





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

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Date: September 21, 2021  
To: Planning Commission  
From: Steven Robertson, Senior Planner  
RE: PL 21-136, Public Hearing and discussion on proposed Vacation Dwelling and Cottage Home regulations

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Proposed changes to the UDC for vacation dwelling homes are based on updates discussed over the past several months with the Commission and City Council. Based on Planning Commission action, the proposed changes will be brought before the City Council for consideration in October or November. This item will be brought back to the Planning Commission at a special public hearing on September 28, 2021. In addition, there will be a public information meeting on Thursday, September 23, 2021, at 6:00 pm. Comments made at that information meeting will be shared with the commission members in advance of the September 28<sup>th</sup> special meeting.

The proposed ordinance amendment would update standards for vacation dwelling units, accessory dwelling units, and accessory home shares, create a new type of vacation dwelling unit called “limited”, and update standards related to cottage home parks. The proposed ordinance change would also amended the process for approving interim use permits, with the Planning Commission being the reviewing and approving authority; currently the City Council approves all interim use permits via resolution.

**Recommendation:**

Staff recommends that the Planning Commission hold a public hearing, discuss the proposed modifications to the UDC and provide further modifications as appropriate, and recommend approval of the UDC updates to the City Council.

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The Planning Staff are recommending a change to the UDC related to vacation dwelling units and related housing items. The proposed changes are shaped, in part, by a City Council resolution giving direction on this topic (21-0558R). The major points of this resolution are:

- A. Interim use permits for vacation dwelling units will be subject to approval by the planning commission, subject to appeal to the city council (similar to the current process for Special Use Permits or Variances);
- B. Limiting the total number of bedrooms in any vacation dwelling unit to not exceed four (4) bedrooms;
- C. Strengthening the Improvements to standard conditions for approval to include a dense urban screen or fence to be in place at the time of approval and to be continuously maintained during the permit period between the permitted property and neighboring properties, to require provision for waste removal services; and to prohibit burning of trash;

- D. Increasing the vacation dwelling unit cap to provide for an increase of 10 percent of the net increase in housing units created in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized under Section 50-37.10 E 4 shall not exceed 120 units;
- E. Retaining the exemption for vacation dwelling units located in form districts; and
- F. The planning commission consider the creation of a new, over-the counter annual permit for short-term vacation dwelling units permitting owners to rent their owner-occupied, homestead property as vacation dwelling units for not more than twenty-one (21) days per year, specified in the permit, with no rental period for no more than seven (7) consecutive days, nor less than two (2) consecutive days, subject to meeting all other applicable inspection and building code requirements for a vacation dwelling unit. A vacation dwelling, limited, would be proposed to be a permitted use in the same non-form district zone districts as a vacation dwelling unit was allowed (RR-1, RR-2, R-1, R-2, and MU-N).

Item D above references the maximum number of vacation dwelling units permitted, which is tied to the number of new housing units added to the market in Duluth. For reference, according to the City of Duluth Housing Indicator Report 2020, issued May 2021, 195 new housing units (of all types) were created in 2020, and 45 housing units (of all types) were demolished in 2020, for a net gain of 150 units created. This number can vary greatly from year to year, from -13 and -62 in 2009 and 2011, to 565 and 493 in 2006 and 2019. The average over the last 18 years, from 2003 to 2020, has been a net gain of 155 units per year.

The exemption for new vacation dwelling units within form districts is maintained under this proposed ordinance change. Form districts (F1-F9) occupy only about 1% of Duluth's land area, as opposed to 32% for R-1, 29% for RR-1, 3% for R-2, and 2% for RR-2 at the time Imagine Duluth 2035 was adopted.

What was not included in the resolution are ideas that have been discussed by the Planning Commission in the past:

1. Limiting the number of vacation dwelling units that any individual may have. The council resolution does not address that issue.
2. Increasing the cap immediately to 100 or 120, with an additional annual increase. The council resolution leaves the current cap at 60, excluding a provision for annually increases, and form district vacation rentals.
3. Changing the period of lifespan of the permit (which has typically, but not always, been six years). The council resolution does not address that issue.
4. Minimum distances or setbacks from other existing vacation dwelling units, or maximum number of vacation dwelling units per council district. This was a topic more at previous City Council meetings than Planning Commission meetings.

In addition to changes with vacation dwelling units and associated topics, Planning Commission staff are also suggesting some changes to the current cottage home development standards. The proposed changes should add flexibility and clarity to the standards.

The proposed staff changes generally mirror the items outlined in the council resolution: allow the Planning Commission to have final approval authority for interim uses, limit the number of bedrooms in future vacation units, minor modification to the maximum number of permits issued, strengthen buffering/landscaping, and create a new type of vacation dwelling permit.

**General Development, Urban Design Strategy 4** Encourage site design which includes cohesive elements such as pedestrian access, parking, coordinated landscaping, linked open space, and green infrastructure for stormwater management and water quality improvement.

**General Development, Zoning Code Updates Strategy 1** Evaluate housing regulations in the UDC to expand opportunities for compact development, including new housing types such as the current trend for “tiny houses.”

### 50-20.3.U Vacation Dwelling Units

1. Rental Period. The minimum rental period shall not be less than two consecutive nights, nor more than a maximum of 29 consecutive nights. The minimum rental period shall not apply for vacation dwelling units in form districts.
2. Maximum Number of Persons and Bedrooms. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two, which shall not exceed nine. The maximum number of bedrooms that may be rented may not exceed four. Vacation dwelling units licensed before December 1, 2021, are entitled to continue operating, however, the exemption expires upon transfer of any ownership interest in the permitted property.
3. Off Street Parking. Off street parking shall be provided at the following rate:
  - (a) Vacation dwelling units licensed on May 15, 2016, shall provide the following minimum number of off street parking spaces:
    - 1-2 bedroom unit, one space
    - 3-4 bedroom unit, two spaces
    - 5+ bedroom unit, three spaces.
  - (b) Vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off street parking spaces:
    - 1-2 bedroom unit, one space
    - 3 bedroom unit, two spaces
    - 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
  - (c) Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
4. Motorhome/ATV. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, ~~on or~~ off the street;
5. Other Licenses Required. In addition to the permit issued pursuant to this chapter, the property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property;
6. Guest Records. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
7. Application Materials. The property owner must provide a site plan, drawn to scale, showing parking and driveways, distance from lot line of proposed vacation dwelling to neighboring residential structures, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbecue grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties. A dense urban screen or fence must be in place prior to the permit being authorized and to be continuously maintained during the permit period between the permitted property and neighboring properties.
8. Vacation Rentals Within Multi Family Structures. Any vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
  - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
  - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's

Association Board of Directors for the vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit;

9. Termination. The interim use permit shall terminate upon change in ownership of the property or in six years after the date of issuance, whichever occurs first. Upon permit termination, property owner may apply to renew the existing interim use permit. The permit ~~shall be non-transferable~~ is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a new property or different address.
10. Maximum Number of Vacation Dwelling Units. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units, excepting units within Form Districts (F1-F9). The maximum number permits that may be issued shall increase 10 percent of the net increase in housing units created in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized shall not exceed 120 units.
11. Nuisance Reduction. The vacation dwelling permit holder shall ensure that all requirements for waste removal services and prohibitions on burning of trash is strictly adhered to by occupants of the vacation dwelling. The permit holder must designate in writing a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the city within 10 days of a change in the managing agent or local contact's contact information. The permit holder shall notify by letter all property owners within 100' of the property boundary of the name, address, and phone number of the managing agent or local contact named above and provide the city with a copy of the letter. The permit holder must notify said property owners within 10 days of a change in the managing agent or local contact's contact information.
12. Advertisement. The permit holder must include the permit number on all print, poster or web advertisements.

### 50-20.3.V Vacation Dwelling Units, Limited

1. Eligible Applicant. Property owners that reside in the owner-occupied homestead property may apply for a temporary vacation dwelling unit in their owner-occupied homesteaded property.
2. Rental Period. The minimum rental period shall not be less than two consecutive nights no more than 7 consecutive nights. The maximum number of rental periods in total may not exceed 21 nights per year. The rental period must be specified in the permit at the time that the permit was applied for, and may not be altered.
3. Other Standards. Temporary Vacation Dwelling Units must adhere to the same standards as Vacation Dwelling Units, 50-23.3.U, in regards to maximum number of persons, off-street parking, motorhome/ATV, guest records, nuisance reductions, advertisement, and application materials.
4. Other Licenses Required. In addition to the permit issued pursuant to this chapter, the property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual.
5. Maximum Number of Limited Vacation Dwelling Units. There is no maximum to the number of limited vacation dwelling units that may be issued.
6. Termination. The permit shall terminate upon change in ownership of the property or three year from issuance date, whichever occurs first. The permit shall be non-transferable;
7. Principle dwelling. A permit holder may not advertise vacation dwelling unit, limited, in any area exterior to the dwelling unit or any lot without a principle dwelling;

#### 50-20.5.M Accessory vacation dwelling unit.

An accessory vacation dwelling unit may be created within any one-family dwelling, twinhome, duplex, or attached or detached accessory dwelling unit provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot;
2. No variances shall be granted for an accessory vacation dwelling unit;
3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling;
4. If a separate outside entrance is necessary for an attached accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building;
5. The minimum rental period shall be not less than two consecutive nights, nor more than a maximum of 29 consecutive nights. The minimum rental period shall not apply to accessory vacation dwelling units in form districts.
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two, which shall not exceed nine. The maximum number of bedrooms that may be rented may not exceed four.
7. Off-street parking shall be provided at the following rate:
  - (a) Accessory vacation dwelling units licensed on or before May 15, 2016, shall provide the following minimum number of off street parking spaces:
    - 1-2 bedroom unit, one space;
    - 3-4 bedroom unit, two spaces;
    - 5+ bedroom unit, three spaces;
  - (b) Accessory vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off-street parking spaces:
    - 1-2 bedroom unit, one space;
    - 3 bedroom unit, two spaces;
    - 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

Accessory vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for accessory vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.

8. Motorhome/ATV. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, ~~on or~~ off the street;
9. Other Licenses Required. In addition to the permit issued pursuant to this chapter, the property owner must obtain all licenses and permits from the city of Duluth and State of Minnesota required for guest occupancy on the property for two to 29 days;
10. Guest Records. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
11. Application Materials. The property owner must provide a site plan, drawn to scale, showing parking and driveways, distance from lot line of proposed vacation dwelling to neighboring residential structures, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbecue grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining

properties. A dense urban screen or fence must be in place prior to the permit being authorized and to be continuously maintained during the permit period between the permitted property and neighboring properties.

12. Any accessory vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
  - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
  - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's Association Board of Directors for the accessory vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit.
13. The interim use permit shall terminate upon change in ownership of the property or in six years, whichever occurs first. Upon permit termination, property owner may reapply for a subsequent interim use permit. The permit is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a different property or address.
14. Termination. The interim use permit shall terminate upon change in ownership of the property or in six years after the date of issuance, whichever occurs first. Upon permit termination, property owner may apply to renew the existing interim use permit. The permit shall be non-transferable is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a new property or different address.
15. Maximum Number of Accessory Vacation Dwelling Units. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units, excepting units within Form Districts (F1-F9). Starting on January 31, 2022, the maximum number permits that may be issued shall increase 10 percent of the net increase in housing units created in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized shall not exceed 120 units.
16. Nuisance Reduction. The accessory vacation dwelling permit holder shall ensure that all requirements for waste removal services and prohibitions on burning of trash is strictly adhered to by occupants of the accessory vacation dwelling. The permit holder must designate in writing a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the city within 10 days of a change in the managing agent or local contact's contact information. The permit holder shall notify by letter all property owners within 100' of the property boundary of the name, address, and phone number of the managing agent or local contact named above and provide the city with a copy of the letter. The permit holder must notify said property owners within 10 days of a change in the managing agent or local contact's contact information.
17. Advertisement. The permit holder must include the permit number on all print, poster or web advertisements.





## 50-20.5.G Accessory home share

An accessory home share may be created within those districts shown where allowed by Table 50.19.8 provided these standards are met.

1. Eligible Applicant. Property owners that reside in the owner-occupied homestead property may apply for one accessory home share in their owner-occupied homesteaded property.
2. Rental Period. The rental or purchase period shall be for 29 consecutive nights or less;
3. Guests. The maximum number of overnight guests allowed is 4 persons in addition to the owner occupants. The maximum number of bedrooms that may rented may not exceed two. Only one rental listing per night is allowed. Other Licenses Required. In addition to the permit issued pursuant to this chapter, the property owner must obtain all permits from the city of Duluth and state of Minnesota required for guest occupancy on the property;
4. Other Standards. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, property use rules, taxation, and home share permit violations procedures;
5. Termination. The permit shall terminate upon change in ownership of the property or three year from issuance date, whichever occurs first. Upon permit termination, property owner may apply to renew the permit. The permit shall be non-transferable is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a new property or different address. Upon permit termination, property owner may apply to renew the existing interim use permit. The permit shall be non-transferable;
6. Residency. At least one permanent resident must be generally present on or about the premises at all times that the property is rented;
7. Advertisement. A permit holder may not advertise an accessory home share for an accessory structure that is a storage shed or garage or in any area exterior to the dwelling unit or any lot without a principle dwelling, but may advertise for a legal accessory dwelling unit as provided in Section 8 below. The permit holder must include the permit number on all print, poster or web advertisements.
8. ~~A permit holder may not advertise an accessory home share in any area exterior to the dwelling unit or any lot without a principle dwelling;~~

## 50-20.1.G Cottage Home Park

In the RR-1, RR-2, R-1, R-2, and MU-N districts, this use is subject to the use-specific standards as set forth below:

1. Development standards. All dwelling units within a cottage home park shall be subject to setback, height, off-street parking, and other regulations appropriate for one-family dwellings in the applicable zone district that the cottage home park is located, except as provided within this section;
2. Minimum lot area and lot frontage. Dwelling units shall meet the minimum lot area and lot frontage requirement for multi-family, townhome, or two family developments of the applicable zone district that the home park is located, whichever is smaller or least;
3. ~~Principal entrance Design Standards.~~ Each dwelling unit shall have a principal entrance ~~facing the front lot line. Exceptions to the requirement of a dwelling unit having a principal entrance facing the front property line may be made by the Land Use Supervisor, but only if the unit has a porch or deck on the front façade and the primary entrance is within 10 feet of the front façade; oriented towards a public street or towards a central community area within a cottage home development.~~ Cottage homes within a cottage home park may not be less than 200 square feet nor more than 800 square feet.
4. Common open space or amenity area. Cottage housing developments shall provide common open space or an amenity area which is centrally located, equally accessible from, and at the disposition of all dwelling units. Common open space shall not be less than 20 percent of the area of the cottage home park, excluding land dedicated for public or private streets or alleys.
5. Connectivity and access. ~~Sidewalks or multi use paths must be provided to ensure pedestrian access from each individual dwelling unit to the front property line or public street.~~ A connectivity plan shall be submitted as part of any Special Use Permit application that shows sidewalks or multi-use paths connecting units to public streets, nearest DTA bus stop, nearest public park, other community amenities and other destinations, and to other units within the cottage home park. The connectivity plan shall encourage a walkable, bikeable cottage home park through the use of complete streets, alleys, sidewalks and trails;
6. Subdivision. Approval of a cottage home park does not negate to the need for subdivision review and approval, where applicable. The Special Use Permit application shall indicate compliance with city subdivision standards, or indicate if it is exempt due to state statute (CIC plat, etc).
7. Utility Connections. A utility plan shall be submitted that shows how utilities will be provided to all units within the cottage home park, including any utility easements required for the provision of utilities. Cottage home parks must provide separate sewer and water services for each dwelling unit as required by the city engineer, ~~except in those areas where City utilities are not available~~ without significant utility extensions.-
8. Access. Either a public or private street is permitted to provide access to units within a Cottage Home Park. A road plan must be submitted with the Special Use Permit application that shows proposed cross section, which must be approved determined by City Engineer and Land Use Supervisor

#### **50-41.4**

Dwelling, cottage. A one-family dwelling unit which does not include any accessory dwelling units, and providing basic requirements for living, sleeping, cooking, eating, and sanitation, constructed on compliant footings or foundation, with permanent connections to public sanitary sewer and water, and which is located within a cottage housing development. No recreational vehicle, or structure on a chassis, shall constitute a cottage dwelling. A dwelling, cottage, must contain at least 200 square feet of enclosed space, but may not exceed 800 square feet.

## ARTICLE FIVE. ADMINISTRATION AND PROCEDURES.

This Section is intended to comply with all applicable provisions of MSA Chapter 462, as amended, and shall be interpreted to comply with those provisions wherever possible.

### 50-35 SUMMARY TABLE.

Table 50-35-1: Procedures Summary Table								
Type of Application			Review, Decision, & Appeal Authority					
R = Review                      D = Decision A = Appeal                      <> = Hearing  N = Newspaper Notice S = Sign Notice                M = Mail Notice  RES = Resolution ORD = Ordinance AL= Action Letter COA = Certificate of Appropriateness	Public Notice Required	Pre-Application Required	Staff	Land Use Supervisor	Heritage Preservation Commission	Planning Commission	Council	Final Action
<b>Comprehensive Land Use Plan</b>								
Text Amendment	N			R		<R>	D	RES
Map Amendment	N, M			R		<R>	D	RES
<b>UDC Text or Zoning Map Amendment</b>								
Text Amendment	N			R		<R>	D	ORD
Map Amendment	N, S, M*	✓		R		<R>	D	ORD
<b>District Plan Adoption/Amendment</b>	S	✓		R		<D>	<A>	
<b>Subdivision Plat Approval</b>								
Concept Plan		✓		R				**
Preliminary Plat	N, S, M	✓		R		<D>		AL
Final Plat				R		<D>		AL***
<b>Minor Subdivision/Registered Land Survey</b>				R		<D>		AL***
<b>Vacation of Street</b>	S, M	✓		R		<R>	D	RES
<b>Concurrent Use of Streets Permit</b>	S	✓		R		<R>	D	ORD
<b>Historic Resource Designation</b>	M				<R>	R	D	ORD
<b>Variance</b>	S, M	✓	R			<D>	<A>	AL
<b>Special Use Permit</b>	S, M	✓		R		<D>	<A>	AL
<b>Interim Use Permit</b>	S, M	✓		R		<R><D>	D<A>	RES AL
<b>Planning Review</b>								
General Planning Review				D		<A>		AL
Planning Commission Review When required in MU-C, MU-W, MU-I Zoning Districts and HE-O Overlay District	S, M	✓		R		<D>	<A>	AL
<b>Temporary and Sidewalk Use Permit</b>				D		<A>		AL
<b>Zoning Permit****</b>			D			<A>		AL
<b>Historic Construction/Demolition</b>	S				<D>		<A>	COA
<b>Wetland/WCA Permits</b>			D			<A>		AL

\*Mailed notice is required to affected property owners within 350 ft. when the amendment involves changes in district boundaries affecting an area of 5 acres or less.                      \*\* Planning staff will provide applicant with a preapplication verification.

\*\*\* Applicant must provide documentation that the plat or RLS has been recorded with the county.

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

## **50-36 REVIEWERS AND DECISION-MAKERS.**

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### **50-36.1 Council.**

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The council is the governing body of the city, with all of those powers granted by the state and the City Charter. In the context of this Chapter, the council has the following powers.

- A. To adopt the comprehensive land use plan and to approve all amendments to it pursuant to Section 50-37.2;
- B. To adopt the text, amendments to that text, and interim ordinances related to this Chapter pursuant to Section 50-37.3;
- C. To adopt the official zoning map and all amendments to it pursuant to Section 50-37.3;
- D. To approve the vacation a public street pursuant to Section 50-37.6;
- E. To approve the concurrent use of a public street pursuant to Section 50-37.7;
- F. To approve historic resource designations pursuant to Section 50-37.8;
- ~~G. To approve interim use permits pursuant to Section 50-37.10;~~
- H. To hear appeals of decisions of the planning commission pursuant to Section 50-37.1.O.

### **50-26.2 Planning commission.**

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#### **A. Creation.**

The planning commission is that body authorized by MSA 462.354 and created by Ordinance 1809. In addition, the council hereby designates the planning commission as the board of adjustment authorized by MSA 462.354 and Section 27 of the City Charter. The planning commission shall have all powers authorized for a planning commission or a board of adjustment under the state law and this City Code. Procedures before the planning commission shall be governed by rules and regulations adopted by the commission. This Section is intended to comply with the provisions of MSA 462.354 as amended, and Section 27 of the City Charter, and shall be interpreted to comply with those provisions wherever possible;

#### **B. Membership and terms.**

Except as provided by Ordinance 9985, the planning commission shall consist of nine members, all of whom shall be citizens of the city and none of whom shall be a paid city employee, and all of whom shall be appointed by the mayor and with the consent of the council, and all of whom shall make and file with the city clerk an oath and affirmation as provided in Section 28 of the city Charter. Members shall be appointed for a term of four years, and the terms shall be staggered in accordance with Ordinance 9985. Vacancies shall be filled by appointment for the unexpired term only. Members of the board shall serve without compensation;

#### **C. Meetings and proceedings.**

1. All hearings of the planning commission shall be public and shall occur after 5:00 p.m.;
2. The concurring vote of a majority of the members of the commission shall be sufficient to exercise any power granted to the planning commission by this Chapter;
3. The commission may delegate to a committee of the commission or to its secretary specific review and approval activities provided that it provides written criteria to guide the performance of the delegated duties, and the decisions made by the committee or secretary will be considered decisions of the commission;

#### D. Powers.

Except as otherwise provided in this Chapter or other law, the planning commission shall have the following powers within all zone districts:

1. Appeals.  
To hear and decide appeals where an applicant alleges an error in any order, requirement, permit or decision made by the land use supervisor or the building official in the enforcement of any provisions of this Chapter, pursuant to Section 50-37.1.O. In the case of each appeal, the commission shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts;
2. District plans.  
To approve, approve with modifications, or deny applications for approval of a district plan in those districts where approval of such a plan is required prior to development, pursuant to Section 50-37.4;
3. Subdivision plats.  
To approve, approve with modifications, or deny preliminary and final plats for the subdivision of land pursuant to Section 50-37.5 and in accordance with the state law;
4. Variances.  
To approve, approve with modifications or deny applications for variances to the provisions of this Chapter as provided in Section 50-37.9;
5. Special use permits.  
To approve, approve with conditions or deny applications for a special use permit pursuant to Section 50-37.10;
6. Planning review for certain districts.  
Planning review in the MU-N, MU-C, MU-I and MU-W districts pursuant to Section 50-37.11;
7. Review and recommendation.  
To review and comment on any application for which a review role for the commission is shown in Table 50-35-1.

#### **50-36.3 Heritage preservation commission.**

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#### E. Creation.

Pursuant to Minnesota Statute 471.193, there is hereby created and established a city of Duluth heritage preservation commission, hereinafter called the "commission." The commission shall have the responsibility of recommending to the city council the adoption of ordinances designating areas, places, building structures, works of art or other objects having special historical, cultural or architectural interest for the community as historical preservation landmarks or districts;

#### F. Membership and terms.

The commission shall consist of seven voting members, all of whom are to be citizens of the city, five of whom will be appointed by the mayor with the approval of the council; one will be appointed by the county historical society, and one will be appointed by the planning commission. Members shall be persons who have demonstrated an interest in the historical, cultural or architectural development of the city or who own property within a historic preservation district. At least two of the five members appointed by the mayor shall be preservation-related professionals;

Appointments shall be for a term of three years. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. Members shall serve without compensation and shall continue to hold office until their successors have been appointed and confirmed;

## G. Powers.

The heritage preservation commission shall have the following powers:

1. Recommendation of historic preservation sites and districts to the city council;
2. Approve, approve with conditions or deny applications for historic construction and demolition permits pursuant to Section 50-37.14;
3. Recommend historic preservation guidelines specific to a landmark or district;
4. Make an annual report to the state historic preservation officer by October 31 of each year;
5. Conduct continuing survey of all areas, places, buildings, structures or similar objects in the city that the commission, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as historic preservation landmarks or districts;
6. Work for the continuing education of the citizens of the city with respect to the historic and architectural heritage of the city and keep current and public an official list of designated historic preservation landmarks and districts;
7. The commission may retain the services, on a permanent or part-time basis, of technical experts and other persons as may be required to perform the commission's duties;
8. The commission shall have authority to solicit gifts and contributions to be made to the city and to assist in the preparation of applications for grant funds to be made to the city for the purpose of historic preservation;
9. The commission may recommend to the planning commission and council that certain properties eligible for designation as historic preservation landmarks or districts be acquired by gift, by negotiation or other legal means;
10. Upon final designation of a historic preservation landmark or district, adopt historic preservation guidelines specific to the landmark or district. Such guidelines shall detail allowable architectural and/or site modifications, essential features to be retained and any other criteria by which future proposals for modifications shall be judged. The United States secretary of the interior standards for treatment of historic properties shall be among the standards used to create such a program. These guidelines are intended to provide assurance to owners of properties within historic preservation landmarks or districts that any permit review process will be based on clear and objective standards rather than the taste of individual commission members;
11. The commission may nominate a historic preservation landmark or district to the national register of historic places, but only with the consent of the council.

### **50-36.4 Land use supervisor.**

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The land use supervisor is that individual responsible for administration of all aspects of this Chapter where specific authority has not been delegated to another city official or employee, and is responsible for exercising those powers to implement adopted plans through the review of applications described in MSA 462.356 subdivision 2 and MSA 462.359. The land use supervisor may delegate specific responsibilities to any individual city employee under the supervisor's management, but shall remain responsible for all decisions made by those employees. Except as otherwise provided in this Chapter or other law, the land use supervisor's authority shall extend to all zone districts. The land use supervisor's authority shall include, but shall not be limited to, the following:

- A. Planning review.  
To approve, approve with modifications or deny applications for planning review pursuant to Section 50-37.11;
- B. Temporary and sidewalk use permit.  
To approve, approve with modifications or deny applications for approval of a temporary or sidewalk use permit pursuant to Section 50-37.12;
- C. Review and recommendation.  
To review and comment on any application for which a review role for the land use supervisor is shown in Table 50-35-1;
- D. Application manual and administrative procedure.  
To prepare an applications manual and adopt administrative procedures to implement this Chapter.



### **50-36.5 Building official.**

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The building official shall be responsible for ensuring that applications for the following permits and approvals are only issued if the application complies with (a) the provisions of this Chapter, as such provisions may have been modified by any variance approved by the planning commission, and (b) any district plan approved by the planning commission and applicable to the area where the permit or approval is sought. The building official may delegate specific responsibilities to any individual city employee under the official's management, but shall remain responsible for all decisions made by those employees. Except as otherwise provided in this Chapter or other law, the building official's authority shall extend to all zone districts. The building official's authority shall include, but shall not be limited to, the following:

#### **A Zoning permits.**

Approve, approve with conditions or deny applications for zoning permits pursuant to Section 50-37.13. Conditions shall only be applied to bring the application into conformity with this Chapter and related administrative regulations. In the administration of the State Building Code on projects where no permit is required under this Chapter, the building official shall, to the extent feasible and practical, utilize the erosion and sediment practice specifications as guidelines for adequate erosion control;

#### **B Airport environs permit.**

Serve as the zoning administrator for the Duluth International Airport pursuant to the zoning regulations enacted by the joint airport zoning board and pursuant to MSA 360.063, subd. 3;

#### **C Building permits.**

Approve, approve with conditions or deny applications for building permits pursuant to Section 50-37.15. Conditions shall only be applied to bring the application into conformity with this Chapter, the applicable building code(s) and related administrative regulations;

#### **D Certificates of occupancy.**

Approve, approve with conditions or deny applications for certificates of occupancy pursuant to Section 50-37.16. Conditions shall only be applied to bring the application into conformity with this Chapter, the applicable building code(s) and related administrative regulations. (Ord. No. 10044, 8-16-2010, § 6.)

### **50-36.6 Other departments.**

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Additional departments of the city may be consulted regarding any application under this Chapter, or regarding the potential impacts of the proposed activities or structures covered by an application, at the discretion of the building official, the land use supervisor, the historic preservation commission, the planning commission or council.

Notices to consider variances, amendments, or special uses under shoreland standards will be sent to the DNR commissioner or the commissioner's designated representative at least ten days before public hearings. Notices of hearings to consider proposed plats will include copies of the plats.

A copy of approved amendments and plats, and final decisions granting variances or special uses under shoreland standards will be sent to the DNR commissioner or the commissioner's designated representative within ten days of final action.

## 50-37.10 Special use or interim use permit.

This Section applies to all applications for those special uses listed for specific zone districts in Table 50-19.8. It also applies to applications for interim uses that will be authorized for only a specified period of time. This Section is intended to comply with the provisions of MSA 462.3595 and 462.3597 as amended, and shall be interpreted to comply with those provisions wherever possible.

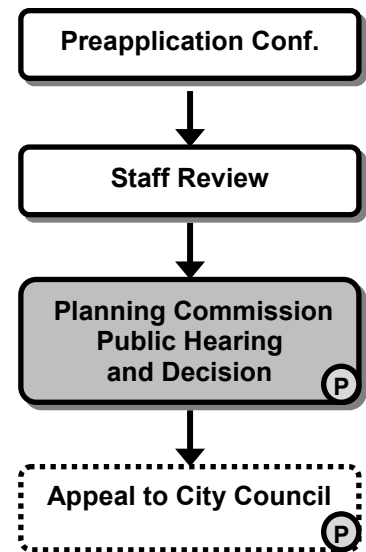
### A. Applications.

An application for a special use or interim use shall be filed pursuant to Section 50.37.1.B;

### B. Procedure.

1. The planning commission shall review the application, shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H. ~~In the case of a special use permit, The~~ planning commission shall make, ~~and in the case of an interim use permit, council shall make,~~ a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The commission ~~or council~~ may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.2.P, a development agreement regarding the design, construction, and operation of the special use, to protect the comprehensive land use plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to met;
2. If the permit is approved or approved with modifications, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions. The city may require that some or all of the documents presented by the applicant in support of the application, including without limitation any site plan, landscape plan, building elevation drawings, or development agreement, be recorded as a city public document prior to the issuance of any building permit. A decision not to require recording of some or all of those documents shall not relieve the applicant or any successors or assigns in title to the property from the duty to comply with all terms and conditions of the permit. Constructing any improvement or beginning any activity authorized by the permit shall constitute the applicant's agreement to conform to all terms and conditions of the permit;
3. The city may approve an application or approve it with modifications, with a condition that if a structure authorized by the permit is not constructed by a specified date, or if an activity authorized by the permit is not begun by a specified date, the permit shall terminate. If that condition is attached, the city shall notify the applicant and the property owner when a permit has lapsed, and that decision may be appealed pursuant to Section 50-37.1.O;
4. The city may approve an application or approve it with modifications, with a condition that abandonment of an activity authorized by a permit longer than a stated period

### Special Use Permit



**(P)** Indicates Public Hearing Required

terminates the permit, and any future reactivation of the use will require the filing and approval of a new permit application;

5. The commission may not approve or approve with modifications, a special use permit valid only for a specific period of time, but must instead recommend to council an interim use permit pursuant to subsection D below for that purpose;
6. Any approved permit shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city;

#### C. Criteria for special use permits.

The planning commission shall approve the application or approve it with modifications if the commission determines that the application meets the following criteria:

1. The application is consistent with the comprehensive land use plan;
2. The application complies with all applicable provisions of this Chapter, including without limitation any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area;

Without limiting the previous criteria, the commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community;

#### D. Interim use permit.

1. As an alternative to a special use permit, MSA 462.3597 authorizes the city to issue an interim use permit that authorizes a special use to exist until a specified date or until an amendment to this Chapter authorizes or prohibits that use. An applicant may apply for an interim use permit, and the commission may decide to ~~recommend~~ approve an interim use permit even if the application is for a special use permit;
2. An application for an interim use, or a decision to approve an interim use, shall be subject to the same procedures used for special uses, and the commission shall have all the powers described in Section 50-37.10.B.1 above, ~~except that the commission shall forward a recommendation to council for action, and final approval of an interim use shall be by council resolution rather than commission action.~~ The ~~council~~ commission may require financial security pursuant to Section 50-37.1.P to ensure that any improvements related to the interim use will be removed at the end of the interim use period;
3. An application to extend the period of an interim use permit shall be treated as major modifications of the initial permit and shall be processed pursuant to Section 50-37.1.N;

#### E. Criteria for interim use permits.

In addition to the criteria in subsection C above, the ~~council~~ commission shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim

use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures of improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

- ~~3. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. Permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued;~~
- ~~4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts,~~



## Legislation Details (With Text)

**File #:** 21-0558R      **Name:**  
**Type:** Resolution      **Status:** Passed  
**File created:** 7/13/2021      **In control:** Planning and Economic Development  
**On agenda:** 7/19/2021      **Final action:** 7/19/2021  
**Title:** RESOLUTION REQUESTING PLANNING COMMISSION REVIEW, EVALUATION, AND HOLD A PUBLIC HEARING FOR UNIFIED DEVELOPMENT CODE (UDC) REGULATIONS RELATED TO VACATION DWELLING UNITS.  
**Sponsors:** Zack Filipovich, Roz Randorf, Terese Tomanek, Janet Kennedy

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
7/19/2021	1	City Council	adopted	

RESOLUTION REQUESTING PLANNING COMMISSION REVIEW, EVALUATION, AND HOLD A PUBLIC HEARING FOR UNIFIED DEVELOPMENT CODE (UDC) REGULATIONS RELATED TO VACATION DWELLING UNITS.

BY COUNCILORS FILIPOVICH, RANDORF, TOMANEK, AND KENNEDY:

WHEREAS, the purpose of the Unified Development Code (“UDC”) is to “protect the public health, safety, and welfare and to implement the goals and objectives of the comprehensive land use plan...” Section 50-2 Duluth City Code; and

WHEREAS, the UDC regulations set parameters for the interim use of vacation dwelling units within certain zoning districts in the city; and

WHEREAS, the concept of internet-based rental of vacation dwelling units remains an emergent land use, the standards for which remain under evaluation for professional city planning and development best practices, causing a need for occasional updates to those regulations; and

WHEREAS, to better understand and evaluate regulations for vacation dwelling units the city council’s planning and economic development committee has facilitated several committee meetings in early 2021 to consider options for potential improvements to those regulations.

THEREFORE, BE IT RESOLVED, the city council requests that the city planning commission undertake updates to UDC Section 50-20.3.U, Use-Specific Standards, Commercial Uses, Vacation Dwelling Units.

BE IT FURTHER RESOLVED, that the planning commission consider the creation of a new, over-the-counter annual permit for short-term vacation dwelling units permitting owners to rent their owner-occupied, homestead property as vacation dwelling units for not more than twenty-one (21) days per year, specified in the permit, with no rental period for no more than seven (7) consecutive days, nor less than two (2) consecutive days, subject to meeting all other applicable inspection and building code requirements for a vacation dwelling unit.

BE IT FURTHER RESOLVED, that the planning commission consider modifying the standards for allowing a vacation dwelling unit use as follows:

1. Interim use permits for vacation dwelling units will be subject to approval by the planning commission, subject to appeal to the city council.
2. Limiting the total number of bedrooms in any vacation dwelling unit to not exceed four (4) bedrooms;

3. Strengthening the Improvements to standard conditions for approval to include a dense urban screen or fence to be in place at the time of approval and to be continuously maintained during the permit period between the permitted property and neighboring properties, to require provision for waste removal services; and to prohibit burning of trash;

4. Increasing the vacation dwelling unit cap to provide for an increase of 10 percent of the net increase in housing units created in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized under Section 50-37.10 E 4 shall not exceed 120 units; and

5. Retaining the exemption for vacation dwelling units located in form districts.

BE IT FURTHER RESOLVED that with the increase in permit fees associated with the increase in vacation dwelling units authorized in No. 4 above be dedicated to support the city housing trust fund.

BE IT FURTHER RESOLVED, the city council requests a report from administration on the status of the foregoing request no later than October 1, 2021, unless an ordinance has been recommended for city council consideration by the city planning commission prior to that date.

STATEMENT OF PURPOSE: The purpose of this resolution is to provide city council direction to the city planning commission associated with potential updates to the city's vacation dwelling unit standards. The potential updates to the regulations to be evaluated by the city planning commission provide for updates to streamline and improve regulations for vacation dwelling units by creating a new category for the use and by establishing new standards that will enhance understanding and reduce the potential for negative impacts and issues between neighboring property owners.