



**Planning & Development Division**  
Planning & Economic Development Department

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Date: October 29, 2020 (Revised November 10, 2020)

To: Planning Commission

From: Steven Robertson, Senior Planner

RE: Proposed UDC Text Amendments for Consideration, PL 20-172

Planning Staff are proposing a number of changes to the Unified Development Chapter. The proposed changes reflect efforts at correcting identified errors or omissions, updating the code to reflect suggestions through Imagine Duluth 2035, and suggestions from city staff for improving the code. The proposed changes will be submitted as two separate ordinances, and summarized broadly below (noted that the proposed text change is highlighted in yellow in addition to the underline/strikeout format).

PL 20-172, Amending the UDC to Address Floodplains, Solar, and Dwellings in the Context of Primary Uses and Accessory Structures and Uses, and Administration of Vacations and Concurrent Use Permits, Heritage Preservation, Circulation, and Land Use Supervisor Interpretations

#### **50-7.2 One principal structure per lot.**

Except as specifically provided in this Chapter, every structure erected or altered after November 19, 2010, shall be located on a lot as defined in this Chapter. There shall be only one principle structure on one lot unless a specific exception is stated in this UDC.

Accessory structures shall not be constructed or occupied prior to the construction and occupation of the principle structure without prior written approval from the Land Use Supervisor unless allowed in 50-20.5.J. The Land Use Supervisor may attach reasonable conditions to the approval, which shall include but is not limited to a financial security to guarantee removal of the accessory structure if the principle structure is not constructed within two years of the accessory structure's construction.

#### **50-10 Interpretation.**

1. The land use supervisor shall be authorized to interpret the provisions of this Chapter unless a different city official is specifically designated in this Chapter to make a particular interpretation. The decisions of the land use supervisor are subject to appeal as described in Article V. 50-37.1.L.
2. Land use supervisor interpretations affecting specific projects or property. Notice shall be provided by first class mail to owners of property located within 100 feet of any land use supervisor interpretations when the land use supervisor determination is limited in application to a specific project or property. The notice shall be mailed within 10 days of the date the interpretation is made. This requirement does not apply to land use supervisor determinations made under Section 50-37.1.L.
3. A notice of an interpretation of the land use supervisor that is not limited to any one subject property but applies to an area or region of the city such as all property within a specific zone district, shall be noticed in a newspaper of general circulation at least twice within 21 days of the date of the interpretation, and shall also be published on the City's website within 10 days of the date of the interpretation being made.
4. Notices under this section shall not be deemed to be effective until the later of the date of mailing or publication.

## 50-15.6.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;
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 50-22.5.D.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. For any development, redevelopment, or expansion of an existing structure or use, the parking requirements in Section 50-24 shall be met without use of the reduction allowed by 50-24.3, adjustment to required off-street parking. However, the required parking may be reduced as allowed by 50-24.3 only if the applicant can demonstrate to the Land Use Supervisor's satisfaction that nearby properties provide sufficient supplemental off-street parking or that all the parking needs generated by the use can be met on site.

## 50-18.1.C Floodplain

### 1. Compliance.

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

### 2. Uses and special use permits – floodway.

#### (a) Permitted uses in floodway.

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

- (i) Agriculture;
- (ii) Industrial, commercial and mixed use loading areas, parking areas and airport landing strips;
- (iii) Outdoor open space, recreation, and entertainment facilities and structures;
- (iv) Residential lawns, gardens, parking areas and play areas;

#### (b) Special uses in floodway.

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

- (i) Structures accessory to a permitted use as listed in 50-18.1.C.2.a;
- (ii) Mining, extraction and storage of sand, gravel and other materials;
- (iii) Marina or yacht club or accessory residential boat dock;
- (iv) Railroad yard or shipyard and related facilities, electric power transmission lines, major utilities or wireless communication towers and minor utilities and accessory wireless antennas attached to existing structures;
- (v) Bulk storage not listed elsewhere;
- (vi) Placement of fill or construction of fences;

- (vii) Road-ready recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 50-20;
- (viii) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures;

**Note: Change UDC Permitted Use Table to allow Solar as special use in R-C, RR-2, and P-1 zone district**

#### **50-20.5.1 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~~ 1,000 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. Ground mounted solar collectors that serve either a government building or public safety building, or water or sewer pumping stations or treatment facilities, are exempt from this requirement;
  - 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;
  - 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;

50-20.5.J 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 R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house;
3. In the MU-N district and all residential districts, accessory buildings shall be subject to the following restrictions:
  - a) Except for truckload or trailer-load retail sales lasting less than 30 days where allowed, 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;
4. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
  - a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
  - b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business;
5. 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;
6. 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;
7. If a principal structure is demolished or removed, any subordinate existing accessory structure must be demolished or removed within two years of the date of the principal structure being demolished or removed.

## 50-23 CONNECTIVITY AND CIRCULATION.

### 50-23.2 General circulation requirements.

Applications for subdivision, replatting, RLS, development, or redevelopment shall meet the following standards: Where adopted city plans show a bicycle or pedestrian path or trail or sidewalk, the site design shall provide connections to those paths or trails or sidewalks;

Any requests by the city for designation or dedication of land for bicycle or pedestrian trails within a proposed development shall comply with the provisions of Section 50-33.8, *Land for public purposes*;

Unless the city engineer waives the requirement in writing based on concerns of public safety, or due to site/ topography constraints:

Each proposed street within a new subdivision, regardless of zoning designation, shall be public and designed and constructed to city engineer construction standards.

Each proposed public or private street within the R-1, R-2, R-P, MU-P, MU-N, MU-C, MU-I or MU-W districts shall include a sidewalk at least five feet wide on both or a multi-use trail at least eight feet wide on at least one side of the street, subject to the determination of the City Engineer. If practical, the sidewalk or multi-use trail shall be set back from the edge of curb by at least four feet to allow room for snow storage and landscape features unless it cannot reasonably be done because of the physical restraints of the property. :

Each proposed public or private street within the MU-B, I-G or I-W districts shall include a sidewalk at least five feet wide on one side of the street or a multi-use trail at least eight feet wide;

Proposed public or private sidewalk and multi-use connections shall use the most direct path practical.

Whenever cul-de-sac streets are created, one ten foot wide pedestrian access/public utility easement shall be provided, between the cul-de-sac head or street turnaround and the sidewalk system of the closest adjacent street or pedestrian sidewalk or pathway, unless the city engineer determines that public access in that location is not practicable due to site or topography constraints (refer to Figure 50-23-A);

A pedestrian way at least ten feet in width shall be provided near the middle of any block face longer than 800 feet in order to provide connections with streets on either side of the block;

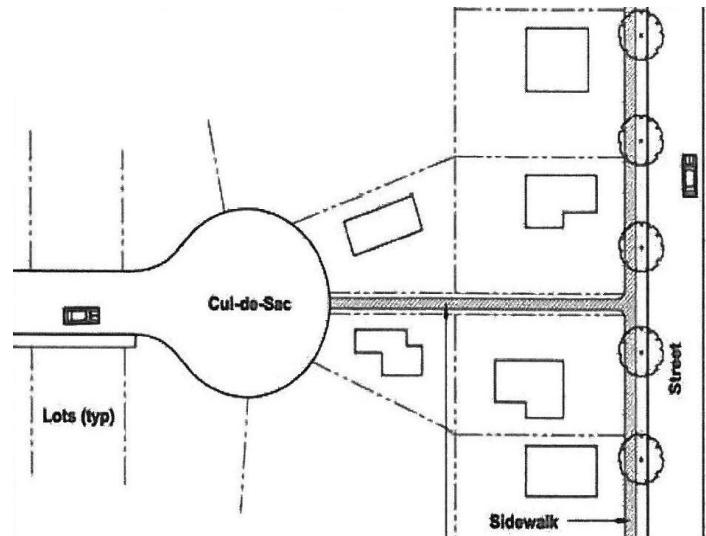


Figure 50-23-A: 10 ft. access easement from head of cul-de-sac to nearest street or path

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

1. General provisions for appeal to planning commission.

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

2. Exceptions.

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

3. Powers of planning commission on appeal.

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

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

## 50-37.6 Vacation of street.

This Section applies to all applications to vacate a public street, highway or utility easement. This Section is intended to comply with the provisions of City Charter Section 100.

### A. Application.

1. An application for vacation of a public street, highway or utility easement **may be made by the City or** must be accompanied by a petition of the person or persons who own a majority of the lineal frontage of the land abutting the portion of the street, highway or utility easement proposed to be vacated.
2. The application shall be filed with the city and forwarded to the planning commission for review;
3. Other application provisions of Section 37.1.B shall apply to the extent they are consistent with subsections 1 and 2 above;

### Procedure.

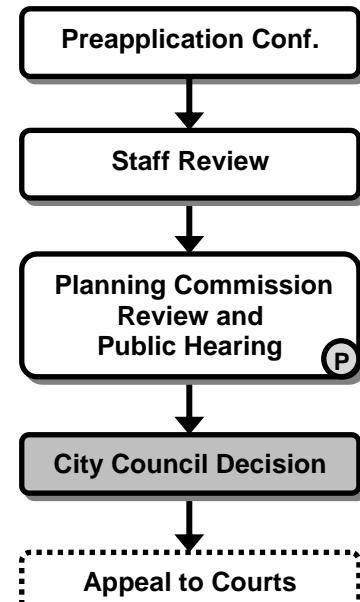
1. Review and recommendation. The city **assessor** shall review the application to determine the sufficiency of the signatures on the petition. The planning commission shall review the application, conduct a public hearing on the proposed vacation pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a recommendation to council based on whether the petition meets the criteria in subsection C below;
2. Council decision. Upon receipt of the planning commission recommendation, and a copy of the vacation plat prepared by the applicant and approved by the city engineer, the council shall make a final decision by resolution pursuant to Section 100(b)5 of the City Charter. Failure to present a vacation plat meeting the city engineer's requirements to the land use supervisor within 90 days of the planning commission's recommendation shall result in the application being denied;
3. Recording. After approval of the vacation, the city clerk shall file the vacation plat and authorizing resolution in the office of the county recorder;

### Criteria.

The planning commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10153, 5-14-2012, § 15.)

## Vacation of Street



**P** Indicates Public Hearing Required

## **50-37.7 Concurrent use of streets permit.**

This Section applies to all applications for construction of a skywalk and to any other application requesting that the city approve the concurrent use of the street surface, right-of-way or the air rights above the street or the land beneath the street, but shall not apply to the following:

1. Use of a portion of a public sidewalk for a café, eating area, transit shelter or bench, or bicycle parking area, or
2. An awning, canopy, marquee or wall sign, including building mounted exterior lights that conform to the limits of 50-31 and that provide illumination to an awning, canopy, marquee, or wall sign, extending not more than 18 inches into the public street right-of-way, or an awning or canopy of canvas, canvas-like material, nylon or vinyl-coated fabric extending into the public street right-of-way, up to the limits established by Section 50-27, and
3. HVAC air ducts, vents, and related vent covers/hoods painted to match the color of the building where they are mounted, but not including mechanical units (ie. condensers) and motors, extending not more than 18 inches into a public alley right-of-way and having a vertical clearance of at least twelve feet six inches (12'6") over the surface of the alley.

### **B. Application.**

An application for concurrent use of streets shall be filed pursuant to Section 50-37.1.B;

### **C. Procedure.**

#### 1. Review and recommendation.

The planning commission shall review the petition, 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 make a recommendation to council based on whether the application meets the criteria in subsection C below;

#### 2. Council decision.

Upon receipt of the planning commission recommendation, the council shall make a decision to approve, approve with modifications or deny the application, in whole or part, based on the criteria in subsection C below. The council action shall be by ordinance;

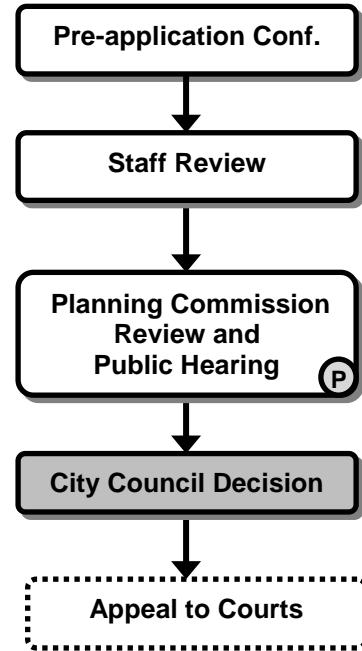
### **D. Criteria.**

The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.
4. For requests for off-street parking in a public street right of way, a concurrent use permit may be granted in the following circumstances:
  - (a) Where overnight on-street parking is prohibited within that portion of the street frontage abutting the property; and
  - (b) Where the distance between the principle structure and the public street right of way is 18 feet or less; and
  - (c) Where access to the side or rear yard is not possible due to the presence of the principle structure and the lack of an improved alley; and
  - (d) Where a site plan has been submitted showing the arrangement of parking, landscaping, and pedestrian access to the property meeting the following standards:

- (i) The parking area must be at least 9 feet wide by 17 feet deep, including any extension of the parking space from the public right of way into the abutting private property, and must not block existing or proposed public improvements such as sidewalks or streets;

## **Concurrent Use of Street Permit**



**P** Indicates Public Hearing Required

- (ii) The parking area width must not exceed 55% of the lot width;
- (iii) The parking area must be improved with bituminous, concrete, or similar materials or pervious paving system;
- (iv) A paved walkway at least 3 feet wide must be provided that links the front entrance of the dwelling and the street;
- (v) A wall, fence or dense vegetative screen at least 3 feet tall and at least 75% opaque must be provided to screen parked vehicles from view of abutting properties;
- (vi) Barriers must be installed to prevent vehicles from overrunning the parking and driveway areas, such barrier may be a fence, wall or raised curbing (or concrete parking bumpers when secured to the underlying pavement);
- (e) A placard with a diagram no less than 5 inches by 7 inches showing the location and arrangement of parking spaces shall be visible at all times from the exterior of the dwelling; such placard shall be on all-weather media and installed on the front exterior door at an elevation of between 2 feet and 6 feet above the threshold;
- (f) The applicant must sign a document acknowledging that private improvements installed in the public right of way may be removed by the City if needed for installation or repair of public improvements or if the applicant violates the terms of the permit.

## 50-37.8 Historic resource designation.

### A. 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;

### 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, 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 commissioner'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 Preservation Plan.

Within one year of approval of the designation, a preservation plan must be submitted by the applicant of the historic resource designation to the Heritage Preservation Commission for review. The Heritage Preservation Commission may approve, approve with modifications, or deny the preservation plan;

#### 5 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 that also have an approved preservation plan. 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;

## Historic Resource Designation

Pre-Application Conf.

Application

HPC Review  
and Public  
Hearing

PC  
Review

City Council Decision

Appeal to Courts

P Indicates Public  
Hearing Required

This Section applies to an accessory home share permit for the offering or advertising, for trade or sale, of a habitable room or space in an owner-occupied dwelling for a period of 29 days or less;

**B. Application.**

An application for an accessory home share permit shall be filed pursuant to Section 50-37.17;

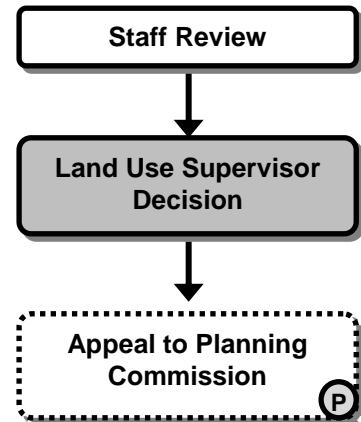
**C. Procedure.**

The land use supervisor shall review and make a decision on an application based on the criteria in subsection 50-205.5.G. The land use supervisor may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;

**D. Criteria.**

An application for a certificate of occupancy shall be filed pursuant to Section 50-37.1.B; (Ord No. 10466, 4-11-2016, 3)

**Accessory Home Share Permit**



**P** Indicates Public Hearing Required