

50-36 REVIEWERS AND DECISION-MAKERS.

50-36.1 Council.

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 hear appeals of decisions of the planning commission pursuant to Section 50-37.1.O. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 1077, 11-25-2021, §7)

50-36.2 Planning commission.

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. (Ord. No. 10041, 8-16-2010, § 9; Ord. No. 10044, 8-16-2010, § 6.)

50-36.3 Heritage preservation commission.

A. Creation.

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

B. Membership and terms.

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

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In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made.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

C. Powers.

The heritage preservation commission shall have the following powers:

1. Recommendation of historic preservation sites and districts to the city council;
2. Approve, approve with conditions or deny applications for historic construction and demolition permits pursuant to Section 50-37.14;
3. Recommend historic preservation guidelines specific to a landmark or district;
4. Make an annual report to the state historic preservation officer by October 31 of each year;
5. Conduct continuing survey of all areas, places, buildings, structures or similar objects in the city that the commission, on the basis of information available or 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.

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.

E. 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.

50-36.5 Building official.

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.

50-36.6 Other departments.

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.

