

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

April 27, 2015

Duluth City Council meeting held on Monday, April 27, 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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The minutes of council meetings held on March 9 and 23, 2015, were approved upon a unanimous vote.

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PRESENTATION OF PETITIONS AND OTHER COMMUNICATIONS

15-0427-03 Mark Anderson communication regarding the proposed vacation of part of 20th Avenue East (15-0226R). -- Received

15-0427-18 KZ Rish communication (supports by 32 signatures) regarding the proposed 2015 street preservation projects (15-0236R). -- Received

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REPORTS OF BOARDS AND COMMISSIONS

15-0427-01 Charter commission minutes of: (a) April 9; (b) October 8, 2014, meetings. -- Received

15-0427-02 Duluth transit authority: (a) Minutes of February 25, 2015, meeting; (b) February 2015 financial statement. -- Received

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OPPORTUNITY FOR CITIZENS TO BE HEARD

Julene Boe commented on the recent zoo presentation and her concerns.

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Joe Westerberg, Jeanie Peterson and Michele Peterson expressed their concerns about the safety conditions with the parking and traffic at Ordean East High School on 40th Avenue East.

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David Poulon, Lynn Clark Pegg, Dawn Buck and Bob Swanson commented on the Park Point street ends Tier Two plan associated with city council Resolution 14-0476.

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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.

BE IT RESOLVED, that the city council of the city of Duluth hereby issues off sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2015, and ending April 30,

2016, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 15-0427-04.

Resolution 15-0197 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby issues on sale 3.2 percent malt liquor license renewals for the period beginning May 1, 2015, and ending April 30, 2016, subject to departmental approvals and the payment of sales and property taxes, as provided for in the Duluth City Code, to the applicants listed on Public Document No. 15-0427-05.

Resolution 15-0198 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of the following consumption and display license by the liquor control commissioner for the period beginning April 1, 2015, and ending March 31, 2016, subject to departmental approvals and the payment of sales and property taxes:

Duluth Woman's Club, 2400 East Superior Street.

Resolution 15-0199 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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

Grandma's Marathon-Duluth, Inc. (Grandma's Marathon), Canal Park Parking Lot surrounded by Canal Park Drive, Buchanan Street, Morse Street and Lake Avenue, for June 19 - 21, 2015, with Linda Hanson, manager, with the music and serving ending at 1:15 a.m.

Resolution 15-0216 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby approves issuance of a 2:00 a.m. alcohol beverage license for the following on sale intoxicating liquor license for the period ending August 31, 2015, subject to departmental approvals and the payment of sales and property taxes, and further subject to approval of the liquor control commissioner:

Sir Benedict's IV, Inc. (Sir Benedict's Tavern on the Lake), 805 East Superior Street.

Resolution 15-0217 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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BE IT RESOLVED, that the city council of the city of Duluth hereby issues the following on sale 3.2 malt liquor license for the period beginning May 1, 2015, ending April 30, 2016, subject to departmental approvals, and the payment of sales and property taxes:

Loy Krathong, Inc. (Sala Thai Restuarant), 114 West First Street, with Sumlee Beede, 100 percent owner.

Resolution 15-0218 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to purchase three high pressure steam Fisher Control valves, outfitted with Beck electric actuators from NovaSpect for a total amount of \$101,480, payable from Steam 540, Steam Department 920, Steam Non-Operating 1499, Improvements Other than Buildings 5530.

Resolution 15-0229 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to amend Agreement C22319 with Hovland, Inc., for construction of the exterior stair reconstruction/sidewalk repair at Duluth City Hall (the "city"), St. Louis County Courthouse (the "county"), and St. Louis County motor pool at 411 West First Street, Duluth, MN, 55802, an increase of \$190,000, for a revised total contract amount of \$565,000 payable as follows:

Capital Improvements 450, Finance Improvements Other Than Buildings 030-5530, 2014 Capital Projects CP2014 and 2015 Capital Projects CP2015, City Hall tuckpoint repair steps 1309B and 1409B.

Resolution 15-0238 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that pursuant to Section 2-68 of the Duluth City Code, 1959, as amended, the appointments and reappointments by Mayor Ness of members to city boards and commissions as listed on Public Document No. 15-0427-06, for terms expiring on March 31 of various years, are confirmed.

Resolution 15-0191 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the proposed specifications for the new civil service classification of property and evidence specialist, which were approved by the civil service board on January 6, 2015, and which are filed with the city clerk as Public Document No. 15-0427-07, are approved; that said classification shall be subject to the city's collective bargaining agreement with its basic unit employees; and that pay range for said classification shall be Range 29, \$3,826 to \$4,493 per month. The proper city officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0193 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the proposed amendments to the specifications for the existing civil service classification of property and evidence technician, which were approved by the civil service board on January 6, 2015, and which are filed with the city clerk as Public Document No. 15-0427-08, are approved; that said classification shall remain subject to the city's collective bargaining agreement with its basic unit employees, that the pay range will change from Pay Range 22, \$2,924 to \$3,402, to Pay Range 24, \$3,157 to \$3,685 per month. The proper city

officials are authorized to execute and implement an agreement with the union to provide for employing one or more unit members consistent with this resolution.

Resolution 15-0194 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that:

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

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

(c) The city planning commission, at its Tuesday, April 14, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0427-09:

VACATION LEGAL DESCRIPTION:

All that part of the 80 foot wide 11th Street and all that part of the 80 foot wide Eastern Avenue and all that part of the 33 foot wide Cherry Street lying South of the North line of Chandler Park Addition to Duluth, according to the recorded plat thereof, St. Louis County, Minnesota. Excepting that part lying East of the Northwesterly extension of the Northeasterly right of way of Eastern Avenue, lying within the boundary of said plat, and retaining the Northeast 20 feet of the 38th Ave platted right of way as a utility easement. And excepting a 16 foot wide alley for public access purpose extending across the platted Eastern Avenue (38th Avenue West), projected northeasterly from the alley in Block 13 of said Chandler Park Addition. Said parcel contains 32,670 square feet or 0.75 acres, more or less;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 15-0427-09 showing the platted easement to be vacated.

Resolution 15-0224 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that:

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

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

(c) The city planning commission, at its Tuesday, April 14, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted utility easement described below and as described and depicted on Public Document No. 15-0427-11:

VACATION LEGAL DESCRIPTION:

The 20.00 foot wide utility easement lying over, under, and across the westerly 10.00 feet of Lot 2, Block 2 and the Easterly 10.00 feet of Lot 3, Block 2, AIRPORT DIVISION

according to the recorded plat thereof, St. Louis County, Minnesota. Said easement contains 4,475 sq. ft. or 0.10 acres more or less;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 15-0427-11 showing the platted easement to be vacated.

Resolution 15-0227 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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WHEREAS, on February 11, 2015, notice was published in the Duluth News Tribune, a newspaper of general circulation in both the township of Rice Lake ("township") and city of Duluth ("city"), of the intent to include 240 acres within the township of Rice Lake, legally described as the southeast quarter and south half of the northeast quarter of Section 25, Township 51 North, Range 14 West, St. Louis County, Minnesota, in the orderly annexation area at issue in the orderly annexation agreement between said township and the city, a copy of which is on file in the office of the city clerk as Public Document No. 15-0427-10; and

WHEREAS, at least ten days have passed since the notice was published in the Duluth News Tribune.

THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Minnesota Statutes, Section 414.0325, the board of supervisors of the township and the city council hereby designate 240 acres within the township of Rice Lake, the same as is described in the orderly annexation agreement between said township and said city, as in need of orderly annexation.

FURTHER RESOLVED, that the proper township and the proper city officials are hereby authorized to enter into the said orderly annexation agreement governing the conditions for the annexation of the 240 acres in the township by the city.

FURTHER RESOLVED, that the township clerk and the city clerk are hereby requested and directed to send copies of this resolution and the executed orderly annexation agreement to the chief administrative judge of the Minnesota state office of administrative hearings as provided for in Minnesota Statutes, Chapter 414.

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

Resolution 15-0225 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the city of Duluth does hereby accept the conveyance, at no cost to the city, of a street easement from Justin and Rachael Cummins, joint tenants, for development of a hammerhead turnaround on Eastridge Boulevard, which easement is shown on Public Document No. 15-0427-12, on file in the office of the city clerk and legally described as:

An easement over the Westerly 40 feet of the Northerly eight feet of Lot 2, Block 1, Eastridge Estates.

Resolution 15-0231 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that Contract 22217 with LHB, Inc. for professional engineering services for design of the Congdon Boulevard slope repair to be constructed from 7801 Congdon Boulevard to 90th Avenue East be amended to include the construction phase and to increase the amount by an estimated amount of \$15,752 for a new total of \$107,560, payable from Disaster

Recovery Fund 225, Department 125 (finance), Division 1808 (disaster aid and revenues, Object 5530 (improvements other than buildings), City Project No. 1324.

Resolution 15-0232 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into the agreements listed below and attached hereto as exhibits 1 through 23 inclusive with the property owners in the Plat of Eastridge Estates named in said exhibits 1-23 inclusive with regard to the properties in Eastridge Estates legally described in said exhibits 1 through 23 inclusive, pursuant to which the City agrees to cause certain improvements as generally described in said agreements to be made to roads and drainage systems on property within said plat and agrees to accept said roads and drainage improvements as public and said property owners agree to accept assessment against their respective properties for the cost thereof as described in said agreements:

EXHIBIT	OWNER	LEGAL DESCRIPTION
1	Joe and Ryann Signorelli	Lot 1 Block 1 (Partial Legal—See Exhibit)
2	Justin S and Rachael Cummins	Lot 2 Block 1
3	David A and Amy D Pipho	Lot 1 Block 2
4	Philip and Jill Holsinger	Lot 2 Block 2
5	Sharnell Rae Valentine	Lot 1 Block 3
6	Mathew J and Linh Royal	Lot 2 Block 3
7	Justin L and Lurae J Hill	Lot 3 Block 3
8	Christopher P Carlson and Amy E Grey Carlson	Lot 4 Block 3
9	Jeffrey M and Tamara L Rengel	Lot 1 Block 4
10	Beacon Bank	Lot 2 Block 4
11	Beacon Bank	Lot 1 Block 5
12	Beacon Bank	Lot 2 Block 5
13	Beacon Bank	Lot 3 Block 5
14	Beacon Bank	Lot 1 Block 6
15	Beacon Bank	Lot 2 Block 6
16	Beacon Bank	Lot 3 Block 6
17	Beacon Bank	Lot 1 Block 7
18	Beacon Bank	Lot 2 Block 7
19	Beacon Bank	Lot 1 Block 8 (Partial Legal—See Exhibit)
20	Joshua J and Amy L Rother	Lot 1 Block 8 (Partial Legal—See Exhibit)
21	Joshua J and Amy L Rother	Lot 2 Block 8
22	Wade and Julie Ann Kubat	Lot 1 Block 9
23	Wade and Julie Ann Kubat	Lot 2 Block 9
24	Thomas J and Rebecca K Rishavy	Lot 3 Block 9

Resolution 15-0233 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the proper city officials are hereby authorized to enter into a contract with A-Plus Landscaping, LLC, for construction of gas and water main replacements in 26th Avenue West in the amount of \$175,635, with \$122,944.50 payable from Water Utility Fund 510, Department/Agency 500 (public works and utilities), Division 1905 (capital improvements),

Object 5533 (revenue) and \$52,690.50 payable from Gas Utility Fund 520, Department/Agency 500 (public works and utilities), Division 1905 (capital improvements), Object 5533 (revenue), City Project No. 1309.

Resolution 15-0234 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that it is deemed necessary for public convenience and safety, and it is hereby ordered, that Eastridge Boulevard and Montauk Lane (City Project No. 1435) be improved.

FURTHER RESOLVED, that said work be done by contract and that the estimated total cost of said improvement as estimated by the city engineer will not exceed \$460,000, payable from Special Assessment Fund 410, and of these costs the actual costs in an amount not to exceed \$460,000 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll, Public Document No. 15-042-13, and may be paid in 15 annual installments at the municipal bond index fund rate plus 1.50 percent.

FURTHER RESOLVED, that the council order in subject project in accordance with the provisions of Section 61 of the City Charter and that said improvement be hereby ordered.

Resolution 15-0235 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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BE IT RESOLVED, that pursuant to Section 8-22(b) of the Duluth City Code, the Duluth City Council hereby authorizes consumption of alcoholic beverages from 8:00 a.m. to 3:00 p.m. in public places in the areas bounded by Canal Park Drive and Lake Avenue between the Aerial Lift Bridge and Railroad Street during the marathon on June 20, 2015, to coincide with Grandma's Marathon special events license, provided that all alcoholic beverages consumed outside of the designated service areas of licensed establishments be consumed only from paper or plastic cups.

BE IT FURTHER RESOLVED, that the dates of this authority may be amended, in the case of inclement weather, if requested in writing by the licensee and approved by the administration.

Resolution 15-0219 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that city council hereby amends allocation of funding for the contract authorized in Resolution 15-0006 with A Plus Landscaping for the demolition of four structures in the amount of \$123,715 to be payable as follows:

Decrease allocation of \$49,715 from General Building Demolition Fund 010 132 1304 5453. Increase allocation of \$49,715 from Community Development 262; Planning 020; Grants and Awards 5434; Project: CDBG 2013 CD13CD, Public Facility Improvement Projects 2013 PFAC, Demolition Blighted Properties PF07, for a total amount not to exceed \$123,715.

Resolution 15-0220 was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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The following resolutions were also considered:

Resolution 15-0228, approving the budget for the fiscal year May 1, 2015 to April 30, 2016 in the amount of \$5,495,479 for the Spirit Mountain recreation area authority, was introduced by Councilor Filipovich for discussion

A motion to suspend the rules was seconded and unanimously carried to hear from Brandy Ream, Spirit Mountain executive director.

Councilor Hanson moved to amend the resolution by "requesting that the Spirit Mountain recreation area authority would submit a balanced budget for 2015 and 2016 fiscal years," which motion failed for lack of a second.

Resolution 15-0228 was adopted as follows:

RESOLVED, that the budget for fiscal year May 1, 2015 to April 30, 2016, in the amount of \$5,495,479 as set out in the budget on file with the city clerk as Public Document No. 15-0427-14, for the Spirit Mountain recreation area authority is hereby approved.

Resolution 15-0228 was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved April 27, 2015

DON NESS, Mayor

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At this time, Councilor Gardner left the meeting.

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RESOLVED, that:

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

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

(c) The city planning commission, at its Tuesday, April 14, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth, finding that the described pedestrian easement is useless for all purposes and that a new pedestrian easement will be dedicated, approves the vacation of the pedestrian easement and dedication of a new pedestrian easement described below and as described and depicted on Public Document No. 15-0427-16:

VACATION LEGAL DESCRIPTION:

The 20.00 foot wide pedestrian easement lying over, under and across Lot 5, Block 2, GLEN PLACE DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota. Said easement contains 11,569 sq. ft or 0.27 acres.

NEW PEDESTRIAN EASEMENT LEGAL DESCRIPTION:

A 20.00 foot wide pedestrian easement lying over, under and across Lot 5, Block 2, GLEN PLACE DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota; the centerline of said easement is described as follows:

Commencing at a Northwesterly corner of said Lot 5, Block 2; thence on an assumed bearing of South 48 degrees 21 minutes 04 seconds East, along the Southerly line of said Lot 5, Block 2, a distance of 86.11 feet to the Point of Beginning of the centerline to be described; thence North 41 degrees 38 minutes 56 seconds East, a distance of 71.93 feet;

thence North 24 degrees 02 minutes 13 seconds West, a distance of 111.03 feet; thence North 24 degrees 38 minutes 25 seconds East, a distance of 155.71 feet; thence North 41 degrees 44 minutes 57 seconds East, a distance of 222.05 feet; thence South 48 degrees 24 minutes 55 seconds East, a distance of 108.20 feet; thence North 88 degrees 35 minutes 13 seconds East, a distance of 152.12 feet to the Easterly line of said Lot 5 and there terminating. The side lines of said easement are to be prolonged or shortened to terminate on the Southerly line of said Lot 5, Block 2 and the Easterly line of said Lot 5, Block 2. Said easement contains 16,421.9 sq. ft or 0.38 acres;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 15-0427-16 showing the platted easement to be vacated and the new pedestrian easement to be dedicated.

Resolution 15-0222 was adopted upon the following vote:

Yeas: Councilors Filipovich, Hanson, Julsrud, Krug, Russ, Sipress and President Larson -- 7

Nays: Councilor Fosle -- 1

Absent: Councilor Gardner -- 1

Approved April 27, 2015

DON NESS, Mayor

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RESOLVED, that the city council makes the following findings:

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

(b) The city planning division, which is implementing the comprehensive land use plan by implementing zoning regulations, has studied how, in some situations, amending the comprehensive land use plan to enable the eventual rezoning of an area will encourage new and appropriate development, encourage the reuse of previously developed lands and the adaptive reuse of existing infrastructure; and

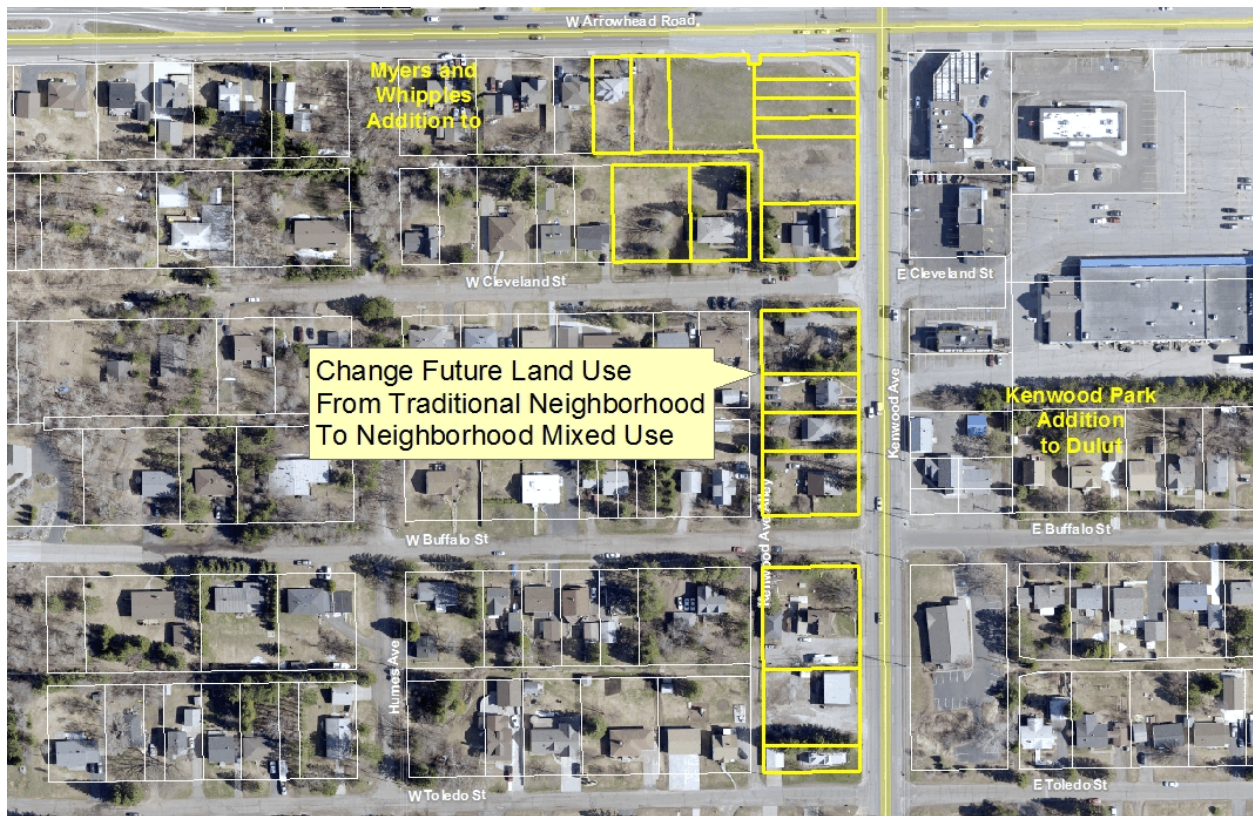
(c) Based on a review of this area completed by the city planning division, staff recommended to the city planning commission that the future land use map be amended for the area adjacent and to the west of Kenwood Avenue, from Arrowhead Road to West Toledo Street, as described below and shown in the map, from Traditional Neighborhood to Neighborhood Mixed Use; and

(d) The city planning commission has reviewed this future land use amendment, conducted a public hearing on April 14, 2015, at their regular planning commission meeting, and recommends city council adoption of the proposed future land use map amendment; and

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

IT IS FURTHER RESOLVED, that the adopted comprehensive land use plan - future land use map, is amended from Traditional Neighborhood to Neighborhood Mixed Use as follows:

Block 1, Myers and Whipples Addition to Duluth, Lots 1 to 10;
Block 2, Myers and Whipples Addition to Duluth, Lots 1 to 8;
Block 11, Myers and Whipples Addition to Duluth, Lots 1 to 7;
Block 12, Myers and Whipples Addition to Duluth, Lots 1 to 10;
Block 23, Myers and Whipples Addition to Duluth, Lots 1 to 10.



(Ref. File No. 15-052)

Resolution 15-0223 was unanimously adopted.
 Approved April 27, 2015
 DON NESS, Mayor

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At this time, Councilor Gardner returned to the meeting.

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Resolution 15-0226, vacating 108 feet of improved street right-of-way of 20th Avenue East between Fourth Street and Woodland Avenue (city of Duluth, engineering department), was introduced by Councilor Russ for discussion.

A motion to suspend the rules to hear from a speaker was seconded and unanimously carried.

Mark Anderson spoke in opposition to this vacation.

Councilor Russ moved to amend subparagraph (d) of the resolution to add the phrase, "effective August 1, 2015," after the public document number, which motion was seconded and carried as follows:

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

Nays: Councilor Gardner -- 1

Resolution 15-0226, as amended, was adopted as follows:

RESOLVED, that:

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

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

(c) The city planning commission, at its Tuesday, April 14, 2015, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the platted road easement described below and as described and depicted on Public Document No. 15-0427-15, effective August 1, 2015:

VACATION LEGAL DESCRIPTION:

That portion lying between 4th Street and Woodland Avenue, adjoining Lot 16, Block 11, Highland Park addition;

(e) That the city clerk is, pursuant to Section 100(b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. 15-0427-15 showing the platted easement to be vacated.

Resolution 15-0226, as amended, was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

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BY COUNCILOR RUSS:

RESOLVED, that the city council finds as follows:

(a) On February 13, 2015, the Fond du Lac Development Corporation applied for a variance related to a proposed new structure on their property on the north side of the 200 block of West Fourth Street. The variance was to allow for two driveway accesses off of West Fourth Street, where the building form standards for a Main Street II building allow no driveway access onto the street if alley access is available;

(b) The public hearing was noticed as required by the unified development chapter. Sixty public notice letters were mailed by the city to property owners with 350 feet of the subject area on February 25, 2015, and two public notice signs were posted by the applicant on February 23, 2015;

(c) The planning commission considered the request at its March 10, 2015 meeting, and voted to approve the variance. The basis for the commission's decision was its conclusion that:

(1) Because of exceptional topographic conditions related to the property, the strict application of the form district building code standards would result in peculiar and practical difficulties to the property owner. The property has significant elevation challenges, with an approximately 25 feet increase from the front to the back of the property, and presence of significant bedrock on site, that present practical difficulties to use and development of the property;

(2) The special circumstances that create the need for relief were not directly or indirectly created by the property owner;

(3) The special circumstances applying to the land are peculiar to the immediately adjoining properties;

(4) The relief is necessary for the preservation of a substantial property right;

(5) The relief will not impair an adequate supply of light and air to adjacent properties nor will it unreasonably increase congestion in public streets. The proposed structure will be three stories and 42 feet tall, which is below the maximum height limit of four stories/55 feet for the Main Street II building in the F-6 zone district;

(6) The variance for two driveway accesses can be granted without substantially impairing the intention of the zoning code;

(d) Christopher and Bethany Owen, Biju Philip and Kathleen Russell filed an appeal of the commission's decision to the city council on March 20, 2015, pursuant to Section 50-37.1.O(4) of the City Code;

(e) The city council heard the appeal to the granting of the variance at its May 27, 2015, meeting.

RESOLVED FURTHER, that the decision of the planning commission to grant the application for the variance is affirmed on the following grounds:

(a) Request for the variance is due to the exceptional topography of the property, including the presence of significant bedrock and steep elevation change;

(b) The relief is necessary for the preservation and enjoyment of a substantial property right; and

(c) The variance would not alter the essential character of the area, which is typified by larger sized institutional structures built close to the front lot line.

Resolution 15-0240 was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved April 27, 2015

DON NESS, Mayor

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Resolution 15-0241, by Councilor Russ, reversing the decision of the planning commission to grant a variance to permit two driveway accesses when alley access is available, by the Fond du Lac Development Corporation, failed upon the following vote (Public Document No. 15-0427-19):

Yeas: Councilor Hanson -- 1

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

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BY COUNCILOR RUSS:

RESOLVED, that the city council finds as follows:

(a) On February 13, 2015, the Fond du Lac Development Corporation applied for a variance related to a proposed new structure on their property on the north side of the 200 block of West Fourth Street. The application was to allow a variance from the requirement of occupied space on the ground floor, where the building form standards for a Main Street II building require the first 30 feet of the ground floor facing a primary space to be occupied space. Occupied space is the area of the building that must be occupied by the users on a regular basis, which typically includes uses such active uses as restaurant or office, but not off-street parking spaces for vehicles;

(b) The public hearing was noticed as required by the unified development chapter. Sixty public notice letters were mailed by the city to property owners with 350 feet of the subject area on February 25, 2015, and two public notice signs were posted by the applicant on February 23, 2015;

(c) The planning commission considered the request at its March 10, 2015, meeting, and voted to approve the variance. The basis for the commission's decision was its conclusion that:

(1) Because of exceptional topographic conditions related to the property, the strict application of the form district building form standards would result in peculiar and practical difficulties to the property owner. The property has significant elevation challenges, with an approximately 25 feet increase from the front to the back of the property, and presence of significant bedrock on site, that present practical difficulties to use and development of the property;

(2) The special circumstances that create the need for relief were not directly or indirectly created by the property owner;

(3) The special circumstances applying to the land are peculiar to the immediately adjoining properties;

(4) The relief is necessary for the preservation of a substantial property right;

(5) The relief will not impair an adequate supply of light and air to adjacent properties nor will it unreasonably increase congestion in public streets. The proposed structure will be three stories and 42 feet tall, which is below the maximum height limit of four stories/55 feet for the Main Street II building in the F-6 zone district;

(6) The variance from the form district building form standards requirement for 30 feet occupied space on the ground floor can be granted without substantially impairing the intention of the zoning code;

(d) Christopher and Bethany Owen, Biju Philip and Kathleen Russell filed an appeal of the commission's decision to the city council on March 20, 2015, pursuant to Section 50-37.1.O(4) of the City Code;

(e) The city council heard the appeal to the granting of the variance at its May 27, 2015 meeting.

RESOLVED FURTHER, that the decision of the planning commission to grant the application for the variance is affirmed on the following grounds:

(a) Request for the variance is due to the exceptional topography of the property, including the presence of significant bedrock and steep elevation change;

(b) The relief is necessary for the preservation and enjoyment of a substantial property right; and

(c) The variance would not alter the essential character of the area, which is typified by larger sized institutional structures built close to the front lot line.

Resolution 15-0242 was adopted upon the following vote:

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

Nays: Councilor Hanson -- 1

Approved April 27, 2015

DON NESS, Mayor

- - -

Resolution 15-0243, by Councilor Russ, reversing the decision of the planning commission to grant a variance from the requirement to have the first 30 feet of the ground floor of a structure be occupied space, by the Fond du Lac Development Corporation, failed upon the following vote (Public Document No. 15-0427-20):

Yeas: Councilor Hanson -- 1

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

- - -

Resolution 15-0230, accepting dedication of a street easement from Joe and Ryann Signorelli, was introduced by Councilor Julsrud for discussion.

Councilor Julsrud moved to amend the title and body of the resolution by deleting the names "Joe and Ryann Signorelli" and inserting "David A. Pipho and Amy D. Pipho,".which motion was seconded and carried as follows:

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

Nay: Councilor Fosle -- 1

Resolution 12-0230, as amended, was adopted as follows:

RESOLVED, that the city of Duluth does hereby accept the conveyance, at no cost to the city, of a street easement from David and Amy Pipho, joint tenants, for development of a hammerhead turnaround on Eastridge Boulevard, which easement is shown on Public Document No. 15-0427-17, on file in the office of the city clerk and legally described as:

An easement over the Westerly 40 feet of the Southerly 20 feet of Lot 1, Block 2, Eastridge Estates.

Resolution 15-0230, as amended, was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

- - -

Resolution 15-0236, ordering the improvement of the 2015 street preservation projects at an estimated cost of \$2,848,735.43, was introduced by Councilor Julsrud for discussion.

Councilor Fosle moved to amend the resolution to split the resolution in order to vote on the Raleigh Street separately 15-0236(b), which motion was seconded and unanimously carried.

A motion to suspend the rules to hear from speakers was seconded and unanimously carried.

KZ Rish submitted a petition (Public Document No. 15-0427-18) and spoke in opposition to Raleigh street being improved at this time and the associated assessment.

Sergei Katsev spoke in opposition to the assessment amount for the Woodland Avenue improvement.

Councilor Hanson moved to amend Resolution 15-0236(b) to add the wording "that these predesignated MSA dollars for the Raleigh Street project will be used in the western corridor," which motion failed for lack of a second.

Resolution 15-0236(a) was adopted as follows:

RESOLVED, that it is deemed necessary for public convenience and safety and it is hereby ordered that the following streets be improved:

Project No. 1044 (estimate \$1,278,682.33)

Woodland Avenue from Fourth Street to Kent Road (S.P. 118-157-020)

Woodland Avenue from Calvary Road to Martin Road (S.P. 118-161-008)

Project No. 1336 (estimate \$835,494.88)

46th Avenue West from Grand Avenue to Eighth Street (S.A.P. 118-111-008)

40th Avenue East from London Road to Superior Street (S.A.P. 118-166-003)

Pecan Avenue from Central Entrance to Rice Lake Road (S.A.P. 118-182-006)

Project No. 1034 (estimate \$314,303.62)

Skyline Parkway from Seventh Street to Mesaba Avenue

FURTHER RESOLVED, that said work be done by contract and that the estimated cost of said project as estimated by the city engineer is \$2,428,480.83, payable from Permanent Improvement Fund 411, Department/Agency 035 (capital projects accounts), Object 5530 (improvements other than buildings). The funding sources for these projects will be as follows: \$920,000 federal, \$1,194,177.21 MSAS Fund 90 and street system maintenance utility fee \$314,303.62, and of these project costs, \$607,120.20 will be assessed to benefitting properties.

FURTHER RESOLVED, that assessments shall be levied upon lands benefitting per the preliminary assessment roll and may be paid in five annual installments for assessments less than \$5,000, and in ten annual installments for assessments of \$5,000 or more, at municipal bond index fund rate plus 1.50 percent interest.

Resolution 15-0236(a), as amended, was unanimously adopted.

Approved April 27, 2015

DON NESS, Mayor

- - -

Resolution 15-0236(b) failed unanimously (Public Document No. 15-0427-21).

- - -

Resolution 15-0244, creating a Level 2 diagnostic home energy assessment program and authorizing the director of public works and utilities to administer the program with funds previously approved for the existing advanced home energy audit program, was introduced by Councilor Julsrud.

Councilor Julsrud moved to table the resolution in order to work out some details, which motion was seconded and unanimously carried.

- - -

INTRODUCTION AND CONSIDERATION OF ORDINANCES

The following entitled ordinances were read for the first time:

BY COUNCILOR GARDNER

15-023 - AN ORDINANCE AMENDING SECTIONS 47-16, 47-17.1, 47-18, 47-20, 47-22, 47-27, AND 47-33 AND DELETING SECTION 47-37 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATED TO TAXICABS.

- - -

INTRODUCED BY COUNCILOR RUSS

15-024 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 AND RR-1 TO P-1 FOR COBB PARK, DOWNER PARK, JANETTE POLLAY PARK, MORNINGSIDE PARK AND PLEASANT VIEW PARK (CITY OF DULUTH).

- - -

INTRODUCED BY COUNCILOR RUSS

15-025 - AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH TO PROVIDE FOR THE RECLASSIFICATION FROM R-1 TO MU-C THE PROPERTY LOCATED 213 NORTH ARLINGTON AVENUE (JOSEPH KLEIMAN).

- - -

INTRODUCED BY COUNCILOR RUSS

15-026 - AN ORDINANCE AUTHORIZING THE CONVEYANCE OF PROPERTY IN LAKESIDE TO ONE ROOF COMMUNITY HOUSING FOR RESIDENTIAL REDEVELOPMENT.

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

William Lynch spoke of his concerns about this ordinance.

- - -

BY COUNCILOR SIPRESS

15-027 - AN ORDINANCE APPROVING THE CONVEYANCE BY THE DULUTH AIRPORT AUTHORITY OF ALERT HANGAR 11/12 AND RATIFYING AND APPROVING THE CONVEYANCE OF ALERT HANGAR 13/14 TO MONACO AIR DULUTH, LLC.

- - -

The following entitled ordinances were read for the second time:

INTRODUCED BY COUNCILOR RUSS

15-021(a) (10367) - AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.2 AND 50-41.13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR MEDICAL CANNABIS LAND USES.

The ordinance, as amended, was adopted upon the following vote:
Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug and President Larson -- 7
Nays: Councilors Russ and Sipress -- 2

- - -

INTRODUCED BY COUNCILOR RUSS
15-022 (10368) - AN ORDINANCE AMENDING SECTION 2-177 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE METHODS OF CONVEYANCE OF REAL PROPERTY.

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

- - -

The meeting was adjourned at 8:58 p.m.

JEFFREY J. COX, City Clerk

- - -

ORDINANCE NO. 10367

AN ORDINANCE AMENDING SECTIONS 50-19.8, 50-20.2, 50-41.13 OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO AMEND THE PERMITTED USE TABLE TO ALLOW FOR MEDICAL CANNABIS LAND USES.

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, is amended as follows:

50-19.8	Permitted use table.
---------	----------------------

TABLE 50-19.8: USE TABLE

	Residential							Mixed Use					Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
RESIDENTIAL USES																									
Household Living																									
Dwelling, one-family	P	P	P	P	P	P	P					P	U	U	U	U	U	P	U	U	U				
Dwelling, two-family				P	P	P	P					P	U	U	U	U	U	P	U	U	U				50-20.1.A
Dwelling, townhouse				S	P ²	P	P ²				P ¹	P													50-20.1.B
Dwelling, multi-family					P ²	P	P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	P	U	P	P				50-20.1.C
Dwelling, live-work							P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P		P	P				
Manufactured home park				S	S ²	P	S ²																		50-20.1.F
Group Living																									
Co-housing facility				S	S ²	P	P ²					P													
Residential care facility/assisted living (6 or fewer)		P	P	P	P ²	P	P ²					P	U	P	U	P	P	U	U	P	P				50-20.1.D
Residential care facility/assisted living (7 or more)				S	P ²	P	P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	U	U	P	P				50-20.1.D
Rooming house					S ²		P ²	P ¹	P ¹		P ¹	P	U	P	U	P	P	U	U	P	P				50-20.1.E
PUBLIC, INSTITUTIONAL AND CIVIC USES																									
Community and Cultural Facilities																									
Bus or rail transit station							P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P				
Cemetery or mausoleum	S	S	S	S	S ²	P	S ²	S	S	S														S	
Club or lodge (private)					S ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P				S	50-20.2.A
Government building or public safety facility		P	P	S	P ²	P	P ²	P ¹	P	P	P ¹	P	P	P	P	P	P	P	P	P	P	S	S	S	
Museum, library or art gallery				S	S ²	P	P ²	P ¹		S	P ¹	P	P	P	P	P	P	P	P	P	P			S	
Park, playground or forest reserve	P	P	P	P	P ²	P	P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P	P			P	
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P ²	P	P ²	P ¹	P ¹	S	P ¹	P	P	P	P	P	P	P	P	P					50-20.2.E

TABLE 50-19.8: USE TABLE

	Residential							Mixed Use						Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P		MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
Religious assembly, large (50,000 sq. ft. or more)		S	S	S	S ²	P		P ²	P ¹	P ¹	S	P ¹	P	P	P	P	P	P	P	P	P					50-20.2.F
Educational Facilities																										
Business, art or vocational school								P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P					
School, elementary		P	P	P	P ²	P		P ²	P ¹	P ¹			P	U	P	U	P	P	U	U	U					50-20.2.G
School, middle or high		S	S	S	S ²	P		S ²	S ¹	S ¹			P	U	P	U	P	P	U	U	U					50-20.2.G
University or college										P ¹			P			U	P	P	U	U	U					
Health Care Facilities																										
Hospital										P ¹																
Medical or dental clinic					S ²	P		P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P					50-20.2.E
Nursing home					P ²	P		P ²	P ¹	P ¹		P ¹	P		P		P									
Medical cannabis distribution facility											I											I				50-20.2.B
Medical cannabis laboratory											I											I				50-20.2.C
Medical cannabis manufacturer																						I				50-20.2.D
Other institutional support uses not listed in this table										P ¹																
COMMERCIAL USES																										
Agriculture and Animal-Related																										
Agriculture, general	P	P																								50-20.3.B
Agriculture, urban		P	P	P	P ²	P		P ²					P													
Kennel	S	S							S	S	P		P													
Riding stable	S	S	S			P						S												S		
Veterinarian or animal hospital	S	S			P ²	P		P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P							50-20.3.T
Food, Beverage and Indoor Entertainment																										
Adult entertainment establishment																						P				50-20.3.A
Convention or event center									P ¹		P	P ¹	P				P	P		P	P	P				50-20.3.H

TABLE 50-19.8: USE TABLE

	Residential							Mixed Use					Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P		MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1
Indoor entertainment facility								P ¹		P	P ¹	P		P		P	P		P	P	P				
Restaurant (less than 5,000 sq. ft.)					S ²	S	S ²	P ¹	P ¹	P	P ¹	S	P	P	P	P	P	P	P	P	P				50-20.3.Q
Restaurant (5,000 sq. ft. or more)						S		P ¹	P ¹	P	P ¹	S	P	P	P	P	P	P	P	P	P				50-20.3.Q
Theater							S ²	P ¹				P ¹	P		P		P	P		P	P	P			
Lodging																									
Hotel or motel							S ²	P ¹	P ¹	P	P ¹	P		P		P	P		P	P	P				
Bed and breakfast				S	P ²	P	P ²	P ¹	P ¹	P	P ¹	P		P		P		P							50-20.3.F
Seasonal camp or cabin	P	P				P						P ¹												S	50.20.3.S
Vacation dwelling unit		I	I	I	I ²	I	I ²										I								50-20.3.U
Offices																									
Bank							S ²	P ¹	P ¹	P	S	P	P	P	P	P	P	P	P	P	P				50-20.3.E
Office					S ²		P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P	P				50-20.3.M
Data center							S ²	P ¹	P ¹	P	S	P	U	U	U	U	U	U	U	U	U	P			
Outdoor Recreation & Entertainment																									
Golf course		S	S			P																		P	
Marina or yacht club												P ¹											S	S	
Recreational vehicle park	S	S	S									S												S	50.20.3.P
Other outdoor entertainment or recreation use not listed		S						S		S	S														50.20.3.N
Personal Services																									
Business park support activities											P	P													
Preschool		S	S	S	P ²	P	P ²	P ¹	P ¹			P ¹	P	P	P	P	P	P	S	P	S				
Daycare facility, small (14 or fewer)	P	P	P	P	P ²	P	P ²	P ¹	P ¹			P ¹	P	P	P	P	P	P	P	P	P				50-20.3.I
Daycare facility, large (15 or more)		S	S	S	S ²	P	P ²	P ¹	P ¹			P ¹	P	P	P	P	P	S	P	S					50-20.3.I
Funeral home or crematorium					S ²		S ²	P ¹	P ¹	P		P		P		P		P				P			
Mini-storage facility		S								P												P	P		50-20.3.L

TABLE 50-19.8: USE TABLE

	Residential							Mixed Use					Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P		MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1
Personal service and repair, small (less than 10,000 sq. ft.)						P		P ²	P ¹	P ¹	P	P ¹	P	P	P	P	P	P	P	P	P				
Personal service and repair, large (10,000 sq. ft. or more)								S ²	P ¹	P ¹	P	P ¹	P		P		P		P		P				
Retail Sales																									
Adult bookstore																						P			Chapter 5
Building materials sales									S		P		P												50-20.3.G
Garden material sales		S							P ¹				P				P								
Grocery store, small (less than 15,000 sq. ft.)						P		P ²	P ¹			P ¹	P		P		P	P	P	P	P				50-20.3.K
Grocery store, large (15,000 sq. ft. or more)									P ¹				P												50-20.3.K
Retail store not listed, small (less than 15,000 sq. ft.)					S ²	P		P ²	P ¹	P ¹		P ¹	P	P	P	P	P	P	P	P	P				50-20.3.R
Retail store not listed, large (15,000 sq. ft. or more)									P ¹			P ¹	P		P		P	P		P	P				50-20.3.R
Vehicle-Related																									
Automobile and light vehicle repair and service								S ²	P ¹		P		P		P		P	P	P			P			50-20.3.C
Automobile and light vehicle sales, rental, or storage									P ¹		P											P			50-20.3.D
Filling station					S ²	P		S ²	P ¹		P	P ¹	P		P		P	P	P			P	P		50-20.3.J
Parking lot or parking structure (primary use)									P ¹	P ¹	P	P ¹	P	S	S	S	S	S	S	S	S	P	P		50-20.3.O
Truck or heavy vehicle sales, rental, repair or storage											P											P			
INDUSTRIAL USES																									
Industrial Service																									
Contractor's shop and storage yard											P		P					P				P	P		50-20.4.B
Dry cleaning or laundry plant											P											P			
Research laboratories										P ¹	P		P									P	P		

TABLE 50-19.8: USE TABLE

	Residential							Mixed Use					Form									Special			Use-Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		
Industrial services										P												P	P			
Manufacturing and Mining																										
Manufacturing, light									P ¹	P		P					P					P			50-20.4.F	
Manufacturing, heavy																						P				
Manufacturing, hazardous or special																						S			50-20.4.G	
Mining, extraction and storage		S																				S	S		50-20.4.H	
Water-dependent manufacturing, light or heavy																							P			
Transportation-Related																										
Airport and related facilities	S																					P			50-20.4.A	
Railroad yard or shipyard and related facilities																						P	P			
Truck freight or transfer terminal										P												P	P			
Utilities																										
Electric power or heat generation plant																						P	P			
Electric power transmission line or substation	S	S	S	S	S ²	P	S ²	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C
Major utility or wireless telecommunication facility	S	S	S	S	S ²	P	S ²	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E
Radio or television broadcasting tower		S								S												S	S		50.20.4.I	
Solar, geothermal or biomass power facility (primary use)		S				P		S	S	P		P										P	S			
Water or sewer pumping stations/reservoirs	S	S	S	S	S ²	P	S ²	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	

TABLE 50-19.8: USE TABLE

	Residential							Mixed Use					Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P		MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1
Water or sewer treatment facilities																						P	P		
Wind power facility (primary use)		S								S	S											P	S		50-20.4.M
Waste and Salvage																									
Junk and salvage services																						S	S		50.20.4.D
Recycling collection point (primary use)									S	S	S											P	P		
Solid waste disposal or processing facility		S									S											S	S		50-20.4.J
Wholesale Distribution and Storage																									
Storage warehouse											P							P				P			50.20.4.K
Wholesaling											P							P				P			50-20.4.L
Bulk storage not listed elsewhere																						P			
Water-dependent bulk storage or wholesaling not listed elsewhere																							P		
ACCESSORY USES																									
Accessory agriculture roadside stand	A	A																						A	50.20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A			A		A													50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A	A		A													50-20.5.C
Accessory caretaker quarters											A											A	A	A	
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				
Accessory dwelling unit	A	A	A	A	A	A	A																		50-20.5.D

TABLE 50-19.8: USE TABLE

	Residential							Mixed Use					Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
Accessory heliport	A								A			A										A			50-25.5.E
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A				50-20.5.F
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				50-20.5.G
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I
Accessory vacation dwelling unit		I	I	I	I	I	I									I									50-20.5.L
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K
TEMPORARY USES																									
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.A
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.B
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.C
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					50-20.6.D
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
FORM DISTRICT BUILDING TYPES																									
Main Street Building I													P	P											
Main Street Building II															P	P	P	P							

TABLE 50-19.8: USE TABLE

	Residential							Mixed Use					Form									Special			Use-Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	
Main Street Building III																			P	P					
Corridor Building I														P											
Corridor Building II																P	P								
Lakefront Corridor Building																					P				
Corridor Building III																				P					
Cottage Commercial I														P				P							
Cottage Commercial II																P									
Iconic Building														P		P	P	P		P					

Section 2. That Section 50-20.2 of the Duluth City Code, 1959, as amended, is amended as follows:
50-20.2 Public, institutional, and civic uses.

A. Club or lodge (private).

1. In the P-1 and R-2 district, the club or lodge shall be operated by a not-for-profit civic, cultural or educational organization, and the primary activity cannot be any service that is customarily carried on as a business;
2. In the RR-1 district, any such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;
3. In the RR-1, RR-2 and R-1 zone districts, the sum of all structures on the lot shall be not more than 50,000 square feet;
4. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

B. Medical cannabis distribution facility.

1. An interim use permit shall be required to operate a medical cannabis distribution facility. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this Section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis distribution facility must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, and hours of operation;
3. The distance limitations on location of a medical cannabis distribution facility in relation to a public or private school provided for under Minn. Stat. § 152.29, as may be amended, are incorporated herein. A medical cannabis distribution facility shall not be closer than 1,500 feet from a zoning district that allows single family, two-family, townhomes or multi-family dwellings as a permitted use at a density of greater than one unit per five acres;
4. A medical cannabis distribution facility shall be setback from all property lines a minimum of 25 feet;
5. Medical cannabis distribution facilities are prohibited from operating drive-throughs;
6. Parking, design standards, and other applicable requirements under the unified development chapter for this use will be the same as for other medical or dental clinics;

C. Medical cannabis laboratory.

1. An interim use permit shall be required to operate a medical cannabis laboratory. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a

medical cannabis laboratory must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, and hours of operation;

3. A medical cannabis laboratory shall be setback from all property lines a minimum of 25 feet;
4. Parking, design standards, and other applicable requirements under the unified development chapter for this use will be the same as for other medical or dental clinics;

D. Medical cannabis manufacturer.

1. An interim use permit shall be required to operate a medical cannabis manufacturing facility. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis distribution facility must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, hours of operation, and odor produced by the manufacturing process;
3. The distance limitations on location of a medical cannabis manufacturing facility in relation to a public or private school provided for under Minn. Stat. § 152.29, as may be amended, are incorporated herein. A medical cannabis manufacturer shall not be closer than 1,500 feet from a zoning district that allows single family, two-family, townhomes or multi-family dwellings as a permitted use at a density of greater than one unit per five acres;
4. A medical cannabis manufacturing facility shall be setback from all property lines a minimum of 50 feet;
5. No odor produced by a medical cannabis manufacturing facility shall be detectable at the manufacturer's property lines surrounding the facility;
6. Parking, design standards, and other applicable requirements under the Unified Development Chapter for this use will be the same as for other medical or dental clinics;

E Medical or dental clinic.

1. In the residential districts, the clinic shall occupy 10,000 square feet or less in total floor area;
2. In the MU-N district, the clinic shall occupy 20,000 square feet or less in total floor area;

E Religious assembly.

1. In the RR-1 district, any such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;
2. In the RR-1, RR-2 and R-2 zone districts, the sum of all structures on the lot shall not exceed 50,000 square feet without a special use permit. A special use permit is required for all religious assemblies in the R-1 zone districts;

3. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

G School, elementary, middle or high.

1. In the RR-1, RR-2 and R-1 districts, the school shall have a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school;
2. In the RR-1, RR-2, R-1, R-2, MU-N and MU-C districts, any such building shall be located not less than 40 feet from any side or rear lot line;
3. Notwithstanding any lower maximum height stated in Article II, in all zone districts except the form districts, the maximum height for this use shall be 45 feet.

Section 3. That Section 50-41.13 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.13 Definitions: M.

Maintenance agreement. A legally recorded document that acts as a property deed restriction, and that provides for long-term maintenance of stormwater BMPs.

Major system. In the context of stormwater management, one of the 42 major watercourses, or tributaries, as described by the Urban Study for Duluth Area Stormwater Flooding March 1976. Includes Lester/Amity Creeks, Tischer Creek, Brewery, Oregon, Miller, Coffee, Kingsbury, Knowlton, Stewart, Sargent, Mission, Buckingham, Chester and other systems as designated by the city.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

Manufacturing, light. A facility or area used for the assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outside operations or storage of goods and materials used in the assembly, fabrication, or processing does not exceed 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: food processing, electronic equipment assembly and manufacturing and assembly from finished products.

Manufacturing, heavy. An establishment or use of land that includes the assembly, fabrication, or processing of goods and materials using processes that ordinarily have impacts on the environment or significant impacts on the use and enjoyment of surrounding properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or any use where the area occupied by outside storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: battery, chemicals, machinery, and plastics manufacture; mushroom plant; batching plant; beverage bottling and distribution, packaging plant; slaughterhouse; and rendering plant. This use does not include any use that meets the definition of "light manufacturing" or "hazardous or special manufacturing", or a solid waste disposal site, or a yard waste compost facility, and does not include any use that constitutes a public nuisance.

Manufacturing, hazardous or special. An establishment or business that uses hazardous inputs or creates hazardous by-products in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts on the environment or

surrounding areas. Examples include but are not limited to: acid manufacture; acid bulk storage; cement, lime, gypsum or plaster of paris manufacture; central concrete mixing or concrete proportioning plant; distillation, manufacture or refining of bones, coal or tar asphalt; explosives, manufacture or storage; fat, grease, lard or tallow rendering or refining; fertilizer manufacture from organic matter; glue or size manufacture; paper manufacture; petroleum or asphalt refining or storage; smelting of tin, copper, zinc or iron ores; storage or processing raw hides or fur; and stockyards or slaughter of animals other than poultry.

Marina or yacht club. A facility or area for storing, servicing, fueling, berthing, securing, and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews and guests. Accessory uses may include restaurants and bars.

Maximum extent practicable (MEP). The statutory standard (33 U.S.C. 1342(p)(3)(B)(iii)) that establishes the level of pollutant reductions that an Owner or Operator of Regulated MS4s must achieve. The USEPA has intentionally not provided a precise definition of MEP to allow maximum flexibility in MS4 permitting. The pollutant reductions that represent MEP may be different for each Small MS4, given the unique local hydrologic and geologic concerns that may exist and the differing possible pollutant control strategies. Therefore, each permittee will determine appropriate BMPs to satisfy each of the six minimum control measures through an evaluative process. The USEPA envisions application of the MEP standard as an iterative process.

Medical cannabis. Medical cannabis shall mean the definition for same provided under Minn. Stat. § 152.22, subd. 6, as may be amended.

Medical cannabis distribution facility. Medical cannabis distribution facility shall mean a facility operated by a medical cannabis manufacturer for purposes of distributing medical cannabis in accordance with Minn. Stat. § 152.29, subd. 1(a), as may be amended, and the requirements of the commissioner of the Minnesota department of health or other applicable state law.

Medical cannabis laboratory. Medical cannabis laboratory shall mean an independent laboratory permitted to test medical cannabis produced by a medical cannabis manufacturer in accordance with Minn. Stat. § 152.29, subd. 1(b), as may be amended, and the requirements of the commissioner of the Minnesota department of health or other applicable state law.

Medical cannabis manufacturer. Medical cannabis manufacturer shall mean the definition for same provided under Minn. Stat. § 152.22, subd. 7, as may be amended.

Medical or dental clinic. An establishment where patients who are not lodged overnight are admitted for examination and treatment by a group of licensed health care practitioners, dentists, or licensed health care practitioners and dentists in practice together.

Migratory bird flight path. The zone of jurisdictional land located from the Lake Superior and Saint Louis River shorelines to no less than two miles inland or where Skyline Parkway runs parallel to the shoreline, an area from the shoreline to Skyline Parkway or two miles inland, whichever is greater.

Mining, extraction and storage. The extraction, removal or the processing of sand, clay, loam, gravel, rock, top soil or fill materials (exclusive of sod) for commercial purposes, except as a necessary incident to any construction on the premises.

Mini-storage facility. A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized and controlled access units or lockers.

Minor system. Those other city drainage systems that empty into the major system, which mainly consists of storm sewer, culverts and smaller open channel sections such as swales and small ditches.

Minor utilities. A piece or system of service equipment or infrastructure that is necessary to support development within the immediate vicinity and that involves only small structures.

Employees typically are not located at the site on an ongoing basis. Examples include but are not limited to: electric transformer stations, gas regulator stations, telephone exchange buildings, cable equipment boxes, district power distribution lines, electric utility boxes, and well, water and sewer pumping stations.

Mixed use structure. A structure containing a mix of the four major land uses, as defined by the permitted use table in UDC Section 50-19 (residential, public, commercial, and industrial). To be considered a mixed use structure, a structure must have at least 20 percent of its total square footage used by one of the four major land uses that is different than its principal use.

Modify or modification. When used in the context of wireless telecommunications facility, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access and parking. Adding a new wireless carrier or service provider to a telecommunications tower or telecommunications site as a co-location is a modification. A modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything, nor does it include upgrades or changeouts of equipment or antennas where the replacement is of similar size and appearance.

Motor vehicle. Any self-propelled vehicle designed primarily for transportation of person or goods. It does not include an electric personal wheelchair.

Municipal separate storm sewer system (MS4). A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains):

A. Owned or operated by a state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial water, stormwater or other wastes. Including special district, or similar entity or an Indian tribe or an authorized Indian tribal organization or a designated and approved management agency under Section 208 of the CWA (33 U. S. C.1288) that discharges to waters of the United States;

B. Designed or used for collecting or conveying stormwater;

C. That is not a combined sewer; and

D. That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR 122.2.

MPCA. Minnesota pollution control agency.

Museum, library, or art gallery. A facility or area that is open to the public and is intended for the acquisition, preservation, study, and exhibition of works of artistic, historical or scientific value.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 29, 2015)

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

Yeas: Councilors Filipovich, Fosle, Gardner, Hanson, Julsrud, Krug and President Larson -- 7

Nays: Councilors Russ and Sipress -- 2

ATTEST:
JEFFREY J. COX, City Clerk

Passed April 27, 2015
Approved April 27, 2015
DON NESS, Mayor

- - -

ORDINANCE NO. 10368

AN ORDINANCE AMENDING SECTION 2-177 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE METHODS OF CONVEYANCE OF REAL PROPERTY.

The city of Duluth does ordain:

Section 1. That Section 2-177 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 2-177. Methods of conveyance.

Conveyances under this Article may be accomplished or implemented in the following manners:

(a) Conveyance to the highest responsible bidder pursuant to Section 2-177.1 below;

(b) Conveyance to the highest responsible bidder at auction pursuant to Section 2-177.2 below;

(c) Conveyance to another governmental agency by sale or exchange at an amount other than market value pursuant to Section 2-177.3 below;

(d) Conveyance to a party other than another governmental agency at an amount at or less than market value in order to further other city interests pursuant to Section 2-177.4 below;

(e) Conveyance to an adjacent property owner or owners of property which cannot be developed pursuant to Section 2-178 below;

(f) Reconveyance to the state of Minnesota of tax forfeit property acquired by the city under a conditional use deed shall be by resolution of the city council.

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: May 29, 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 April 27, 2015
Approved April 27, 2015
DON NESS, Mayor

- - -