



# CITY OF DULUTH

DEPARTMENT OF PLANNING & CONSTRUCTION SERVICES  
Community Planning Division  
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218-730-5580 – An Equal Opportunity Employer

## MEMORANDUM

**DATE:** March 30, 2018  
**TO:** Planning Commission  
**FROM:** John Kelley, Planner II  
**SUBJECT:** UDC Text Amendment – Natural Resource Overlay - Shorelands

Staff has prepared a draft of proposed text amendments for shoreland regulations to the Unified Development Chapter. Specifically, Section 50-18.1.D Shorelands, would be amended to include regulations for water access via walkways, stairways, steps and landings. The proposed regulations would be formatted into this section as #5 following Uses and special permits.

Staff has provided the DNR with a copy of the proposed text amendments. The DNR does have a 30-day review process and staff understands that there may be suggested revisions to the regulations.

#### 4. Uses and special use permits.

- (a) Those permitted and special uses shown in Table 50.19.8, subject to the issuance of any shoreland permit required by subsection D.1 and compliance with the standards of subsection D.2, except as listed below. Agricultural uses are not permitted in the shore impact zone. Within shoreland areas that are outside of the shore impact zone, agricultural uses are permitted if steep slopes are maintained in permanent vegetation or the land is operated under an approved conservation plan from the St. Louis County Soil and Water Conservation District;
- (b) All industrial uses, including mining, extraction and storage, on coldwater rivers or natural environmental waters require a special use permit pursuant to Article V. The application for a special use permit must include a thorough evaluation of the topographic, vegetation and soils conditions on the site;
- (c) Standards for special use permit:
  - (i) Compliance with all development requirements for shorelands in this Section 50-18.1.D;
  - (ii) Prevention of soil erosion, stormwater runoff or other possible pollution of public waters, both during and after construction or use;
  - (iii) Restoration of the shoreline buffer to a natural state;
  - (iv) Screening of structures and other facilities as viewed from regulated waters, as shown on the NR-O map;

#### 5. Water access via walkways, stairways, steps and landings.

This shoreland permit process allows for reasonable access to water. All walkways, stairways, steps and landings must be constructed in a manner that requires the least amount of disturbance possible. Shoreland permit applications must comply with Section 50-37.13 Zoning Permits of the UDC.

- (a) Shoreland water access permit applications include submittal of the following:
  - (i) Property boundary survey prepared by a licensed Surveyor.
  - (ii) Site plan
  - (iii) Grading plan;
  - (iv) Landscape plan
  - (v) Erosion control permit application;
  - (vi) Proof of notification to adjacent property owners of an application for a zoning permit to construct stairways, steps and landings (not required for walkways);
  - (vii) Written statement accepting liability for repair of damage to the slope, i.e. erosion, loss of vegetation and/or sloughing caused by the walkway, stairway or stairway construction.
- (b) Application review standards:
  - (i) A walkway not involving construction of a stairway must be constructed in such a way as to prevent soil erosion, may be natural-surfaced or paved, must be limited to 4 feet in width, and the number of walkways allowed per lot shall not exceed the length of water frontage divided by 50, except lots with less than 50 feet of water frontage may be allowed one walkway;
  - (ii) Stairways, steps and landings shall comply with applicable building codes;
  - (iii) Stairways cannot exceed 100 feet in length and 4 feet in width;
  - (iv) Stairways, steps and landings must be located at least 3 feet above the OHWL or to the OWHL if approved by the Land Use Supervisor provided

that it is determined that the extension is necessary to preserve access to water,

- (v) A stairway providing access to Lake Superior will need to be above the regulatory flood protection elevation and be outside of the wave run up boundary as determined by the DNR;
- (vi) A stairway providing access to Lake Superior shall be cabled off to ground anchor points to insure it is not dislodged and swept out into the adjacent waterbody; and if the stairway structure fails and ends up in the waterbody, the structure must be promptly removed completely and restoration promptly completed by the property owner;
- (vii) Landings for stairways must not exceed 32 square feet on residentially-zoned lots and 64 square feet on mixed use and industrially-zoned lots;
- (viii) Canopies or roofs shall not be allowed on stairways, steps or landings;
- (ix) Stairways, steps and landings may be either constructed above the ground on posts, or placed on the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (x) The use of natural or earth-tone building materials shall be required for the construction of stairways, steps and landings so they are not visually intrusive.

6. Subdivisions.

New subdivisions in the shoreland area shall meet the following requirements:

- (a) The land shall not be subdivided until the land has been rezoned into the R-P zone district, and the concept and detailed development plans required in the R-P districts shall be designed to comply with the provisions of this Section 50-18.1.D;
- (b) A buffer at least 50 feet in width, consisting of trees, shrubs and ground cover of plants and understory in a natural state, is required within a line parallel to the ordinary high water level or highest known water level, whichever is higher, and as close to the ordinary high water level as topography and the health of the plants will permit;
- (c) After construction is completed, the owner of the property shall be responsible for any continued need for erosion and sediment control and restoration on the property;

7. Nonconforming lots of record.

Lots of record in the office of the county recorder on November 19, 2010, may be allowed an exception from the structure setback requirement in subsection D.3. If the lot of record cannot be developed under the setback requirements of subsection D.3, then:

- (a) The lot may be developed without a variance if (1) principal structures exist on the adjoining lots on both sides of a proposed building site, and (2) the proposed structure will be located no closer to the protected shore than the principal structure on either adjoining site, and (3) the resulting adjusted setback does not result in the proposed building being located in a shore impact zone; or
- (b) The lot may be developed if a variance is obtained pursuant to Article V;