



Legislation Text

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AN ORDINANCE AMENDING SECTIONS 50-18.1.D, SHORELANDS, TO ALLOW FOR ACCESS TO WATER VIA WALKWAYS, STAIRWAYS, STEPS AND LANDINGS.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-18.1.D of the Duluth City Code, 1959, as amended, be amended as follows:

D. Shorelands.

In furtherance of the policies declared by the state legislature, waters in the city have been classified as general development waters (GD), natural environment waters (NE) or coldwater rivers (CW). The shoreland overlay applies to lands within 1,000 feet of Lake Superior or within 300 feet of rivers, creeks, streams and tributaries and floodplains, as designated on the NR-O map. If a parcel or development lies only partially within a shoreland area, only the portion of the property within the shoreland is subject to these provisions;

1. Shoreland permit required.

The following activities and structures require a shoreland permit if located within a shoreland:

- (a) All structures;
- (b) All grading, filling and excavating;
- (c) All construction of impervious surfaces, including roads, driveways, parking areas and trails;
- (d) All removal of natural vegetation;
- (e) Any construction activity that removes or disturbs natural beach grasses on Park Point;

2. Standards for shoreland permit.

- (a) Erosion and sediment control measures shall be required for any land disturbing activity;
- (b) Grading and filling of more than 250 square feet or placement of more than ten cubic yards of material within the shore impact zone shall only be permitted if a plan for erosion control, stormwater management and shoreline buffer restoration is approved by the city and effectively implemented;
- (c) Impervious surfaces shall be designed and constructed to minimize and control runoff and erosion into the regulated waters;
- (d) Any removal of natural vegetation shall be designed to prevent erosion into regulated waters and to preserve shoreland aesthetics;
- (e) Removal of trees or shrubs in a contiguous patch, strip, row or block is prohibited in shore impact zones;
- (f) The project does not result in the proposed building being located in a shore or bluff impact zone;
- (g) Natural vegetation buffers shall be restored to the extent feasible after any project is complete;

3. Dimensional standards.

(a) No shoreland permit shall be approved unless the standards in Table 50-18.1.D-1 are met or a variance obtained pursuant to Article V;

Table 50-18.1.D-1: Minimum Shoreland Area Standards

Standards	General Development Waters ^[1]	Natural Environmental Waters	Coldwater River
Minimum setbacks from Ordinary Level or highest known water level			
Structures	50 ft.	75 ft.	150 ft.
Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1-3	25 ft.	N/A	N/A
Impervious surfaces in the Shore Impact Zone	50 ft.	50 ft.	75 ft.
Lowest floor elevation above Ordinary Level or highest known water level higher ^[2]	3 ft.		
Width of naturally vegetative buffer	50 ft.		

^[1] All Lake Superior shoreland is classified as general development waters. ^[2] For a structure located in an area with a flood plain elevation requirement, but must meet flood plain regulations.

(b) Exceptions to dimensional standards.

i. Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1-3: 0 feet setback for grain elevators, cranes, loading bins, and other equipment necessary for loading and unloading, including impervious surface necessary to support these activities;

ii. Public trails with previous surfaces, or with impervious surfaces no more than ten feet wide, may be constructed within these setbacks, provided that a minimum amount of natural vegetation is removed and provided that permits are obtained from the DNR and MPCA, if required;

iii. Properties in Stormwater Zone B, as defined in Section 50-18.1E.3(f), that have been previously developed with 75 percent or greater impervious surface may use one of the following methods to determine building setback:

- Use the impervious surface setback for the shoreland classification as the building setback;
- When principal structures exist on the adjoining lots on both sides of the proposed building site, the structure setbacks can be altered to conform to the adjoining setbacks, provided the proposed building site is not located within the setback required for the naturally vegetative buffer;

iv. Park equipment such as playground structures and ball fields (but not including structures such as garages, storage buildings, toilets or warming houses) may be placed closer than the required structure setback provided they lie outside the area required for the native vegetative buffer;

v. Ground or pole mounted solar or wind power collection systems shall not be placed within the impervious surfaces setback in the Shore Impact Zone;

vi. Removal of invasive vegetative species is allowed within the naturally vegetative buffer area with an approved shoreland permit, provided there is replacement with non-invasive and non-harmful species;

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. Shoreland Permit for Water access via walkways, stairways, steps and landings.
A Shoreland permit shall be required for walkways, stairways, steps and landings providing access to water. Shoreland permit applications must comply with Section 50-37.13 Zoning Permits of the UDC.

- (a) Shoreland water access permit applications shall 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) All walkways, stairways, steps and landings must be constructed in a manner that requires the least amount of disturbance possible;
 - (ii) 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, only one is allowed per lot. For new development on lots zoned as mixed use development or residential planned development access must be centralized in one location and located in areas suitable for the development;
 - (iii) Stairways, steps and landings shall comply with applicable building codes;
 - (iv) Stairways cannot exceed 100 feet in length and 4 feet in width;
 - (v) Stairways, steps and landings must be located at least 3 feet above the Ordinary high water mark or to the Ordinary high water mark if approved by the Land Use Supervisor provided that it is determined that the extension is necessary

- to preserve access to water.
- (vi) 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. Activities below the Ordinary high water mark shall comply with DNR regulations;
- (vii) 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;
- (viii) If the stairway structure providing access to Lake Superior is dislodged and ends up in the Lake, the Permittee or his successor in interest to the property agrees to promptly remove completely the structure from the Lake and to restore the property upon which it had been located to substantially the condition it had been in prior to the original installation of the structure;
- (ix) Landings for stairways must not exceed 32 square feet on residentially-zoned lots and 64 square feet on mixed use and industrially-zoned lots;
- (x) Canopies or roofs shall not be allowed on stairways, steps or landings;
- (xi) 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;
- (xii) 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;

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: _____, 2018)

STATEMENT OF PURPOSE: This ordinance implements one minor text amendment to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

This amendment is intended to give the Land Use Supervisor administrative authority to approve shoreland permits to construct walkways, stairways, steps and landings for reasonable access to water. Shoreland permits for walkways, stairways, steps and landings must comply with the standards of Section 15-18.1.D. The planning commission held a public hearing and considered the changes at their April 10, 2018, regular planning commission meeting and they voted 6-1 to recommend that the city council approve this ordinance change.