	3.900%
2025	275,000	4.050%
2026	285,000	4.150%
2027	300,000	4.250%
2028	310,000	4.250%
2029	325,000	4.375%

2.02 (a) The Bonds maturing in the years 2017 through 2024 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01(b), in the year 2025 and in subsequent years shall each be subject to redemption and prepayment at the option of the City on February 1, 2024, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2014. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15th day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The city clerk is authorized and directed to obtain a copy of the approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 3.01 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of

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the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this

Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

Section 3. Form of the Bonds.

3.01 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

R-\_\_\_\_\_ \$\_\_\_\_\_

CITY OF DULUTH  
TAXABLE GENERAL OBLIGATION AIRPORT IMPROVEMENT BOND,  
SERIES 2013B

Interest			
Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, _____	December __, 2013	

REGISTERED OWNER: CEDE & CO.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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PRINCIPAL AMOUNT:

DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above, on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2014. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

This Bond is one of a series issued by the City in the aggregate amount of \$3,400,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, pursuant to the authority contained in Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, and all other laws thereunto enabling, and Ordinance No. 10256 adopted by the governing body of the City on October 28, 2013, and pursuant to a resolution adopted by the governing body of the City on December 5, 2013 (the "Resolution"), for the purpose of providing the local match for State of Minnesota grants and federal grants for the completion of the construction of a new terminal facility at the Duluth International Airport, including a new parking ramp, access road and aprons, and for payment of part of the interest cost of said bond issue, which obligations and interest thereon are payable from ad valorem taxes as described in the Resolution.

The Bonds of this series maturing in the years 2017 through 2024 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2025 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2024, and on any date thereafter, in whole or in part, and if in part, in such order of maturities

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

Not less than 30 nor more than 60 days prior to the date fixed for redemption and prepayment of any Bonds, notice of redemption shall be mailed to each registered owner of a Bond to be redeemed; however, that so long as the Bonds are registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Blanket Issuer Letter of Representations executed by the City and DTC.

If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest. If any Bond is redeemed in part, upon surrender of the Bond being redeemed, the City shall deliver or cause to be delivered to the registered owner of such Bond, a Bond in like form in the principal amount equal to that portion of the Bond so surrendered not being redeemed.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its city council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

**REGISTRATION CERTIFICATE**

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
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PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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12/\_\_/2013 Cede & Co. \_\_\_\_\_  
c/o The Depository Trust Company  
570 Washington Blvd.  
Jersey City, NJ 07310  
Federal Taxpayer I.D. No.: 13-  
2555119

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers  
unto \_\_\_\_\_

\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_  
Social Security or Other  
Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute  
and appoint \_\_\_\_\_  
attorney to transfer the said Bond on the books kept for registration thereof with  
full power of substitution in the premises.

Dated: \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

NOTICE: The signature of this  
assignment must correspond with the  
name of the registered owner as it  
appears upon the face of the within  
Bond in every particular, without  
alteration or enlargement or any change  
whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository  
Trust Company, a New York corporation ("DTC"), to the City or its agent for  
registration of transfer, exchange, or payment, and any bond issued is registered

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

### Section 4. Revenues, Accounts and Covenants.

4.01 The City has created the 2013 Bond Construction Account within the Duluth Airport Authority Fund (Fund No. 590), to which there shall be credited \$3,237,000 of the proceeds of the Bonds. The City also maintains a construction account within Fund No. 590, and any additional funds, including grant funds, available for the Project shall be deposited and used for costs of the Project. Monies within the 2013 Bond Construction Account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Bonds.

4.02 (a) A separate debt service account is hereby created and designated as the "2013 Taxable General Obligation Airport Improvement Bonds Debt Service Account" (the "Debt Service Account") within the City's debt service fund. The money in the Debt Service Account shall be used for no purpose other than the payment of principal and interest on the portion of the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Account, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected.

(b) Into the Debt Service Account shall be credited (i) \$3,263.22 from the rounding amount; (ii) capitalized interest in the amount of \$133,192.90, and plus the amount of accrued interest, if any, paid by the Purchaser upon closing and delivery of the Bonds; (iii) the payments received by the City pursuant to Section 4.02(c); (iv) the ad valorem taxes levied pursuant to Section 4.03; and (v) any other funds appropriated by the city council for payment of principal of and interest on the Bonds.

(c) On or prior to delivery of the Bonds, the mayor and city clerk are hereby authorized and directed to execute on behalf of the City a loan agreement (the "Loan Agreement") with the Duluth Airport Authority (the "Authority") in substantially the form now on file with the city clerk as Public Document No. 13-1205-02. The execution and delivery of the Loan Agreement by the mayor and the city clerk, in the form presented to the city council with such changes, omissions, insertions and revisions as the mayor deems advisable, is hereby approved, and the execution by such officers shall be conclusive evidence of such approval. The City shall deposit the loan repayments by the Authority paid pursuant to the Loan Agreement in the Debt Service Account when received. The loan repayments shall offset the ad valorem tax levies as provided in Section 4.03(a) hereof.

4.03 (a) The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as set forth as follows:

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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<b>Levy Year</b>	<b>Collection Year</b>	<b>Tax Levy</b>
2013	2014	*\$133,193
2014	2015	124,931
2015	2016	355,931
2016	2017	357,600
2017	2018	352,875
2018	2019	352,219
2019	2020	355,716
2020	2021	353,154
2021	2022	354,907
2022	2023	355,366
2023	2024	355,015
2024	2025	353,820
2025	2026	357,151
2026	2027	354,264
2027	2028	356,180

\*to be paid with capitalized interest

Said levies are such that if collected in full they will produce at least five percent in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council may reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Account of monies actually on hand for payment of such principal and interest payable from ad valorem taxes, and may direct the county auditor to reduce the levy for such calendar year by that amount.

The City intends to credit the loan repayments from the Loan Agreement to the Debt Service Account to provide funds to cancel all or a portion of such tax levy.

(b) All taxes are hereby appropriated and shall be paid when collected into the Debt Service Account. If the balance in the Debt Service Account is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Account when the balance therein is sufficient.

4.04 Proceeds of the Bonds on deposit in the 2013 Bond Construction Account and the Debt Service Account may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the Project and/or payment of the principal and interest on the Bonds when due.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the clerk as Public Document No. 13-1205-01.

### Section 6. Certificate of Proceedings.

6.01 The clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 13-0584 was unanimously adopted.

Approved December 5, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council (the "City Council") of the city of Duluth, St. Louis County, Minnesota (the "City"), as follows:

### Section 1. Purpose and Authorization.

1.01 Under and pursuant to the provisions of Minnesota Statutes, Section 475.521 (the "Act") and Chapter 475, the City is authorized to issue its general obligation bonds to fund capital improvements pursuant to an approved capital improvement plan.

1.02 (a) Pursuant to the Act, the City Council has authorized preparation of a capital improvement plan for the years 2013 through 2017 (the "Plan").

(b) The City Council held a public hearing on the proposed Plan and approved the Plan on December 3, 2012.

1.03 (a) On December 3, 2012, the City Council held a public hearing on the issuance of bonds in an amount not to exceed \$1,900,000 to provide funds for the following projects: improvements to eligible facilities (City Hall, libraries, public safety facilities and public works facilities) under the Act throughout the City, including furnace replacements and masonry repair, modernization/remodeling, roof replacements, ADA compliance, overhead door replacements, energy conservation measures, Firehall #1 remodeling, Firehall #10 apparatus bay floor and upgrade, firehall overhead doors, firehall structural access approaches, firehall ventilation, Firehall #10 and #6 remodeling, steps and tuckpointing and stone repair at City Hall, and carpet at west library building (collectively, the "Project"). Each element of the Project is a capital improvement within the meaning of the Act.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(b) Pursuant to resolution of the City Council adopted on December 3, 2012, the City Council has determined that it is necessary and expedient to issue general obligation capital improvement bonds in an amount not to exceed \$1,900,000 of the City to provide funds to finance the Project and for payment of the costs of issuing such bonds.

(c) A notice of intent to issue such bonds was published in accordance with the Act on November 16, 2012.

(d) No petition calling for a vote on the proposed issuance of such bonds, as permitted by the Act, has been filed with the city clerk.

(e) The City Council has determined that it is necessary and expedient to issue \$1,795,000 General Obligation Capital Improvement Bonds, Series 2013C, of the City (the "Bonds") pursuant to the above-described authority, to provide funds to finance the Project and for payment of the costs of issuing the Bonds.

(f) The maximum amount of principal and interest to become due in any year on the Bonds and all the outstanding bonds issued by the City pursuant to Section 475.521, subd. 4 of the Act will not exceed \$8,719,785, which is an amount equal to 0.16% of estimated market value of property in the City for taxes payable in 2013.

(g) Public Financial Management, Inc., financial consultant to the City, has given notification by mail, facsimile, electronic data transmission or other form of communication common to the municipal bond trade to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds.

1.04 Pursuant to such solicitation for bids for the sale of the Bonds, the City Council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of UBS Financial Services Inc. of New York, New York (the "Purchaser"), to purchase the Bonds at a cash price of \$1,853,922.80, and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. Upon receipt of the good faith deposit, the mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder. In the event the Purchaser fails to provide the good faith deposit in accordance with the Official Terms of Offering, the mayor shall reject the Purchaser's bid and may award the sale of the Bonds to the bidder with the next best bid, or if such next best bidder fails to enter into a contract for sale of the Bonds and fails to satisfy such deposit requirements, the mayor is authorized to schedule a sale of the Bonds in substantial conformance with the Official Terms of Offering. All actions of the mayor and the clerk and Public Financial Management, Inc., independent financial advisor to the City, taken with regard to the sale of the Bonds are hereby ratified and approved.

### Section 2. Terms of Bonds.

2.01 The Bonds to be issued hereunder shall be dated the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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<b>Year</b>	<b>Amount</b>	<b>Interest Rate</b>
2015	\$155,000	2.00%
2016	165,000	2.00%
2017	170,000	2.00%
2018	170,000	3.00%
2019	175,000	3.00%
2020	180,000	3.00%
2021	185,000	3.00%
2022	190,000	3.00%
2023	200,000	3.00%
2024	205,000	3.00%

2.02 The Bonds are not subject to optional redemption and prepayment before maturity.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2014. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15<sup>th</sup> day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The city clerk is authorized and directed to obtain a copy of the approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, and cause the opinion to be attached to each Bond.

2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

- (i) with respect to notices of redemption; and
- (ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH

GENERAL OBLIGATION CAPITAL IMPROVEMENT BOND, SERIES 2013C

R-\_\_\_\_\_ \$\_\_\_\_\_

Rate	Maturity	Date of Original Issue	CUSIP
%	February 1, _____	December __, 2013	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2014. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the City Council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15<sup>th</sup> day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

The City has designated the Bond as a qualified tax-exempt obligation pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

This Bond is one of a series issued by the City in the aggregate amount of \$1,795,000, all of like date and tenor, except as to number, amount, maturity date, redemption privilege and interest rate, pursuant to the authority contained in Minnesota Statutes, Section 475.521 and Chapter 475, the City's approved Capital Improvement Plan for the years 2013 through 2017 (the "Plan"), the City Charter and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the City on December 5, 2013 (the "Resolution"). This Bond is issued for the purpose of providing funds for capital improvement projects designated by the City Council and pursuant to the Plan and the costs of issuing the Bonds, as more fully set forth in the Plan and the Resolution and for the payment of part of the interest cost of the Bonds. The City has levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls for the years and in the amounts sufficient to produce sums not less than five percent in excess of the amounts of principal and interest on the Bonds, as such principal and interest respectively come due.

The Bonds are not subject to optional redemption and prepayment before maturity.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and the Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the manual or facsimile signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_

City Clerk

\_\_\_\_\_

Mayor

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of the Bond registered in the name of the owner named above in the principal amount and maturing on the date stated above and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Minneapolis, Minnesota

By \_\_\_\_\_  
Authorized Representative

REGISTRATION CERTIFICATE

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/__/2013	Cede & Co. c/o The Depository Trust Company 570 Washington Blvd. Jersey City, NJ 07310 Federal Taxpayer I.D. No.: 13-2555119	_____

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto \_\_\_\_\_  
\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_  
\_\_\_\_\_  
Social Security or other  
Identifying Number of  
Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

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(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

### Section 3. Revenues, Accounts and Covenants.

3.01 The City has created a separate account designated the 2013 Capital Improvement Bonds Construction Account (the "Construction Account") within its Capital Improvement Project Fund 450, Agency 030, to which there shall be credited the proceeds of the Bonds, less discount, and the rounding amount, together with any additional funds, which may be available and are appropriated for the Project. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Project and to pay the costs of issuance for the Bonds.

3.02 A separate debt service account is hereby created and designated as the "2013 Capital Improvement Bonds Debt Service Account" (the "Debt Service Fund") within the City's debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited the rounding amount of \$3,922.80, the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds, if any, and the ad valorem taxes levied pursuant to Section 3.03 hereof.

3.03 (a) The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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with and part of the other general property taxes of the City for the years and in the amounts as follows:

<b>Levy Year</b>	<b>Collection Year</b>	<b>Tax Levy</b>
2013	2014	\$220,287
2014	2015	221,393
2015	2016	223,178
2016	2017	219,608
2017	2018	219,503
2018	2019	219,240
2019	2020	218,820
2020	2021	218,243
2021	2022	222,758
2022	2023	221,708

Said levies are such that if collected in full they will produce at least five percent in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that prior to approval of its budget each year (approximately December 1) while any Bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to the Debt Service Fund of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

(b) If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

3.04 Proceeds of the Bonds on deposit in the Construction Account and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

#### Section 4. Tax Covenants; Miscellaneous.

4.01 The city council covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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proceeds of the Bonds and any sums from time to time held in the Debt Service Fund (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Bonds and money in the Debt Service Fund shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby represents that with respect to the gross proceeds of the Bonds, the following schedule is expected to be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

(b) The City shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

4.04 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Capital Equipment Notes, Series 2013A (the "Notes"), and General Obligation Bonds (Lakewalk Extension and Cross City Trail), Series 2013D (the "Series 2013D Bonds"). The Bonds, the Notes and the Series 2013D Bonds are expected to be paid from substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

4.05 In order to qualify the Bonds as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code, the City makes the following factual statements and representations:

(a) the Bonds are not "private activity bonds" as defined in Section 141 of the Code;

(b) the City designates the Bonds as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code;

(c) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities whose obligations will be aggregated with those of the City) during the calendar year in which the Bonds are being issued will not exceed \$10,000,000; and

(d) not more than \$10,000,000 of obligations issued by the City during the calendar year in which the Bonds are being issued have been designated for purposes of Section 265(b)(3) of the Code.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 13-1205-01.

Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 13-0585 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug and President Boyle -- 6

Nays: Councilors Fosle and Stauber -- 2

Absent: Councilor Larson -- 1

Approved December 5, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, by the city council of the city of Duluth, Minnesota (the "City"), as follows:

Section 1. Bond Purpose and Authorization.

1.01 (a) Under and pursuant to the provisions of Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475 and all other enabling statutes, the City is authorized to issue its general obligation bonds to provide the funds necessary to match state, private and federal grants for projects within the City's boundaries, which bonds are to be payable from annual ad valorem taxes or other revenues of the City.

(b) The city council has, by Ordinance No. 10238 adopted on August 26, 2013, authorized the issuance and sale of general obligation lakewalk extension bonds in an amount not to exceed \$850,000 for the purpose of providing the local match of state and federal grant funds in the amount of \$1,451,342 (the "Lakewalk Extension Grants") to pay part

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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of the costs associated with extension of the Lakewalk located in the City pursuant to the Lakewalk East Extension Phase V Plan (the "Lakewalk Project").

(c) The city council has, by Ordinance No. 10251 adopted on September 23, 2013, authorized the issuance and sale of general obligation cross city trail bonds in an amount not to exceed \$875,000 for the purpose of providing the local match of state and federal grant funds in the amount of \$1,389,400 (the "Cross City Trail Grants") to pay part of the costs associated with construction of Phase I of a cross city trail located in the City from Sister Cities Park to 30<sup>th</sup> Avenue West (the "Cross City Trail Project").

(d) Pursuant to the authority herein recited, the City authorizes and directs the issuance and sale of \$1,460,000 General Obligation Bonds (Lakewalk Extension and Cross City Trail), Series 2013D, to be dated the date of delivery, as the date of original issue (the "Bonds") to provide \$717,627.12 for the City's match for the Lakewalk Extension Grants for the Lakewalk Project and \$742,372.88 for the City's match for the Cross City Trail Grants for the Cross City Trail Project.

(e) Public Financial Management, Inc., financial consultant to the City, has given notification to at least five firms determined by Public Financial Management, Inc. to be prospective bidders on the Bonds at least two days (omitting Saturdays, Sundays and legal holidays) before the date set for receipt of bids on the Bonds. All actions of the mayor, the clerk and Public Financial Management, Inc. taken with regard to the sale of the Bonds are hereby ratified and approved.

1.02 Pursuant to such solicitation for bids for the sale of the Bonds, the city council has received and considered all bids presented pursuant to the official terms of offering and has determined that the most favorable bid is that of BOSC, Inc. of Dallas, Texas (the "Purchaser"), to purchase the Bonds at a cash price of \$1,499,454.65, and upon condition that the Bonds mature and bear interest at the times and annual rates set forth in Section 2. The City, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. The mayor and the city clerk are authorized and directed to execute on the part of the City a contract for the sale of the Bonds in accordance with the Purchaser's bid. The city treasurer is directed to deposit the good faith check of the successful bidder.

### Section 2. Terms of Bonds.

2.01 (a) The Bonds to be issued hereunder shall be dated the date of delivery, as the date of original issue, shall be issued in the denomination of \$5,000 each, or any integral multiple thereof, in fully registered form and lettered and numbered R-1 and upward. The Bonds shall mature on February 1 in the respective years and amounts and shall bear interest at the annual rates stated as follows:

<b>Year</b>	<b>Amount</b>	<b>Interest Rate</b>
2015	\$ 75,000	2.50%
2016	80,000	2.50%
2017	85,000	2.50%
2018	85,000	2.75%
2019	85,000	3.00%
2020	90,000	3.00%
2021	90,000	3.00%
2023	195,000	3.50%
2025	205,000	3.75%

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<b>Year</b>	<b>Amount</b>	<b>Interest Rate</b>
2027	225,000	4.00%
2029	245,000	4.00%

(b) The Bonds maturing on February 1 in the years 2023, 2025, 2027 and 2029 shall be subject to mandatory redemption prior to maturity pursuant to the requirements of this Section 2.01(b) at a redemption price equal to the stated principal amount, as hereinafter provided, plus interest accrued thereon to the redemption date, without premium. The Bond Registrar, as designated below, shall select for redemption, by lot or other manner deemed fair, on February 1 in each of the following years, the following stated principal amounts:

- (1) For Bonds maturing on February 1, 2023 (the “2023 Term Bonds”):

<b>Year</b>	<b>Principal Amount</b>
2022	\$95,000

The remaining \$100,000 stated principal amount of the 2023 Term Bonds shall be paid at maturity on February 1, 2023.

- (2) For Bonds maturing on February 1, 2025 (the “2025 Term Bonds”):

<b>Year</b>	<b>Principal Amount</b>
2024	\$100,000

The remaining \$105,000 stated principal amount of the 2025 Term Bonds shall be paid at maturity on February 1, 2025.

- (3) For Bonds maturing on February 1, 2027 (the “2027 Term Bonds”):

<b>Year</b>	<b>Principal Amount</b>
2026	\$110,000

The remaining \$115,000 stated principal amount of the 2027 Term Bonds shall be paid at maturity on February 1, 2027.

- (4) For Bonds maturing on February 1, 2029 (the “2029 Term Bonds”):

<b>Year</b>	<b>Principal Amount</b>
2028	\$120,000

The remaining \$125,000 stated principal amount of the 2029 Term Bonds shall be paid at maturity on February 1, 2029.

If less than such amount of the Term Bonds is outstanding on such payment date, the City shall pay the remaining balance of the Term Bonds then outstanding. The Bond Registrar shall select and call for redemption, in accordance with Section 2.02 hereof, from the Term Bonds the amounts specified above and the Term Bond selected by the Bond Registrar shall become due and payable on such date.

2.02 (a) The Bonds maturing in the years 2015 through 2022 shall not be subject to optional redemption and prepayment before maturity, but those maturing or subject to mandatory redemption pursuant to Section 2.01(b), in the year 2023 and in subsequent years

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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shall each be subject to redemption and prepayment at the option of the City on February 1, 2022, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City and by lot as to the Bonds maturing in the same year, at a price equal to the principal amount thereof plus accrued interest to the redemption date.

(b) In the event any of the Bonds are called for redemption, notice thereof identifying the Bonds to be redeemed will be given by the Bond Registrar by mailing a copy of the redemption notice by first class mail (postage prepaid) at least 30 days but not more than 60 days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books kept by the Bond Registrar; provided however, that so long as the Bonds are registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), notice of redemption shall be given in accordance with the terms of the Representation Letter hereinafter described. Failure to give notice by mail to any registered owner, or any defect therein, will not affect the validity of any proceeding for the redemption of Bonds not affected by such defect or failure. Bonds so called for redemption will cease to bear interest after the specified redemption date, provided that the funds for the redemption are on deposit with the place of payment at that time.

(c) If less than all the Bonds of a maturity are called for redemption while the Bonds are registered in the name of Cede & Co., the City or the Bond Registrar designated below will notify DTC of the particular amount of such maturity to be prepaid. DTC will determine by lot the amount of each participant's interest in such maturity to be redeemed and each participant will then select by lot the beneficial ownership interest in such maturity to be redeemed. If less than all the Bonds of a maturity are called for redemption and the Bonds are not registered in the name of Cede & Co., the Bond Registrar will determine by lot or other manner deemed fair, the amount of each maturity to be redeemed. All prepayments shall be at a price equal to the principal amount thereof plus accrued interest.

2.03 Interest on the Bonds shall be payable semiannually on February 1 and August 1 in each year (each referred to herein as an "Interest Payment Date"), commencing August 1, 2014. Interest will be computed on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the municipal securities rulemaking board. The Bond Registrar designated below shall make all interest payments with respect to the Bonds by check or draft mailed to the registered owners of the Bonds shown on the bond registration records maintained by the Bond Registrar at the close of business on the 15<sup>th</sup> day (whether or not a business day) of the month next preceding the Interest Payment Date at such owners' addresses shown on such bond registration records.

2.04 (a) The Bonds shall be prepared for execution in accordance with the approved form and shall be signed by the manual or facsimile signature of the mayor and attested by the manual or facsimile signature of the city clerk. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be an officer before delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, as if he or she had remained in office until delivery.

(b) The city clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A. of Duluth, Minnesota, which is to be complete and cause the opinion to be attached to each Bond, together with a certificate to be signed by the manual signature of the city clerk in substantially the form set forth in Section 2.11, but only if the opinion is not manually executed. The city clerk is authorized and directed to execute the certificate in the name of the City upon receipt of the opinion, if required by the preceding sentence, and to file the opinion in the City offices.

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2.05 The City hereby appoints Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as registrar, authenticating agent, paying agent and transfer agent for the Bonds (such bank or its successor is herein referred to as the "Bond Registrar"). To provide for the Bond Registrar services, the mayor and the clerk are authorized and directed to execute a bond registrar/paying agent agreement substantially in the form of the agreement currently on file in the office of the city clerk as Public Document No. 04-0219-02. No Bond shall be valid or obligatory for any purpose until the Bond Registrar's authentication certificate on such Bond, substantially set forth in Section 2.11 hereof, shall have been duly executed by an authorized representative of the Bond Registrar. Authentication certificates on different Bonds need not be signed by the same representative. The manual signature of one officer of the City or the executed authentication certificate on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution.

2.06 (a) In order to make the Bonds eligible for the services provided by DTC, the City has previously agreed to the applicable provisions set forth in the blanket issuer letter of representations which has been executed by the City and DTC (the "Representation Letter").

(b) Notwithstanding any provision herein to the contrary, so long as the Bonds shall be in Book-Entry Form, the provisions of this Section 2.06 shall govern.

(c) All of the Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest on and principal of any Bond registered in the name of Cede & Co. shall be made by wire transfer or New York Clearing House or equivalent same day funds by 10:00 a.m. CT or as soon as possible thereafter following the Bond Registrar's receipt of funds from the City on each Interest Payment Date to the account of Cede & Co. on each Interest Payment Date at the address indicated in or pursuant to the Representation Letter.

(d) DTC (or its nominees) shall be and remain recorded on the Bond Register as the holder of all Bonds which are in Book-Entry Form. No transfer of any Bond in Book-Entry Form shall be made, except from DTC to another depository (or its nominee) or except to terminate the Book-Entry Form. All Bonds of such stated maturity of any Bonds in Book-Entry Form shall be issued and remain in a single bond certificate registered in the name of DTC (or its nominee); provided, however, that upon termination of the Book-Entry Form pursuant to the Representation Letter, the City shall, upon delivery of all Bonds of such series from DTC, promptly execute, and the Bond Registrar shall thereupon authenticate and deliver, Bonds of such series to all persons who were beneficial owners thereof immediately prior to such termination; and the Bond Registrar shall register such beneficial owners as holders of the applicable Bonds.

The Bond Registrar shall maintain accurate books and records of the principal balance, if any, of each such outstanding Bond in Book-Entry Form, which shall be conclusive for all purposes whatsoever. Upon the authentication of any new bond in Book-Entry Form in exchange for a previous bond, the Bond Registrar shall designate thereon the principal balance remaining on such bond according to the Bond Registrar's books and records.

No beneficial owner (other than DTC) shall be registered as the holder on the Bond Register for any Bond in Book-Entry Form or entitled to receive any bond certificate. The beneficial ownership interest in any Bond in Book-Entry Form shall be recorded, evidenced and transferred solely in accordance with the Book-Entry System.

Except as expressly provided to the contrary herein, the City and the Bond Registrar may treat and deem DTC to be the absolute owner of all Bonds of each series which are in Book-Entry Form (i) for the purpose of payment of the principal of and interest on such

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Bond, (ii) for the purpose of giving notices hereunder, and (iii) for all other purposes whatsoever.

(e) The City and the Bond Registrar shall each give notices to DTC of such matters and at such times as are required by the Representation Letter, including the following:

(i) with respect to notices of redemption; and

(ii) with respect to any other notice required or permitted under this Bond Resolution to be given to any holder of a Bond.

All notices of any nature required or permitted hereunder to be delivered to a holder of a Bond in Book-Entry Form shall be transmitted to beneficial owners of such Bonds at such times and in such manners as shall be determined by DTC, the participants and indirect participants in accordance with the Book-Entry System and the Representation Letter.

(f) All payments of principal, redemption price of and interest on any Bonds in Book-Entry Form shall be paid to DTC (or Cede & Co.) in accordance with the Book-Entry System and the Representation Letter in same day funds by wire transfer.

2.07 The City shall cause to be kept by the Bond Registrar a bond register in which, subject to such reasonable regulations as the Bond Registrar may prescribe, the City shall provide for the registration of the Bonds and the registration of transfers of the Bonds entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Bond Registrar or its incapability of acting as such, the bond registration records shall be maintained at the office of the successor Bond Registrar as may be appointed by the city council. Upon surrender for transfer of any Bond at the principal corporate office of the Bond Registrar, the City shall execute and the Bond Registrar shall authenticate, if required by law or this Resolution, and deliver, in the name(s) of the designated transferee or transferees, one or more new Bonds of the like aggregate principal amount, as requested by the transferor.

2.08 Each Bond delivered upon transfer of or in exchange for or in lieu of any other Bond shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Bond. Each Bond shall be dated by the Bond Registrar as of the date of its authentication. The City and the Bond Registrar shall not be required to make any transfer or exchange of any Bonds called for redemption or to make any such exchange or transfer of the Bonds during the 15 days next preceding the date of the mailing of the notice of redemption in the case of a proposed redemption of the Bonds.

2.09 The City and the Bond Registrar may treat the person in whose name any Bond is registered as the owner of such Bond for the purpose of receiving payment of principal of and interest on such Bond and for all other purposes whatsoever, whether or not such Bond be overdue, and neither the City nor the Bond Registrar shall be affected by notice to the contrary.

2.10 The principal of and interest on the Bonds shall be payable by the Bond Registrar, as paying agent, in such funds as are legal tender for the payment of debts due the United States of America. The City shall pay the reasonable and customary charges of the Bond Registrar for the disbursement of principal and interest.

2.11 The Bonds shall be printed or typewritten in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

CITY OF DULUTH  
GENERAL OBLIGATION BOND  
(LAKEWALK EXTENSION AND CROSS CITY TRAIL)

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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SERIES 2013D

R-\_\_\_\_ \$\_\_\_\_\_

Interest Rate	Maturity Date	Date of Original Issue	CUSIP
	February 1, ____	December __, 2013	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Duluth, in St. Louis County, Minnesota (the "City"), for value received, promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the maturity date specified above, and to pay interest on said principal amount to the registered owner hereof from the Date of Original Issue, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, until the principal amount is paid or discharged, said interest being at the rate per annum specified above. Interest is payable semiannually on February 1 and August 1 of each year (each referred to herein as an "Interest Payment Date") commencing on August 1, 2014. Both principal and interest are payable in lawful money of the United States of America by check or draft at the office of Wells Fargo Bank, National Association, in Minneapolis, Minnesota, as the registrar, paying agent, transfer agent and authenticating agent (the "Bond Registrar"), or at the office of such successor bond registrar as may be designated by the city council. The Bond Registrar shall make the interest payment with respect to this Bond directly to the registered owner hereof shown on the bond registration records maintained on behalf of the City by the Bond Registrar at the close of business on the 15<sup>th</sup> day of the month next preceding the Interest Payment Date (whether or not a business day), at such owner's address shown on said bond registration records, without, except for payment of principal on the Bond, the presentation or surrender of this Bond, and all such payments shall discharge the obligations of the City to the extent of the payments so made. Payment of principal shall be made upon presentation and surrender of this Bond to the Bond Registrar when due. For the prompt and full payment of such principal and interest as they become due, the full faith and credit of the City are irrevocably pledged.

The City has designated the Bond as a qualified tax-exempt obligation pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

This Bond is one of a series issued by the City in the aggregate amount of \$1,460,000, all of like date and tenor, except for number, denomination, maturity date and interest rate, and is issued pursuant to Minnesota Laws 1974, Chapter 130, Minnesota Statutes, Chapter 475, the City Charter and other pertinent

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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provisions of said statutes, Ordinance Nos. 10238 and 10251, and a resolution adopted by the governing body of the City on December 5, 2013 (the "Resolution"), for the purpose of providing funds necessary to provide the local match for state and federal grants for extension of the Lakewalk and the construction of a cross city trail located in the City, which obligations and interest thereon are payable from ad valorem taxes as described in the Resolution.

The Bonds maturing in the years 2023, 2025, 2027 and 2029 shall be subject to mandatory redemption and redeemed in installments as provided in the Resolution, at par plus accrued interest to the date of redemption.

The Bonds of this series maturing in the years 2015 through 2022 are not subject to redemption before maturity, but those maturing, or subject to mandatory redemption, in the year 2023 and in subsequent years are each subject to redemption and prepayment at the option of the City on February 1, 2022, and on any date thereafter, in whole or in part, and if in part, in such order of maturities as selected by the City, and by lot as to Bonds maturing in the same year, at a price equal to the principal amount plus accrued interest to the redemption date.

The Bonds of this series are issued as fully registered bonds without coupons, in the denomination of \$5,000 or any integral multiple thereof. Subject to limitations set forth in the Resolution, this Bond is transferable by the registered owner hereof upon surrender of this Bond for transfer at the principal corporate office of the Bond Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Bond Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the City shall execute and the Bond Registrar shall authenticate, if required by law and this Resolution, and deliver, in exchange for this Bond, one or more new fully registered bonds in the name of the transferee, of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Bond, of the same maturity and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Charter of the City and by the laws and the Constitution of the State of Minnesota to be done, and to exist precedent to and in the issuance of this Bond in order to make it a valid and binding general obligation of the City in accordance with its terms, have been done and do exist in form, time, and manner as so required; that all taxable property within the corporate limits of the City is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount; and that the issuance of this Bond does not cause the indebtedness of the City to exceed any constitutional, statutory or charter limitation.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Bond Registrar's

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Authentication Certificate hereon shall have been executed by the Bond Registrar by one of its authorized representatives.

IN WITNESS WHEREOF, the City of Duluth, by its City Council, has caused this Bond to be executed in its name by the signatures of the Mayor and the City Clerk.

Attest:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Date of Authentication: \_\_\_\_\_

**BOND REGISTRAR'S AUTHENTICATION CERTIFICATE**

The Bond Registrar confirms that the books reflect the ownership of a Bond registered in the name of the owner named above, in the principal amount stated above, and this Bond is one of the Bonds of the series issued pursuant to the Resolution hereinabove described.

WELLS FARGO BANK, NATIONAL ASSOCIATION  
Bond Registrar

By \_\_\_\_\_  
Authorized Representative

**REGISTRATION CERTIFICATE**

This Bond must be registered as to both principal and interest in the name of the owner on the books to be kept by Wells Fargo Bank, National Association, of Minneapolis, Minnesota, as Bond Registrar. No transfer of this Bond shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of the unpaid principal balance of this Bond and the interest accruing thereon is registered on the books of Wells Fargo Bank, National Association, as Bond Registrar, in the name of the registered owner last noted below.

Date	Registered Owner	Signature of Bond Registrar
12/__/2013	Cede & Co. c/o The Depository Trust Company 570 Washington Blvd. Jersey City, NJ 07310 Federal Taxpayer I.D. No.: 13-2555119	_____

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto \_\_\_\_\_

\_\_\_\_\_  
(Name and Address of Assignee)

\_\_\_\_\_ Social Security or Other  
\_\_\_\_\_ Identifying Number of Assignee

the within Bond and all rights thereunder and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

\_\_\_\_\_  
(Bank, Trust Company, member of  
National Securities Exchange)

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL, inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### Section 3. Revenues, Accounts and Covenants.

3.01 (a) The City has created a separate construction account titled “Lakewalk Extension Project Account” within the Capital Improvement Capital Project Fund 450, Agency 030, Sale of Bonds, to which there shall be credited the proceeds of the Bonds in the amount of \$736,796.61, together with any additional funds, including monies from the Lakewalk Extension Grants, which may be available and are appropriated for the Lakewalk Project. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Lakewalk Project and to pay an allocable portion of the costs of issuance of the Bonds.

(b) The City has created a separate construction account titled “Cross City Trail Project Account” within the Capital Improvement Capital Project Fund 450, Agency, 030, Sale of Bonds, to which there shall be credited the proceeds of the Bonds in the amount of \$762,203.39, together with any additional funds, including monies from the Cross City Trail Grants, which may be available and are appropriated for the Cross City Trail Project. This account shall be used to pay, or reimburse, expenses duly approved and allowed, which, under generally accepted accounting principles, constitute capital expenditures for the Cross City Trail Project and to pay an allocable portion of the costs of issuance of the Bonds.

3.02 A separate debt service account is hereby created and designated as the “2013 Lakewalk Extension and Cross City Trail Bonds Debt Service Account” (the “Debt Service Fund”) within the City’s debt service fund. The money in the Debt Service Fund shall be used for no purpose other than the payment of principal and interest on the Bonds; provided, however, that if any payment of principal or interest shall become due when there is not sufficient money in the Debt Service Fund, the treasurer shall pay the same from any other funds of the City and said funds shall be reimbursed for such advance out of the proceeds of the taxes hereinafter levied when collected. Into the Debt Service Fund shall be credited \$454.65 from the rounding amount, plus the amount of accrued interest paid by the Purchaser upon closing and delivery of the Bonds, if any, and the ad valorem taxes levied pursuant to Section 3.03 hereof.

3.03 (a) The full faith and credit and taxing power of the City are hereby irrevocably pledged for the prompt and full payment of the principal of and interest on the Bonds, as such principal and interest respectively become due. To provide monies for the payment of the principal and interest on the Bonds, there is hereby levied a direct, annual ad valorem tax upon all taxable property within the City which shall be extended upon the tax rolls and collected with and part of the other general property taxes of the City for the years and in the amounts as follows:

<b>Levy Year</b>	<b>Collection Year</b>	<b>Gross Tax Levy</b>
2013	2014	\$137,051
2014	2015	134,112
2015	2016	137,262
2016	2017	135,030
2017	2018	132,576
2018	2019	135,149
2019	2020	132,314
2020	2021	134,729
2021	2022	136,487
2022	2023	132,812

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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<b>Levy Year</b>	<b>Collection Year</b>	<b>Gross Tax Levy</b>
2023	2024	134,125
2024	2025	135,240
2025	2026	135,870
2026	2027	136,290
2027	2028	136,500

Said levies are such that if collected in full they will produce at least 5% in excess of the amount needed to meet when due the principal and interest on the Bonds.

Such tax levies shall be irrevocable as long as any of the Bonds issued hereunder are outstanding and unpaid; provided, however, that in each year while any Bonds issued hereunder remain outstanding, the city council shall reduce or cancel the above levies to the extent of an irrevocable appropriation to said Debt Service Fund of monies actually on hand for payment of the principal and interest payable in the ensuing year and shall direct the county auditor to reduce the levy for such calendar year by that amount.

(b) Such taxes are hereby appropriated and shall be paid when collected into the Debt Service Fund. If the balance in the Debt Service Fund is ever insufficient to pay all principal and interest then due on the Bonds, the treasurer shall nevertheless provide sufficient money from any other funds of the City which are available for that purpose, and such other funds shall be reimbursed from the Debt Service Fund when the balance therein is sufficient.

3.04 Proceeds of the Bonds on deposit in the project accounts described in Section 3.01 and in the Debt Service Fund may, in the discretion of the city treasurer, be invested in securities permitted by Minnesota Statutes, Chapter 118A; provided, that any such investment shall mature at such time and in such amounts as will permit the payment of costs for the improvement program and/or payment of the principal and interest on the Bonds when due.

**Section 4. Tax Covenants; Miscellaneous.**

4.01 The city council covenants and agrees with the holders of the Bonds that the City will (i) take all action on its part necessary to cause the interest on the Bonds to be excluded from gross income for federal income taxes including, without limitation, restricting, to the extent necessary, the yield on investments made with the proceeds of the Bonds and investment earnings thereon, making required payments to the federal government, if any, and maintaining books and records in a specified manner, where appropriate, and (ii) refrain from taking any action which would cause interest on the Bonds to be subject to federal income taxes, including, without limitation, refraining from spending the proceeds of the Bonds and investment earnings thereon on certain specified purposes.

4.02 (a) No portion of the proceeds of the Bonds shall be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except for a reasonable temporary period until such proceeds are needed for the purpose for which the Bonds were issued. To this effect, any proceeds of the Bonds and any sums from time to time held in such debt service account (or any other City account which will be used to pay principal and interest to become due on the Bonds) in excess of amounts which under the applicable federal arbitrage regulations may be invested without regard as to yield shall not be invested at a yield in excess of the applicable yield restrictions imposed by the arbitrage regulations on such investments after taking into account any applicable temporary periods of minor portion made available under the federal arbitrage regulations.

(b) In addition, the proceeds of the Bonds and money in such debt service account shall not be invested in obligations or deposits issued by, guaranteed by or insured by

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code").

(c) The City hereby covenants not to use the proceeds of the Bonds, or to cause or permit them to be used, in such a manner as to cause the Bonds to be "private activity bonds" within the meaning of Sections 103 and 141 through 150 of the Code.

4.03 (a) Pursuant to Section 1.148-7(d) of the Treasury Regulations, relating to exception from rebate, the City hereby covenants that with respect to the gross proceeds of the Bonds, the following schedule will be met: (i) at least 15% of the gross proceeds of the Bonds will be allocated to expenditures for the governmental purpose of the Bonds within six months of the date of issue of the Bonds; (ii) at least 60% of such proceeds will be allocated for such purposes within the one-year period of such date; and (iii) 100% of such proceeds will be allocated for such purposes within the 18-month period beginning on such date; subject to an exception for reasonable retainage of 5% of the available proceeds of the Bonds, and that 100% of the available proceeds of the Bonds will be allocated within 30 months from the date of issue of the Bonds.

(b) The City shall comply with all federal rebate requirements which may apply if such spending test is not met.

4.04 In addition to the Bonds, the City is selling, pursuant to a single offering document and on the same date, the following tax-exempt obligations: General Obligation Capital Equipment Note, Series 2013A (the "Notes"), and General Obligation Capital Improvement Bonds, Series 2013C (the "Series 2013C Bonds"). The Bonds, the Notes and the Series 2013C Bonds are expected to be paid out of substantially the same source of funds and are an issue under Treasury Regulations Section 1.150-1(c).

4.05 In order to qualify the Bonds as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code, the City makes the following factual statements and representations:

(a) the Bonds are not "private activity bonds" as defined in Section 141 of the Code;

(b) the City designates the Bonds as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code;

(c) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the City (and all entities whose obligations will be aggregated with those of the City) during the calendar year in which the Bonds are being issued will not exceed \$10,000,000; and

(d) not more than \$10,000,000 of obligations issued by the City during the calendar year in which the Bonds are being issued have been designated for purposes of Section 265(b)(3) of the Code.

Section 5. Continuing Disclosure. The City acknowledges that the Bonds are subject to the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. §240.15c2-12) (the "Rule"). The Rule governs the obligations of certain underwriters to require that issuers of municipal bonds enter into agreements for the benefit of the bondholders to provide continuing disclosure with respect to the Bonds. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit underwriters of the Bonds to comply with the Rule, which will enhance the marketability of the Bonds, the mayor and the clerk are hereby authorized and directed to execute a continuing disclosure certificate

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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substantially in the form of the certificate currently on file in the office of the city clerk as Public Document No. 13-1205-01.

### Section 6. Certificate of Proceedings.

6.01 The city clerk is directed to file with the county auditor a certified copy of this resolution and such other information as the county auditor may require, and to obtain from the county auditor a certificate stating that the Bonds herein authorized have been duly entered on his register.

6.02 The officers of the City are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the City relating to the authorization and issuance of the Bonds and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Bonds as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the City as to the correctness of facts recited therein and the actions stated therein to have been taken.

6.03 The officers of the City are hereby authorized and directed to certify that they have examined the official statement prepared and circulated in connection with the sale of the Bonds and that to the best of their knowledge and belief the official statement is a complete and accurate representation of the facts and representations made therein as of the date of the official statement.

Resolution 13-0586 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug and President Boyle -- 6

Nays: Councilors Fosle and Stauber -- 2

Absent: Councilor Larson -- 1

Approved December 5, 2013

DON NESS, Mayor

- - -

The meeting was adjourned at 5:17 p.m.

JEFFREY J. COX, City Clerk

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 9, 2013, 7:30 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-1209-14 The following communications regarding the proposed resolution opening city trails for all-terrain vehicle use (13-0602R): (a) Branden Colt; (b) John Colt; (c) Rick Kolenda; (d) Mark Wasbotten. -- Received

13-1209-15 The following communications regarding the proposed ordinance regarding designation of local historic landmarks by the heritage preservation commission (13-073-O): (a) Duluth Preservation Alliance; (b) Heritage preservation commission; (c) Minnesota historical society. -- Received

- - -

## REPORTS OF BOARDS AND COMMISSIONS

13-1209-01 Civil service board minutes of: (a) July 9; (b) September 3, 2013, meetings. -- Received

13-1209-02 Commission on disabilities minutes of October 2, 2013, meeting. -- Received

13-1209-03 Duluth airport authority minutes of October 15, 2013, meeting. -- Received

13-1209-04 Duluth citizen review board minutes of October 22, 2013, meeting. -- Received

13-1209-05 Duluth economic development authority minutes of October 23, 2013, meeting. -- Received

13-1209-06 Duluth parking commission minutes of: (a) September 6; (b) October 4, 2013, meetings. -- Received

13-1209-07 Duluth public utilities commission: (a) Minutes of October 15, 2013, meeting; (b) Resolution amending Resolution 11PUC-WLSSD, automatically increasing or decreasing sanitary sewer rates to reflect sewer charges imposed by WLSSD for cost of treating the city's sanitary sewer discharges to the WLSSD system (13PUC-014). -- Received

13-1209-08 Spirit Mountain recreation area authority board minutes of: (a) September 19; (b) October 17, 2013, meetings. -- Received

- - -

At this time, 7:03 p.m., the public hearing on the 2014 budget, levy and capital budget began.

No one appeared that wished to be heard, so at 7:04 p.m. the public hearing was declared closed and the regular order of business resumed.

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## OPPORTUNITY FOR CITIZENS TO BE HEARD

Kier Zimmerman, representing the Youth In Government Duluth delegation, noted that the group is passionate about changing the world and being future leaders who are involved throughout the community.

- - -

**MOTIONS AND RESOLUTIONS**

**CONSENT AGENDA**

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded and unanimously carried.

RESOLVED, that the assessment roll levied to defray the assessable portion of Sidewalk Patch 2013 (Contract 2013427 - assessable amount \$22,013.99), to be deposited into Fund 410, is hereby confirmed.

Resolution 13-0597 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth's appointment by Mayor Ness to the St. Louis County homeless leadership council of Matt Traynor (affordable housing coalition representative) for a term expiring March 31, 2016, replacing Lynn Gerlach-Collard who resigned, is confirmed.

Resolution 13-0603 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the city of Duluth has applied to the commissioner of transportation for a grant from the Minnesota state transportation fund for the construction of Bridge No. L8503 on Seven Bridges Road, City Project No. 1236.

FURTHER RESOLVED, that the grant has been approved and that the amount of the grant is \$170,903.57.

FURTHER RESOLVED, that the city of Duluth agrees to the terms and conditions of the grant consistent with Minnesota Statutes, Section 174.50, subdivision 5, clause (3), and will pay any amount by which the cost exceeds the estimate, and will return to the Minnesota state transportation fund any amount appropriated for the project but not required. The proper city officials are hereby authorized to execute a grant agreement concerning the above referenced grant. Grant monies shall be deposited into Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1236, S.A.P. 118-080-048, Flood Site No. 523.

Resolution 13-0587 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that Contract 21695 with LHB, Inc. for professional engineering services for construction administration and inspection for flood 2012 various locations be amended to increase the amount by \$185,816 for a new total of \$435,816. This increase is due to additional flood sites identified after the 2012 flood, and is payable from Disaster Recovery

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1144.

Resolution 13-0592 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that Contract 21828 with LHB, Inc. for professional engineering services for construction administration and inspection for flood repair of Bridge No. 88547, Armory at Chester Creek, be amended to increase the amount by \$107,861 for a new total of \$190,762. This increase is due to the construction engineering phase for the bridge rehabilitation project, and is payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Organization 1803 (roads and bridges), Object 5303 (engineering services), City Project No. 1226, S.P. 118-193-002.

Resolution 13-0595 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with H & R Construction Co. for guardrail installation and repair citywide in the amount of \$114,033.41, payable from Permanent Improvement Fund 411, Department 035 (capital projects accounts), Object 5530 (improvements other than buildings), City Project No. PI 2013-1220, Requisition No. 13-0619.

Resolution 13-0596 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a contract with KGM Contractors, Inc. for the 63rd Avenue West box culverts at Keene Creek in the amount of \$433,725.82, payable out of Disaster Recovery Fund 225, Department/Agency 125 (finance), Division 1803 (roads and bridges), Object 5403 (street repair and maintenance), City Project No. 1126, S.P. 118-103-005.

Resolution 13-0598 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that Contract 21749 with SEH, Inc. for professional engineering services for the replacement of box culverts in Keene Creek at 63rd Avenue West, Greene Street and Bristol Street, be amended to increase the amount by \$68,726 for a new total of \$207,529, payable from Disaster Recovery Fund 225, Department/Agency 125 (finance), Object 5303 (improvements other than buildings), City Project Nos. 1126, 1127 and 1146.

Resolution 13-0600 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into an agreement, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1209-10, with St. Louis County, Minnesota, to enable the Duluth city attorney's office to access the shared integrated law enforcement information system and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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integrated criminal justice applications known as NEMESIS (Northeastern Minnesota enforcement and safety information system) consisting of DAMION SHIELD and local and state interfaces, in the amount of \$1,425 per year, terms net 30, payable from Fund No. 210-030-3109-5441 (special projects fund, finance, city attorney forfeitures, other services and charges).

Resolution 13-0572 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to accept reimbursement from Spring Lake Park Fire Department Inc. in the amount of \$22,654 said funds to be deposited in Fund 110, Agency 150, Organization 1501, Revenue Source 4654-02 (general fund, fire department, administration, other reimbursements refunds), and committed for the purpose of off-setting the cost of instructors for the Duluth fire department advanced incident command training (Blue Card Command).

Resolution 13-0588 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a "Heroes and Helpers" grant award from Target Corporation in the amount of \$2,500 for the Shop with a Cop Program, funds to be deposited in Fund No. 210-030-3136-4270 (special projects, finance, shop with a cop, other grants) and expenses to be paid from Fund No. 210-030-3136-5441 (special projects, finance, shop with a cop, other services and charges), and authorizing the proper officials to execute all documents necessary thereto.

Resolution 13-0590 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a supplemental grant from the state of Minnesota, department of public safety, in the amount of \$285,498; such funds to be used to reimburse the Duluth police department and other Lake Superior traffic enforcement team participants for overtime salary/fringe benefits reimbursement for traffic enforcement of distracted and impaired driving and passenger safety, speed/move over laws, St. Louis County 9-1-1 dispatch support, grant administration, and to execute a grant agreement substantially the same as that on file in the office of the city clerk as Public Document No. 13-1209-11(a), funds to be deposited in Fund No. 215-200-2206-4210-02 (Duluth police grant program, police, 2013 TZD grant, pass thru federal grants operating).

FURTHER RESOLVED, that the proper city officials are hereby authorized to execute a first amendment to the 2013 toward zero deaths law enforcement grant agreement with St. Louis County for an amount not to exceed \$47,683, the University of Minnesota-Duluth police department for an amount not to exceed \$25,000, the city of Hermantown for an amount not to exceed \$28,900, the city of Proctor for an amount not to exceed \$24,400 and the city of Floodwood for an amount not to exceed \$16,000; said first amendment to be substantially the same as that on file with the office of the city clerk as Public Document No. 13-1209-11(b), for services provided under the 2013 toward zero deaths law enforcement grant, all reimbursement payments made to other agencies under the agreement shall be paid from

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Fund No. 215-200-2206-5447 (Duluth police grant programs, police, 2013 TZD grant, payments to other government agencies) and reimbursement payments for the Duluth police department shall be paid from Fund No. 215-200-2206-5700-10 (Duluth, police grant programs, police, 2013 TZD grant, interfund transfers out to general fund).

Resolution 13-0594 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with Lake Park Little League, Inc. providing for the operation and maintenance of little league baseball fields on city property in the area of Riley Road and Jean Duluth Road. This agreement is on file in the office of the city clerk as Public Document No. 13-1209-13.

Resolution 13-0599 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0611, authorizing agreement with Madden Galanter Hansen, LLP for legal services related to grievance arbitrations in an amount not to exceed \$50,000, was introduced by President Boyle for discussion.

Councilors and administration discussed at length the amount of pending arbitrations and the need for these outside legal services.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Joan Flesh expressed support for hiring an outside legal source to eliminate any real or perceived appearances of conflict of interest as it relates to the arbitrations.

Councilor Fosle expressed concerns of the potential success in the civil case, given that the employee was found innocent in the criminal case.

There being no further discussion, Resolution 13-0611 was adopted as follows:

RESOLVED, that the proper city officials are hereby authorized to execute an agreement, substantially the same as that on file in the office of the city clerk as Public Document No. 13-1209-09, with Madden Galanter Hansen, LLP to provide legal services related to pending grievance arbitrations in an amount not to exceed \$50,000, which shall be payable from Fund 110-700-1431-5441 (general, transfers and other functions, benefits admin/citywide HR.)

Resolution 13-0611 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved December 9, 2013

DON NESS, Mayor

- - -

Resolution 13-0601, establishing annual bonding plan for 2014, was introduced by Councilor Hartman.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Hartman moved to return the resolution to the administration, as per their request, which motion was seconded and unanimously carried.

- - -

Resolution 13-0604, transferring monies to street improvement debt service fund from the community investment trust fund to cancel 2014 debt service tax levy, was introduced by Councilor Hartman.

Councilor Hanson moved to amend the resolution by added a paragraph to read as follows:

“FURTHER RESOLVED, that the council pledges to replenish these amounts from the \$12,000,000 in casino funds currently pending before the federal court,” which motion was seconded and unanimously carried.

Councilors Fosle and Stauber expressed concerns of: the success of the outcome of the litigation with the Fond du Lac Band of Lake Superior Chippewa to replenish the community investment trust fund, and thus will not support this resolution; twice the council has voted this resolution down; voting this down in the past has not adversely affected the city’s bond rating; this fund has dwindled down and only the interest should have been taken.

Resolution 13-0604, as amended, was adopted as follows:

WHEREAS, the city of Duluth, Minnesota, has issued several series of general obligation street improvement bonds (the “bonds”) to finance the city’s street improvement program, with a portion of the principal of and interest on the bonds being payable from special assessments on benefitted property and a portion being payable from a debt service tax levy; and

WHEREAS, the city administration has proposed to cancel a portion of the 2014 debt service tax levy with a transfer of monies from the Community Investment Trust Fund 256 (the “CIT fund”).

NOW, THEREFORE, BE IT RESOLVED, that the city council hereby transfers \$2,223,491 from the CIT fund to the bond accounts within the street improvement debt service fund (the “debt service fund”) for payment of a portion of the principal of and interest on the bonds due on August 1, 2014, and February 1, 2015. The monies hereby appropriated shall be transferred to the debt service fund within 30 days of passage and approval of this resolution.

FURTHER RESOLVED, that the council pledges to replenish these amounts and the entire estimated \$12,000,000 in casino funds currently pending before the federal court.

Resolution 13-0604, as amended, was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved December 9, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Boyer Ford Trucks, Inc., for the purchase and delivery of one 2014 Western Star 4800/4900F cab/chassis unit in accordance with Minnesota State Contract 60992, Release T-647(5) specifications and pricing, for \$114,522 plus \$7,519 sales tax and tax-exempt plates and registration for a combined total of \$122,041, terms net 30, FOB destination, payable as follows:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- (a) \$61,020.50 from Gas Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital (including depreciation/debt service)), Object 5580 (capital equipment);
- (b) \$24,408.20 from Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital (including depreciation/debt service)), Object 5580 (capital equipment);
- (c) \$24,408.20 from Sewer Fund 530, Department/Agency 500 (public works and utilities), Division 1905 (capital (including depreciation/debt service)), Object 5580 (capital equipment); and
- (d) \$12,204.10 from Stormwater Fund 535, Department/Agency 500 (public works and utilities), Division 1905 (capital (including depreciation/debt service)), Object 5580 (capital equipment).

RESOLVED FURTHER, this unit will be equipped with a Vactor HXX HydroExcavator upon delivery in 2014.

Resolution 13-0589 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved December 9, 2013

DON NESS, Mayor

- - -

Resolution 13-0602, by Councilor Fosle, requesting the city staff review the feasibility of opening city trails for all-terrain vehicle (ATV) use, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Dean Claussen, Mike Levig, Wayne Lasko, Larry Varhalk, Jay Fineout expressed support for the resolution for reasons of: the city has beautiful trails for hiking, walking and bicycling, but nothing for all-terrain vehicles; those with handicaps would use the trails on an all-terrain vehicle; motorized recreation brings money into the local economy; all-terrain vehicles were allowed on the trails in the past; if you do not have a driver's license, you cannot drive an ATV on public land without adult supervision; over 1,300 kids have been trained on their safe and responsible use; Duluth is the most beautiful location for an ATV trail and not everyone can afford to transport their units to distant ATV trails.

Hansi Johnson, member of Cyclists of Gitchee Gummee Shores (COGGS) Mountain Bike Club, felt that the trails in Duluth needed a feasibility study by professional trail builders and commented at length about the how the existing trails have only been built to support bicycles.

Eric Viken, parks and recreation commission trails subcommittee member, expressed concerns of: clarity is needed as to what the scope of this project is; the time commitment put on the parks and recreation staff and commission; there are already ATV trails on private lands and user groups supporting this would have to put forth the initial lead and funding for this study.

Councilor Larson moved to amend the last paragraph of the resolution by adding the words "west of Cody Street," which motion was seconded and discussed.

Councilors Julsrud and Stauber opposed the amendment for reasons that there needs to be more discussion and clarity before staff time is committed and options in other parts of the city should be considered.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Larson's amendment carried as follows:

Yeas: Councilors Gardner, Fosle, Hartman, Hanson, Krug, Larson and President Boyle -- 7

Nays: Councilors Julsrud and Stauber -- 2

The council and administration discussed at length many aspects associated with this issue going forward.

Councilor Julsrud commented on the need to have only two priorities for staff time commitment and budgetary considerations.

Resolution 13-0602, as amended, was adopted as follows:

BY COUNCILOR FOSLE:

WHEREAS, the city currently has a vast trail system for recreational use; and

WHEREAS, there are currently no city trails open for legal all-terrain vehicle (ATV) use; and

WHEREAS, the ATV community has expressed its support for the opening of city trails for ATV use.

THEREFORE, BE IT RESOLVED, that the city council hereby requests city staff review the feasibility of and make a recommendation regarding opening or establishing a trail or trails that can be used by and maintained for ATVs within city limits west of Cody Street.

Resolution 13-0602, as amended, was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hanson, Hartman, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Julsrud -- 1

Approved December 9, 2013, pursuant to Section 12 of the Duluth City Charter.

- - -

Resolution 13-0608, by Councilor Fosle, requesting city administration make a recommendation to the commissioner of public safety to raise the speed limit to 40 mph on St. Louis River Road Between Getchell Road and Lavaque Road, was introduced for discussion.

The rules were suspended upon a unanimous vote to hear from a speaker on the resolution.

Jay Fineout expressed his support for this resolution noting: other roads in the area that have 40 mph speed limits; the Minnesota department of transportation (Mn/DOT) standards for a 40 mph speed limit and that residents who were contacted thought it was already 40 mph.

Chief Administrative Officer David Montgomery stated that the administration, upon the recommendation from the engineering and police departments, supports retaining the speed limit at 30 mph.

Councilors Stauber, Gardner and Fosle noted that many other roads similar to this are 40 mph or greater.

Resolution 13-0608 failed as upon the following vote (Public Document No. 13-1209-16):

Yeas: Councilors Fosle, Gardner and Stauber -- 3

Nays: Councilors Hartman, Hanson, Julsrud, Krug, Larson and President Boyle -- 6

- - -

RESOLVED, the proper city officials authorize amendment to Concession Management Agreement 21045, substantially the same as that on file in the office of the city clerk as Public Document No. 13-1209-12, between the city and Professional Golf Management, Inc. The amendment extends operation and management of the Lester Park and Enger Park golf courses for an additional year, ending December 31, 2014. The annual cost in 2014 will be

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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\$416,160, payable from Fund 503 (golf), 400 (parks and recreation), ENGR and LSTR (Enger and Lester golf course).

Resolution 13-0539 was unanimously adopted.

Approved December 9, 2013

DON NESS, Mayor

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**INTRODUCTION AND CONSIDERATION OF ORDINANCES**

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR HARTMAN

13-075 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2014.

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-076 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2014.

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-077 - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2014.

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-078 - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2014 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-081 - AN ORDINANCE AMENDING SECTIONS 41-23 AND 41-24 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PURCHASING LIMITS.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-080 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-PLANNED (R-P) TO MIXED USE-PLANNED (MU-P), THE PROPERTY LOCATED AT 201 CLOVER STREET.

- - -

BY COUNCILOR KRUG

13-079 - AN ORDINANCE AMENDING SECTIONS 33-77 AND 33-88.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE ESTABLISHMENT OF PARKING SPACES FOR THE PHYSICALLY DISABLED.

- - -

The following entitled ordinances were read for the second time:

BY COUNCILORS GARDNER AND HARTMAN

13-073 (10261) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING DESIGNATION OF LOCAL HISTORIC LANDMARKS BY THE HERITAGE PRESERVATION COMMISSION.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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The rules were suspended upon a unanimous vote to hear from speakers on the ordinance.

Dennis Lamkin, Penny Clark, Tony Dierckins, Penny Perry, David Woodward, president of the heritage preservation commission (HPC), and Carolyn Sundquist expressed support for the ordinance for reasons of: to reinstate the intent of the ordinance to allow the HPC to recommend the designation of a local landmark; this language was inadvertently taken out with the rewrite of this section of the City Code; the historical character of Duluth is a tourist asset; this is only to recommend to the city council; this continues a thoughtful process; without this change, securing grant funding would be jeopardized; courts uphold landmark status and threatened lawsuits should not be believed.

Councilors Fosle and Stauber expressed concerns that there might have been individuals on staff that did want to give the HPC the authority to nominate landmarks and it has not been a problem until now, where a location does not want to be designated as landmark status.

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

- - -

INTRODUCED BY COUNCILOR STAUBER

13-071 - AN ORDINANCE GRANTING TO SCALZO PROPERTIES, LLC, A CONCURRENT USE PERMIT FOR TWO OFF STREET PARKING SPACES LOCATED IN THE EAST FIFTH STREET PUBLIC RIGHT-OF-WAY.

Councilor Stauber reviewed that the council has received a replacement ordinance regarding the insurance requirements which is considered a substantial change and thus this will be a first reading.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-072 (10262) - AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING ADAPTIVE REUSE OF LOCAL HISTORIC LANDMARKS.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR JULSRUD

13-070 (10263) - AN ORDINANCE AUTHORIZING DULUTH PUBLIC UTILITIES COMMISSION TO APPROVE PROGRAMS TO FUND GAS MAIN EXTENSIONS, AMENDING SECTION 48-214 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

Councilor Julsrud moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

BY COUNCILOR LARSON

13-074 (10264) - AN ORDINANCE AMENDING SECTIONS 27-6, 27-17, 27-18, 27-21 AND 27-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO PEDDLERS AND MOBILE FOOD CARTS AND VEHICLES.

Councilor Larson moved passage of the ordinance and the same was adopted upon a unanimous vote.

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

- - -

COUNCILOR QUESTION AND COMMENTS

To councilor questions and extensive comments, Mr. Montgomery reviewed the administration’s intent and process associated with possible annexation of part of Rice Lake Township.

- - -

Councilor Fosle stated that he would be interested in being elected vice president of the council for year 2014.

Councilor Larson stated that she would interested in being elected vice president of the council for year 2014.

- - -

The meeting was adjourned at 9:59 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10261

BY COUNCILORS GARDNER AND HARTMAN:

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING DESIGNATION OF LOCAL HISTORIC LANDMARKS BY THE HERITAGE PRESERVATION COMMISSION.

The city of Duluth does ordain:

Section 1. That Section 50-37.8 of Chapter 50 of the Duluth City Code, 1959, as amended, be amended to read as follows:

50-37.8. Historic resource designation.

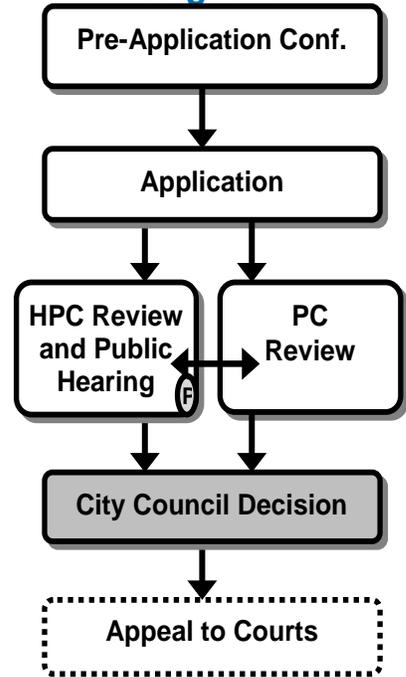
F. Application.

- 1. The heritage preservation commission may, upon its own motion, propose and hear applications to designate a building, structure, site, or object as a local historic landmark. Any property owner or contract purchaser may petition the heritage preservation commission to designate their building, structure, site, or object as a local historic landmark;
- 2. The application provisions of Section 37.1.B shall apply to the extent they are consistent with subsection 1 above;

G. Procedure.

- 1. Review and recommendation by heritage preservation commission.  
The heritage preservation commission shall review the application, submit the application to the planning commission, conduct an investigation and public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, make a recommendation to council, and

Historic Resource Designation



(P) Indicates Public Hearing Required

report on the historical, cultural and architectural significance of the buildings, structures, sites or objects proposed for designation. The report shall also attempt to determine the economic status of the property or properties by providing information such as assessed value, recent real estate transactions and other appropriate data. A copy of the report shall be sent to the state historic preservation officer for review and comment in accordance with MSA 471.193. Any comments made by the planning commission and state historic preservation officer regarding a proposed designation must be included in the commission's recommendation to the council;

2. Review and recommendation by planning commission.

The planning commission shall review the application and make a recommendation to the heritage preservation commission and council. In its review and recommendation, the commission shall consider potential effects on the surrounding neighborhood, economics, environment and other planning considerations;

3. Designation by council.

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

4. Registration of historic sites.

The city clerk shall record or file with the county recorder the legal description of all properties affected by the council action. The city clerk shall also distribute an official list of all locally designated historic preservation landmarks and districts to the land use supervisor and the state historic preservation officer;

**H. Criteria.**

Historic preservation landmarks and districts shall only be designated when the property or properties are found to meet one of the following criteria:

1. It has character, interest or value as part of the development, heritage or cultural characteristics of the city, state, or the United States;
2. Its location was a site of a significant historical event;
3. It is identified with a person or persons who significantly contributed to the culture or development of the city, state, or the United States;
4. It embodies a distinguishing characteristic of an architectural type;
5. It is identified as the work of an architect or master builder whose individual work has influenced the development of the city or state;
6. It embodies elements of architectural design, detail, materials or craftsmanship that represents significant architectural innovation;
7. Its unique location or singular physical characteristics represents an established and familiar visual feature of a neighborhood, community or city.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 10, 2014)

Councilor Gardner moved passage of the ordinance and the same was adopted upon the following vote:

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Passed December 9, 2013  
Approved December 9, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10262

AN ORDINANCE AMENDING CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING ADAPTIVE REUSE OF LOCAL HISTORIC LANDMARKS.

The city of Duluth does ordain:

Section 1. That Chapter 50 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Section 50-20.7 as follows:

50-20.7. Adaptive reuse of a local historic landmark.

A. Intent.

To allow for economic use of historic landmarks by allowing a variety of uses that are not normally permitted in some zoning districts. Standards for adaptive reuse are designed to ensure that the adaptive reuse of a local historic landmark is compatible with surrounding areas;

B. Applicability.

The structure must be designated as a city of Duluth local historic landmark;

C. Allowed uses.

All uses that are permitted in the MU-N zone district shall be considered as eligible for an interim use permit in R-1 or R-2 district;

D. Process.

In order to apply for adaptive reuse of a local historic landmark, the following must be done prior to submitting an interim use permit application.

1. Have an approved preservation plan;
2. Meet with the heritage preservation commission to solicit comments on the proposed adaptive reuse;
3. Hold a community meeting to solicit comments from the public. Notice of the community meeting shall be mailed to all property owners within 350 feet of the landmark.

Provide all comments from the heritage preservation commission and community meeting with the interim use application;

E. Standards.

1. Traffic and parking.
  - (a) The adaptive reuse structure must be able to provide required off-street parking per Section 50-24. The city may require additional parking to minimize impact on the neighborhood;
  - (b) The adaptive reuse of the site must not create additional traffic after 10:00 p.m. on local residential streets;
  - (c) The adaptive reuse of the structure will not create frequent truck traffic on local residential streets;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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- 2. Expansion of the structure.
  - (a) There shall be no expansion made to the footprint of the existing building;
- 3. Screening and buffering.
  - (a) Screening standards shall be required, as listed in Section 50-26. The city may require additional screening to reduce the impact of the adaptive reuse;
- 4. General compatibility.
  - (a) The proposed adaptive reuse of the historic structure must not change the essential character of the neighborhood;
- 5. Preservation.
  - (a) The structure must be preserved according to the preservation plan on file with the heritage preservation commission;

**F. Amendments to approved adaptive reuse plans.**

Any amendment to the use of the historic landmark must be approved through the interim use permit process, but do not need to follow the process outlined in Section D listed above.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 10, 2014)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed December 9, 2013  
Approved December 9, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10263**

AN ORDINANCE AUTHORIZING DULUTH PUBLIC UTILITIES COMMISSION TO APPROVE PROGRAMS TO FUND GAS MAIN EXTENSIONS, AMENDING SECTION 48-214 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

The city of Duluth does ordain:

Section 1. That Section 48-214 of the Duluth City code is hereby amended to read as follows:

Sec. 48-214. Generally; gas mains.

(a) The city council hereby finds that the deregulation of the natural gas industry and competition from other energy suppliers has subjected the Duluth public works and utilities department to competitive pressures in the gas sales area that it has never before faced. The city council further finds that the existing methods for extending gas mains in Duluth are cumbersome and capital intensive to prospective gas customers. The city council finds that having a more flexible and cost competitive gas main extension policy would enhance the public works and utilities department's ability to market natural gas and remain competitive with other suppliers. It is the purpose of this section to provide a

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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method of developing gas main extensions that will enable the public works and utilities department to remain competitive in the future;

(b) The director of the public works and utilities department, with the approval of the Duluth public utilities commission may develop programs and procedures for the extension of gas mains, funding of gas main extensions and procedures for connecting previously unassessed properties to existing mains in addition to procedures set forth in the City Charter. Without limitation, these programs may involve the creation of a two tiered gas rate in lieu of assessments for gas main extensions and may involve the development of a sinking fund to finance future gas main extensions. These programs may also provide that the department may enter into long term gas usage agreements with customers in conjunction with gas main extensions. No gas main extension program shall take effect until it is approved by resolution of the Duluth public utilities commission, subject to review and veto by the city council in the same manner as is provided for in Section 2-187 of the City Code.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 10, 2014)

Councilor Julsrud moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle --9

Nays: None -- 0

Passed December 9, 2013  
Approved December 9, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10264**

BY COUNCILOR LARSON:

AN ORDINANCE AMENDING SECTIONS 27-6, 27-17, 27-18, 27-21 AND 27-23 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO PEDDLERS AND MOBILE FOOD CARTS AND VEHICLES.

The city of Duluth does ordain:

Section 1. That Section 27-6 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-6. License--required.

No person within the city shall engage in or carry on the business of peddler without first obtaining a license to carry on such business. Said license is not required for operations occurring entirely within a permitted community event pursuant to Section 45-49.

Section 2. That Section 27-17 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-17. License--required.

(a) No person or business shall operate a mobile food cart or mobile food vehicle within the city without a license. Said license is in lieu of the peddler license required pursuant to Section 27-6. Mobile food cart and mobile food

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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vehicle licenses are not required for operations occurring entirely within a permitted community event pursuant to Section 45-49;

(b) The city may require such information on the license application as city staff deem reasonable and necessary, including but not limited to, the following information:

- (1) Trade name;
- (2) Name, mailing address, email address, and telephone numbers of applicant and manager;
- (3) Name and contact information of commercial food supply sources;
- (4) Proof of applicable licenses or permits required by the state of Minnesota, St. Louis County, or this Code;
- (5) Brief physical description of the mobile food cart or mobile food vehicle, which may include physical layout plan and dimensions, photographs, equipment types, manufacturer and model numbers, axle weight, license plate numbers, and vehicle identification numbers;
- (6) Information regarding water supply, fuel supply, and waste disposal.

Section 3. That Section 27-18 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-18. Same--fees.

License applications under this Article shall be submitted to the city clerk with the designated license fee, said fee shall be set by city council resolution in accordance with Section 31-6(a) of this Code. Said fee is in lieu of the peddler license fee required pursuant to Section 27-8. Licenses shall be issued for a period of 12 months. Licenses are non-transferable.

Section 4. That Section 27-21 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-21. Same--insurance required.

(a) Motorized mobile food vehicle. Before any license under this Article becomes effective, the licensee must possess an automobile insurance policy for its mobile food vehicle, if motorized, with coverage amounts not less than \$250,000 per person for bodily injury, \$500,000 per accident for bodily injury and \$100,000 for property damage;

(b) Mobile food vehicle and mobile food cart. Before any license under this Article becomes effective, the licensee shall possess a commercial general liability insurance policy for its mobile food cart and mobile food vehicle operations in coverage amounts not less than \$300,000 per occurrence and \$600,000 aggregate, with an endorsement satisfactory to the city attorney. Licensee shall name and maintain the city of Duluth as an additional insured on the insurance policy.

Section 5. That Section 27-23 of the Duluth City Code, 1959, as amended, is hereby amended as follows:

Sec. 27-23. Same--denial, revocation and suspension.

Before any license is issued to any person by the city clerk, the application shall first be submitted to the chief administrative officer for his approval or denial. License applications and current licenses may be denied, revoked, or suspended for good cause. The city shall mail written notice describing the

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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reasons for denial, revocation, or suspension of a license covered by this Article. The licensee may then demand a hearing before the city council by delivering a written demand to the city clerk within ten business days after the notice of denial, revocation or suspension is mailed. Such appeal shall be heard at the first regularly scheduled meeting of the city council thereafter. For the purposes of this Section "good cause" shall include, but not be limited to:

(a) The manner, or proposed manner, of operating the mobile food cart of mobile food vehicle violates any federal, state of Minnesota, St. Louis County, or city law (including this Article) or regulation;

(b) The manner of operating the mobile food cart or vehicle constitutes a public nuisance per Minnesota statutes 609.74 and 609.745, or their successors;

(c) Licensee or any employee or agent of the licensee are convicted of any crime relating to the operation of the mobile food cart or vehicle;

(d) Licensee or any employee or agent of licensee made omissions, deceptive statements, and/or false statements of material fact to city staff; or

(e) Failure to timely pay licensee fee or previous pattern of operation without license.

Section 6. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 10, 2014)

Councilor Larson moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed December 9, 2013  
Approved December 9, 2013  
DON NESS, Mayor

- - -

# PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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## OFFICIAL PROCEEDINGS

Duluth City Council meeting held on Monday, December 16, 2013, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 9

Absent: None -- 0

- - -

## PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

13-1216-01 Minnesota state auditor Duluth/North Shore Sanitary District audit report for the year ended December 31, 2012. -- Received

13-1216-19 The following communications regarding the proposed resolution clarifying Resolution 12-0415, affirming the granting of a variance to the shoreland setbacks of 44, 34 and 25 feet to Park Point Properties (13-0620R): (a) Bruce M. Anderson; (b) Joel M. Anderson; (c) Beth Hall; (d) Sigurd Haller; (e) Carol Kondrath; (f) Betsy Presley; (g) John and Ruth Sargent; (h) Mary Vanderwerp; (i) Scot Wolff. -- Received

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## REPORTS OF BOARDS AND COMMISSIONS

13-1216-02 Duluth transit authority: (a) Minutes of December 4, 2013, meeting; (b) September 2013 financial statement. -- Received

13-1216-03 Library board minutes of October 22, 2013, meeting. -- Received

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At this time, 7:03 p.m., the public hearing on liquor license fees began.

At this time, 7:04 p.m., the public hearing was declared closed.

- - -

## OPPORTUNITY FOR CITIZENS TO BE HEARD

Gerry Goldfarb, Visit Duluth board chairperson, noted that his organization has hired a search organization for the new executive director and that Scott Keenan will be the interim director until the search is completed.

- - -

Timothy Herstad expressed his concerns about a potential annexation of Rice Lake Township and not trusting the city of Duluth administration and city council. He noted that he prefers the type of life and services provided in that township.

- - -

Will Munger felt that: the all-terrain vehicle (ATV) resolution recently passed by the city council is a waste of time and energy; ATV's are not appropriate and compatible with other user groups; in fairness, this issue should be considered citywide and ATV's are noisy and tear up the terrain.

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## MOTIONS AND RESOLUTIONS

### CONSENT AGENDA

*(All matters listed under the consent agenda were considered routine and/or non-controversial and were enacted by one unanimous motion.)*

President Boyle moved passage of the consent agenda, which motion was seconded

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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and unanimously carried.

BE IT RESOLVED, that the city council of the city of Duluth hereby approves the issuance of the following on sale 3.2 percent malt liquor license for the period ending April 30, 2014, and an on sale wine license for the period beginning August 31, 2014, subject to departmental approvals and further subject to approval of the liquor control commissioner:

Big Lake, LLC, (Toasty's), 1032 East Ninth Street, main floor, with Thomas J. Hagen, chief manager and treasurer.

Resolution 13-0614 was unanimously adopted.

Approved December 16, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the civil service classification of maintenance worker, which were approved by the civil service board on December 10, 2013, and which are filed with the city clerk as Public Document No. 13-1216-04, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall remain Pay Range 22, \$2810 to \$3270 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0606 was unanimously adopted.

Approved December 16, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, by the governing body of the city of Duluth, St. Louis County, Minnesota, as follows:

Section 1. Recitals.

1.01 The city of Duluth, the town of Duluth and the town of Lakewood, all in St. Louis County, Minnesota, in 1999 submitted a petition to the Minnesota pollution control agency (the "MPCA") requesting creation of the Duluth/North Shore Sanitary District (the "sanitary district") pursuant to Minnesota Statutes, sections 115.18 through 115.37, as amended and recodified under Minnesota Statutes, sections 442A.01 through 442A.29 (the "act"). (The city of Duluth, the town of Duluth and the town of Lakewood are herein referred to collectively as the "municipalities.")

1.02 On January 25, 2000, the MPCA issued an order approving creation of the sanitary district (the "order"). The order was published in the *State Register* on January 31, 2000.

1.03 On March 1, 2000, the time for appeal of the order having expired, a certified copy of the order was duly filed with the Minnesota secretary of state, and creation of the sanitary district was thereupon deemed complete under the act.

1.04 The act requires that the municipalities elect a board of managers for the sanitary district (the "board of managers") as soon as practicable after creation of the sanitary district.

1.05 Pursuant to Section 442A.14, subdivision 7 of the act, the municipalities may elect a board member or members by resolutions adopted by all of them separately, concurring in the election of the same person or persons.

Section 2. Findings. It is in the best interests of the municipalities and of the sanitary district that the following persons, who are voters residing in the area of the sanitary district, be nominated for election to the board of managers for the term indicated:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(a) Dean Korri, of the town of Duluth, Minnesota, whose term shall commence on January 1, 2014, and shall expire on the first business day of January, 2017;

(b) Angela Braud, of the town of Duluth, Minnesota, whose term shall commence on January 1, 2014, and shall expire on the first business day of January, 2017;

(c) Katherine Kuettel, of the city of Duluth, Minnesota, whose term shall commence on January 1, 2014, and shall expire on the first business day of January, 2017.

Section 3. Election of board of managers. Election of the above-named persons to the board of managers of the sanitary district is approved and such persons are elected for the terms indicated.

Section 4. Authorization and direction to clerk. Upon receipt of concurring resolutions from the town of Duluth and the town of Lakewood, the clerk is directed to certify the results of this election to the secretary of the MPCA and to the auditor of St. Louis County and make and transmit to the board members elected a certificate of the board member's election.

Resolution 13-0619 was unanimously adopted.

Approved December 16, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of instrument technician, which were approved by the civil service board on December 10, 2013, and which are filed with the city clerk as Public Document No. 13-1216-05, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 30, \$3,822 to \$4,521, to Pay Range 31, \$3,979 to \$4,690 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0622 was unanimously adopted.

Approved December 16, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to enter into a professional services agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1216-06, with Fryberger, Buchanan, Smith & Frederick, P.A. for the provision of legal financing services related to the Maurices office building project and the city parking facility project in an amount not to exceed \$100,000, payments payable from Fund 450-030-5441 CP2013-1316b (capital improvement fund, finance department, other services and charges, corporate tower project public improvements).

Resolution 13-0610 was unanimously adopted.

Approved December 16, 2013

DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to execute an agreement with DEDA, substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1216-07, which allows DEDA to participate in the city's self insurance fund program during 2014; DEDA funds in the amount of \$7,000 to be deposited into self insurance Fund 610 (self insurance liabilities fund), Agency 036 (insurance accounts), Organization 1656 (DEDA), Object 4904 (liabilities insurance charges).

Resolution 13-0615 was unanimously adopted.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Approved December 16, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the DEDA operating fund, debt service fund, capital project fund, storefront loan funds and NWA maintenance facility fund budgets on file in the office of the city clerk as Public Document No. 13-1216-08 are hereby approved.

Resolution 13-0616 was unanimously adopted.

Approved December 16, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are authorized to enter into an agreement substantially in the form of that on file in the office of the city clerk as Public Document No. 13-1216-09, with Duluth-Superior Public Access Community Television, Inc. (PACT) for providing cablecasting, training and production and administrative services in 2014 relating to public access television in the net amount of \$181,640, to be paid from 110-700-1414-5441 (general, transfers and other functions, public access television).

Resolution 13-0612 was unanimously adopted.

Approved December 16, 2013  
DON NESS, Mayor

- - -

RESOLVED, that pursuant to Minnesota Statutes 204B.21, the following persons are hereby appointed as election judges in the respective precincts for the January 14, 2014, special St. Louis County general election, as listed in Public Document No. 13-1216-10.

RESOLVED FURTHER, that pursuant to Minnesota Statute, 204B.31(d), election judges shall be compensated at the rate of \$8 per hour and chairman election judges shall be also compensated \$15 for election day hours. In addition, election judges carrying supply returns shall be compensated for mileage at the rate of \$.55 per mile; payable from General Fund 110, Department 121 (public administration), Organization 1211, (city clerk), Object 5441 (other services and charges).

RESOLVED FURTHER, if any person who is named on the list as a judge is unable to serve, the clerk is empowered to substitute the name of a qualified legal voter for the one who is unable to serve.

Resolution 13-0629 was unanimously adopted.

Approved December 16, 2013  
DON NESS, Mayor

- - -

RESOLVED, that the following is the revised list of high priority bridges in the city of Duluth, and that the city intends to replace, rehabilitate or remove these bridges as soon as possible when funds become available.

<b>Old Bridge Number</b>	<b>Road or Street</b>	<b>Total Project Cost</b>	<b>State Bridge Funds</b>	<b>Federal Funds</b>	<b>Local or State Aid Funds</b>	<b>Proposed Const. Year</b>
L8516	Fairmont Street	\$800,000	\$560,000		\$240,000	2014
N/A	Blackman Avenue	\$260,000	\$156,000		\$104,000	2014

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

<b>Old Bridge Number</b>	<b>Road or Street</b>	<b>Total Project Cost</b>	<b>State Bridge Funds</b>	<b>Federal Funds</b>	<b>Local or State Aid Funds</b>	<b>Proposed Const. Year</b>
L8496	Toledo Street	\$260,000	\$156,000		\$104,000	2014
L5931	Niagara Street	\$200,000	\$120,000		\$80,000	2015
L6129	Woodland Avenue	\$150,000	\$90,000		\$60,000	2015
L6113	Fourth Street	\$600,000	\$420,000		\$180,000	2015
91143	Third Street	\$350,000	\$210,000		\$140,000	2015
L8515	Lewis Street	\$250,000	\$150,000		\$100,000	2016
L6116	Lake Avenue	\$5,000,000	\$3,750,000		\$1,250,000	2017

Resolution 13-0621 was unanimously adopted.  
 Approved December 16, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to accept a grant from the department of justice, office on violence against women, in the amount of \$285,581 and to execute a grant agreement with Domestic Abuse Intervention Programs (DAIP) and Program for Aid to Victims of Sexual Assault, Inc. (PAVSA), substantially the same as that on file in the office of the city clerk as Public Document No. 13-1216-11, for the purpose of developing and strengthening effective responses to violence against women through the operation of the Coordinated Community Response to Sexual Assault, Domestic Violence and Intimate Partner Sexual Violence Project, for the period beginning October 1, 2013 and ending September 30, 2016.

The funds shall be deposited in Fund 215-200-2301-4209-02 (Duluth police grant programs, police, violence against women 2013-16, direct federal grants operating); services provided by DAIP and PAVSA under the terms of the grant agreement are payable from Fund 215-200-2301-5447 (Duluth police grant programs, police, violence against women 2013-16, payment to other government agencies); services provided by the Duluth police department under the terms of the grant agreement are payable from Fund 215-200-2301-5700-10 (Duluth police grant programs, police, violence against women 2013-16, interfund transfers out to general fund); and Duluth police department travel and/or training expenses are payable from Fund 215-200-2301-5331 (Duluth police grant programs, police, violence against women 2013-16, travel/training).

Resolution 13-0576 was unanimously adopted.  
 Approved December 16, 2013  
 DON NESS, Mayor

- - -

RESOLVED, that the proper city officials are hereby authorized to contract with Cushman Motor Company, Inc., for the tax-exempt purchase and delivery of one 2014 Westward Industries Interceptor IV three-wheel motor vehicle, based on the vendor's quote of \$25,507, dated November 18, 2013, terms net 30, FOB destination, and payable from Parking

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

Fund 505, Public Administration 015, Parking Meters and Enforcement 1481, Capital Equipment 5580.

Resolution 13-0617 was unanimously adopted.

Approved December 16, 2013

DON NESS, Mayor

- - -

The following resolutions were also considered:

Resolution 13-0593, adopting license, permit, fine, penalty and other charges for 2014, was introduced by Councilor Hartman.

Councilor Larson moved to amend the resolution by amending the mobile food cart (from "\$176.00" to "\$175.00") and mobile food vehicle (from "\$488.00" to "\$485.00") license fees listed in the public document, which motion was seconded and discussed.

Councilor Larson noted that the amendment is because the initial fee was just implemented this year and thus did not need the inflationary increase.

The amendment carried unanimously.

Resolution 13-0593, as amended, was adopted as follows:

RESOLVED, pursuant to sections 31-6(a) and 31-8 of the Duluth City Code, 1959, as amended, and the authority otherwise granted in said Code and the Duluth City Charter, the charges for those permits, licenses, fines, penalties and other charges listed in Public Document No. 13-1216-12 are hereby established as those set forth in said public document, effective as of January 1, 2014.

RESOLVED FURTHER, that any fees established by any prior resolution inconsistent or conflicting with those set forth in said public document are hereby superseded as of January 1, 2014, and of no future effect.

Resolution 13-0593, as amended, was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved December 16, 2013

DON NESS, Mayor

- - -

RESOLVED, that, pursuant to Section 20-33 of the Duluth City Code, 1959, as amended, the following is hereby established as the annual, ordinary course general obligation bonding plan for the city of Duluth for the year 2014:

General obligation bonds and notes to be issued in 2014 \$12,765,000

General obligation bonds and notes scheduled to be retired in 2014 \$17,702,000

Net anticipated decrease in general obligation bonding for 2014 (\$4,937,000)

Resolution 13-0601 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved December 16, 2013

DON NESS, Mayor

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Resolution 13-0613, by Councilor Hartman, providing for the adoption of a plan for Duluth's bikeway system, establishment of bicycle lanes, paths and routes, and requesting city staff implement such plan, was introduced.

Councilor Fosle noted that this will cost the citizens more money and that at the meetings held regarding this issue there were only 20-50 people present.

Resolution 13-0613 was adopted as follows:

BY COUNCILOR HARTMAN:

WHEREAS, the city of Duluth wishes to encourage bicycling as an alternate mode of transportation; and

WHEREAS, the city desires to accommodate bicyclists by integrating bicycle facilities in conjunction with street improvement projects or independently as appropriate.

THEREFORE, BE IT RESOLVED, that pursuant to Section 9-17 of the Duluth City Code, 1959, as amended, the city council hereby adopts the Plan for Duluth's Bikeway System, a copy of which is on file in the office of the city clerk as Public Document No. 13-1216-13.

FURTHER RESOLVED, that the city council supports the implementation of the Plan For Duluth's Bikeway System and requests city staff implement the plan as street improvement projects and funding allow.

Resolution 13-0613 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved December 16, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, by the City Council (the "council") of the city of Duluth, Minnesota (the "city"), as follows:

Section 1. Capital improvement plan.

1.01 (a) Under and pursuant to Minnesota Statutes, Section 475.521 (the "act"), the council has authorized preparation of a capital improvement plan for the years 2014 through 2018 which has been presented to the council in the section entitled "Capital Improvement Bond Summary" in the document entitled "2014-2018 Capital Improvement Plan-Capital Budget and Plan" (the "plan");

(b) The council has caused due notice to be given and has held on December 9, 2013, a public hearing as required by the act, to provide an opportunity for residents to express their views on the plan;

(c) The council has considered the following for each project discussed in the plan and for the overall plan:

(1) The condition of the city's existing infrastructure, including the projected need for repair or replacement;

(2) The likely demand for the improvement;

(3) The estimated cost of the improvement;

(4) The available public resources;

(5) The level of overlapping debt in the city;

(6) The relative benefits and costs of alternative uses of the funds;

(7) Operating costs of the proposed improvements; and

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(8) Alternatives for providing services more efficiently through shared facilities with other cities or local government units.

1.02 (a) Based on the considerations set forth in the plan and Section 1.01(c) hereof, the council finds that the plan is desirable and beneficial to the city and its residents;

(b) The council finds that the proposed improvements under the plan will result in no unnecessary duplication of public facilities provided by other units of government in the region.

1.03 The plan is approved.

Section 2. Intent to issue bonds.

2.01 (a) The council is considering the issuance of general obligation capital improvement bonds under the act and Minnesota Statutes, Chapter 475, in an amount not to exceed \$1,850,000 (the "bonds"), for the purpose of providing funds for the acquisition and betterment of the following projects: improvements to eligible facilities under the act (City Hall, libraries, public safety facilities and public works facilities) throughout the city, including window replacements, energy conservation measures, furnace/boiler replacements, masonry repair, overhead door replacements and roof replacements; ventilation for 40th and 42nd Avenue West toolhouses; modernization/remodeling for City Hall; tuckpoint/repair steps - City Hall; desktop re-cabling - City Hall; generator - City Hall; Firehall #1 driveway; Firehall #7 brick repair; Firehall overhead doors; Firehall access approaches; and Firehall ventilation; and payment of discount and costs of issuance;

(b) The city hereby expresses its intent to issue the bonds for the projects in an aggregate principal amount not to exceed \$1,850,000, pursuant to the plan, the act and Minnesota Statutes, Chapter 475;

(c) The city will issue the bonds if no petition requesting a vote on the issuance of the bonds signed by voters equal to five percent of the votes cast in the city in the last general election is filed with the city clerk within 30 days after the date of the public hearing described in Section 2.02 of this resolution.

2.02 The council shall hold a public hearing on the issuance of the bonds at 7:00 p.m. on January 13, 2014. The city clerk is authorized and directed to cause the notice of public hearing, substantially in the form on file in the office of the city clerk as Public Document No. 13-1216-14, to be published in the official newspaper of the city or a newspaper of general circulation in the jurisdiction of the city not less than 14 days nor more than 28 days prior to the date set for the public hearing.

2.03 The administrative staff of the city and its agents are hereby authorized to take such further action necessary to carry out the intent and purpose of this resolution and the requirements of the act.

Resolution 13-0631 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved December 16, 2013

DON NESS, Mayor

- - -

BE IT RESOLVED, by the City Council (the "council") of the city of Duluth, Minnesota (the "city"), as follows:

Section 1. Under and pursuant to the provisions of Minnesota Statutes, sections 410.32 and 412.301 (the "act"), and Minnesota Statutes, Chapter 475, and the City Charter, the city is authorized to issue its general obligation capital equipment notes to provide funds to

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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purchase capital equipment having an expected useful life at least as long as the term of the capital equipment notes.

Section 2. The council declares the intent of the city to issue capital equipment notes in 2014 in an amount up to \$3,888,500 to finance the purchase of capital equipment authorized by the act, together with an additional amount to pay costs of issuance of the capital equipment notes and discount in an amount estimated to be not more than \$211,500.

Section 3. The capital equipment to be financed includes those items of equipment set forth on the list (Public Document No. 13-1216-15), which list of equipment is hereby approved for purchase in 2014.

Section 4. The terms and conditions of the capital equipment notes and the sale thereof shall be established by further resolution of the council.

Section 5. This resolution constitutes a declaration of official intent under Treasury Regulations Section 1.150-2. The city reasonably expects to acquire all or a portion of the capital equipment prior to the issuance of the capital equipment notes and to reimburse expenditures incurred with respect to such capital equipment purchase program with the proceeds of the capital equipment notes.

Resolution 13-0632 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Approved December 16, 2013

DON NESS, Mayor

- - -

Resolution 13-0605, approving proposed specifications for the new civil service classification of parking operations specialist, and specifying contract benefits for same, was introduced by Councilor Gardner.

Councilor Fosle expressed concerns that the prior parking manager was the last person hired in this area and other areas need more personnel than this area.

Resolution 13-0605 was adopted as follows:

RESOLVED, that the proposed specifications for the new civil service classification of parking operations specialist, which were approved by the civil service board on December 10, 2013, and which are filed with the city clerk as Public Document No. 13-1216-16, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 131, \$3,679 to \$4,311 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0605 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved December 16, 2013

DON NESS, Mayor

- - -

Resolution 13-0607, approving proposed specifications for the civil service classification of public works and utilities analyst, and specifying contract benefits for same, was introduced by Councilor Gardner.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Fosle stated that he would not support this resolution because it is a new job classification with a salary at approximately \$75,000 and lifetime benefits.

Resolution 13-0607 was adopted as follows:

RESOLVED, that the proposed specifications for the new civil service classification of public works and utilities analyst, which were approved by the civil service board on December 10, 2013, and which are filed with the city clerk as Public Document No. 13-1216-17, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 33, \$4,319 to \$5,099 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0607 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved December 16, 2013

DON NESS, Mayor

- - -

Resolution 13-0618, by Councilor Gardner, appointing \_\_\_\_\_ to the civil service board, replacing John Schwetman, was introduced for discussion.

Councilor Gardner moved to amend the resolution by inserting the name "Beth Tamminen," which motion was seconded and discussed.

Councilor Gardner reviewed background of the current board members and the experience that this person will bring to the board.

Councilors Larson, Krug and Julsrud, in support of the another applicant, Arik Forsman, expressed concerns about the proposed amendment for reasons of: that Mr. Forsman has worked hard in his job to bring a diversity of individuals into the workforce; he has pursued this for a long time; he does have public and private sector experience and his answers were very good.

Councilor Gardner's amendment carried as follows:

Yeas: Councilors Gardner, Hartman, Hanson, Stauber and President Boyle -- 5

Nays: Councilors Fosle, Julsrud, Krug and Larson -- 4

Resolution 13-0618, as amended, was adopted as follows:

BY COUNCILOR GARDNER:

RESOLVED, that the Duluth City Council hereby appoints Beth Tamminen to the civil service board for a term expiring on March 31, 2019, replacing John Schwetman who resigned.

Resolution 13-0618, as amended, was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Stauber and President Boyle -- 5

Nays: Councilors Fosle, Julsrud, Krug and Larson -- 4

Approved December 16, 2013

DON NESS, Mayor

- - -

Resolution 13-0623, approving proposed specifications for the appointed classification of city treasurer and specifying contract benefits for same, was introduced by Councilor Gardner.

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Councilor Fosle expressed concern that along with the change in the job description there is also a salary increase.

Resolution 13-0623 was adopted as follows:

RESOLVED, that the proposed specifications for the appointed classification of city treasurer, are approved; that said position shall remain subject to the city's collective bargaining agreement with its supervisory unit employees; and that the pay range will change from Pay Range 1110, \$5,620 to \$6,851, to Range 1105-1115, \$5,608 to \$7,141 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 13-0623 was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Approved December 16, 2013

DON NESS, Mayor

- - -

Resolution 13-0620, clarifying Resolution 12-0415, affirming the granting of a variance to the shoreland setbacks of 44, 34 and 25 feet to Park Point Properties, was introduced by Councilor Stauber, for discussion.

The rules were suspended upon a unanimous vote to hear from speakers on the resolution.

Tom and Paul Kellner, partners in Park Point Properties, and Bridget Reistad noted: the scope and history of the project; the neighbors would like nothing more than a duplex and that they are following the regulations allowed by the Unified Development Chapter (UDC) of the Duluth City Code.

Keith McLaughlin, Rich Ball, LeAnn Rutherford, Debra McLaughlin and Ellen Dunlap expressed concerns of: this is a very complicated issue with many different facets and misinformation; the immediate neighbors have not been contacted by the developer since August 2012; there is a perception of a massive bait and switch after the variance was approved; the variance has expired so thus a totally new variance is being considered; this is an expansion of the originally submitted footprint by about 1,000 square feet; the planning commission has determined that there is no hardship as required by the Code; there have been irregularities with this building as being too big for this specific lot and this current proposal is closer to the water, street and neighbors than originally approved by the council.

Councilors commented at length on the issues raised.

Resolution 13-0620 was adopted as follows:

RESOLVED, that Resolution 12-0415, approved on August 13, 2012, is amended to read as follows:

Pursuant to the authority to grant variances as provided in Section 50-37.9.L, the application for a variance by the Park Point Properties is granted subject to the following conditions:

(a) Prior to construction, a plan for the operation and maintenance of the pervious pavers and rain garden be approved by the city engineer;

(b) That the driveway apron be designed according to the city engineer's standards;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(c) The authority to issue a building permit for the construction of a duplex pursuant to this variance shall expire one year from the date of the approval of this resolution unless a one year extension is granted as provided in Section 50-37.1.K;

(d) The finding of a hardship due to the constrictions placed on the reasonable use of the lot by the 50 foot setbacks from the ordinary high water mark that is measured from three different locations due to the irregular shoreline;

(e) The setbacks were reduced from 50 feet from the ordinary high water mark to - 44 feet from the rear or southwest side of the lot, 34 feet from the southeast side and 25 feet from the northwest side of the ordinary high water mark.

Resolution 13-0620 was unanimously adopted.

Approved December 16, 2013

DON NESS, Mayor

- - -

RESOLVED, that proper city officials are authorized to pay to Cassandra Olson and her attorney, Rich Ruohonen, the sum of \$125,000 in full and final settlement of the claim which arose out of a bicycle accident occurring near 15th Avenue East and 5th Street on September 23, 2009; payment to be made from the Self Insurance Fund 0610.

Resolution 13-0609 was unanimously adopted.

Approved December 16, 2013

DON NESS, Mayor

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### INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinance was read for the first time:

INTRODUCED BY COUNCILOR JULSRUD

13-082 - AN ORDINANCE AMENDING TERMS FOR ISSUANCE OF YEARLY STREET OBSTRUCTION PERMITS, AMENDING SECTION 45-18.1 OF THE DULUTH CITY CODE, 1959, AS AMENDED.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HARTMAN

13-075 (10265) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2014.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-076 (10266) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2014.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-077 (10267) - AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2014.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-078 (10268) - AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2014 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

- - -

INTRODUCED BY COUNCILOR HARTMAN

13-081 (10269) - AN ORDINANCE AMENDING SECTIONS 41-23 AND 41-24 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PURCHASING LIMITS.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

- - -

INTRODUCED BY COUNCILOR STAUBER

13-071 (10270) - AN ORDINANCE GRANTING TO SCALZO PROPERTIES, LLC, A CONCURRENT USE PERMIT FOR TWO OFF STREET PARKING SPACES LOCATED IN THE EAST FIFTH STREET PUBLIC RIGHT-OF-WAY.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

INTRODUCED BY COUNCILOR STAUBER

13-080 (10271) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-PLANNED (R-P) TO MIXED USE-PLANNED (MU-P), THE PROPERTY LOCATED AT 201 CLOVER STREET.

Councilor Stauber moved passage of the ordinance and the same was adopted upon a unanimous vote.

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**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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BY COUNCILOR KRUG

13-079 (10272) - AN ORDINANCE AMENDING SECTIONS 33-77 AND 33-88.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE ESTABLISHMENT OF PARKING SPACES FOR THE PHYSICALLY DISABLED.

Councilor Krug moved passage of the ordinance and the same was adopted upon a unanimous vote.

- - -

**RESOLUTION FOR RECONSIDERATION**

At this time, Councilor Hanson moved to reconsider Resolution 13-0602, requesting city staff review the feasibility of opening city trails for all-terrain vehicle use, which motion was seconded and discussed.

Councilor Hanson commented that: the resolution may excuse other areas of town; that the council should not put this extra work on the parks and recreation division; that the council create a task force on this and gather citizen input and then come back to the council with a recommendation.

The motion for reconsideration failed as follows:

Yeas: Councilors Hanson, Hartman, Julsrud and President Boyle -- 4

Nays: Councilors Fosle, Gardner, Krug, Larson and Stauber -- 5

- - -

The meeting was adjourned at 8:53 p.m.

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10265**

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL PARKS FUND LEVY FOR THE YEAR 2014.

The city of Duluth does ordain:

Section 1. That sum to be raised by taxation for the year 2014 for the special parks fund levy is hereby determined to be the sum of \$2,600,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following section;

Section 2. That pursuant to Ordinance 10134, approved by voter referendum on November 9, 2011, pursuant to the authority contained in Laws of Minnesota, 1983, Chapter 560, Section 1, there will be levied for the parks fund the sum of \$2,600,000.

Section 3. That this ordinance shall take effect January 1, 2014.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

ATTEST:  
JEFFREY J. COX, City Clerk

Passed December 16, 2013  
Approved December 16, 2013  
DON NESS, Mayor

- - -

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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**ORDINANCE NO. 10266**

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR THE SPECIAL TAXING DISTRICT, DULUTH TRANSIT AUTHORITY, FOR THE YEAR 2014.

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2014 for Duluth Transit Authority taxing district's operations is hereby determined to be the sum of \$1,391,900 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts as set forth in the following sections, viz:

Section 2. That pursuant to Minnesota Statutes, Section 458A.31, Subd.1, there will be levied for transit operations the sum of \$1,391,900.

Section 3. That this ordinance shall take effect January 1, 2014.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Passed December 16, 2013

Approved December 16, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

**ORDINANCE NO. 10267**

AN ORDINANCE DETERMINING THE SUM TO BE RAISED BY TAXATION FOR GENERAL PURPOSES FOR THE YEAR 2014.

The city of Duluth does ordain:

Section 1. That the sum to be raised by taxation for the year 2014 for general operations is hereby determined to be the sum of \$19,441,000 which sum is levied against the taxable property of the city of Duluth and appropriated to the various accounts of the city, as set forth in the following sections.

Section 2. That there will be levied for the support of the general fund the sum of \$12,899,800.

Section 3. That for the pay of debt, there will be levied for the general obligation debt fund the sum of \$6,261,200.

Section 4. That pursuant to laws of Minnesota 1971, Chapter 824, to pay for the portion of the cost of local improvements which will not sustain a special assessment, there will be levied for the permanent improvement fund the sum of \$280,000.

Section 5. That this ordinance shall take effect January 1, 2014.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Passed December 16, 2013

Approved December 16, 2013

DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

- - -

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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### ORDINANCE NO. 10268

#### AN ORDINANCE SETTING THE BUDGET FOR THE FISCAL YEAR 2014 APPROPRIATING MONIES FOR THE SUPPORT OF THE CITY GOVERNMENT, PUBLIC UTILITIES, AND PUBLIC ENTERPRISE FUNDS AND FOR OTHER PURPOSES

The city of Duluth does ordain:

Section 1. That in accordance with Section 58 of the 1912 Home Rule Charter of the city of Duluth, and all amendments thereof and laws supplementary thereto, and for the fiscal year beginning January 1 and ending December 31, 2014, the city council hereby budgets, determines and states the amount of money required to meet the principal and interest of maturing obligations comprising the outstanding indebtedness of such city; the amounts of money necessary to be provided for each such fund and each department of such city; and estimates the amount of income from all other sources and revenues, exclusive of taxes upon property, together with the probable amount required to be levied and raised by taxation to defray all expenses and obligations of such city during such fiscal year.

That the monies as so budgeted and hereinafter set forth shall be paid upon the presentation of properly verified vouchers bearing thereon the budget distribution for which such expenditures are to be charged in accordance with the detailed classification of accounts and the explanatory information of such as set forth in ordinance in effect governing same, excepting, however, payments for interest and sinking funds, which shall be paid in the manner set forth in Section 53 of the City Charter.

That any monies received by the several city departments as reimbursement for damages or repairs to city property or work done for others and not anticipated in the original budget may be credited to and added to the appropriate budget item upon approval by the chief administrative officer or their designee.

That use of general fund balance that has been assigned for a specific purpose in a prior year, must be approved by the city council if used for a purpose other than what has been specified.

That grants which have been approved by the appropriate state or federal agency and accepted by resolution of the city council may be added to the respective budget items upon approval of the city auditor.

Section 2. That the city auditor be authorized to approve the payments of \$2,872,000 from the gas and steam public utility funds to the general fund for administrative services; comprised of \$2,726,000 or seven percent of the gross revenues of the gas utility fund to the general fund; and \$146,000 from public utility steam fund to the general fund.

Section 3. That the mayor or the chief administrative officer or their designees may make transfers from budget item to budget item as may be considered necessary for the proper administration of the city government for the year. However, the total of any transfers to or from any budget item in excess of ten percent of the appropriation therefore as herein made shall be made only upon approval of the city council. For the purpose of the section, the term budget item shall mean the amount appropriated to the various funds delineated as fixed charges in the budget summary, the accounts numbered 110 through the 700 series shall each be considered budget items within the general fund, as defined in Chapter 8, Section 54 of the City Charter, the account numbered 205 in the parks fund, and the accounts numbered 510 in the water division, 520 in the gas division, 530 and 532 in the sewer division, 535 in the stormwater division, 540 in the steam division, 550 in the street light division, 503 in the golf division, and 505 in the parking division.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 4. That the salaries shall be in accordance with the pay plan in effect as provided by Section 22 of the City Charter, as amended.

Section 5. That the city auditor may create or abolish an accounting fund when required by law or proper accounting procedures.

Section 6. That the city auditor be authorized to make temporary loans to and from the city's various funds as needed in the conduction of the day-to-day operations of the city.

Section 7. That the appropriations as set forth in this section constitutes the budget of the city of Duluth for the calendar year of 2014.

<b>GENERAL FUND</b>		
110	Legislative and executive - total	\$2,650,500
121	Public administration - total	22,568,300
125	Finance - total	2,597,000
132	Planning and construction services - total	2,336,500
135	Business and economic development - total	733,600
150	Fire - total	14,492,500
160	Police - total	19,071,000
500	Public works - total	1,732,000
700	Transfers and other functions - total	10,226,500
	<b>Total general fund</b>	<b>\$76,407,900</b>

<b>PARKS FUND</b>		
130	Community Resources	\$2,683,500

<b>PUBLIC ENTERPRISE</b>		
503	Golf fund - total	\$2,077,900
505	Parking fund - total	\$4,462,400

<b>PUBLIC UTILITIES</b>		
510	Water fund - total	\$11,985,700
520	Gas fund - total	\$37,401,400
530 and 532	Sewer and clean water fund - total	\$18,725,100
535	Stormwater fund - total	\$4,645,700

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

540	Steam fund - total	\$7,540,400
550	Street lighting - total	\$1,920,800

Section 8. That the chief administrative officer or their designee shall provide the council with a final budget report within three months of the end of the budget year setting forth the original approved and the modified budgets for each line item included in this ordinance and explaining in narrative form the reasons for any significant differences between the original approved and the modified budgets.

Section 9. That the city will review all state and federal grants prior to acceptance to determine the program’s funding status. A statement should be included on each grant resolution outlining items such as whether the grant represents a onetime revenue, an ongoing funding source, or a partial funding source with a local match required. The future fiscal impact of the program on the budget will be discussed prior to acceptance of the grant.

The programs funded by state and federal grants shall be reduced or eliminated accordingly if state or federal revenues are reduced or eliminated and another funding source is not secure. Local funding will be available after a full review to determine whether the program should be continued.

Section 10. That this ordinance shall take effect January 1, 2014.

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson and President Boyle -- 7

Nays: Councilors Fosle and Stauber -- 2

Passed December 16, 2013  
Approved December 16, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10269**

BY COUNCILOR HARTMAN:

AN ORDINANCE AMENDING SECTIONS 41-23 AND 41-24 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING PURCHASING LIMITS.

The city of Duluth does ordain:

Section 1. That Section 41-23 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 41-23. Contract procedure--contracts exceeding \$100,000.

Purchase of all supplies and contractual services exceeding an estimated cost of \$100,000 shall be made by the purchasing agent pursuant to the provisions of this section either by formal written contract or upon a properly executed purchase order, whichever method such purchasing agent deems appropriate, from the lowest responsible bidder after due notice inviting proposals. All sales of personal property when the estimated value shall exceed \$100,000, shall be made by formal written contract or such other means of conveyance as the city attorney may prescribe to the highest responsible bidder after due notice inviting proposals.

(a) Notice inviting bids;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(1) Published notice. Notice inviting bids shall be published in at least two issues of the official newspaper of the city or shall be published on the city's internet website. The time set for the opening of such bids shall be not less than ten days from the date of the last publication of such notice in said newspaper or not less than 11 days after its publication on said website. Such notice shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured and the time and place of opening bids;

(2) Bidders list. The city purchasing agent shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "bidders list," which the purchasing agent shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the bidders list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent;

(b) Bid deposits. When deemed necessary by the city purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of such deposits where the purchasing agent has required such. A successful bidder shall forfeit any such deposit required by the purchasing agent upon failure on his part to enter a contract within ten days after the award. For the purpose of this subsection, the term "deposit" shall mean cash, cashier's check, certified check or corporate surety bond;

(c) Bid opening procedure;

(1) Sealed bids. Bids shall be submitted sealed to the purchasing agent and shall be identified as bids on the envelope;

(2) Opening. Bids shall be opened in public at the time and place stated in the public notices;

(3) Tabulation. A tabulation of all bids received shall be posted for public inspection;

(d) Rejection of bids. The city purchasing agent shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. The purchasing agent may reject the bid of a contractor who is in default on the payment of taxes, licenses or other money due the city;

(e) Award of contract;

(1) Authorization by city council. Contracts within the purview of this section shall be awarded only after authorization by resolution of the city council;

(2) Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining lowest responsible bidder, in addition to price, the purchasing agent shall consider:

(A) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(B) Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference;

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(C) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(D) The quality of performance of previous contracts or services;

(E) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

(F) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(G) The quality, availability and adaptability of the supplies or contractual services to the particular use required;

(H) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

(I) The number and scope of conditions attached to the bid;

(J) The new best-value contracting law for construction projects only;

(3) Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reason for placing the order elsewhere shall be prepared by the purchasing agent and filed with the other papers relating to the transaction;

(4) Tie bids;

(A) Local vendors. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. If two or more local bidders submit tie bids, the purchasing agent shall award the contract to one of the tie bidders by drawing lots in public;

(B) Outside vendors. Where tie bids are submitted by outside vendors, the purchasing agent shall award the contract to one of the tie bidders by drawing lots in public;

(5) Performance bonds. The city purchasing agent shall have the authority to require a performance bond, before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the city. He shall require a performance bond in every case where a law specifically requires the furnishing of a bond as a condition precedent to the awarding of a contract for the doing of any public work or the making of any public improvement;

(f) Prohibition against subdivision. No contract or purchase shall be subdivided to avoid the requirements of this Section.

Section 2. That Section 41-24 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 41-24. Same--Contracts of \$100,000 or less.

Purchases of supplies and contractual services and all sales of personal property involving \$100,000 or less shall be made pursuant to the provisions of this section either by formal written contract or upon a properly executed purchase or sale order, whichever method is deemed appropriate.

(a) Bidding procedures;

(1) Contracts between \$25,000 and \$100,000. If the amount of the contract is estimated to exceed \$25,000 but not to exceed \$100,000 the purchasing

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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agent shall make such purchases or sales by direct negotiation, obtaining two or more quotations when possible. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof;

(2) Contracts of \$25,000 or less. If the amount of the contract is estimated to be \$25,000 or less, the purchasing agent may, in his discretion, make the purchase or sale either upon quotation or in the open market. If the contract is made upon quotation, it shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(3) Purchases of \$5,000 or less. In the case of purchases estimated to be \$5,000 or less, department heads or their designees are authorized to make such purchases without the approval of the purchasing agent. Such purchases may be made either upon quotation or in the open market. If such purchases are made upon quotation, they shall be based, so far as practicable, on at least two quotations, which shall be kept on file for a period of at least one year after receipt thereof;

(b) Rejection of bids. The purchasing agent or other person authorized to make purchases shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. The purchasing agent or other person authorized to make purchases may reject the bid of a contractor who is in default on the payment of taxes, licenses or other money due the city;

(c) Award of contract. The purchasing agent or, subject to the limitations of paragraph (a)(3) of this Section, other persons authorized to make purchases shall have authority to award contracts within the purview of this Section, provided that contracts for more than \$25,000 with sole source providers or for which only one complete responsive bid was received shall be awarded only after authorization by the city council;

(d) Performance bonds. The provisions regarding performance bonds contained in Section 41-23 of this Code are hereby incorporated into this Section.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 17, 2014)

Councilor Hartman moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 8

Nays: Councilor Fosle -- 1

Passed December 16, 2013  
Approved December 16, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10270**

AN ORDINANCE GRANTING TO SCALZO PROPERTIES, LLC, A CONCURRENT USE PERMIT FOR TWO OFF STREET PARKING SPACES LOCATED IN THE EAST FIFTH STREET PUBLIC RIGHT-OF-WAY.

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions

## PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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hereinafter set forth, permission is granted to Scalzo Properties, LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Two off street parking spaces on the East Fifth Street public right-of-way, each one being nine feet wide and 18 feet deep, at 1527 East Fifth Street, Parcel Number 010-1480-08610, as shown in Public Document No. 13-1216-18.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

- (a) Homeowner's liability insurance in an amount not less than \$300,000; and
- (b) Insurance coverage shall include all permittee's activities occurring upon or within public right-of-way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and
- (c) The insurance policy shall be approved by the city attorney; and
- (d) The policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and
- (e) The city of Duluth shall be named as an additional insured; and
- (f) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to save harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

**PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013**

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Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 13-1216-18; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as to in no way interfere with or damage any portion of any public improvement, or other public utilities now or hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect.

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 17, 2014)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed December 16, 2013  
Approved December 16, 2013  
DON NESS, Mayor

ATTEST:  
JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10271**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RESIDENTIAL-PLANNED (R-P) TO MIXED USE-PLANNED (MU-P), THE PROPERTY LOCATED AT 201 CLOVER STREET.

The city of Duluth does ordain:

Section 1.

(a) The property located at 201 Clover Street includes the eastern portions of the 900 through 1200 blocks of Woodland Avenue, the northern portions of the 200 block of Clover Street, the northwestern portions of the 2500 through 2700 block of Eighth Street East, and the southern portions of the 100 block of Elizabeth Street;

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(b) The property was previously zoned R-1 and R-2 in 2012;

(c) BlueStone Commons, LLC, BlueStone Lofts, LLC, Woodland Commons, LLC, and Village Center Development, LLC (the "property owner") petitioned the city of Duluth to rezone the properties from R-1 and R-2 to Residential-Planned (R-P) in 2012;

(d) As a requirement of the R-P district, the property owner submitted a regulating plan dated May 24, 2012, and amendments dated August 27, 2012, December 21, 2012, and June 19, 2013, containing all items required under UDC Section 50-14.7;

(e) The city of Duluth land use supervisor approved property owner's regulating plan on May 24, 2012, which governs the location, type, intensity of proposed development and a description of public amenities or benefits to be constructed at the property following rezoning to R-P;

(f) In accordance with Ordinance No. 10150, the property was rezoned to Residential-Planned (R-P) on April 23, 2012;

(g) The property owner (or its affiliated entities), acting in accordance with the approved regulating plan, have caused the construction of Phase 1 and Phase 2 of the development at the property (BlueStone Lofts and the Shops at Bluestone) in accordance with the regulating plan, as amended.

Section 2. That the subject property described below:

LOT 1, BLOCK 6, MOUNT ROYAL DIVISION OF DULUTH AND LOT 8, BLOCK 19, WILLARD'S ADDITION TO DULUTH

LOTS 2 AND 3, BLOCK 6, MOUNT ROYAL DIVISION OF DULUTH

LOTS 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26, BLOCK 2 AND LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 AND 14, BLOCK 3 AND 7, 8, 9, 10, 11 AND 12, BLOCK 8, CLOVER HILL DIVISION OF DULUTH

LOTS 4, 5, 6, 7, 8 AND 9, BLOCK 9, CLOVER HILL DIVISION OF DULUTH

LOTS 1, 14, 15, 16 AND EASTERLY HALF OF LOT 13, BLOCK 18, WILLARD'S ADDITION TO DULUTH AND LOTS 15, 16 AND EASTERLY HALF OF LOT 14, BLOCK 4, CLOVER HILL DIVISION OF DULUTH

LOTS 11 AND 12, BLOCK 9, CLOVER HILL DIVISION OF DULUTH

LOT 3, BLOCK 9, CLOVER HILL DIVISION OF DULUTH

ALL OF BLOCK 5, CLOVER HILL DIVISION OF DULUTH

LOTS 1 AND 2, BLOCK 4, CLOVER HILL DIVISION OF DULUTH

LOTS 1 THROUGH 5, BLOCK 8, CLOVER HILL DIVISION OF DULUTH

LOT 5, BLOCK 2, CLOVER HILL DIVISION OF DULUTH

LOTS 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 AND WEST HALF OF 14, BLOCK 4, CLOVER HILL DIVISION OF DULUTH AND LOTS 12 AND WEST HALF OF LOT 13, BLOCK 18, WILLARD'S ADDITION TO DULUTH

LOT 6, BLOCK 8, CLOVER HILL DIVISION OF DULUTH

LOTS 1 AND 2, BLOCK 9, CLOVER HILLS DIVISION OF DULUTH

LOT 10, BLOCK 9, CLOVER HILL DIVISION OF DULUTH

LOTS 1, 2, 3, AND 4, BLOCK 2, CLOVER HILL DIVISION OF DULUTH

VACATED JACKSON STREET, SUMMIT PLACE AND ALLEYS IN CLOVER HILLS DIVISION OF DULUTH

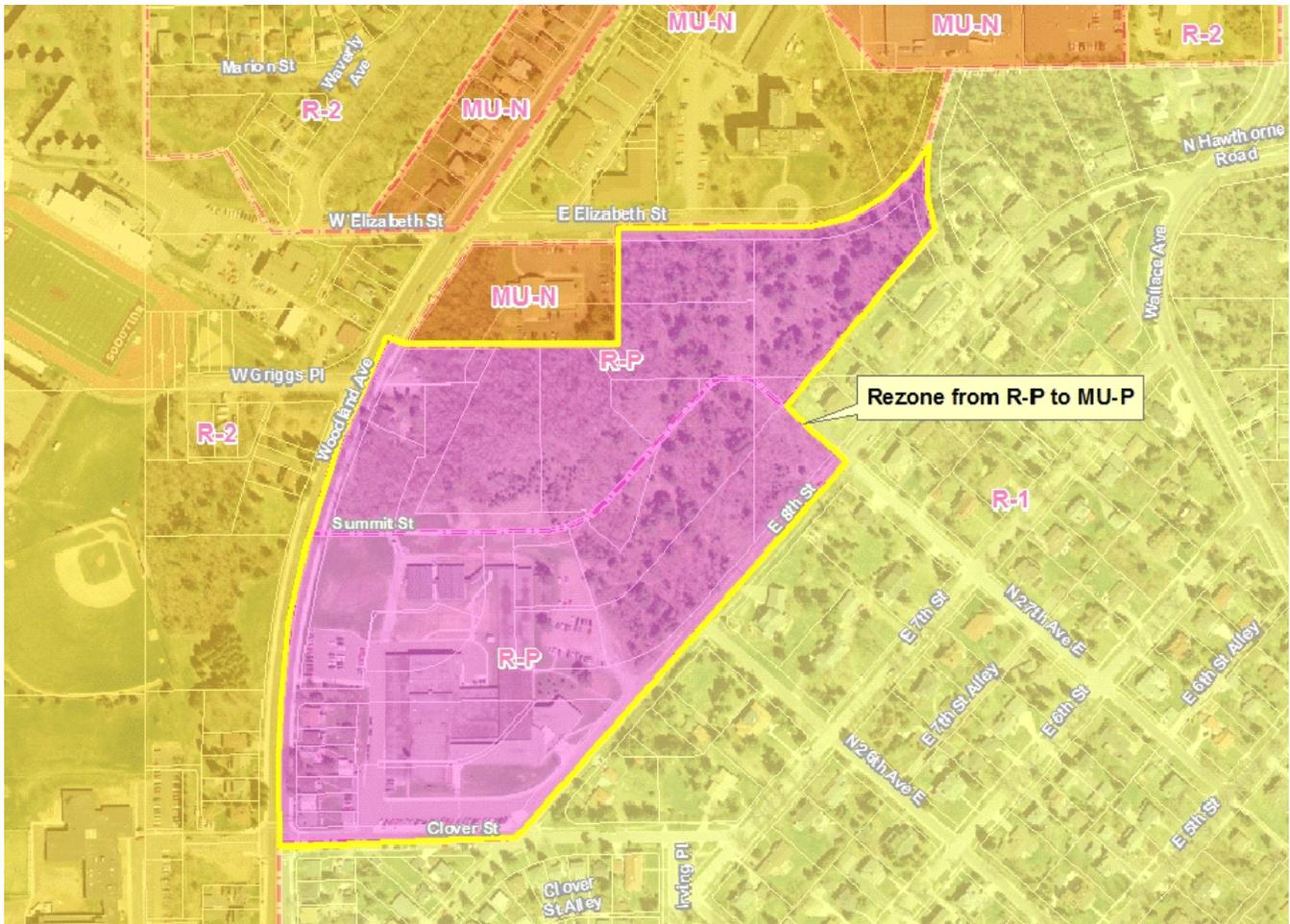
BLOCKS 18 AND 19 MOTOR LINE DIVISION OF DULUTH, EXCEPT THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF LOT 11, BLOCK 18 OF SAID MOTOR LINE DIVISION OF DULUTH; THENCE NORTH 89

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WITH THE EAST LINE OF SAID LOT 11 AND ITS SOUTHERLY EXTENSION A DISTANCE OF 133.04 FEET TO THE CENTERLINE OF THE ALLEY LYING BETWEEN SAID BLOCKS 18 AND 19; THENCE SOUTH 00

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Section 3. The regulating plan submitted by the property owner in 2012, and as subsequently amended on August 27, 2012, December 21, 2012, and June 19, 2013, by the land use supervisor, contains all required regulating plan content required for the MU-P district under UDC Section 50-15.7(G).

Section 4. The city of Duluth acknowledges and agrees that the existing phasing plan, proposed uses, dimensional standards, development standards, building height and setback restrictions, site plans including drive-throughs, road plans, utility plans, sewer plans, water plans, storm water plans, runoff plans, grading plans, preservation plans, circulation plans, maintenance plans, conservation plans, parking plans and parking ratios, traffic management plans and studies, natural features, open space features, public and private amenity features, building types, form based regulations, architectural design requirements and any other plan submitted or approved under the regulating plan, as well as any and all assurances, protections, agreements and R-P amendments are “grandfathered” and shall continue in full force and effect and remain applicable to the properties following the rezoning to MU-P. Furthermore, the property owner shall not be required to satisfy or comply with those added requirements or standards of the MU-P regulating plan or the Higher Education Overlay District.

Section 5. Should the property owner desire to further amend the regulating plan, property owner may do so in accordance with Section 50-37.11 “Planning review--general.”

Section 6. For definitional purposes, under Chapter 50 of the Duluth City Code, 1959, as amended, the properties shall, in their entirety, be considered “redevelopment.”

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Section 7. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 18, 2014)

Councilor Stauber moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

Passed December 16, 2013  
Approved December 16, 2013  
DON NESS, Mayor

ATTEST:

JEFFREY J. COX, City Clerk

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**ORDINANCE NO. 10272**

BY COUNCILOR KRUG:

AN ORDINANCE AMENDING SECTIONS 33-77 AND 33-88.2 OF THE DULUTH CITY CODE, 1959, AS AMENDED, REGARDING THE ESTABLISHMENT OF PARKING SPACES FOR THE PHYSICALLY DISABLED.

The city of Duluth does ordain:

Section 1. That Section 33-77 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 33-77. Powers and duties.

The Duluth parking commission shall have the following powers and duties:

(a) To provide strategic oversight and guidance to the operations of the city's parking operations and functions;

(b) To investigate and study on and off street parking problems of broad significance occurring in the city of Duluth and to make recommendations to the administration and city council concerning the solution of such problems;

(c) To facilitate the implementation of recommendations of earlier parking problem study groups if such recommendations have not been implemented but remain valid and desirable after the parking commission is formed;

(d) To establish rates to be charged for parking meters and for city owned parking lots and ramps;

(e) To establish the following parking rates and regulations for city street, for city parking meters and for city owned parking lots and ramps:

(1) Parking times and limits;

(2) Parking meter locations;

(3) Establishment of no parking, loading or drop-off zones;

(4) Establishment of seasonal parking regulations and times;

(5) Establishment of parking spaces for physically disabled

persons:

(f) To perform any functions, duties and/or studies concerning parking problems that it is requested to perform by the administration or the city council;

(g) Work toward improving the availability, ease and perception of parking throughout the city;

PROCEEDINGS OF THE DULUTH CITY COUNCIL FOR 2013

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(h) To review and recommend to city administration the annual budgets for the city's parking operations.

Section 2. That Section 33-88.2 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 33-88.2. Parking zones for physically disabled persons.

The parking commission may, by resolution, establish parking spaces for the exclusive use of physically disabled persons who have been issued a vehicle license plate, certificate, permit or insignia by the Minnesota department of public safety pursuant to Minnesota Statutes, Section 169.345, Subdivision 3, or Section 168.021. On streets where alternate side parking is in effect pursuant to Section 33-97.8 of this Chapter, the parking commission may provide for physically disabled parking spaces which are effective only when parking on that side of the street is allowed under alternate side parking regulations.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: January 17, 2014)

Councilor Krug moved passage of the ordinance and the same was adopted upon the following vote:

Yeas: Councilors Fosle, Gardner, Hanson, Hartman, Julsrud, Krug, Larson, Stauber and President Boyle -- 9

Nays: None -- 0

ATTEST:  
JEFFREY J. COX, City Clerk

Passed December 16, 2013  
Approved December 16, 2013  
DON NESS, Mayor

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