

**MINUTES OF THE REGULAR MEETING
OF THE DULUTH CITY COUNCIL**

June 1, 2015

Duluth City Council meeting held on Monday, June 1, 2015, 7:00 p.m. in the Council Chamber, City Hall, Duluth, Minnesota.

Roll call: Present: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Absent: None -- 0

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

15-0601-04 Thomas Rectenwald communication regarding the proposed vacation rental at 2525 East First Street (15-0308R). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

15-0601-01 Duluth airport authority minutes of April 28, 2015, meeting. -- Received

15-0601-02 Duluth public utilities commission minutes of April 21, 2015, meeting. -- Received

15-0601-03 Duluth transit authority board minutes of March 25, 2015, meeting. -- Received

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At this time, 7:03 p.m., the public hearing on the proposed tax increment financing (TIF) plan for the Point of Rocks TIF District (an HRA housing district) began.

Rick Ball, executive director of the Housing and Redevelopment Authority of Duluth (HRA) and Aaron Schweiger, developer, summarized the project.

David Bonsman expressed his objections to this project based on competition this project will do to the private sector.

Craig Olson, representing the Duluth Building Trades Council, expressed his concerns that there are no assurances for the Duluth trade unions.

At this time, 7:21 p.m., the public hearing was declared closed.

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RESOLUTIONS TABLED

Councilor Russ moved to remove Resolution 15-0258, of intent to support the request by One Roof Community Housing And Center City Housing Corporation to the state of Minnesota for the award of low-income housing tax credits for the Gateway Tower redevelopment project, from the table, which motion was seconded and carried unanimously.

Resolution 15-0258 was adopted as follows:

RESOLVED, that the Duluth City Council hereby expresses its support for the One Roof and Center City Housing request for funding to the Minnesota housing finance agency for low-income housing tax credits for the Gateway Tower redevelopment project.

Resolution 15-0258 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

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Councilor Russ moved to remove Resolution 15-0259, of intent to support the request by Pastoret LLC to the state of Minnesota for the award of low-income housing tax credits and

intent to support tax increment financing for the Pastoret Terrace project, from the table, which motion was seconded and carried unanimously.

Chief Administrative Officer David Montgomery requested that this resolution be returned to the administration because the developer has requested that it be removed from the agenda.

Councilor Russ moved to remove Resolution 15-0259 from the agenda and return it to the administration, which motion was seconded and unanimously carried.

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Councilor Gardner moved to remove Resolution 15-0264, of intent to support the request by Lutheran Social Services Of Minnesota (LSS) for the award of low-income housing tax credit for the Center Of Changing Lives project, from the table, which motion was seconded and carried unanimously.

Councilor Julsrud stated that she would be abstaining because she is a board member of this organization.

Resolution 15-0264 was adopted as follows:

RESOLVED, that the Duluth City Council hereby expresses its support for Lutheran Social Services of Minnesota (LSS) for the award of low-income housing tax credit for the Center of Changing Lives' request for funding to the Minnesota housing finance agency for low-income housing tax credits and intent to support tax increment financing for the Changing Lives project.

Resolution 15-0264 was adopted upon the following vote:

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Krug, Russ, Sipress and President Larson – 8

Nays: None – 0

Abstention: Councilor Julsrud – 1

Approved June 1, 2015

DON NESS, Mayor

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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 Larson 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 Stretar Masonry and Concrete, Inc., for completion of the Phase II tuckpointing at Wade Stadium, in accordance with plans and specifications provided by TKDA, dated April 28, 2015, and the contractor's low bid of \$590,000, payable from Capital Improvements 450; Finance 030; Improvements Other than Buildings 5530; Project: CP450-WADE - capital projects - other fund contributions, Wade Stadium refurbishment.

Resolution 15-0314 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

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WHEREAS, on July 12, 1993, the city of Duluth (the "city") created its Tax Increment Financing District No. 13 (the "TIF district") within its Development District No. 17 by approval of a tax increment financing plan (the "TIF plan") for the TIF District; and

WHEREAS, the following property, by property identification number, is included in the TIF district: 010-1913-00070

WHEREAS, the city desires by this resolution to amend the TIF plan to remove the above-described parcel from the TIF district, thereby reducing the size thereof; and

WHEREAS, the total current net tax capacity of the parcel to be eliminated from the TIF district equals or exceeds the net tax capacity of that parcel in the district's original net tax capacity and, therefore, this amendment to the TIF plan is accomplished pursuant to Minnesota Statutes, Section 469.175, Subdivision 4, clause (e)(2)(a).

NOW THEREFORE, BE IT RESOLVED by the city that, subject to any required consents, the TIF plan for the TIF district is hereby amended to remove the described parcel and the St. Louis County auditor is hereby requested to remove said parcel from the TIF district and TIF plan, thereof pursuant to Minnesota Statutes, Section 469.175, Subdivision 4, clause (e)(2)(a).

Resolution 15-0300 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

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RESOLVED, that:

(a) The city council hereby grants Phyllis Sherman an interim use permit to operate a vacation dwelling unit located at 940 Lake Avenue South and as described by the following: PID 010-4380-00910; 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 15-059); the commission gave due notice of public hearing and considered the application during a public hearing occurring on May 12, 2015; and

(f) The city planning commission, at their regular meeting on May 12, 2015, 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. The required notice shall note the name, address, and phone number of the managing agent or local contact who resides within 25 miles of the city and who has the authority to respond to complaints 24 hours a day;

(b) The interim use permit shall not be effective until the applicant has received all required licenses and permits for operation, including Minnesota department of revenue tax identification number, Minnesota department of health hotel/motel license, city of Duluth hotel/motel/B&B license, city of Duluth tourism tax permit and city of Duluth fire department operational permit;

(c) Interim use permit holder must keep a guest record including the name, address, phone number and vehicle license plat information for all guests;

(d) Interim use permit holder must disclose in writing to their guests the following: name and contact information for managing agent or local contact, maximum number of guests

allowed at the property, maximum number of vehicles allowed at the property and where they are to be parked, applicable rules for the City Code governing noise, parks, parking and pets and "quiet hours" between 10 pm and 8 am.;

(e) Interim use permit holder must post their permit number on all print, poster, web or other advertisements;

(f) The applicant shall adhere to the terms and conditions listed in the interim use permit document;

(g) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Resolution 15-0307 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

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RESOLVED, that in accordance with the provisions of Section 50-33.6 of the Duluth City Code, 1959, as amended, the following street shall be established:

Public Safety Drive from North Arlington Avenue to Rice Lake Road.

Resolution 15-0311 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with Hibbing Excavating, Inc., for Fourth Street watermain replacements between 12th Avenue East and 16th Avenue East in the amount of \$2,075,901, payable out of Water Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital), Object 5533 (capital improvements - revenue), City Project No. 1378.

Resolution 15-0306 was unanimously adopted.

Approved June 1, 2015

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 Eastridge Estates drainage improvements in the amount of \$277,754.25, payable out of Special Assessment Fund 410, Department/Agency 038 (special assessment contracts), Object 5530 (improvements other than buildings), City Project No. 1435.

Resolution 15-0313 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into the attached agreement, a copy of which is on file in the office of the city clerk as Public Document No. 15-0601-05, with the state of Minnesota through St. Louis County to acquire a culvert easement over that tax forfeit property in St. Louis County, Minnesota, legally described below at a cost of \$1185, payable from 450-030-5530; Project: CP450-ccity-0676tr:

Lots 17 and 18, Block 9, REPLAT OF WILMINTON ADDITION TO WEST DULUTH, except the southerly 188 feet thereof.

Resolution 15-0304 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a permanent easement agreement with the Spirit Valley Land Company, LLC, a copy of which is attached hereto as Exhibit A and is on file in the office of the city clerk as Public Document No. 15-0601-06, at no cost to the city for an easement to construct and maintain a water line on property located in St. Louis County, Minnesota, generally described as being in:

Government Lot 1 and part of the Southwest quarter of the Northeast quarter, Section 23, Township 49 North, Range 15 West, Saint Louis County and part of Lots 22 and 23 in Block 10 in the plat or IRONTON DIVISION.

Resolution 15-0305 was unanimously adopted.

Approved June 1, 2015

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 15-0308, Granting an interim use permit for a vacation dwelling unit at 2525 East First Street (Daniel Neby), was introduced by Councilor Russ for discussion.

Councilor Sipress moved to amend subparagraph (d) of the resolution to delete the phrase "six years" and insert the phrase "one year," which motion was seconded and discussed.

Councilor Russ moved to suspend the rules to hear speakers on the resolution, which motion was seconded and unanimously carried.

Nicole Bakken, Mary Zimmerman, Dennis Lamkin, Cameron Fryer, Mitch Wolfe, Spencer Miller, Susan Dusek, Douglas Fifield and Charles Andresen expressed opposition for the resolution.

The amendment carried as follows:

Yeas: Councilors Filipovich, Fosle, Gardner, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Hanson -- 1

The council stated several reasons for denying the resolution, including the close proximity between the property and the neighbor's patio as well as the concerns with the comprehensive plan that were articulated by Attorney Andresen and Dennis Lamkin.

Resolution 15-0308, as amended, failed unanimously (Public Document No. 15-0601-13).

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Resolution 15-0315, approving a tax increment financing plan for the Point of Rocks Tax Increment Financing District as proposed by the Housing and Redevelopment Authority of Duluth, Minnesota, was introduced by Councilor Russ.

President Larson moved to table the resolution, which motion was seconded and carried as follows:

Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 8

Nays: Councilor Fosle -- 1

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RESOLVED, that in accordance with the provisions of Section 33-40 of the Duluth City Code, 1959, as amended, the following lanes of traffic are established:

On Pecan Avenue, between East Central Entrance and Rice Lake Road, and following the scheduled full depth reclamation of the avenue's surface, the avenue shall be striped with one driving lane in each direction, with two painted and independent bike lanes, and with a middle turning lane.

Resolution 15-0309 was adopted upon the following vote:
Yeas: Councilors Filipovich, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson – 8
Nays: Councilor Fosle – 1
Approved June 1, 2015
DON NESS, Mayor

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Resolution 15-0312, authorizing city officials to apply for, accept, and execute a grant agreement from the Lessard-Sams Outdoor Heritage Council for restoration of Buckingham Creek, establishment of a new water supply and storage facility for Enger Park Golf Course, and acquisition and restoration of Independent School District #709 southeast parcels adjoining Hartley Park, was introduced by Councilor Sipress.

Councilor Sipress moved to remove the resolution from the agenda and return it to the administration as per their request, which motion was seconded and unanimously carried.

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INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

INTRODUCED BY COUNCILOR FILIPOVICH

15-046 - AN ORDINANCE TO AMEND THE BUDGET OF THE CITY OF DULUTH FOR YEAR 2015 BY INCREASING THE BUDGET AND APPROPRIATING MONIES FOR THE PAYMENT OF SUCH INCREASE.

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BY COUNCILORS RUSS, GARDNER AND SIPRESS

15-047 - AN INTERIM ORDINANCE PURSUANT TO MINN. STAT. § 462.355, SUBD. 4, AUTHORIZING A PLANNING STUDY OF THE CITY'S OFFICIAL CONTROLS RELATED TO VACATION DWELLING UNITS AND IMPOSING A MORATORIUM ON NEW PERMITS FOR VACATION DWELLING UNITS PENDING COMPLETION OF THE STUDY.

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

David Wade, Theresa Hanson, Jeremy and Trish Paggen and Justin Morrell felt that vacation rentals are not a problem and a positive experience.

Ken Aparicio expressed a concern that vacation rentals be regulated to insure that safety and health conditions are met.

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The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR HANSON

15-035 (10378) - AN ORDINANCE AMENDING CHAPTER 8, SECTION 43, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CONSUMPTION AND DISPLAY PERMITS.

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

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INTRODUCED BY COUNCILOR RUSS

15-036 (10379) - AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR AN APPROXIMATELY NINE FEET BY 47 FEET STRUCTURE (FORMER BUS SHELTER) LOCATED IN THE NORTH SECOND AVENUE EAST PUBLIC RIGHT-OF-WAY.

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

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INTRODUCED BY COUNCILOR RUSS

15-037 (10380) - AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR UNDERGROUND VAULTS LOCATED IN THE RIGHT-OF-WAY OF EAST SUPERIOR STREET (APPROXIMATELY 188 FEET BY 14 FEET) AND NORTH SECOND AVENUE EAST (APPROXIMATELY 84 FEET BY 13 FEET), ADJACENT TO THE NORSHOR THEATRE.

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

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INTRODUCED BY COUNCILOR RUSS

15-038 (10381) - AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR THE TEMPLE OPERA/NORSHOR THEATRE BUILDINGS, WHICH PROTRUDE INTO THE REAR ALLEY APPROXIMATELY 0.4 FEET AND INTO SUPERIOR STREET A DISTANCE RANGING FROM 0.3 FEET TO 1.1 FEET.

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

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INTRODUCED BY COUNCILOR RUSS

15-039 (10382) - AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR THE EXISTING MARQUEE WHICH EXTENDS APPROXIMATELY 11 FEET INTO EAST SUPERIOR STREET.

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

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INTRODUCED BY COUNCILOR RUSS

15-040 (10383) - AN ORDINANCE GRANTING TO SPIRIT MOUNTAIN A CONCURRENT USE PERMIT FOR A 36 INCH PRIVATE WATER LINE LOCATED ON THE PUBLIC RIGHT OF WAY OF A PLATTED AND UNIMPROVED ALLEY AT THE 8500 BLOCK OF GRAND AVENUE (SPIRIT MOUNTAIN AREA RECREATION AUTHORITY).

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

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INTRODUCED BY COUNCILOR RUSS

15-041 (10384) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO RR-2 PROPERTY ALONG NORTH 87TH AVENUE WEST IN BAYVIEW HEIGHTS (JEREL FINEOUT).

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

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INTRODUCED BY COUNCILOR RUSS

15-042 (10385) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1 BLOCKS 9, 10, 11 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION (HAMILTON TAYLOR HOMES).

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

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INTRODUCED BY COUNCILOR RUSS

15-043 (10386) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1, BLOCK 8 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION(CITY OF DULUTH).

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

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INTRODUCED BY COUNCILOR RUSS

15-044 (10387) - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N PROPERTY AT 1501 KENWOOD AVENUE, 15 WEST CLEVELAND STREET AND 1428 ARROWHEAD ROAD (KENWOOD VILLAGE LLC).

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

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INTRODUCED BY COUNCILOR JULSRUD

15-045 (10388) - AN ORDINANCE AUTHORIZING THE EXCHANGE OF PROPERTY ON SOUTH LAKE AVENUE WITH DALE AND ELIZABETH SOLA FOR EXPANSION OF SEWER PUMPING STATION NO. 8.

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

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The meeting was adjourned at 8:48 p.m.

JEFFREY J. COX, City Clerk

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ORDINANCE NO. 10378

AN ORDINANCE AMENDING CHAPTER 8, SECTION 43, OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO CONSUMPTION AND DISPLAY PERMITS.

The city of Duluth does ordain:

Section 1. That Chapter 8, Section 43, of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 8-43. Consumption and display permits.

(a) The city may approve the issuance of a permit under this Section only to:

(1) An applicant who has not, within five years prior to the application, been convicted of a felony or of violating any provision of this Chapter, or Minnesota Statutes Chapter 340A or rule adopted under such chapter;

(2) A restaurant;

(3) A hotel;

(4) An establishment licensed for the sale of 3.2 percent malt liquor;

(5) A club as defined in Section 8-13(d); and

(6) A bed and breakfast establishment as defined in Section 8-13(c);

A club holding an on sale intoxicating liquor license is not eligible for a permit under this Section;

(b) No administrative officer of the city shall grant approval for issuance of any annual consumption and display permit by the liquor control commissioner of the state of Minnesota unless the city council has authorized such approval by resolution after investigation and recommendation regarding such permit application has been made by the alcohol, gambling and tobacco commission pursuant to the procedures set forth in Section 8-7 of this Chapter;

(c) The permit holder shall pay a fee, which shall be set in accordance with Section 31-6(a) of this Code, annually to the city in addition to any fee paid to the state. The fee payable to the city shall be paid prior to the beginning of operation and prior to April 1 of the following and each succeeding year;

(d) The provisions and regulations of sections 8-15, 8-16, 8-17, 8-18, 8-19, 8-24, 8-26, 8-28, 8-34 and 8-35 shall fully and equally apply and regulate establishments holding a consumption and display permit from the Minnesota state liquor control commissioner;

(e) The city clerk, subject to the requirements of Minnesota law, may issue a one day permit for the consumption and display of intoxicating liquor to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization;

(f) A permit issued pursuant to this Section permits the consumption and display of intoxicating liquor on the premises. The permit does not authorize the sale of intoxicating liquor.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

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ORDINANCE NO. 10379

AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR AN APPROXIMATELY NINE FEET BY 47 FEET STRUCTURE (FORMER BUS SHELTER) LOCATED IN THE NORTH SECOND AVENUE EAST 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 hereinafter set forth, permission is granted to NorShore Theatre LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) An existing structure approximately nine feet wide by 47 feet long attached to the building at Two North Second Avenue East and protruding into the right-of-way of North Second Avenue East, as shown in Public Document No. 15-0601-07.

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 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 hold 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 right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-07; 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; and

(c) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission or city council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

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: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

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ORDINANCE NO. 10380

AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR UNDERGROUND VAULTS LOCATED IN THE RIGHT-OF-WAY OF EAST SUPERIOR STREET (APPROXIMATELY 188 FEET BY 14 FEET) AND NORTH SECOND AVENUE EAST (APPROXIMATELY 84 FEET BY 13 FEET), ADJACENT TO THE NORSHOR THEATRE.

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 NorShore Theatre, LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) Underground vaults located under East Superior Street (approximately 188 feet by 14 feet) and North Second Avenue East (approximately 84 feet by 13 feet), adjacent to the NorShor Theatre, as shown in Public Document No. 15-0601-08.

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 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 hold 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 right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-08; 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; and

(c) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission or city council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

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: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

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ORDINANCE NO. 10381

AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A CONCURRENT USE PERMIT FOR THE TEMPLE OPERA/NORSHOR THEATRE BUILDINGS, WHICH PROTRUDE INTO THE REAR ALLEY APPROXIMATELY 0.4 FEET AND INTO SUPERIOR STREET A DISTANCE RANGING FROM 0.3 FEET TO 1.1 FEET.

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 NorShore Theater LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) The existing Temple Opera/NorShor Theatre Buildings, which protrude into the rear alley approximately 0.4 feet and into Superior Street a distance ranging from 0.3 feet to 1.1 feet, as shown in Public Document No. 15-0601-09.

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 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 hold 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 right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-09; 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; and

(c) Any alterations to the approved plans that do not alter major elements of the plan may be approved By the land use supervisor without further planning commission or city council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

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: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

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ORDINANCE NO. 10382

AN ORDINANCE GRANTING TO NORSHOR THEATRE, LLC, A
CONCURRENT USE PERMIT FOR THE EXISTING MARQUEE
WHICH EXTENDS APPROXIMATELY 11 FEET INTO EAST
SUPERIOR STREET.

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 NorShore Theatre LLC, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) The existing marquee, which extends approximately 11 feet into E Superior Street, as shown in Public Document No. 15-0601-10

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 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 hold 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 right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-10; 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; and

(c) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the land use supervisor without further planning commission or city council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

(d) Plans for the building marquee shall be reviewed and approved by the City of Duluth Heritage Preservation Commission for historic appropriateness prior to receiving a building permit.

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: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

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ORDINANCE NO. 10383

AN ORDINANCE GRANTING TO SPIRIT MOUNTAIN A CONCURRENT USE PERMIT FOR A 36 INCH PRIVATE WATER LINE LOCATED ON THE PUBLIC RIGHT-OF-WAY OF A PLATTED AND UNIMPROVED ALLEY AT THE 8500 BLOCK OF GRAND AVENUE (SPIRIT MOUNTAIN AREA RECREATION AUTHORITY).

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 Spirit Mountain Mountain Area Recreation Authority, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A 36 inch water line in the public right-of-way, located on a 20 feet by 30 feet area of the platted right-of-way of an unimproved alley in Block 10 of the Ironston 1st Division, as shown in Public Document No. 15-0601-11.

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 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 hold 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 right-of-way or easement shall be limited to the designated area described in Section 1 above and further shown on Public Document No. 15-0601-11; 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 right-of-way 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: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

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ORDINANCE NO. 10384

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM RR-1 TO RR-2 PROPERTY ALONG NORTH 87TH AVENUE WEST IN BAYVIEW HEIGHTS (JEREL FINEOUT).

The city of Duluth does ordain:

Section 1. That approximately ten acres of land located on the west side of North 87th Avenue West south of Saint Louis River Road and as more particularly described as follows:

South Half of Northwest Quarter of Northeast Quarter of Southwest Quarter, Section 2, Township 49 North, Range 15 West, in Saint Louis County, Minnesota; and

North Half of Southwest Quarter of Northeast Quarter of Southwest Quarter, Section 2, Township 49 North, Range 15 West, in Saint Louis County, Minnesota; be reclassified from Residential-Rural 1 (RR-1) to Residential-Rural 2 (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:



(Ref. File No. 15-065)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

ORDINANCE NO. 10385

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1 BLOCKS 9, 10, 11 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION (HAMILTON TAYLOR HOMES).

The city of Duluth does ordain:

Section 1. That approximately ten acres of land located in Coffee Creek and as more particularly described as follows:

Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, Block 7, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota. Including 33 feet of Coffee Creek Boulevard running adjacent to said lots.

And:

Lots 1 and 2 Block 9, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota. Including 33 feet of Coffee Creek Boulevard running adjacent to said lots.

And:

Lots, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 10, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota. Including 33 feet of Coffee Creek Boulevard running adjacent to said lots.

And:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 11, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota. Including 33 feet of Coffee Creek Boulevard running adjacent to said lots;

be reclassified from Residential-Planned (R-P) to Residential-Traditional (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:



(Ref. File No. 15-045)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 1, 2015

Approved June 1, 2015

DON NESS, Mayor

ORDINANCE NO. 10386

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-P TO R-1 BLOCK 8 AND PART OF BLOCK 7, COFFEE CREEK SUBDIVISION (CITY OF DULUTH).

The city of Duluth does ordain:

Section 1. That approximately 9 acres of land located in Coffee Creek and as more particularly described as follows:

Lots 17, 18, 19, 20, 21 and 22, Block 7, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota, together with appurtenant streets, avenues, and alleys thereto;

And

Lots 1, 2, 3, 4, 5 and 6, Block 8, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota, together with appurtenant streets, avenues and alleys thereto;

And

Outlots D, E, K and L, COFFEE CREEK, according to the recorded plat thereof, St. Louis County, Minnesota, together with appurtenant streets, avenues, and alleys thereto; be reclassified from Residential-Planned (R-P) to Residential-Traditional (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:



(Ref. File No. 15-072)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:

JEFFREY J. COX, City Clerk

Passed June 1, 2015

Approved June 1, 2015

DON NESS, Mayor

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ORDINANCE NO. 10387

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-N PROPERTY AT 1501 KENWOOD AVENUE, 15 WEST CLEVELAND STREET AND 1429 ARROWHEAD ROAD (KENWOOD VILLAGE, LLC).

The city of Duluth does ordain:

Section 1. That approximately 1.3 acres of land located at and as more particularly described as follows:

THE SOUTHERLY FOURTEEN (14) FEET OF LOT EIGHT (8) AND ALL OF LOTS NINE (9) AND TEN (10), BLOCK ONE (1), MYERS & WHIPPLES ADDITION TO DULUTH TOGETHER WITH APPURTENANT STREETS, AVENUES AND ALLEYS THERETO; ALL IN THE CITY OF DULUTH, SAINT LOUIS COUNTY, MINNESOTA.

AND

LOTS SEVEN (7) AND EIGHT (8), BLOCK TWO (2), MYERS & WHIPPLES ADDITION TO DULUTH TOGETHER WITH APPURTENANT STREETS, AVENUES AND ALLEYS THERETO; ALL IN THE CITY OF DULUTH, SAINT LOUIS COUNTY, MINNESOTA.

AND

LOTS ONE (1) THROUGH SEVEN (7), BLOCK ELEVEN (11), MYERS & WHIPPLES ADDITION TO DULUTH TOGETHER WITH APPURTENANT STREETS, AVENUES AND ALLEYS THERETO; ALL IN THE CITY OF DULUTH, SAINT LOUIS COUNTY, MINNESOTA;

be reclassified from Residential-Traditional (R-1) 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:



(Ref. File No. 15-060)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

ORDINANCE NO. 10388

AN ORDINANCE AUTHORIZING THE EXCHANGE OF PROPERTY ON SOUTH LAKE AVENUE WITH DALE AND ELIZABETH SOLA FOR EXPANSION OF SEWER PUMPING STATION NO. 8.

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 conveyance of the subject city-owned property described on attached Exhibit A for adjacent property owned by Dale and Elizabeth M. Sola, described on attached Exhibit B, said exhibits substantially in the form of that on file in the office of the city clerk as Public Document No. 15-0601-12, to facilitate the expansion of a sanitary sewer substation on serving Park Point conforms to the city's comprehensive plan;

(b) The city assessor has provided an estimate of value for the property described on Exhibit A in the applicable real estate market indicating that the market value of the property is \$20,000; and

(c) The city council finds that the exchange of the properties described in Public Document No. 15-0601-12 at no cost to either party to allow for the expansion of the sanitary sewer pumping station to be in the best interests of the public and the citizens of the city in that it will be an exchange of property of equal value which will allow the improvement of utility services to the Park Point area.

Section 2. That, pursuant to the provisions of Section 2-177.4 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 on Exhibit A on Public Document No. 15-0601-12, on file in the office of the city clerk to Dale and Elizabeth Sola in exchange for the conveyance to the city by quit claim deed of that property described on Exhibit B on said public document.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: July 9, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 9

Nays: None -- 0

ATTEST:
JEFFREY J. COX, City Clerk

Passed June 1, 2015
Approved June 1, 2015
DON NESS, Mayor

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