

Article Two. ZONE DISTRICTS.

50-13 GENERAL PROVISIONS

50-13.1 Purpose.

This Article establishes the base and overlay zone districts available in the city to regulate land and implement the comprehensive land use plan. It also contains basic information pertaining to the districts, including statements of purpose and dimensional standards.

50-13.2 Article organization.

1. Section 50-13, *General provisions*, establishes the zone districts and contains basic information pertaining to all districts and the zoning map;
2. Section 50-14, *Residential districts*, describes the residential districts and includes purpose statements, dimensional requirements, and district-specific standards if applicable;
3. Section 50-15, *Mixed use districts*, describes the mixed-use districts and includes purpose statements, dimensional requirements, and district-specific standards if applicable;
4. Section 50-16, *Form districts*, describes the form districts and includes purpose statements and regulating standards;
5. Section 50-17, *Special purpose districts*, describes the special purpose districts and includes purpose statements, dimensional requirements, and district-specific standards if applicable;
6. Section 50-18, *Overlay districts*, identifies the overlay districts and includes purpose statements and any district-specific standards.

50-13.3 Zone districts established.

For the purposes of this Article, the city is hereby divided into districts, as follows:

Table 50-13.3-1: Zone Districts Established		
District Type	Abbreviation	District Name
Residential	R-C	Rural-Conservation
	RR-1	Residential-Rural 1
	RR-2	Residential-Rural 2
	R-1	Residential-Traditional
	R-2	Residential-Urban
	R-P	Residential-Planned
Mixed Use	MU-N	Mixed Use-Neighborhood
	MU-C	Mixed Use-Commercial
	MU-I	Mixed Use-Institutional
	MU-B	Mixed Use-Business Park
	MU-W	Mixed Use-Waterfront
	MU-P	Mixed Use-Planned
Form	F-1	Form 1
	F-2	Form 2
	F-3	Form 3
	F-4	Form 4
Special Purpose	I-G	Industrial-General
	I-W	Industrial-Waterfront
	P-1	Park & Open Space
	AP	Airport
Overlay	NR-O	Natural Resources Overlay
	A-O	Airport Overlay
	SP-O	Skyline Parkway Overlay
	HR-O	Historic Resources Overlay

50-13.4 Zoning map.

B. Zoning map.

The boundaries of the districts set out in Table 50-13.3-1 are hereby established as shown on the city’s official zoning map, and as that map may be updated by council from time to time. That map shall be maintained by the city and is hereby made a part of this Chapter and incorporated by reference;

C. Zoning map amendments.

Procedures for amending the zoning map are in Article 5 of this Chapter;

D. Questions regarding zoning designations.

In the event of uncertainty regarding zoning designations or the exact boundaries of any zone district, the land use supervisor shall make a determination based upon the interpretation rules in subsection Section 50-13.4.D below. The land use supervisor's determination shall be subject to appeal pursuant to Article 5 of this Chapter;

E. Interpretation of map boundaries.

Where uncertainty exists with respect to the boundaries of the districts shown on the zoning map, the land use supervisor's decision shall be based on the following standards:

1. Where a district is bounded by a street, alley or other public way, the centerline of the street, alley, or other public way shall be construed to be the boundary of the district;
2. Boundaries delineated by lot lines shall follow those lot lines;
3. Boundaries delineated by railroad lines shall be midway between the main tracks or the centerline of a single track;
4. Boundaries dividing a lot or transecting un-subdivided land shall be determined using the scale appearing on the zoning map, unless the boundary location is indicated by dimensions shown on the map;
5. Boundaries shown parallel to or as extensions of features indicated in this Section shall be interpreted as such. Distances not specifically indicated on the zoning map shall be determined by the scale of the map;
6. Where the description of the property is contained in an ordinance, the metes and bounds description of the property in the ordinance shall control over the zoning map. When a metes and bounds description contained in an ordinance is for an unplatted tract of land, the land use supervisor is authorized the make the appropriate modifications to the zoning map at the time the property is platted so that the boundaries of the zone district coincide with the newly created property lines;
7. Whenever any street, alley or other public way is vacated by official action of the council, the zone district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacated street, alley or public way, and all areas included in the vacated street, alley or public way shall be subject to all regulations of the extended district, unless otherwise approved by council;

F. Relationship to overlay districts.

All lands within the city shall be designated as one of the base zone districts listed in Table 50-13.3-1. In addition, some lands may be located within one or more of the overlay districts listed in that table. On land designated as an overlay district, the regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying base district. In the event of an express conflict between the two sets of standards, the standards for the overlay district shall control;

G. Annexed territory.

All territory annexed to the city after November 19, 2010, shall be automatically classified as R-C, until a different zone district is assigned by council. In a newly annexed area classified as R-C, no permit for construction of a building other than a single-family dwelling or accessory building permitted in an R-C district shall be issued by the city until such permit has been specifically authorized by council, or until the area is reclassified according to the rezoning procedures in Article 5;

H. District dimensional standards.

For purposes of this Section, general shall mean all permitted, interim, or special uses not otherwise described in the dimensional standards tables.

50-14 RESIDENTIAL DISTRICTS.

50-14.1 General purposes of residential zone districts.

The residential zone districts are intended to:

1. Provide appropriately located areas for residential development that are consistent with the comprehensive land use plan and with the public health, safety, and general welfare;
2. Ensure adequate light, air, and privacy for all dwelling units.
3. Promote neighborhood reinvestment, particularly investment that diversifies residential opportunities.
4. Encourage a mix of activities, uses, and densities that integrate housing with nearby commercial, entertainment and recreation uses.
5. Create efficiencies in the delivery of public services by supporting compact development to maximize the public investment in streets and utilities.

50-14.2 Rural-Conservation (R-C).

A. Purpose.

The R-C district is established to accommodate low-density, single-family detached residential uses on lots of at least ten acres each in areas where the comprehensive land use plan calls for protection of rural character. The district encourages development designs that conserve open space and natural resources and preserve rural character. Complementary uses such as limited agriculture, parks, minor utilities and certain temporary uses are allowed as shown in Table 50-19.8.

TABLE 50-14.2-1 R-C DISTRICT DIMENSIONAL STANDARDS	
LOT STANDARDS	
Minimum lot area (calculated to include any highway easements or parts of highway easements within the original parcel of land)	10 acres
Minimum lot frontage (ft)	250 ft.
STRUCTURE SETBACKS	
Minimum depth of front yard (ft)	60 ft.
Minimum width of side yard (ft)	25 ft.
Minimum depth of rear yard (ft)	50 ft.
STRUCTURE HEIGHT	
Maximum height of building (ft)	30 ft.
Section 50-21 <i>Dimensional standards</i> contains additional regulations applicable to this district.	

B. Development standards.

All homesites in the R-C district shall be located so as to preserve the rural character of the district and to avoid unnecessary fragmentation of the rural landscape by:

1. Designating a portion of the site containing no more than one acre of land in compact configuration as the homesite in which the primary dwelling and all major accessory buildings will be located;
2. Locating the homesite either:
 - (a) adjacent to a side or rear property line of the lot, or
 - (b) where the principal structure is hidden from view from public rights-of-way by an intervening natural feature such as a hillside, berm, or tree grove;
3. Locating the driveway leading from the public right-of-way to the homesite:
 - (a) as close to a side property line of the lot as is reasonably possible without significant grading, vegetation, or stream crossings, or
 - (b) in another location that will minimize the fragmentation of field, pasture, or naturally vegetated areas.

50-14.3 Residential-Rural 1 (RR-1).

A. Purpose.

The RR-1 district is established to accommodate large-lot, single-family detached residential uses, typically surrounded by significant open space, on lots of at least 5 acres each. The district encourages distinctive neighborhoods with a semi-rural character. Complementary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed as shown in Table 50-19.8.

TABLE 50-14.3-1

RR-1 DISTRICT DIMENSIONAL STANDARDS

LOT STANDARDS	
Minimum lot area (calculated to include any highway easements or parts of highway easements within the original parcel of land)	5 acres
Minimum lot frontage	250 ft.
STRUCTURE SETBACKS	
Minimum depth front yard	60 ft.
Minimum width of side yard	25 ft.
Minimum depth of rear yard	50 ft.
STRUCTURE HEIGHT	
Maximum height of building	30 ft.

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

50-14.4 Residential-Rural 2 (RR-2).

A. Purpose.

The RR-2 district is established to accommodate single-family detached residential uses on lots of at least two acres each. The district encourages distinctive neighborhoods with a suburban character. The district may serve as a transition between lower-density semi-rural areas and more intense residential or mixed use neighborhoods. Complementary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed as shown in Table 50-19.8.

TABLE 50-14.4-1

RR-2 DISTRICT DIMENSIONAL STANDARDS

LOT STANDARDS	
Minimum lot area	2 acres
Minimum lot frontage	100 ft.
STRUCTURE SETBACKS	
Minimum depth front yard	35 ft.
Minimum width of side yard	10 ft.
Corner Lot: width of corner side yard	25 ft.
Minimum depth of rear yard	25 ft.
STRUCTURE HEIGHT	
Maximum height of building	30 ft.

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

50-14.5 Residential-Traditional (R-1).

A. Purpose.

The R-1 district is established to accommodate traditional urban neighborhoods with primarily small-scale residential uses, schools, and limited commercial uses are allowed as shown in Table 50-19.8.

TABLE 50-14.5-1

R-1 DISTRICT DIMENSIONAL STANDARDS

LOT STANDARDS		
Minimum lot area, per family ^[1] ^[2] ^[3]	General	2,500 sq. ft.
	One-family	2,500 sq. ft.
	Two-family	2,000 sq. ft.
	Townhouse	2,000 sq. ft.
	Multi-Family	1,500 sq. ft. ^[4]
Minimum lot frontage ^[1] ^[2] ^[3]	General	The smaller of 25 ft. or average of developed lots with similar uses on the block face
	Townhouse, per unit	20 ft
STRUCTURE SETBACKS		
Minimum depth of front yard		The smaller of 10 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard	General	3 ft.
	Two-family or townhouse shared wall	0 ft setback for portion of the principal structure, including attached decks, with the shared wall
Corner Lot: width of corner side yard		10 ft.
Minimum depth of rear yard		10 ft.
STRUCTURE HEIGHT		
Maximum height of building		35 ft.
^[1] Determined using "Lots on the block face" definition. When doing this calculation, exclude the subject lot from the calculation. ^[2] Lots without municipal sewer must also meet requirements of 50-21.2. ^[3] Existing structures that have a change of use from one-family to two-family must meet minimum lot area and frontage, but not setbacks. For lots with less than the minimum lot frontage, refer to 50-38.5. ^[4] per Sec 50-20.1.A only 3-4 unit multi-family structures are allowed in R-1. Section 50-21 <i>Dimensional standards</i> contain additional regulations applicable to this district. Note: Minnesota State Building and Fire Codes may require plan/design changes and additional fire protection for structures built close to the property line.		

50-14.6 Residential-Urban (R-2).

A. Purpose.

The R-2 district is established to accommodate multi-family apartments and townhouses in an urban setting. This district also allows for single-family detached dwellings, duplexes, and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods;

TABLE 50-14.6-1

R-2 DISTRICT DIMENSIONAL STANDARDS

LOT STANDARDS		
Minimum lot area, per family	General	2,000 sq. ft.
	One-family	2,500 sq. ft. or average of the developed 1-family lots on the block face
	Two-family	1,500 sq. ft.
	Townhouse	1,500 sq. ft.
	Multi-family	500 sq. ft.
Minimum lot frontage	General	25 ft. or the average of the developed lots with similar uses on the block face
	Townhouse, per family	20 ft.
STRUCTURE SETBACKS		
Minimum depth front yard		5 ft.
Minimum width of side yard	General	3 ft
	Two-family or townhouse shared wall	0 ft setback for portion of the principal structure, or attached deck, with the shared wall
Corner Lot: width of corner side yard		5 ft.
Minimum depth of rear yard		5 ft.
STRUCTURE HEIGHT		
Maximum height of building		60 ft.

Section 50-21 *Dimensional standards* contain additional regulations applicable to this district. For lots with less than the minimum lot frontage, refer to 50-38.5.
Note: Minnesota State Building Codes may require plan/design changes and additional fire protection for structures built close to the property line.

50-15 MIXED USE DISTRICTS.

50-15.1 General purposes of mixed use districts.

The mixed use districts are intended to:

1. Increase opportunities for residents to live in close proximity to jobs and non-residential development;
2. Accommodate the mix of residential and non-residential land uses common in and around downtown/waterfront areas, major universities and medical centers and along commercial corridors;
3. Encourage mixed use redevelopment, conversion and reuse of aging and underutilized areas, and increase the efficient use of available commercial land in the city;
4. Create pedestrian-oriented environments that encourage transit use, pedestrian access, and more sustainable land use patterns;
5. Ensure that the appearance and function of residential and non-residential uses are of high and unique aesthetic character and quality, and are integrated with one another and the character of the area in which they are located.

50-15.2 Mixed Use-Neighborhood (MU-N).

A. Purpose.

The MU-N district is established to accommodate a mix of neighborhood scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) types of mixed use. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood, as shown in Table 50-19.8;

TABLE 50-15.2-1 MU-N DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area, per family	General	2,000 sq. ft.
	One-family	2,500 sq. ft.
	Two-family	1,500 sq. ft.
	Townhouse or live-work dwelling	1,500 sq. ft.
	Multi-Family	500 sq. ft.
Minimum lot frontage	General	25 ft
	Townhouse, per family	20 ft.
		STRUCTURE SETBACKS
Build-to zone on primary street per Sec 50-15.2.B		5-20 ft. from the street line
Front yard setback, if no build-to zone		5 ft.
Minimum width of side yard	General	3 ft.
	Corner side yard	5 ft.
	Two-family or townhouse shared wall	0 ft setback for portion of the principal structure, and attached decks, with the shared wall
Minimum depth of rear yard		5 ft.
		STRUCTURE HEIGHT
Maximum height of building	Residential or mixed use (general)	75 ft.
	Non-residential use	45 ft.

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

Note: Minnesota State Building Codes may require plan/design changes and additional fire protection for structures built close to the property line.

B. Development standards

1. This section applies to new development or redevelopment where the value of the redevelopment exceeds 75 percent of the market value of the land and buildings, as indicated by tax assessor's records.
2. Primary buildings shall adhere to a build-to zone of five feet to 20 feet along primary streets. This requirement shall supersede building setbacks. However, pedestrian walkways may be used to connect people from a public sidewalk along a primary street to applicant's business or residence if the applicant can demonstrate to the land use supervisor's satisfaction that site conditions, such as existing buildings or topography, make the build to zone requirement infeasible. These walkways shall:
 - (a) Include pedestrian-scaled lighting;
 - (b) Be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
 - (c) Be visually recognizable to both pedestrians and motorists;
 - (d) Include trees and other landscaping along the length of the walkway; this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4;
 - (e) Be at least five feet wide;
 - (f) Include well-marked crossings where the walkway intersects with private vehicle drives;
3. If a lot abuts more than one public street, the front lot line shall be along the side abutting the primary street. If a lot abuts two primary streets, the front lot line shall be whichever street has a more defined streetscape exhibiting characteristics of urban design. If the streetscape does not conclusively determine which side is the front of the lot, the land use supervisor shall determine the front lot line.
4. In MU-N district, the following are designated as primary streets:
 - (a) Arrowhead Road;
 - (b) Woodland Avenue;
 - (c) Superior Street;
 - (d) London Road;
 - (e) Central Entrance;
 - (f) Kenwood Avenue;
 - (g) 1st, 2nd, 3rd, and 4th Streets;
 - (h) 8th and 9th Streets;
 - (i) 6th Avenue E;
 - (j) S Lake Avenue;
 - (k) Grand Avenue;
 - (l) Commonwealth Avenue;
 - (m) Maple Grove Road;
 - (n) Decker Road;
 - (o) Piedmont Avenue;
 - (p) Cody Street;
 - (q) 88th Avenue W; and
 - (r) House Street.

50-15.3 Mixed Use-Commercial (MU-C).

A. Purpose.

The MU-C district is established to provide for community and regional commercial development along commercial corridors and nodal centers. Intended non-residential uses include retail, lodging, service, and recreational facilities needed to support the community and region, as shown in Table 50-19.8. Development should facilitate pedestrian connections between residential and non-residential uses.

TABLE 50-15.3-1

MU-C DISTRICT DIMENSIONAL STANDARDS

LOT STANDARDS		
Minimum lot area, per family	General	2,000 sq. ft.
	Live-work dwelling	2,000 sq. ft.
	Townhouse	1,500 sq. ft.
	Multi-family	500 sq. ft.
Minimum lot frontage	Non-residential or mixed use	0 ft.
	Multi-family	50 ft.
STRUCTURE SETBACKS		
Minimum depth front, rear, and side yards		0 FT.
STRUCTURE HEIGHT		
Maximum height of building	Residential or residential with commercial	100 ft.
	Non-residential use	45 ft.

Section 50-21, *Dimensional standards*, contain additional regulations applicable to this district.

B. Planning review required.

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required for all new development, redevelopment and expansions in the MU-C district, including but not limited to construction of driveways or other access from public streets, and construction of off-premises signs, but excluding the following:

1. Building construction or expansion of less than 500 square feet in area;
2. Building renovations that affect the exterior of structures that do not result in an increase in building square footage;
3. Grading and construction of parking areas less than 3,000 square feet.

Development may not proceed until the planning commission has approved the project through planning review

C. Development standards.

1. The location, size and number of curb cuts shall be designed to minimize traffic congestion or hazard in the area. Any traffic control improvements required as a result of the proposal such as traffic signals, turning lanes, medians, signage and other types of improvements necessary to accommodate traffic flow to and from the proposed project shall be paid for by the property owner. Any additional right-of-way or easements needed shall be provided by the property owner at no cost to the city;
2. Any necessary public easements over the subject property shall be dedicated, and any necessary improvements within such easements or other easements adjacent to the subject property shall be made.

50-15.4 Mixed Use-Institutional (MU-I).

A. Purpose.

The MU-I district is established to provide for the unique development needs and impacts of major medical and educational institutional development. The intent is to give institutional landowners the flexibility to plan and develop their facilities while ensuring that surrounding neighborhoods are protected from adverse impacts, such as traffic, overshadowing buildings, noise and unexpected expansion of institutional uses into residential areas.

TABLE 50-15.4-1 MU-I DISTRICT DIMENSIONAL STANDARDS		
LOT STANDARDS		
Minimum lot area, per family	General	2,000 sq. ft.
	Multi-family	500 sq. ft.
	Townhouse and live-work	1,500 sq. ft.
STRUCTURE SETBACKS		
Minimum depth front, rear, and side yards		0 ft.
STRUCTURE HEIGHT		
Maximum height of building	General	120 ft.
	On development sites totaling not more than 15% of developable area of the zone district	300 ft.

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

B. Planning commission approval required.

1. A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required for all development and redevelopment, unless the applicant chooses to use the district plan option described below. Development may not proceed until the planning commission has approved the project through planning review or the district plan option;
2. Any proposed rezoning of land from an R district into the MU-I district shall require the preparation of a plan addressing how traffic, parking, and view impacts from the proposed redevelopment will be minimized for those lands on nearby R district properties or mitigated within existing MU-I lands, and planning review shall be based on that plan. The plan shall include any land and facilities within the current MU-I district that will be used to support the use or development of the property to be rezoned, and shall demonstrate how the rezoned and existing institutional properties will functionally relate in terms of parking, circulation, noise, visual impacts, and other applicable development standards;
3. Applicants that do not opt for approval of a district plan shall obtain separate approval for each future expansion or development project through the planning review procedures pursuant to Section 50-37.11, which may include requirements for special use permits or variances. Such approval will require review of vehicle circulation and building scale;

C. District plan.

1. In an MU-I district that contains land and multiple buildings owned or operated by a single institution, the institution may choose to obtain approval of a district plan from the city as set forth in Section 50-37.4 or the ordinance amending the zoning applicable to the subject property to MU-I may provide that the ordinance shall not be effective until 30 days after the ordinance's passage and publication or until the land use supervisor files with the city clerk a copy of an approved district plan for the subject property, whichever is later;
2. After a district plan that complies with this Section 50-15.4 is approved, all subsequent development proposed by the institution that substantially complies with the density, location and uses of the approved district plan shall be administratively approved by the land use supervisor through the planning review process in Section 50-37.11 without the need for additional planning commission review or public hearings;

D. District plan requirements.

1. Planning area.

The planning area for the district plan shall include all the contiguous areas and properties under the ownership and control of the institution. All maps submitted under this Section also shall depict properties within 500 feet of the planning area boundaries;

2. Plan requirements.

A district plan shall, at a minimum, include the following information unless the land use supervisor determines that some elements are not necessary to evaluate the institution's future impacts on surrounding neighborhoods

- (a) A statement as to whether the institution intends to acquire any additional properties in the surrounding area for conversion to institution uses over the next ten year period, and, if so, the general direction of that proposed expansion;
- (b) A plan and description of the maximum amount of development of land and buildings expected to occur within the planning area boundaries over the next ten year period, including:
 - (i) Location of each potential new building or significant expansion of or addition to existing buildings;
 - (ii) Maximum floor area and height of potential new buildings and additions to and expansions of existing buildings;
 - (iii) Any setbacks and buffering from the external planning area boundaries;
 - (iv) Total number and location of parking spaces that will be developed to serve any new development;
 - (v) A statement of any sensitive natural areas or site features that will be protected from development, and the measures to be taken to protect them;
 - (vi) A statement as to any public improvements anticipated to be required from the city or any public or quasi-public entity to serve the proposed development;

- (c) A transportation and parking management element that identifies traffic circulation patterns, entry and exit points for traffic at the planning area boundaries, any anticipated increases or decreases in traffic entering or exiting the planning area, how parking needs and transit service will be accommodated within the planning area and any measures to be used to mitigate traffic and parking impacts on surrounding areas. If the district plan reflects an increase of ten percent or more in building gross square footage or an increase of ten percent or more of employment or enrolled students within the planning areas, the city may require that the institution base this element on a traffic and parking study prepared by a qualified consultant;
- (d) An open space, trail and pedestrian/bicycle circulation element that describes how those features will be integrated into the proposed development and connected to similar features in the surrounding area;
- (e) A massing plan showing the locations of all existing and planned buildings more than 20 feet taller than the maximum height allowed in any adjacent residential district, together with any design standards to be applied on those buildings to reduce the degree to which those buildings obstruct views of Lake Superior from adjacent residential neighborhoods;
- (f) A description of any requested variation from the development standards in Article 4 that would otherwise apply to the planning area. Unless varied by the district plan, the provisions otherwise applicable to the MU-I district will apply;
- (g) The district plan may establish height limitations below the maximum heights established as permissible in the MU-I district to better fit with the character of the surrounding neighborhood (including the height of existing structures), or to limit potential impacts to access to light and air by nearby properties.

E. Community meeting.

The applicant shall hold at least one community meeting to discuss the district plan before submitting the plan for review and approval by the city. Notice of the public meeting shall be mailed to all property owners within 350 feet outside the planning area boundaries, and the city shall provide the applicant with the names and address of those property owners upon request. The applicant shall submit with the application documentation that the community meeting has taken place, the date and time of the meeting, the number of attendees, any issues raised regarding the district plan and any responses to those concerns incorporated in the district plan;

F. Approval criteria.

The city shall approve an optional district plan if it finds that the application meets all of those district plan approval criteria in Section 50-37.4.C and in addition meets the following criteria:

1. The district plan complies with all applicable standards of this Chapter, or offers sound reasons for variations from those standards;
2. The district plan mitigates any potential significant adverse impacts to surrounding areas, including but not limited to traffic, parking, and visual obstruction of views of Lake Superior and the St. Louis River to the extent reasonable;
3. Sufficient public safety, transportation and utility facilities and services are available to serve the planning area at the proposed level of development, while maintaining sufficient levels of service to existing and anticipated development in surrounding areas.

50-15.5 Mixed Use-Business Park (MU-B).

A. Purpose.

The MU-B district is intended to accommodate modern light industrial and technology-based developments of attractive integrated design and function. The development standards for this district are intended to ensure that projects minimize adverse impacts on surrounding uses and neighborhoods, reduce impacts on the natural environment, enhance the visual quality of development and ensure the provision of adequate and cost-efficient public facilities. Intended uses include wholesaling, industrial services, research laboratories, and light manufacturing needed to support the community and region at large, as shown in Table 50-19.8.

TABLE 50-15.5-1

MU-B DISTRICT DIMENSIONAL STANDARDS

STRUCTURE SETBACKS

Minimum depth of front yard	15 ft.
Minimum width of side yard	5 ft.
Minimum depth of rear yard	5 ft.

STRUCTURE HEIGHT

Maximum height of building	60 ft.
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Section 50-21, *Dimensional standards*, contain additional regulations applicable to this district.

B. Development standards.

In portions of the MU-B district developed after May 7, 1979,

1. All truck loading, unloading, and maneuvering areas shall be constructed in side or rear yard areas with a durable dust free material having a smooth hard surface, and shall be defined on all sides by raised cast-in-place concrete curbs, and
2. All truck loading, unloading, and maneuvering operations shall be conducted so that no truck movement interferes with ingress or egress of traffic on a street and no truck shall be required to back into loading areas from a street.

50-15.6 Mixed Use-Waterfront (MU-W).

A. Purpose.

The MU-W district is intended to provide for waterfront-dependent commercial uses and medium to high density residential development. Intended non-residential uses include visitor-related retail and services, lodging, recreational facilities and maritime uses, as well retail and service uses that take advantage of the waterfront setting, as shown in Table 50-19.8. Development may include horizontal or vertical mixed use, and should facilitate transit and pedestrian connections between developments and the surrounding areas and community;

B. Planning commission approval required.

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required for all development, redevelopment and expansions in the MU-W district, including but not limited to construction of driveways or other access from public streets and construction of off-premises signs, but excluding the following:

1. Building construction or expansion of less than 500 square feet in area;
2. Building renovations that affect the exterior of structures that do not result in an increase in building square footage;
3. Grading and construction of parking areas less than 3,000 square feet.

Development may not proceed until the planning commission has approved the project through planning review;

TABLE 50-15.6-1 MU-W DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area per family	General	2,000 sq. ft.
	Townhouse or live-work dwelling	1,500 sq. ft.
	Multi-family	500 sq. ft.
Minimum lot frontage	General	50 ft.
	Townhouse, per family	20 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard		0 ft.
Minimum width of side yard		10 ft.
Minimum depth of rear yard		10 ft.
STRUCTURE HEIGHT		
Maximum height of building	Residential or mixed use	120 ft.
	Non-residential	60 ft.

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

C. Development standards.

All permitted development in the MU-W shall comply with the following development standards:

1. Proposed development shall be visually and functionally oriented toward the waterfront of Lake Superior, the harbor and the St. Louis River to the maximum extent possible so that users of buildings and associated outdoor areas have direct views and physical access to the waterfront;
2. To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all principal structures shall have a maximum width of 200 feet measured along the shoreline and shall be separated from other principal structures by a minimum of 50 feet;
3. Buildings shall have a primary façade, with a functioning entrance for residents, employees or patrons facing the waterfront, and a second primary façade with a similar functioning entrance facing at least one of the adjacent streets, to the maximum extent feasible;
4. The quality of façade design and materials and the level of detail on the building façade facing the water shall be comparable to that on any other building façade containing a functioning entrance. The building façade facing the water shall have at least 40 percent transparency, measured as set forth in Section 50-22.3.D.1; no rectangular area greater than 30 percent of each story of the façade facing the water may be windowless, as measured from floor to floor, and no horizontal distance greater than 15 feet of each story of a facade facing the water may be windowless;

50-16 FORM DISTRICTS.

50-16.1 General purposes of form districts.

Sections 50-16.2 through 50-16.5 below contain brief descriptions of each of the form districts. Section 50-22 provides additional information that applies to these districts and regulates the types of buildings and development permitted in each district.

50-16.2 Form District 1 (F-1) Low-rise Neighborhood.

A. Purpose.

The F-1 district is designed for the East Superior Street (Lakeside/Lester Park) area. It is meant to serve as a mixed use, neighborhood-scale, commercial district.

	Districts			
	F-1	F-2	F-3	F-4
Main Street Building I	●			
Main Street Building II		●		
Main Street Building III			●	
Lakefront Building				●
Iconic Building	●	●	●	

50-16.3 Form District 2 (F-2) Mid-rise Neighborhood.

A. Purpose.

The F-2 district is applied to many neighborhood main streets. These areas consist of a combination of traditional mixed use buildings as well as commercial and residential buildings.

	Districts			
	F-1	F-2	F-3	F-4
Main Street Building I	•			
Main Street Building II		•		
Main Street Building III			•	
Lakefront Building				•
Iconic Building	•	•	•	

50-16.4 Form District 3 (F-3) Downtown.

A. Purpose.

The F-3 district applies to the traditional community core of downtown areas and includes the historic, mixed use core of downtown. Buildings are required to be built close to the front property line.

	Districts			
	F-1	F-2	F-3	F-4
Main Street Building I	●			
Main Street Building II		●		
Main Street Building III			●	
Lakefront Building				●
Iconic Building	●	●	●	

50-16.5 Form District 4 (F-4) Lakefront.

A. Purpose.

The F-4 district applies specifically to the east side of Canal Park Drive, addressing the lots currently occupied by hotels. This district is unique in that the lots are deep and front both Lake Superior and Canal Park Drive. The Lakefront Building was developed specifically for these locations, requiring frontage on both sides with enough depth to nestle parking in between the buildings. Views through these lots to Lake Superior are also addressed with view corridors.

	Districts			
	F-1	F-2	F-3	F-4
Main Street Building I	●			
Main Street Building II		●		
Main Street Building III			●	
Lakefront Building				●
Iconic Building	●	●	●	

50-17 SPECIAL PURPOSE DISTRICTS.

50-17.1 General purposes of special purpose districts.

The special purpose zone districts are intended to:

1. Preserve, protect and promote employment-generating uses;
2. Create suitable environments for various types of commercial and industrial uses and protect them from the adverse effects of incompatible uses;
3. Help implement the comprehensive land use plan by accommodating special land uses needed by Duluth's residents, businesses, visitors and workers;
4. Encourage site planning, land use planning and architectural design that create an interesting, pedestrian-friendly environment where appropriate;
5. Minimize potential negative impacts of non-residential development on adjacent residential areas;
6. Preserve the natural resources of the city.

50-17.2 Industrial-General (I-G).

A. Purpose.

The I-G district is intended to provide for general-to heavy- impact industrial, processing, assembly, fabrication and manufacturing uses. Office uses are allowed provided they are clearly incidental to and supportive of on-site industrial uses, as shown in Table 50-19.8. The district is intended primarily for locations close to major transportation corridors and active commercial centers. This district should be located away from residential development.

TABLE 50-17.2-1

I-G DISTRICT DIMENSIONAL STANDARDS

LOT STANDARDS	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 ft.
STRUCTURE SETBACKS	
Minimum depth of front yard	15 ft.
Minimum width of side yard	5 ft.
Minimum depth of rear yard (ft)	10 ft.
STRUCTURE HEIGHT	
Maximum height of building	75 ft.

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

50-17.3 Industrial-Waterfront (I-W).

A. Purpose.

The I-W district is intended to provide for water-dependent and port-dependent industrial uses as shown in Table 50-19.8. Office uses are allowed provided they are clearly incidental to and supportive of on-site industrial uses. This district should be located away from residential development.

TABLE 50-17.3-1 I-W DISTRICT DIMENSIONAL STANDARDS	
	LOT STANDARDS
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 ft.
	STRUCTURE SETBACKS
Minimum depth of front yard	15 ft.
Minimum width of side yard	5 ft.
Minimum depth of rear yard (ft)	10 ft.
	STRUCTURE HEIGHT
Maximum height of building	75 ft.

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

50-17.4 Park and Open Space District (P-1).

A. Purpose.

The P-1 district is intended to protect and reserve lands for recreational, scenic and natural resource uses. It is intended to be applied to publicly owned land but may be applied to private property with the landowner's written consent. Both passive recreational (e.g., walking paths, picnic tables) and active recreational (e.g., playgrounds, ball fields, tennis courts) uses may be permitted, as shown in Table 50-19.8. Small-scale buildings, structures and development (e.g., parking) that are incidental to and supportive of an approved use may also be permitted. All uses and structures shall be compatible in scale, design and impact with the natural features and character of the land.

**TABLE 50-17.4-1:
P-1 DISTRICT DIMENSIONAL STANDARDS**

LOT STANDARDS	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 ft.
STRUCTURE SETBACKS	
Minimum depth of front yard	25 ft.
Minimum width of side yard	25 ft.
Minimum depth of rear yard	25 ft.
STRUCTURE HEIGHT	
Maximum height of building	30 ft.

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

50-17.5 Airport District (AP).

A. Purpose.

The AP district is intended to protect and reserve lands dedicated for airport operations. Structures and development (e.g., parking, hangars) that are incidental to and supportive of airport operations may be permitted.

**TABLE 50-17.5-1:
AP DISTRICT DIMENSIONAL STANDARDS**

LOT STANDARDS	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 ft.
STRUCTURE SETBACKS	
Minimum depth of front yard	5 ft.
Minimum width of side yard	5 ft.
Minimum depth of rear yard	5 ft.
STRUCTURE HEIGHT	
Maximum height of building	30 ft., or Per Sec. 50-18.2, whichever is greater

Section 50-21 *Dimensional standards* contains additional regulations applicable to this district.

50-17.6 Residential-Planned (R-P) and Mixed Use-Planned (MU-P)

A. Purpose.

The R-P and MU-P districts govern those areas zoned R-P or MU-P prior to [effective date of ordinance]. Any area previously zoned R-P or MU-P is allowed to continue, with any amendments made in accordance with this Section. No new R-P or MU-P districts shall be created.

1. Residential-planned.

R-P districts were established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P regulating plan that includes the location, type and intensity of proposed development and a description of public amenities or benefits included. Several uses are permitted, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved R-P plan.

2. Mixed-use planned.

MU-P districts were established to provide a flexible development option for mixed use projects that integrate creative site design, provide a variety of building types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each MU-P district requires approval of an MU-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. A variety of residential and commercial uses are permitted, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved MU-P plan;

B. Amendments to R-P or MU-P Plan

Each MU-P and R-P district is governed by the plan approved by council per Section 50-37.3 with the rezoning establishing the district. The R-P or MU-P plan governs the uses, location, density, and character of the proposed development, as well as the public benefit provided by the development for an R-P district and dimensional standards for an MU-P district.

Modifications to a R-P or MU-P plan must be made via the rezoning process described in Section 50-37.3, if the proposed modification relates to use, density, height, or dimensional standards. All other amendments shall follow the process set forth in Section 50-37.11. Applications for modifications to a R-P or MU-P plan must include the following information:

1. The R-P plan as originally approved by council which shall include the previous base zone districts of the development.
2. A revised concept map clearly indicating any proposed changes to the uses, location, density, and character of the proposed development.
3. A narrative explaining proposed changes to the uses, location, density, and character of the proposed development, as well as the rationale for the proposed changes.
4. A natural resources inventory including natural site features to be protected.

5. Public benefits of the development, incorporating three or more of the following priorities:
 - (a) Significant preservation and protection of natural resources;
 - (b) A higher level of sustainability than required by Section 50-28;
 - (c) More efficient and effective use of streets and infrastructure;
 - (d) Recreational facilities such as parks and trails;
 - (e) Compact residential development with significant density;
 - (f) Pedestrian services such as benches, plazas, and art; or
 - (g) Accommodations for and linkages to mass transit.

C. Criteria for amendments to R-P and MU-P plans:

1. Uses, densities, and height of the proposed development must be permitted within the base zone districts. Additionally, the applicant may seek modifications listed in Table 50-17.6-1 in R-P districts and modifications listed in Table 50-17.6-2 in MU-P districts.

Table 50-17.6-1: Modifications Allowed for Existing R-P Districts	
Chapter Requirement	Maximum Modification Allowed
Distance from property lines	No required yards.
Lot frontage	No required minimum lot frontage.
Lot area, general	No required minimum lot area.
Building height	Up to a 50% increase, if application demonstrates avoidance of substantial impacts to views from uphill sites.
Street cross-section	Public or private street permitted, as determined by city engineer. If private street provided, cross section as determined by land use supervisor.

Table 50-17.6-2: Modifications Allowed for Existing MU-P Districts	
Chapter Requirement	Maximum Modification Allowed
Distance from property lines	No required yards.
Building height	50% increase if not within 200' of an R-1 or R-2, if application demonstrates avoidance of substantial impacts to views from uphill sites.
Lot frontage	No required lot frontage.
Buildings per lot	More than one building may be placed on one lot.
Street cross-section	Public or private street permitted, as determined by city engineer. If private street provided, cross section as determined by land use supervisor.

Building design standards	May propose alternative standards.
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2. Common open space shall be not less than 20% in an MU-P district and 30% in an R-P district. Common open space shall not include right-of-way or utility easements.

D. Amendments to Regulating Plans

The regulating plan shall regulate specific aspects of future development on the property. A regulating plan shall be approved by the land use supervisor prior to receiving any building permits within the district. Requests for amendments to the regulating plan, following the process in Section 50-37.11, shall include:

1. A brief narrative of the proposed changes to the regulating plan and rationale for the changes.
2. A description of the property ownership within the district and sufficient evidence that property owners support any proposed changes.
3. Demonstration that the proposed changes are in accordance with the R-P or MU-P plan approved by council for the development.
4. A full copy of the revised regulating plan suitable for posting on the City’s web site.
5. Regulating plans shall identify:
 - (a) Previous base zone district(s) of the property within the district.
 - (b) Provisions for permanent preservation, protection, and maintenance of the common open space and a description of whether this open space will provide public access.
 - (c) General layout of development areas and building parcels in relation to the natural features to be protected and the proposed road, trail, and bicycle circulation systems.
 - (d) A plan describing the demand for and location of water, sewer, and other utilities to the property, including any additional right-of-way needed to accommodate those utilities. The plan shall indicate the ownership and maintenance of all infrastructure for the property and a statement as to whether the proposed facilities will meet the engineering and maintenance standards of regulating entities.
 - (e) Lot sizes and widths, building setbacks, and maximum building heights for all proposed development parcels.
 - (f) Details on buffering or transitioning between uses of different intensities both on- and off-site.
 - (g) A plan for stormwater collection and treatment that includes a summary of land use and technical methods used to minimize stormwater run-off from the site.
 - (h) Off-street parking to be provided in driveways, surface lots and garages.
 - (i) Any required building types, form-based regulation, or architectural design requirements as well as a description of how those standards will be maintained and enforced over time.
 - (j) If the project involves construction over a period of time in two or more phases, a phasing plan demonstrating that each phase meets density requirements, open space requirements,

and provision of public amenities. A phasing plan shall include an approximate time frame for each phase of development.

E. Criteria for amendments to regulating plans.

1. A regulating plan shall be consistent with and implement the R-P or MU-P plan for the site.
2. Amendments shall be consistent with all applicable regulations for the base zone district, or, if the existing regulating plan includes items that are nonconforming with current regulations, the proposed amendments shall not enlarge, increase, or extend any nonconformity.
3. If completed in phases, each phase of the development must provide open space and public amenities proportional with the amount of development in that phase. Applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the city attorney for the completion of the development according to the approved plan.
4. All natural resource requirements in the Natural Resources Overlay, Section 50-18.1, shall continue to apply and cannot be varied through the MU-P and R-P process.

50-18 OVERLAY DISTRICTS.

50-18.1 Natural Resources Overlay (NR-O)

A. General.

1. Purpose statement.

The purpose of the NR-O district is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development. It is intended to implement the Minnesota Wetland Conservation Act (WCA), federal emergency management agency (FEMA) rules, and the Minnesota department of natural resources (DNR) shoreland and flood plain regulations. In accordance with this regulatory framework, wetlands, flood plains and shorelands are protected by regulating developments that would have an adverse or potentially irreversible impact on unique and fragile land, by minimizing conflicts and encouraging compatibility between environmentally sensitive lands, and by requiring detailed review standards and procedures for developments proposed for such areas, thereby achieving a balance between urban growth and development and protection of natural areas;

2. NR-O Boundaries.

The NR-O map contains data from the following sources:

- (a) For wetlands, there is no official wetlands map. All lands in the city that meet the definition of wetlands in Article 6 are considered wetlands for the purposes of this Section;
- (b) For floodplains:
 - (i) The following maps together with all attached material are a part of the NR-O map. The attached material includes the Flood Insurance Study for St. Louis County, Minnesota, and Incorporated Areas, dated March 25, 2025, and the Flood Insurance Rate Map panel numbers 27137C3525E, 27137C3545E, 27137C3550E, 27137C3754E, 27137C3755E, 27137C3756E, 27137C3757E, 27137C3758E, 27137C3759E, 27137C3764E, 27137C3766E, 27137C3767E, 27137C3768E, 27137C3769E, 27137C3776E, 27137C3777E, 27137C3778E, 27137C3779E, 27137C3781E, 27137C3782E, 27137C3783E, 27137C3784E, 27137C3786E, 27137C3788E, 27137C3790E, 27137C3795E, 27137C3805E, 27137C3810E, 27137C3842E, 27137C3845E, 27137C3850E, 27137C3851E, 27137C3852E, 27137C3853E, 27137C3854E, 27137C3856E, 27137C3857E, 27137C3860E, 27137C3861E, 27137C3862E, 27137C3865E, 27137C3870E, 27137C3880E, 27137C3885E, all dated March 25, 2025, all prepared by the Federal Emergency Management Agency. These materials are on file in the land use supervisor's office.
 - (ii) Copies of the above-listed documents are hereby adopted by reference and declared to be a part of this Section. All documents shall be kept on file in the land use supervisor's office;
- (c) For shorelands, boundaries shall be based on:
 - (i) Waters shown as protected on the map and inventory of protected waters in Duluth prepared by the DNR commissioner pursuant to Chapter 199, Laws of Minnesota, 1979; and
 - (ii) Selected waters that the city has added to the DNR commissioner's survey as being worthy of shoreland protection. All of these waters are shown on the NR-O map as currently revised as of November 19, 2010;

- (d) Where interpretation is needed as to the exact location of any boundary as shown on an official map, the city engineer shall make the necessary interpretation based on available technical data, and, in the case of flood plains, based particularly on elevations on the regional flood profile or hydraulic modeling data;
- (e) The NR-O map may be amended in the future, and any revisions shall become effective upon adoption of the revised NR-O map as an amendment to this Chapter.

B. Wetlands.

This Section 50-18 shall apply to all wetlands within the city. All development in the city shall comply with state statutes and regulations (Minnesota Rules Chapter 8420). In addition, any development impacting wetlands requires formal approval by the designated city wetland representative.

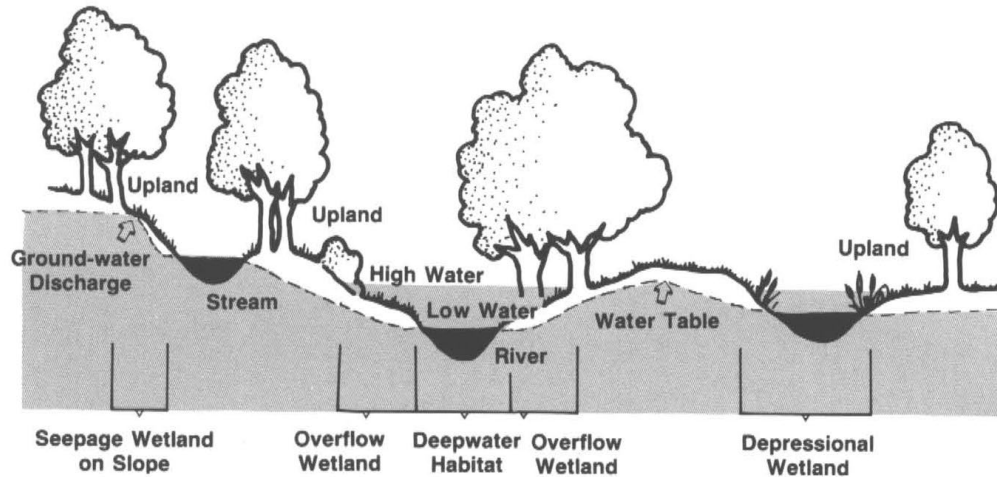


Figure 50-18.1-1: Depicting typical Inland Wetland. Graphic taken from Floodplain Management in the United States: An Assessment Report, prepared for the Federal Interagency Floodplain Management Task Force 1992.

1. The building official shall require each permit applicant to specify on the permit application whether or not the proposed site contains wetlands. Regardless of the answer given, if the building official has reasonable grounds to believe the site contains wetlands, the official shall make a determination as to the existence of wetlands. In making that determination, the building official may require any of the following:
 - (a) Require the applicant to submit a complete wetland delineation as outlined in the Wetland Conservation Act, contained in Minnesota Rules, part 8420, and performed by a professional wetland delineator, including information such as soil analysis, surveys of vegetation and engineering or hydrological data, to aid in the determination;
 - (b) Conduct a site inspection and evaluation;
 - (c) Consult with the city engineer, St. Louis County Soil and Water Conservation District, Board of Water and Soil Resources, and other available wetland experts;
 - (d) Use any other reasonable method to determine if the site contains wetlands;

C. Floodplains.

This Section regulates development in the flood hazard areas of the City of Duluth. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this Section to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

This Section supports the public interest to promote sound land use practices, and floodplains are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

This Section is a requirement to maintain eligibility in the National Flood Insurance Program.

This Section is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

1. Applicability

(a) Applicability and planning commission Review

- (i) This Section applies to all lands within the jurisdiction of the City of Duluth within the Special Flood Hazard Areas (SFHAs) identified on the Flood Insurance Rate Maps identified in Section 50-18.1.A.2(b). Areas within the SFHA are within one of four districts: the Floodway, Flood Fringe, General Floodplain or Coastal Districts.
- (ii) The Floodway, Flood Fringe, General Floodplain and Coastal Districts, are within the NR-O district. The standards imposed in the overlay districts are in addition to any other requirements. In case of a conflict, between this Section and any other requirements in Federal and State law or the city Charter and this Code, the more restrictive standards apply.
- (iii) These regulations apply to all areas within the SFHA. If areas below the Base Flood Elevation (BFE) extend beyond the mapped SFHA based on actual field conditions, the Base Flood Elevation (BFE) shall be the governing factor in locating the outer boundaries of the one-percent annual chance floodplain and these regulations apply to the outer boundary of the one-percent annual chance floodplain.



Figure 50-18.1.C-1: The mapped floodplain may not always align with on-the-ground contour elevations.

- (iv) These regulations implement the National Flood Insurance Program (NFIP) rules in 44 CFR § 59 to 78, and the Minnesota Department of Natural Resources (DNR) shoreland regulations, and the DNR flood plain regulations contained in Minnesota Statutes, Chapter 103F and Minnesota Rules, parts 6120.5000 – 6120.6200. The planning and zoning enabling legislation for this overlay is in Minnesota Statutes, Chapter 462.
 - (v) **Abrogation and Greater Restrictions**
It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. The standards in this Section take precedence over any less restrictive, conflicting local laws, ordinances, or codes. All other sections inconsistent with this Section are hereby repealed to the extent of the inconsistency only.
 - (vi) **Warning and Disclaimer of Liability**
This Section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped or predictable. Larger floods may and do occur, and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This Section does not create liability on the part of the City of Duluth or its officers or employees for any flood damages that result from reliance on this Section, or any administrative decision lawfully made hereunder.
 - (vii) Persons contesting the location of the district boundaries may exercise their rights to planning commission review and further appeal as outlined in Sec 50-37.1.O.
- (b) Floodplain Districts.**
- (i) **Floodway District.**
Those areas of Zone AE delineated within floodway areas as shown on the Flood Insurance Rate Maps referenced in Section 50-18.1.A.2(b) and those areas within Zone A determined to be located in the floodway based on the delineation methods in Section 50-18.1.C.5(d).
 - (ii) **Flood Fringe District.**
Those areas of Zone AE located outside of the delineated floodway as shown on the Flood Insurance Rate Maps referenced in Section 50-18.1.A.2(b), and those areas within Zone A determined to be located outside of the floodway based on the delineation methods in Section 50-18.1.C.5(d).
 - (iii) **General Floodplain District.**
Those areas within Zone A or AE that do not have a floodway delineated as shown on the Flood Insurance Rate Maps referenced in Section 50-18.1.A.2(b).
 - (iv) **Coastal District.**
Those areas within Zones VE, as shown on the Flood Insurance Rate Maps adopted in Section 50-18.1.A.2(b). This area also includes Coastal A and AE Zone Areas shown on the Flood Insurance Rate Maps adopted in Section 50-18.1.A.2(b).

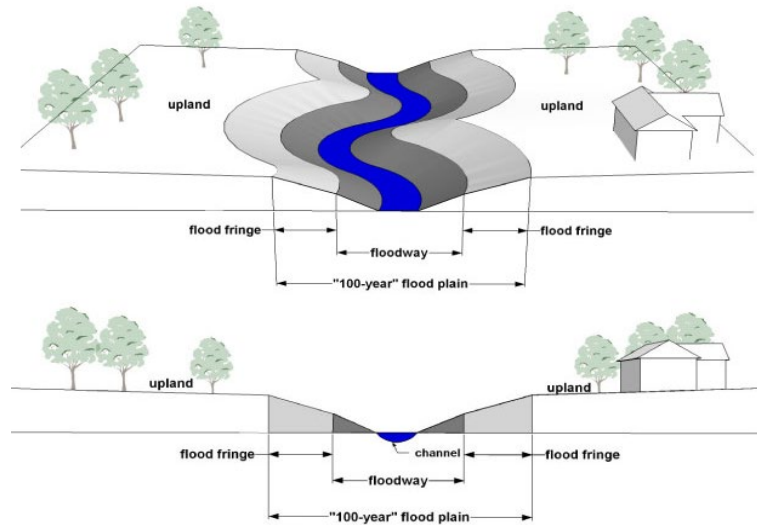


Figure 50-18.1.C-2: Depicting flood plain, floodway, and flood fringe. Graphic taken from *Floodplain Management in the United States: An Assessment Report*, prepared for the Federal Interagency Floodplain Management Task Force 1992.

(c) Annexations.

The Flood Insurance Rate Map panels referenced in Section 50-18.1.A.2(b) may include floodplain areas that lie outside of the corporate boundaries of the City of Duluth at the time of adoption of this Section. If any of these floodplain land areas are annexed into the City of Duluth after the date of adoption of this Section, the newly annexed floodplain lands will be subject to the provisions of this Section immediately upon the date of annexation. Annexations into panels not referenced in Section 50-18.1.A.2(b) require ordinance amendment in accordance with Section 50-18.1.C.10.

(d) Municipal Boundary Adjustments.

The Flood Insurance Rate Map panels referenced in Section 50-18.1.A.2(b) apply countywide. If at any point any lands come under the jurisdiction of another local government, the following shall apply:

- (i) City adjustments of corporate boundaries, including but not limited to annexations and detachments, shall shift floodplain administrative authority of all affected lands immediately upon the date of the boundary adjustment occurring. Cities retain jurisdictions for all incorporated lands, and the County retains jurisdiction under this Section on all unincorporated lands.

2. Requirements for all floodplain districts.

(a) Permit Required.

A permit must be obtained from the City of Duluth to verify compliance with all applicable standards outlined in this Section prior to the following uses or activities:

- (i) The erection, addition, modification, maintenance, rehabilitation, repair, or alteration of any building, structure, or portion thereof. Normal maintenance requires a permit to determine if such work, either separately or in conjunction with other planned work, constitutes a substantial improvement, as specified in Section 50-38.2.B.1(c).
- (ii) The construction of a fence, pool, deck, or placement of anything that may cause a potential obstruction.

- (iii) The change or expansion of a nonconforming use.
 - (iv) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
 - (v) The placement of fill, excavation, utilities, on-site sewage treatment systems, or other service facilities. Placement or excavation of less than 5 cubic yards of material for gardening or small landscaping projects is exempt from this requirement.
 - (vi) The storage of materials or equipment, in conformance with Section 50-18.1.C.2(b)(ii).
 - (vii) Relocation or alteration of a watercourse (including stabilization projects or the construction of new or replacement dams, culverts and bridges). A local permit is not required if a public waters work permit has been obtained from the Department of Natural Resources.
 - (viii) Any other type of "development," as defined in Section 50-41.4.
- (b) Minimum Development Standards.
- (i) All development must:
 - (1) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Be constructed with materials and equipment resistant to flood damage;
 - (3) Be constructed by methods and practices that minimize flood damage;
 - (4) Be constructed with heating, ventilation, duct work, and air conditioning equipment and other service facilities elevated at least up to the Regulatory Flood Protection Elevation (RFPE). Water, sewage, electrical, and other utility lines below the RFPE shall be constructed so as to prevent water from entering or accumulating within them during conditions of flooding;
 - (5) Be reasonably safe from flooding and consistent with the need to minimize flood damage;
 - (6) Be assured to provide adequate drainage to reduce exposure to flood hazards;
 - (7) Not be detrimental to uses in adjoining areas;
 - (8) Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
 - (9) Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the use of vegetative cover or other methods as soon as possible.
 - (ii) Materials that, in time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal, or plant life shall be stored at or above the Regulatory Flood Protection Elevation (RFPE) or, floodproofed. Storage of materials likely to cause pollution of the waters, such as sewage; sand; rock; wrecked and discarded equipment; dredged spoil; municipal, agricultural or industrial waste; and other wastes as further defined in Minnesota Statutes, Section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided.
 - (iii) Critical facilities shall be located so that the lowest floor is not less than two feet above the Base Flood Elevation (BFE), or the 0.2% annual chance flood elevation, whichever is higher.
3. Floodway District.
- (a) Permitted Uses in Floodway.

Development allowed in the Floodway District is limited to that which has low flood damage potential, is allowed in the underlying zone district, and will not obstruct flood flows, increase velocities, or increase the water surface elevations of the one-percent annual chance flood. The following uses and activities may be allowed with a permit, subject to the standards in Section 50-18.1.C.3(b):

- (i) Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, as well as public open space uses.
 - (ii) Roads, driveways, railroads, trails, bridges, and culverts.
 - (iii) Public utility facilities and water-oriented industries which must be in or adjacent to watercourses.
 - (iv) Grading, filling, land alterations, ecological restoration projects, and shoreline stabilization projects.
 - (v) No structures are allowed in the Floodway District, except structures accessory to the uses detailed in Section 50-18.1.C.3(a)(i) and Section 50-18.1.C.3(c)(i), which require a special use permit.
- (b) Standards for Permitted Uses in Floodway.
In addition to the applicable standards detailed in Section 50-18.1.C.2, the following standards shall apply for permitted uses in the Floodway District:
- (i) The applicant must demonstrate that the development will not result in any of the following during the one-percent annual chance flood: cause a stage increase of 0.00 feet or greater, obstruct flood flows, or increase velocities. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices (e.g. projects that restore the site to the previous cross-sectional area). This is commonly documented through a “no-rise certification.”
 - (ii) Any development that would result in a stage increases greater than 0.00 feet may only be allowed with a permit if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) in accordance with 44 CFR § 65.12, and FEMA has issued the CLOMR. Map revisions must follow the procedures in Section 50-18.1.C.8(d) and Section 50-18.1.C.9.
 - (iii) Any development resulting in decreases to the water surface elevation of the base flood identified in the Flood Insurance Study requires a Letter of Map Revision (LOMR) following the procedures in Section 50-18.1.C.8(d) and Section 50-18.1.C.10.
 - (iv) Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, Section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, Section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.’
 - (v) Any facility used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.
 - (vi) Fill and other land alteration activities must offer minimal obstruction to the flow of flood waters, as certified by a professional engineer, and be protected from erosion and sediment entering surface waters using permanent vegetative ground cover, or other methods as soon as possible.
- (c) Special Uses in Floodway
The following uses and activities may be permitted as special uses, subject to the standards detailed in Section 50-18.1.C.3(d):

- (i) Commercial extractive uses, and storage and stockpiling yards.
 - (ii) Structures accessory to uses detailed in Section 50-18.1.C.3(a)(i) and Section 50-18.1.C.3(c)(i).
- (d) Standards for Special Uses in Floodway.
- In addition to the applicable standards detailed in Section 50-18.1.C.2, Section 50-18.1.C.3(b) and Section 50-20.3.Q, the following standards shall apply to special uses in the Floodway District:
- (i) Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the planning commission.
 - (ii) Accessory Structures.
Structures accessory to the uses detailed in Section 50-18.1.C.3(a)(i) and Section 50-18.1.C.3(c)(i). must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters and are subject to the standards in Section 50-18.1.C.4(b)(iii) of this Chapter.
 - (iii) The use or development conforms to the underlying zone district.
4. Flood Fringe District.
- (a) Permitted Uses in Flood Fringe.
Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in Section 50-18.1.C.4(b).
 - (b) Standards for Permitted Uses in Flood Fringe.
In addition to the applicable standards detailed in Section 50-18.1.C.2, the following standards shall apply to permitted uses in the Flood Fringe District:
 - (i) Residential Structures.
 - (1) Elevation on fill.
Residential structures erected, constructed, reconstructed, altered, or moved on fill within the Flood Fringe District shall be placed so that the lowest floor is elevated at or above the Regulatory Flood Protection Elevation (RFPE). Construction of this type shall only be permitted in locations where the natural ground is no lower than three feet below the base flood elevation. The finished fill elevation shall be at or above the elevation associated with the base flood plus any stage increases that result from designation of a floodway. Fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure. Elevations must be certified by a registered professional engineer, land surveyor or other qualified person designated by the building official. Elevation methods alternative to these fill standards are subject to a Special Use Permit, as provided in Section 50-

18.1.C.4(c)(i), (as illustrated in Figure 50-18.1.C-3).

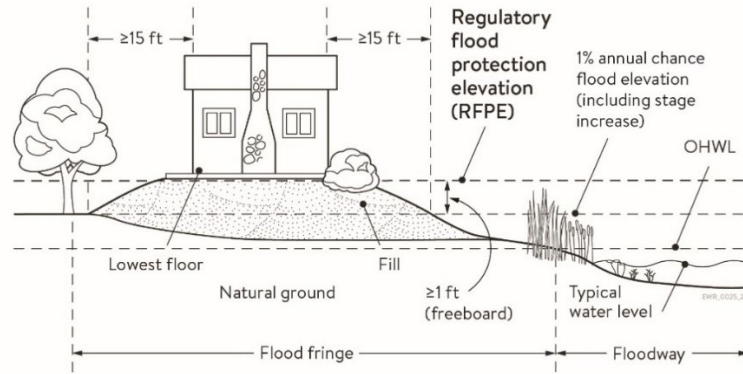


Figure 50-18.1.C-3: Overview of fill standards for residential structures.

(ii) Nonresidential Structures.

Nonresidential structures must meet one of the following construction methods:

(1) Elevation on Fill.

Structures may be elevated on fill, meeting the standards in Section 50-18.1.C.4(b)(i)(1). Fill for nonresidential structures is not required to be extended 15 feet beyond the outside limits of the structure.

(2) Alternative Elevation Methods.

Structures may be elevated using methods alternative to the fill standards in Section 50-18.1.C.4(b)(ii)(1). Such methods include the use of blocks, pilings, filled stem walls, or internally-flooded enclosed areas such as crawl spaces, attached garages, or tuck under garages, as illustrated in Figure 50-18.C-4.

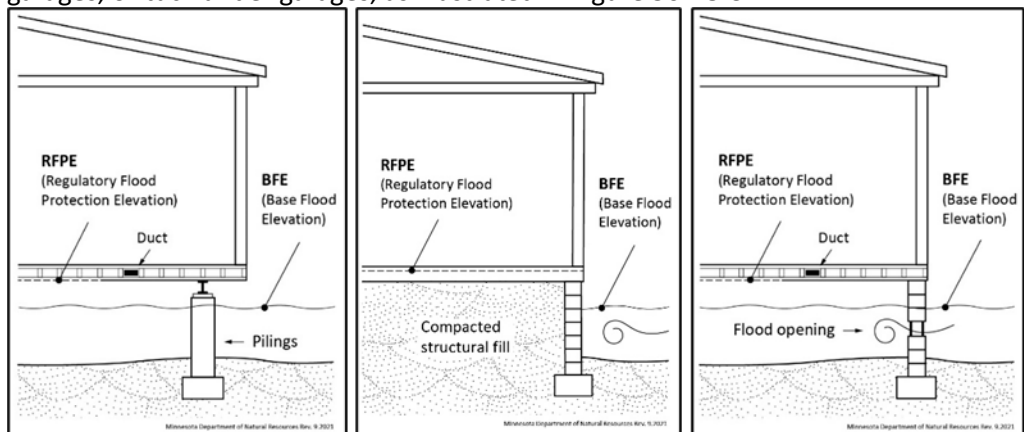


Figure 50-18.1.C-4: Depiction of alternative elevation methods for non-residential structures

- (3) Designs accommodating for internally-flooded enclosed areas must be certified by a registered professional engineer or architect, or meet or exceed the standards detailed in FEMA National Flood Insurance Program (NFIP) Technical Bulletin 1, as amended, as well as the following standards:
 - (a) The lowest floor shall be elevated at or above the Regulatory Flood Protection Elevation (RFPE).
 - (b) The floor of the enclosed area must be at or above the exterior grade on at least one side of the structure.
 - (c) To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings below the base flood elevation on at least two sides of the structure. The bottom of all openings shall be no higher than one-foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, have a net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention.
 - (d) Internally flooded enclosed areas shall only be used for the parking of vehicles, building access, or storage. Bathrooms and toilet rooms shall not be allowed. Such areas shall be subject to a deed-restricted non-conversion agreement as well as inspections as needed by determination of the land use supervisor.
- (4) Dry Floodproofing.

Structures having watertight enclosed basements or spaces below the Regulatory Flood Protection Elevation (RFPE) must meet the following standards:

 - (a) Walls must be substantially impermeable to the passage of water, with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, at least up to the Regulatory Flood Protection Elevation (RFPE);
 - (b) Must meet the standards of FEMA National Flood Insurance Program (NFIP) Technical Bulletin 3, as amended; and
 - (c) A registered professional engineer or architect shall be required to certify that the design and methods of construction meet the standards detailed in this Section.
- (iii) Accessory Structures.

All accessory structures must meet the following standards:

 - (1) Structures shall not be designed or used for human habitation.
 - (2) Structures will have a low flood damage potential as defined in FEMA Floodplain Management Bulletin P-2140, as amended.
 - (3) Structures shall constitute a minimal investment not to exceed 576 square feet in size, one-story in height, and shall only be used for parking and storage, except as provided under Section 50-18.1.C.4(b)(iii)(5).
 - (4) Structures with two or more rigid walls, must meet one of the following construction methods:
 - (a) Wet Floodproofing.

Structures may be floodproofed in a way to accommodate internal flooding. To allow for the equalization of hydrostatic pressure, there shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding, and shall allow automatic entry and exit of floodwaters without human intervention. Portions of structures below the RFPE must be constructed of flood damage-resistant materials. Utilities must be elevated above the RFPE and any utility lines below the RFPE shall be constructed so as to prevent floodwaters from entering or accumulating within them. Wet floodproofed structures must be anchored to resist flotation, collapse, and lateral movement.

(b) Elevation on Fill.

Structures may be elevated on fill, meeting the standards in Section 50-18.1.C.4(b)(i). Fill is not required to be extended 15 feet beyond the outside limits of the structure.

(c) Alternative Elevation Methods.

Structures may have their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) through methods alternative to the fill standards in Section 50-18.1.C.4(b)(iii)(4)(b), and must meet the standards in Section 50-18.1.C.4(b)(ii)(2).

(d) Dry Floodproofing.

Structures may be dry-floodproofed, or watertight, meeting the standards in Section 50-18.1.C.4(b)(ii)(3).

- (5) Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, meeting the standards in Section 50-18.1.C.2(b)(i) may be located at an elevation below the Regulatory Flood Protection Elevation, exceed 576 square feet in size, and may include uses as provided under Section 50-18.1.C.4(a).

- (iv) Any facilities where regular employment occurs or that are used by the general public must be designed with a flood warning system that provides adequate time for evacuation, or be designed to ensure that within the area inundated during the base flood event, the depth (in feet) multiplied by the velocity (in feet per second) is less than four.
 - (v) Manufactured homes and recreational vehicles must meet the standards of Section 50-20.1.F and Section 50-20.3.Q, respectively.
 - (c) Special Uses in Flood Fringe.
The following uses and activities may be permitted as special uses, subject to the standards in Section 50-18.1.C.4(d):
 - (i) Alternative Elevation Methods – Residential Structures.
Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Section 50-18.1.C.4(b)(i).
 - (d) Standards for Special Uses in Flood Fringe.
In addition to the applicable standards detailed in Section 50-18.1.C.2, the following standards shall apply for special uses in the Flood Fringe District:
 - (i) All residential structures with lowest floors elevated through alternative elevation methods must meet the standards in Section 50-18.1.C.4(b)(ii)(2).
 - (ii) The use or development must conform to the underlying zone district.
5. General Floodplain District.
- (a) Permitted Uses in General Floodplain District.
 - (i) Until the floodway is delineated, allowable uses and applicable standards shall follow those listed in the Floodway District, Section 50-18.1.C.3.
 - (ii) All other uses are subject to a floodway/flood fringe determination as provided in Section 50-18.1.C.5(d), in addition to the standards provided in Section 50-18.1.C.5(b) and Section 50-18.1.C.5(c). Permitted uses shall be determined as follows:
 - (1) If the development is determined to be in the Floodway District, Section 50-18.1.C.3 applies.
 - (2) If the development is determined to be in the Flood Fringe District, Section 50-18.1.C.4 applies.
 - (b) Determining Flood Elevations.
 - (i) All development requires a determination of the Base Flood Elevation (BFE).
 - (1) Proposed developments of more than 50 lots or 5 acres, whichever is lesser, must use detailed methods for determining the BFE. This may include use of supporting A Zone modeling and the “shoreland method,” when eligible, on lakes.
 - (2) Exceptions to this requirement include projects that restore the site to the previous cross-sectional area, such as shore stabilization or culvert replacement projects. Base Flood Elevations (BFE) may be found using best available data from any Federal or State sources (including MNDNR’s Lake & Flood Elevations Online (LFEO) Viewer).
 - (c) Encroachment Analysis.

- (i) Encroachments due to development may not allow stage increases more than one-half (0.5) foot at any point, unless through a map revision following the procedures in Section 50-18.1.C.8(d) and Section 50-18.1.C.10. This evaluation must include the cumulative effects of previous encroachment and must be documented with hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. If increased flood damages would occur, due to the water surface level increase, then a stage increase less than one-half (0.5) foot is required.
- (ii) Alterations or changes that result in stage decreases are allowed and encouraged.
- (d) Standards for the Analysis of Floodway Boundaries.
 - (i) Requirements for Detailed Studies.

Any development, as requested by the land use supervisor, shall be subject to a detailed study to determine the limits of the Floodway District. This determination must be consistent with the minimum standards for hydrologic and hydraulic mapping standards and techniques, as detailed in Minnesota Rules, part 6120.5600, Subp. 4 and FEMA Guidelines and Standards for Flood Risk Analysis and Mapping, as revised. Additionally:

 - (1) A regulatory floodway necessary to carry the discharge of the one-percent annual chance flood must be selected without increasing the water surface elevation more than one-half (0.5) foot at any point. This determination should include the cumulative effects of previous encroachments. A lesser water surface elevation increase than one-half (0.5) foot is required if, due to the water surface level increase, increased flood damages would potentially result; and
 - (2) An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries, unless topography, existing development patterns, and comprehensive land use plans justify a modified approach, as approved by the Department of Natural Resources.
- (e) Other Acceptable Methods.

For areas where a detailed study is not available or not required, other acceptable methods include:

 - (i) Development prohibited in floodways (e.g. most buildings) requires a floodway/flood fringe determination to verify the development is within the flood fringe. This determination must be done by a professional engineer or utilize other accepted engineering practices. The Department of Natural Resources may also provide technical assistance and must approve any determinations made via methods alternative to those described in Sec 50-18.1.C.5(d) to determine floodway boundaries.
 - (ii) For areas where the floodway has not been determined in and along lakes, wetlands, and other basins, the following methodology may be used as an alternative to Item A above, provided these areas are not affected by velocities and the lot is able to accommodate a building site above the Regulatory Flood Protection Elevation (RFPE):
 - (1) All areas that are at or below the ordinary high-water level, as defined in Minnesota Statutes, Section 103G.005, Subd. 14, will be considered floodway, and all areas below the Base Flood Elevation (BFE) but above the ordinary high-water level will be considered flood fringe, provided that within 25 feet of the ordinary high water level, or within the Shore Impact Zone, whichever distance is greater, land alterations shall be restricted to:

- (a) The minimum required to accommodate beach areas, access areas, and accessory structures as permitted, not to exceed a volume greater than 10 cubic yards; projects involving volumes exceeding 10 cubic yards require floodway/flood fringe determination in accordance with the procedures in Section 50-18.1.C.5(e)(i); and
- (b) The minimum required to accommodate shoreline stabilization projects to correct an identified erosion problem as verified by a qualified resource agency or the land use supervisor.

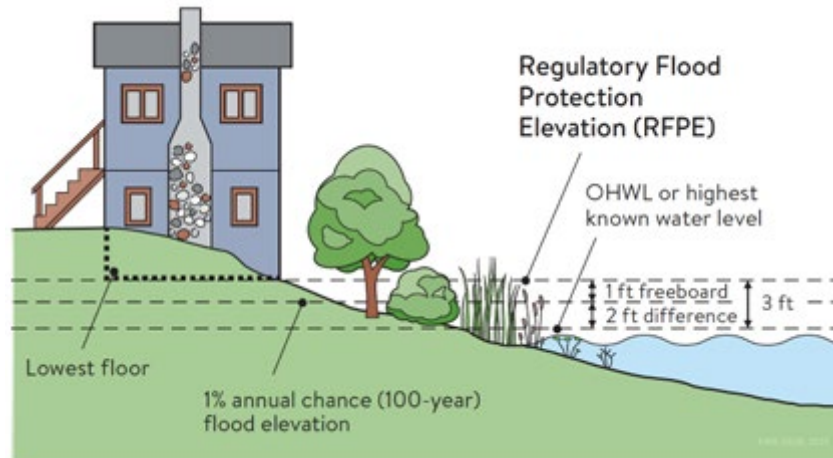


Figure 50-18.1.C-5

6. Coastal District.

(a) Permitted Uses in the Coastal District.

The following uses and activities may be allowed with a permit if they are allowed within the applicable underlying zoning districts, subject to the standards in Section 50-18.1.C.6(c):

- (i) Within V Zones: Agricultural uses, recreational uses, parking lots, loading areas, airport landing strips, water control structures, navigational facilities, ecological restoration projects, as well as public open space uses.
- (ii) Within coastal AE Zones: Any uses or activities allowed in any applicable underlying zoning districts may be allowed with a permit, subject to the standards set forth in Section 50-18.1.C.4(b) (Flood Fringe District).

(b) Special Uses in Coastal District.

The following uses and activities may be permitted as special uses if they are allowed within the applicable underlying zoning districts, subject to the standards in Section 50-18.1.C.6(c).

- (i) Within V Zones: Any new construction and substantial improvements of structures, including manufactured homes, permitted in any applicable underlying zoning districts are allowed provided they meet the provisions of Section 50-18.1.C.2 and Section 50-18.1.C.6(c).
- (ii) Within coastal AE Zones: Special uses within the coastal AE zone are regulated pursuant to the provisions contained within Section 50-18.1.C.4(c) (Flood Fringe District – Special Uses).

(c) Standards for Permitted and Special Uses in Coastal District.

The following standards apply to permitted and special uses in Coastal Districts:

- (i) Within coastal AE Zones: Standards in Section 50-18.1.C.4(b) Flood Fringe District apply.
- (ii) Within coastal V Zones:
 - (1) All new construction and substantial improvements of structure, shall be placed landward of the Ordinary High Water Line of Lake Superior, and be elevated on pilings or columns so that:
 - (a) The bottom of the lowest horizontal structural member supporting the lowest floor (excluding the pilings or columns) is elevated to or above the regulatory flood protection elevation; and
 - (b) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. For purposes of this Section:
 - i. Water loading values used shall be those associated with the base flood.
 - ii. Wind loading values shall be those defined according to American Society of Civil Engineers 7-13, as amended: minimum design loads and associated criteria for buildings and other structures or those established by the Minnesota State Building Code in Minnesota Rules, part 1303.2200 or current version adopted by the Minnesota Department of Labor and Industry.
 - iii. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice meeting the provisions of this Sec 50-18.1.C.
 - (2) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.
 - (a) For the purpose of this Section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot.
 - (b) Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - i. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - ii. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural).
 - iii. Water loading values used shall be those associated with the base flood.
 - iv. Wind loading values shall be those established by the Minnesota State Building Code.

- v. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage.
 - (c) All space enclosed by breakaway walls, open wood lattice-work, or insect screening below the lowest floor shall be used solely for parking of vehicles, building access, or storage.
 - (3) The use of fill for structural support of buildings is prohibited.
 - (4) The human-made alteration of sand dunes, which would increase potential flood damage, is prohibited.
 - (5) In V or VE Zones, new or substantially improved above ground gas or liquid storage tanks shall be elevated with the bottom of the lowest horizontal supporting member above RFPE on the landward side of buildings.
 - (6) In V or VE Zones, new or substantially improved underground gas or liquid storage tanks must be installed below the lowest eroded ground elevation.
7. Public and private utilities, service facilities, roads, bridges, and railroads.
- (a) Public Transportation Facilities.
Railroad tracks, roads, and bridges must be elevated to the Regulatory Flood Protection Elevation (RFPE) where such facilities are essential to the orderly functioning of the area, or where failure or interruption would result in danger to public health or safety. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. All public transportation facilities shall be designed to minimize increases in flood elevations.
 - (b) Public Utilities.
All utilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be elevated and/or floodproofed to the Regulatory Flood Protection Elevation (RFPE), be located and constructed to minimize or eliminate flood damage, and be designed to eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. All public utilities should be designed to minimize increases in flood elevations. New solid waste management facilities, as defined in Minnesota Rules, part 7035.0300, are prohibited in the one-percent annual chance floodplain. Water supply systems are subject to the provisions in Minnesota Rules, part 4725.4350.
 - (c) Private On-Site Water Supply, Individual Sewage Treatment Systems, and other Service Facilities.
Private facilities shall be subject to applicable provisions detailed in Section 50-18.1.C.7(b). In addition, new or replacement on-site sewage treatment systems are to be located to avoid impairment to them or contamination from them during times of flooding, shall not be located in a designated floodway, and are subject to the provisions in Minnesota Rules, parts 7080.2270.
8. Administration.
- (a) For duties that apply to floodplain administration, see Section 50-36.4.
 - (b) For permit application requirements that apply to floodplain administration, see Section 50-37.13.D.4.
 - (c) Recordkeeping.
The building official must maintain applicable records in perpetuity documenting:
 - (i) All certifications for dry floodproofing, alternative elevation methods, and construction in Coastal Districts, where applicable.

- (ii) Analysis of no-rise in the Floodway District, as detailed in Section 50-18.1.C.3(b)(i), and encroachment analysis ensuring no more than one-half foot of rise in the General Floodplain District, as detailed in Section 50-18.1.C.5(b)(i)(2) and Section 50-18.1.C.5(c)(i).
 - (iii) Final elevations, as applicable, detailing the elevation to which structures and improvements to structures are constructed or floodproofed. Elevations shall be determined by an engineer, architect, surveyor or other qualified individual, as approved by the building official. In V Zones, the final elevations must be determined by a professional engineer or architect.
 - (iv) Substantial damage and substantial improvement determinations, as detailed in Section 50-38.2.B.1(c), including the cost of improvements, repairs, and market value.
 - (v) The land use supervisor must maintain a record of all variance actions, including justification for their issuance, and must report such variances to the MN DNR commissioner or the commissioner's designated representative and postmarked within ten days of final action or when requested by the Federal Emergency Management Agency.
- (d) Certificate of Occupancy for a New, Altered, or Nonconforming Use.
No building or structure may be occupied or used in any manner until a certificate of occupancy has been issued by the building official stating that the finished fill and building floor elevations or other flood protection measures are in compliance with the requirements of this Section.
- (e) Notification for Watercourse Alterations.
Before authorizing any alteration or relocation of a river or stream, the land use supervisor must notify adjacent communities. If the applicant has applied for a permit to work in public waters in accordance with Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.
- (f) Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations.
Where physical changes affecting flooding conditions may increase or decrease the water surface elevation of the base flood, the city must notify FEMA of the changes in order to obtain a Letter of Map Revision (LOMR), by submitting a copy of the relevant technical or scientific data as soon as practicable, but no later than six months after the date such supporting information becomes available. Within the General Floodplain District, a map revision is only required if physical changes result in stage increases greater than 0.5 feet.

9. Violations and Penalties.

(a) Enforcement.

Violations of the provisions of this Section constitutes a misdemeanor and is punishable as defined by law. The land use supervisor may utilize the full array of enforcement actions available to them including, but not limited to, those outlined in Section 50-39.2, or a request to the National Flood Insurance Program for denial of flood insurance. The City of Duluth must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

10. Amendments.

(a) Ordinance Amendments.

Any revisions to the floodplain maps by the Federal Emergency Management Agency or annexations of new map panels require an ordinance amendment to update the map references in Section 50-18.1.A.2(b).

(b) Required Approval.

All amendments to this section must be submitted to the Department of Natural Resources for review and approval prior to adoption, for compliance with state and federal rules and requirements.

11. Severability.

(a) For severability provisions applicable to this Section, see Section 50-12.

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 permits.

The following standards shall apply for shoreland permits;

- (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 5.

Table 50-18.1.D-1: Minimum Shoreland Area Standards			
Standards	General Development Waters ^[1]	Natural Environmental Waters	Coldwater River
Minimum setbacks from Ordinary High Water Level or highest known water level, whichever is higher			
<i>Structures (including fences)</i>	50 ft.	75 ft.	150 ft.
<i>Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1-3</i>	25 ft.	N/A	N/A
<i>Impervious surfaces in the Shore Impact Zone</i>	50 ft.	50 ft.	75 ft.
Lowest floor elevation above Ordinary High Water Level or highest known water level, whichever is 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 where FEMA has established a base flood elevation, the structure is exempt from this shoreland elevation requirement, but must meet flood plain regulations.

(b) Exceptions to dimensional standards.

The following excepts to dimensional standards of shoreland permits are permitted:

- (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 pervious surfaces, or with impervious surfaces no more than ten feet wide, may be constructed within any shoreland setback, 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 18.1.E.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:
 - (1) Use the impervious surface setback for the shoreland classification as the building setback;
 - (2) 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 within the required structure and impervious surface setbacks, but not within the naturally 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;

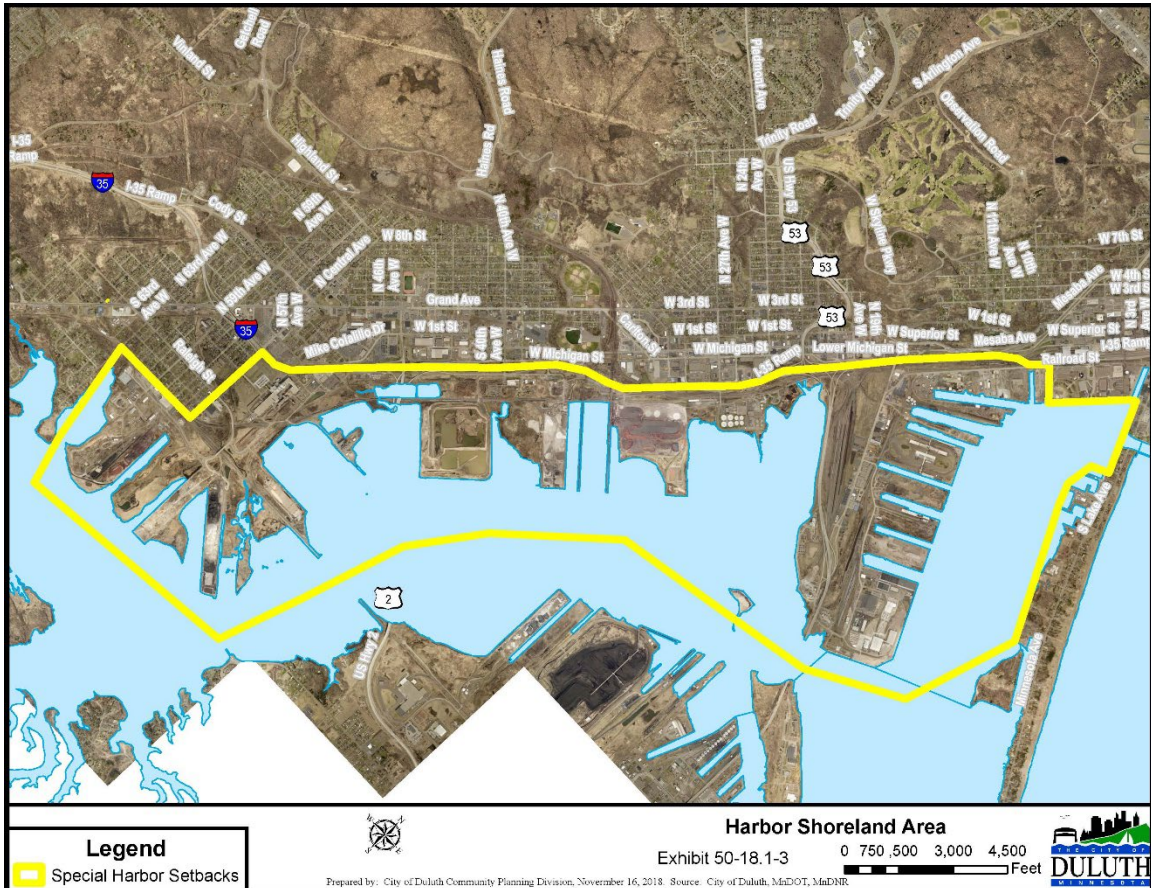


Exhibit 50-18.1-3: Harbor Shoreland Area

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 Section 50-18.1.D.1 and compliance with the standards of Section 50-18.1.D.2, except as listed above. 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 5. 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 shall include the following:
 - (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.

 - (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 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 level or to the ordinary high water level 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 level 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 their 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-toned 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 Section 50-18.1.D.3. If the lot of record cannot be developed under the setback requirements of Section 50-18.1.D.3, then:

- (a) The lot may be developed without a variance if:
 - (i) Principal structures exist on the adjoining lots on both sides of a proposed building site, and
 - (ii) The proposed structure will be located no closer to the protected shore than the principal structure on either adjoining site, and
 - (iii) 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 5;

E. Stormwater management and erosion control.

1. Goals and purpose.

- (a) The federal Clean Water Act (CWA) requires that municipal stormwater discharges be authorized under the national pollution discharge elimination system (NPDES). The city is allowed to discharge its stormwater under coverage provided by a CWA municipal separate storm sewer system general permit (MS4 permit). As part of the requirements of the permit, the city is required to develop a stormwater pollution prevention program (MS4 program) with specific goals requiring:
 - (i) Non-degradation of all city waters;
 - (ii) Restrictions to special designated waters in the city, including: (a) Lake Superior (which is an MPCA designated outstanding value resource water with both restricted discharge and impaired water designations); (b) St. Louis River (which is an MPCA designated impaired water and area of concern; and (c) 16 trout streams designated by the DNR;
- (b) The goals described in the city's MS4 program pertaining to illicit discharge detection and elimination, construction-site runoff controls, and post-construction runoff treatment are incorporated into this Chapter by reference;
- (c) The purpose of this Section 50-18.1.E is to establish regulations to comply with the federal CWA and the city's MS4 permit and to achieve the goals stated in the city's MS4 program;
- (d) All proposed developments shall follow the requirements in the most recent version of the City of Duluth, engineering guidelines for professional engineering services and developments, and the City of Duluth construction standards were applicable;
- (e) Refer to the Minnesota Stormwater Manual and other stormwater management publications for temporary and permanent low impact development design practices;

2. Temporary erosion and sediment controls.

(a) Applicability.

This Section 50-18.1.E.3 applies to all land disturbing activities within the city, except those specifically exempt in this Section and those subject to a superseding or preemptive state or federal law. This Section shall be deemed to supplement, but not to conflict with, the applicable provisions of the Minnesota State Building Code;

(b) Requirements.

All proposed development and redevelopment and all subdivision plats and re-plats shall include drainage system and temporary erosion and sediment best management practices (BMPs) in compliance with the city's MS4 program and the requirements shown in Table 50-18.1.E-1 below. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the city engineer or designee with each development proposal or application for permit;

Table 50-18.1.E-1: Temporary Erosion and Sediment Controls			
Land Area Disturbed ►	≤ 3,000 sq. ft. ^[1]	> 3,000 sq. ft. and < 1 acre ^[2]	≥ 1 acre
Development Plan Measures Required ▼			
Temporary erosion and sediment controls to prevent any off-site migration of sediment	✓		
Site specific Erosion and Sediment Control Plan (ESCP) and ESCP Permit from city engineer		✓	✓
Site specific Stormwater Pollution Prevention Plan (SWPPP) meeting MPCA NPDES Permit requirements for Construction Activity		✓	✓
MPCA NPDES/State Disposal System Construction Stormwater Permit			✓
MS4 Statement of Compliance from city engineer		✓	✓

^[1] If the city engineer determines that the proposed development is in a vulnerable area and may cause the degradation of the waters connected to the city's stormwater system, then the provisions applicable to land disturbance areas greater than 3,000 sq. ft. shall apply.

^[2] If land disturbed is within a mapped shorelands zone, an MS4 Statement of Compliance from the city engineer is also required.

(c) Authority to waive.

The city engineer has authority to waive the requirements in Table 50-18.1.E.1 in accordance with the city's MS4 permit. If stormwater and erosion controls required by Section 50-18.1.E.2 are demonstrated to be technically feasible, provisions of Section 50-18.1.E.2 must be met to the maximum extent practicable;

3. Permanent water quality and discharge rate, volume and temperature controls.

(a) Applicability.

- (i) This Section 50-18.1.E.3 applies to all land disturbing activities within the city, except those specifically exempt in this Section and those subject to a superseding or preemptive state or federal law. This Section shall be deemed to supplement, but not to conflict with provisions of the Minnesota State Building Code;
- (ii) This Section does not apply to pavement resurfacing and pavement rehabilitation projects that meet all of the following conditions:
 - (1) No new impervious surface is created;
 - (2) There is no change to the configuration of the site;
 - (3) There is no change to the land use;

(b) General requirements.

All proposed development and redevelopment and all subdivision plats and re-plats shall include a drainage system with stormwater runoff site, volume and temperature controls and water quality treatment in compliance with the city's MS4 program and the requirements shown in Table 50-18.1.E-2 below. Plans, engineering analysis and calculations, diagrams, drainage reports and other data shall be submitted, as required by the city engineer with each project (referred to as the "development plan" below);

Table 50-18.1.E-2: Permanent Water Quality and Discharge Rate, Volume and Temperature Controls [See additional requirements for land in shorelands below]

Development Plan Measures required ▼	Total New Impervious Area Created or the Impervious Area Redeveloped ^{[1][2]}	
	≤ 3,000 sq. ft.	> 3,000 sq. ft. ^{[3][4]}
Water quality treatment	NONE	✓
Runoff rate controls		✓
Volume Controls		✓
Temperature Controls ^[5]		✓
Drainage report		✓
Site specific SWPPP		✓
BMP Operation and Maintenance Manual		✓
MS4 Statement of Compliance from city engineer		✓

^[1] The total area is the sum of both the new and redeveloped impervious areas that are part of the common plan of development or sale.

^[2] A pavement resurfacing or pavement rehabilitation project is exempt where: (a) no new impervious surface is created; and (b) no change to configuration of the site occurs; and (c) no change to land-use occurs.

^[3] An individual one-family or two-family residence (that is not part of a common plan of development) with less than 10,000 sq. ft. of disturbed area and less than 7,500 sq. ft. of new impervious area is exempt.

^[4] If the site contains an existing impervious surface area greater than one acre, the drainage report must include a determination of the current total suspended solids removal across the entire site. If the current TSS removal is below 50 percent, the drainage report must include an evaluation of the feasibility of increasing the TSS removal to 50 percent on an annual basis across the entire site.

^[5] Temperature controls are required for projects that discharge to, and are within one mile from, a trout/cold water stream.

(c) Authority to waive.

The city engineer has authority to waive the requirements in Table 50-18.1.E-2 in accordance with the city’s MS4 permit, if the developer demonstrates it to be technically non-feasible AND then mitigates for the non-compliance by increasing the level treatment or control of one of the other requirements;

- (d) Shoreland requirements
- (i) In addition to the requirements in Section 50 18.1.E.3(b) above, no residential development or redevelopment within a shoreland shall result in impervious surface area exceeding 25 percent of the lot area unless the owner;
 - (1) Submits a development plan including water quality treatment and;
 - (2) Obtains an MS4 statement of compliance by the city engineer;
 - (ii) In addition to the requirements in Section 50 18.1.E.3(b) above, no commercial, mixed use, institutional or industrial development or redevelopment within a shoreland shown on the NR-O map shall create new impervious surface area unless the owner;
 - (1) Submits a development plan including water quality treatment and;
 - (2) Obtains an MS4 statement of compliance issued by the city engineer;
- (e) Water quality treatment requirements.
 Where Section 50 18.1.E.3(b) requires that a development plan include water quality treatment, the development or redevelopment must provide at least the minimum treatment shown in Table 50 18.1.E.3;

Table 50-18.1.E-3: Water Quality Treatment Requirements (Total Suspended Solids TSS, Total Phosphorus TP)		
Development Type	New and Existing Impervious surface	Required Treatment
New	> 3,000 sq. ft.	No net increase of TSS/TP from predevelopment conditions.
Redevelopment	> 3,000 sq. ft. and < 1 acre	10% reduction in impervious surface or 50% TSS removal (TP to be removed via TSS reduction).
Redevelopment	≥ 1 acre	50% TSS removal. No net increase in TP from pre-project condition.

- (f) Runoff rate control.
 Where Section 50-18.1.E.3(b) requires that a development plan include runoff rate control, the development or redevelopment must be designed to provide the controls as follows. Runoff rate control is beneficial in the upper, flatter part of the watershed above the bluff line. Below the bluff line, the topography is relatively steep and stormwater flows quickly to Lake Superior and the St. Louis River. This bluff line designation is show on the NR-O map. The stormwater rate control requirements for development and redevelopment are shown in Table 50-18.1.E-4;

Table 50.18.1.E-4: Discharge Rate Limits		
Location ►	Post-Development Peak Flow Rates at Each Discharge Point Shall Not Exceed	
Type of Activity ▼	Zone A -- Above Bluff Line	Zone B -- Below Bluff Line
New Development	75% of predevelopment peak flow rates for 10 and 100 year events; and 90% of predevelopment peak flow rate for 2 year event	Predevelopment peak flow rates for all storm events
Redevelopment	Predevelopment peak flow rates for all storm events	Predevelopment peak flow rates for all storm events

(g) Stormwater runoff volume control.

Where Section 50-18.1.E.3(b) requires that a development plan include storm water runoff volume control, the development or redevelopment must be designed to provide the controls so that the volume of stormwater runoff discharged from a proposed project shall not exceed the pre-development site conditions;

(h) Storm water temperature control.

Temperature controls are required for development and redevelopment where Section 50-18.1.E.3(b) specifies. Temperature controls are beneficial for trout/cold water streams, by minimizing the increase in stream temperatures from stormwater runoff from impervious surfaces that tend to be warmer than natural vegetated surfaces. The potential for the increase in temperature of stormwater runoff discharged from a proposed project shall be minimized through the use of certain BMPs and/or site design methods;

(i) General design criteria.

(i) New minor system drainage systems shall be designed to efficiently convey the peak discharge rates for a ten-year flow;

(ii) New major system drainage systems shall be designed to efficiently convey the peak discharge rates for a 100-year flow;

(iii) The 100-year rainfall event or 100-year peak flow shall be evaluated to ensure that no damage occurs to adjacent properties for all systems;

(iv) The stormwater management systems for any new or redevelopment project shall maintain at least two feet of freeboard between the anticipated 100-year high water elevation and the minimum building opening;

(v) Consideration may be given for treating existing untreated impervious areas diverted to the site and included in the control area for analysis if it is in the best interest of the city;

(vi) All impervious areas shall be considered connected and curve numbers shall not be weighted for impervious areas except under special circumstances;

(vii) Ninety-five percent of all newly added impervious surface shall have its runoff directed to the water quality treatment area. If it is impractical to direct 95 percent of the added impervious surface to water quality area, alternate methods may be used in combination so long as 95 percent is treated and all peak flow requirements are fulfilled;

(viii) Flow shall not be diverted from one major or minor system to another major or minor system;

(ix) When stormwater management plans involve directing runoff from a site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water to a point where the stormwater enters a major system;

(x) Adequate measures shall be taken to prevent uncontrolled drainage across lot lines;

4. General stormwater restrictions.

City of Duluth has numerous ordinances regarding stormwater runoff and the protection of the area's water resources. Refer to this Code, Chapter 43, Article XI Stormwater Utility System; Chapter 43A, Illicit Discharges to the City Storm Sewer System; Chapter 45, Article VII, Division 2, Improvements by private party; and Chapter 45, Article VIII, Obstructions to Watercourses;

5. Ownership and maintenance.
- (a) Maintenance of temporary erosion and sediment control practices.
During the period of a land disturbing activity, the person engaging in the construction shall be responsible for installing and maintaining erosion and sediment control practices. After construction is completed, the owner of the property shall be responsible for installing and maintaining erosion and sediment control practices. For the purposes of inspection during construction monitoring, the permittee shall maintain inspection logs and will make them available to the city upon request. The permittee shall retain the inspection logs for three years after the project is complete;
 - (b) Ownership.
 - (i) All components of the stormwater management system shall be constructed, owned, operated and maintained by the developer or owner(s) to their confluence with the major system or city owned minor system;
 - (ii) In the case of developments in which right-of-way is transferred to public ownership, the storm drain system within the city right-of-way shall be owned and maintained by the city. Stormwater treatment facilities and ponds shall be in common space and shall be owned and maintained by the developer or the owners of the development. Stormwater treatment facilities shall not be located in the public right-of-way;
 - (c) Owner inspection, operation and maintenance.
 - (i) A stormwater management facilities operation and maintenance manual shall be prepared by an engineer for the development and approved by the city engineer;
 - (ii) (Stormwater management facilities shall be designed to minimize maintenance and provide inspection and maintenance access;
 - (iii) All facilities shall have a plan of operation and maintenance that assures continued effective removal of runoff pollutants and accumulated sediment;
 - (iv) The developer or the owner(s) shall be responsible for inspection, maintenance and reporting for all non-publicly owned stormwater management facilities associated with the development. Facilities shall include structural components and all non-structural components (buffer strips, swales and other stormwater management practices that were part of the approved development);
 - (v) An annual inspection and maintenance report shall be submitted to the city engineer. Inspection and maintenance shall be performed on a regular basis so the stormwater management facilities function as designed, but not less than annually. Maintenance work and repairs identified in the annual report shall be completed within three month of the annual inspection;
 - (vi) The inspection and maintenance of the stormwater facility shall be performed by a qualified professional and who will prepare and sign the annual inspection/maintenance report.
 - (vii) Copies of the inspection and maintenance records shall be maintained by the developer or owner for a period of six years. Copies of all inspection records shall be provided to the city upon request.

50-18.2 Airport Overlay (A-O).

The A-O district is intended to protect the lives and property of users of Duluth International Airport (DLH) and Sky Harbor Regional Airport from hazards and to protect the lives and property of residents living in the vicinity of the airports from risks and impacts of airport-related activities. The purpose of this district is also to prevent and, when possible, to minimize, reduce or remove hazards that interfere with the safe operation of the respective airports.

A. Purpose and authority.

The council, pursuant to the provisions and authority of Minnesota Statutes Section 360.063, hereby finds and declares that:

1. The Duluth International Airport is an essential public facility;
2. An airport hazard endangers the lives and property of users of the Duluth International Airport, and property or occupants of land in its vicinity, and also if the obstructive type, in effect reduces the size of the area available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Duluth International Airport and the public investment therein;
3. The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Duluth International Airport;
4. For the protection of the public health, safety, order, convenience, prosperity and general welfare, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards; and
5. The prevention of these airport hazards and aircraft accidents should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

B. Definitions.

Definitions within this Section shall be as defined by the Duluth International Airport Zoning Ordinance, created by the Duluth International Airport Joint Zoning Board, recorded in the St. Louis County Recorder's Office as Document Number 01432556, which is incorporated hereto in its entirety by reference.

C. DLH Airspace Obstruction Zoning.

1. **Boundary Limitation.**
The airspace obstruction height zoning restrictions set forth in Section 50-18.2.C shall apply for a distance not to exceed one-and-one-half (1.5) miles beyond the perimeter of the Airport boundary; said boundary location and dimensions are indicated on the Airport Zoning Map.
2. **Airspace Zone.**
Airspace Zones are established to regulate and protect aircraft from navigational hazards during landings and departures. In order to carry out the purposes of the Duluth International Airport Zoning Ordinance, the following Imaginary Airspace Zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone, Precision Instrument Approach Zone, and Transitional Zone, all whose locations and dimensions are indicated on the Airport Zoning Map.
3. **Height Restrictions.**
Except as otherwise provided in Section 50-18.2, or except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained, or allowed to grow so as to project above any of the Imaginary Airspace surfaces described in Section 50-18.2.C.2.

Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

D. DLH Land Use Safety Zoning.

In order to carry out the purpose of Section 50-18.2, as set forth above, to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and, furthermore, to limit population and building density in the runway approach areas, thereby creating sufficient open space to protect life and property in case of an accident, there are hereby created and established the following Safety Zones, which restrict land use:

1. Safety Zone 1: All land designated as Safety Zone 1 on the Airport Zoning Map;
2. Safety Zone 2: All land designated as Safety Zone 2 on the Airport Zoning Map;
3. Safety Zone 2.5: All land designated as Safety Zone 2.5 on the Airport Zoning Map;
4. Safety Zone 3: All land designated as Safety Zone 3 on the Airport Zoning Map.

The land use zoning restrictions set forth in Section 50-18.2.D and E shall apply for a distance not to exceed one mile beyond the perimeter of the airport boundary and in the portion of an Airport Hazard Area under the approach zone for a distance not exceeding one and one-half (1½) miles from the airport boundary; said land use zoning boundary location and dimensions are indicated on the Airport Zoning Map depicted in Exhibit 50-18.2-1.

E. DLH Use Restrictions.

Table 50-19.8, Permitted Use Table, lists land uses and indicates whether they are allowed by right or with a special use permit, or prohibited in each base zone district. In addition to Table 50-19.8, in order to restrict those uses which may be hazardous to the operational safety of aircraft operating to and from the Duluth International Airport, and furthermore to limit population and building density in the runway approach areas, thereby creating sufficient open space so as to protect life and property in case of accident, the following additional use restrictions are applied to the land use Safety Zones.

1. All Safety Zones.
No use shall be made of any land in any of the Safety Zones which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, makes it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport, or otherwise endangers the landing, taking off, or maneuvering of aircraft.
2. Safety Zone 1.
Areas designated as Safety Zone 1 shall contain no buildings, temporary structures, exposed transmission lines, or other similar above ground land use structural hazards, and shall be restricted to those uses which will not create, attract, or bring together an assembly of persons thereon. Permitted uses may include agricultural use, resource extraction use, horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non-spectator), cemeteries, and automobile parking, and as allowed in Table 50-19.8;
3. Safety Zone 2.
The following classifications of building and structures as to use and occupancy according to the Minnesota State Building Code, or its successor, are prohibited: Group A Uses; Group E Uses; Group I-2 Uses; and Group R-1 Uses. Other uses not specifically prohibited by this Section, and as allowed in Table 50-19.8, must be on a site whose area is at least two and one-half (2.5) acres. Each use shall not create, attract, or bring together a site population in excess of 20 persons per acre during the same time period; density as calculated pursuant to the Minnesota State Building Code, or its successor;
4. Safety Zone 2.5.
The following classifications of building and structures as to use and occupancy are prohibited: Childcare or daycare centers; State licensed residential care facilities and housing with service establishments serving 7 or more persons; State licensed adult daycare facility serving 13 or more persons; State licensed group family daycare facility serving 13 or more children; public or private school; and public or private hospital;
5. Safety Zone 3.
Areas designated as Safety Zone 3 are only subject to the restrictions set forth in Section 50-18.2.E.1, and as allowed in Table 50-19.8.

F. DLH Airport Zoning Map.

The Airport Zoning Map, together with map and all notations, references, elevation, data, zone boundaries, and other information thereon, shall be referred to in this Section are adopted in its entirety.

G. DLH Existing Uses and Structures.

The regulations prescribed by Section 50-18.2 shall not be construed to require the removal, lowering, or other changes or alteration of any existing use, lot, structure, or tree or otherwise interfere with the continuance of any such use or structure, or tree after December 14, 2021.

H. DLH Permits and Orders to Remove Use or Structure or Tree.

1. Permit Standards.
Permit applications shall be made to the land use supervisor pursuant to Section 50-37.13. Copies of applications for permits shall be provided to the DAA.

2. Permit Required.

The following structures or uses shall not be allowed in a Safety Zone 2 unless a permit has first been approved pursuant to Section 50-37.13:

- (a) Material expansion of an existing structure or use, permit required.
- (b) New structures or uses, permit required.
- (c) Abandoned non-conforming structure.
- (d) Permit required for structure to be re-used, rebuilt or replaced.
- (e) Substantially damaged non-conforming structure.
- (f) Permit required to rebuild, repair, or replace.
- (g) Material change in non-conforming use.
- (h) Permit required before material change in use may occur.

3. Order to Remove Use, Structure , or Tree.

Whether application is made for a permit under this Section or not, the land use supervisor may by appropriate action compel the owner of any structure, use, or tree, at the owner's expense, to lower, remove, reconstruct, or equip the object as may be necessary to conform to the regulations of the Duluth International Airport Zoning Ordinance. If the owner of the structure, use, or tree neglects or refuses to comply with the order for ten days after notice of the order, the land use supervisor may take whatever lawful actions they deem necessary and appropriate to obtain compliance with the provisions of the Duluth International Airport Zoning Ordinance.

I. DLH Variances.

Any person desiring to erect or increase the height of any structure, permit the growth of any tree, or use property in a way prohibited by this Section, may apply for a variance as established in Section 9, 11, 12, and 14 of the Duluth International Airport Zoning Ordinance, created by the Duluth International Airport Joint Zoning Board, recorded in the St. Louis County Recorder's Office as Document Number 01432556.

J. DLH Hazard Marking and Lighting.

The land use supervisor or the Board of Adjustment for the Duluth International Airport Joint Airport Zoning Board (BOA) may condition any permit or variance granted so as to require the owner of the structure or tree or use in question at their own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to pilots the presence of an airport hazards.

K. DLH Airport Zoning Administrator.

It shall be the duty of the land use supervisor to enforce the regulations prescribed by this Section. Permit applications shall be made to the land use supervisor for that jurisdiction. Copies of permit applications shall be provided to the DAA. Permit applications shall be promptly considered and granted or denied pursuant to the regulations by the land use supervisor. Variance applications shall be made to both the land use supervisor and the BOA. Copies of variance applications shall be provided to the DAA.

L. DLH Limited Land Use Exemption For Aeronautical Purposes.

The restrictions of this section or any other Section of this Chapter shall not control the use of land or the height of structures on land owned by the City of Duluth, the State of Minnesota, the Duluth Airport Authority, or the United States of America and used by the DAA solely for aeronautical purposes.

M. General, Conflicts.

Where there exists a conflict between any of the regulations or limitations prescribed in this Section and any other regulations applicable to the same area, the more stringent limitation or regulation shall govern and prevail.

N. Sky Harbor Regional Airport, Safety Zones.

For the Sky Harbor Regional Airport, the following land use safety zones are established:

1. Safety Zone A.
All land in that portion of the approach zones of a runway, that extends outward from the end of primary surface a distance equal to $\frac{2}{3}$ of the planned length of the runway, which distance is 2,230 feet for Sky Harbor Regional Airport runway 14-32;
2. Safety Zone B.
All land in that portion of the approach zones of a runway that extends outward from Safety Zone A a distance equal to $\frac{1}{3}$ of the planned length of the runway, which distance is 1,120 feet for Sky Harbor Regional Airport runway 14-32;
3. Safety Zone C.
All that land that is enclosed within the perimeter of the horizontal zone and that is not included in Safety Zone A, Safety Zone B, or the exempted parcels referred to below.
4. Exemptions.
Land uses that existed as of January 1, 1994, for Sky Harbor Regional Airport, and that were established residential neighborhoods in built-up urban areas on those dates, are subject to the height restrictions above, but are not subject to the additional restrictions in Sections 50-18.2.N.1 or 2 above. Land uses that came or come into existence after those dates, are treated as though they were or are not in a listed established residential neighborhood and are subject to the restrictions in Sections 50-18.2.N.1 or 2 above, as applicable based on the location of the property.

O. Sky Harbor Regional Airport, Land Use Restriction.

1. General.
No use shall be made of any land in any land use safety zone that creates or causes interference with the operations of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of pilots using the airport, impairs visibility in the vicinity of the airport or otherwise endangers the landing, taking off or maneuvering of aircraft, as illustrated in Figure 50-18.2-1;

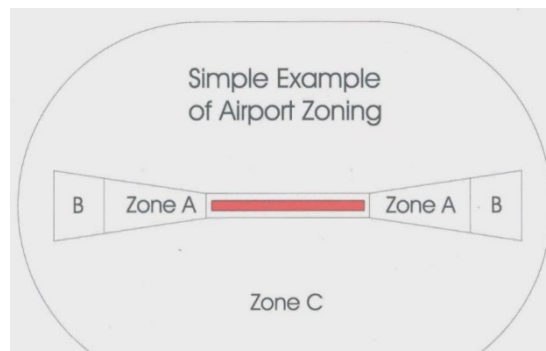


Figure 50-18.2-1: Example of Airport Zoning

2. Zone A.

Areas designated as Zone A shall contain no buildings, temporary structures, exposed transmission lines, or other similar above ground land use structural hazards, and shall be restricted to those uses that will not create, attract or bring together an assembly of more than 100 persons on the property. Permitted uses may include but are not limited to: agriculture (seasonal crops), horticulture, animal husbandry, raising of livestock, wildlife habitat, light outdoor recreation (non spectator), cemeteries and automobile parking;

3. Zone B.

Areas designated as Zone B shall be restricted in use as follows:

- (a) Each use shall be on a site of not less than three acres;
- (b) Each use shall not create, attract or bring together a site population that would exceed 15 times that of the site acreage. Compliance with this Section 50-18.2.O.3 shall be determined by multiplying the number of required parking spaces for each use on the site by the vehicle occupancy rates for each use on the site, as provided in Table 50-18.2.-1;

TABLE 50-18.2-1: Vehicle Occupancy Rates	
Land Use	Vehicle Occupancy Rate
Industrial / Storage / Transportation	1.2
Educational	1.2
Health Care	1.7
Retail Store	1.5
Restaurant / Community and Cultural Facility / Recreational	2.0

Example: The site population for a 1,500 sq. ft. restaurant is calculated as follows: 15 (i.e., 1 parking space per 100 sq. ft) X 2.0 (i.e., vehicle occupancy rate) = 30 people. Therefore, the site would need to be at least 2 acres in size to meet the 15 people / acre maximum site population limit.

- (c) Each site shall have no more than one building plot upon which any number of structures may be erected;

- (d) A building plot shall be a single, uniform and non-contrived area, whose shape is uncomplicated and whose area shall not exceed the following minimum ratios with respect to the total site area as provided in Table 50-18.2-2;

TABLE 50-18.2-2: Ratio of Site Area to Building Area		
Site area	Ratio of site area to building plot area	Building plot area (sq. ft)
3.00 – 3.99 acres	12:1	10,900
3:00 – 5.99 acres	10:1	17,400
6:00 – 9.99 acres	8:1	32,700
10:00 – 19.99 acres	6:1	72,600
20:00 acres or more	4:1	218,000

- (e) The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels, motels, trailer courts, campgrounds and other places of frequent public or semipublic assembly;

4. Zone C.

Zone C is subject only to height restrictions set forth in Section 50-18.2.P and to the general restrictions contained in Section 50-18.2.O.1;

P. Sky Harbor Regional Airport (DYT), Land Affected

1. Air Space Zones.

In order to carry out the purpose of this Section, the following air space zones are hereby established: primary zone, horizontal zone, conical zone, approach zone, and transitional zone as illustrated in Figure 50-18.2-2;

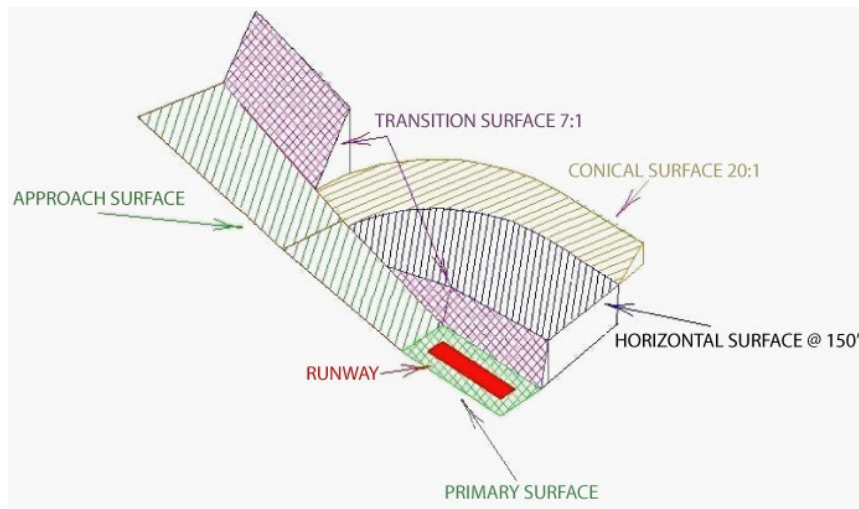


Figure 50-18.2-2: Air Space Zones

2. Primary zone.
All land lying directly under an imaginary primary surface longitudinally centered on a runway and (a) extending 200 feet beyond each end of Sky Harbor Regional Airport Runway 14-32 and (b) coinciding with each end of Runway 14-32. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet for Sky Harbor Regional Airport Runway 14-32;
3. Horizontal zone.
All land lying directly under an imaginary horizontal surface 150 feet above the established airport elevation, or a height of 760 feet above mean sea level for Sky Harbor Regional Airport, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 6,000 feet for Sky Harbor Regional Airport Runway 14-32;
4. Conical zone.
All land lying directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet as measured radially outward from the periphery of the horizontal surface;
5. Approach zone.
All land lying directly under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to the end of a runway based on the type of approach available or planned for that runway.
 - (a) The inner edge of the approach surface is the width as the primary surface and it expands uniformly to a width of:
 - (i) 1,250 feet for that end of a utility runway with only visual approaches;
 - (ii) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
 - (iii) 2,000 feet for that end of a utility runway with a nonprecision instrument approach;
 - (iv) 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;
 - (v) 4,000 feet from that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourths statute mile; and
 - (vi) 16,000 feet for precision instrument runways;
 - (b) The approach surface extends for a horizontal distance of
 - (i) 5,000 feet at a slope of 20:1 for all utility and visual runways;
 - (ii) 10,000 feet at a slope of 34:1 for all nonprecision instrument runways other than utility, and
 - (iii) 10,000 feet at a slope of 50:1 with an additional 40,000 feet at a slope of 40:1 for all precision instrument runways;
 - (c) The outer width of an approach surface to an end runway will be that width prescribed in this Section 50-18.P.5 for the most precise approach existing or planned for that runway end;
6. Transitional zone.
All land lying directly under surfaces that extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7:1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those

portions of the precision approach surface that project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline;

7. Height restrictions.

Except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained or allowed to grow in any air space obstruction zone so as to project above any of the imaginary air space surfaces described in Section 50-18.P.1 thru 6. Where an area is covered by more than one height limitation, the more restrictive limitation shall apply;

8. Traverse ways.

For the purpose of determining height limits in this Section 50-18.2, traverse ways shall be increased in height by 17 feet for interstate highways; 15 feet for all other public roadways; ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for private roads; 23 feet for railroads; and for waterways and all other traverse ways not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it;

Q. Sky Harbor Regional Airport, Variances

Variances to this Section, as it applies to land on, near, or around the Sky Harbor Regional Airport, shall be administered as provided in Section 50-37.9.

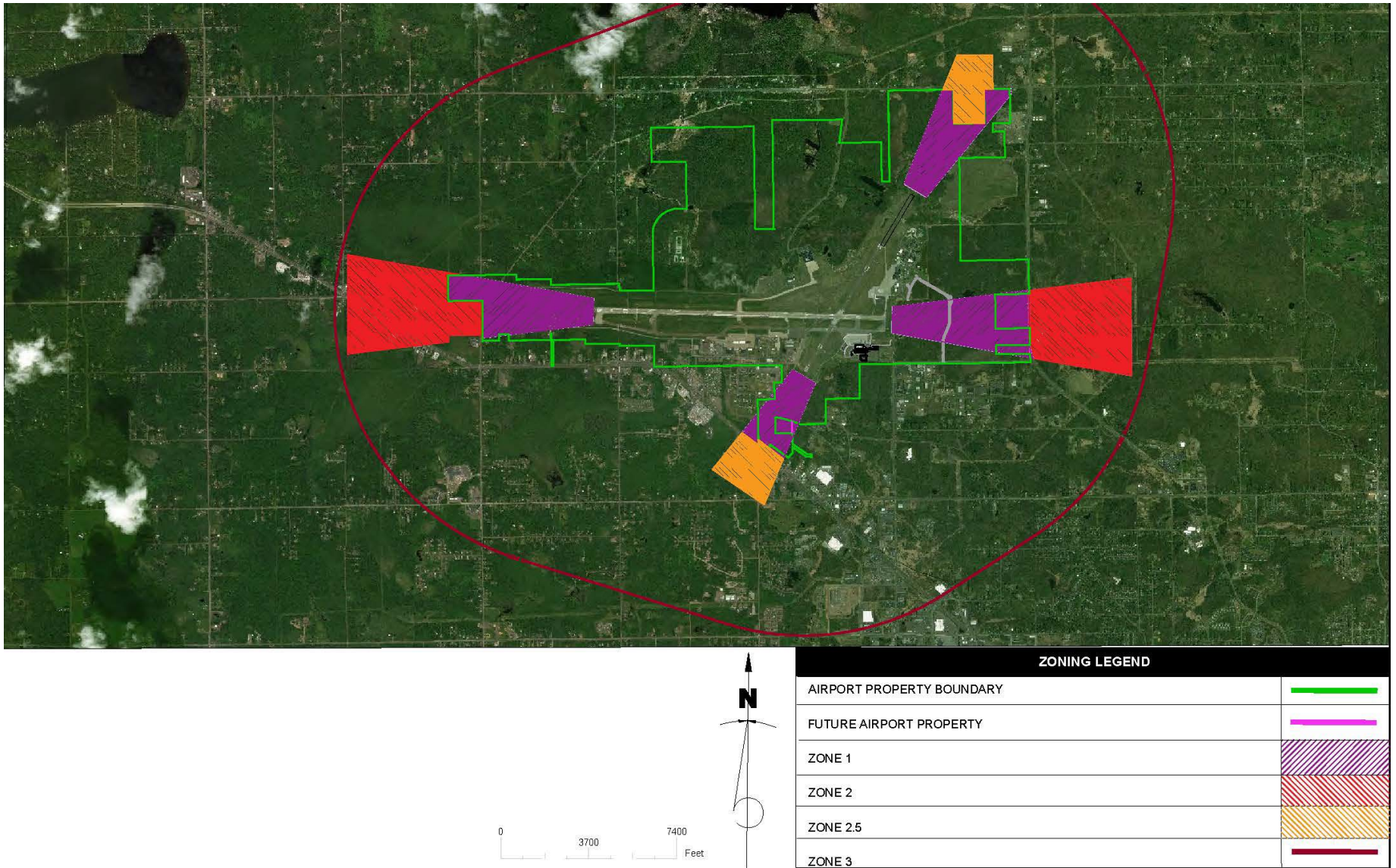


Exhibit 50-18.2-1: Map depicting Duluth International Airport safety zones

50-18.3 Historic Resources Overlay (HR-O).

A. Purpose.

The purpose of the HR-O district is to preserve, protect and promote any areas, places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value. The Historic Resources Overlay:

1. Safeguards the heritage of the city by preserving properties that reflect elements of the city's cultural, social, economic, political, engineering, visual or architectural history;
2. Protects and enhances the city's appeal and attraction to residents, visitors and tourists, while enhancing its economic viability through the protection and promotion of its unique character as related to its history and heritage;
3. Enhances the visual and aesthetic character, diversity and interest of the city;
4. Fosters civic pride in the beauty and notable accomplishments of the past;
5. Promotes the preservation and continued use of historic properties for the education and general welfare of the people of the city;

B. Designation of historic resources.

1. Through the process for designating historic resources in Section 50-37.8, or its predecessor ordinance previously codified as Chapter 28A of this Code, the heritage preservation commission has designated:
 - (a) Two historic preservation districts: the Duluth Civic Center Historic District, and the Duluth State Normal School Historic District, whose boundaries are shown on Exhibits 50-18.3-1 and 50-18.3-2; and
 - (b) Those designated local historic landmarks on file with the secretary of the planning commission;
2. The heritage preservation commission and planning commission may from time to time recommend, and the council may approve, additional historic preservation districts or landmarks pursuant to Section 50-37.8;

C. Review of construction/demolition activities.

Within those designated historic preservation districts shown on Exhibit 50-18.3-1, Exhibit 50-18.3-2 and those local historic landmarks on file with the secretary of the planning commission:

1. Construction and demolition activities, including all street and utility activities, shall be approved pursuant to Section 50-37.14;
2. The issuance of city permits to do any of the following shall be approved pursuant to Section 50-37.14:
 - (a) Remodel, repair or alter in any manner that will change the exterior appearance;
 - (b) New construction, including parking facilities;
 - (c) Move a building;
 - (d) Change the nature or appearance of a designated local historic landmark or preservation district, including landscape features;
 - (e) Demolition in whole or in part;

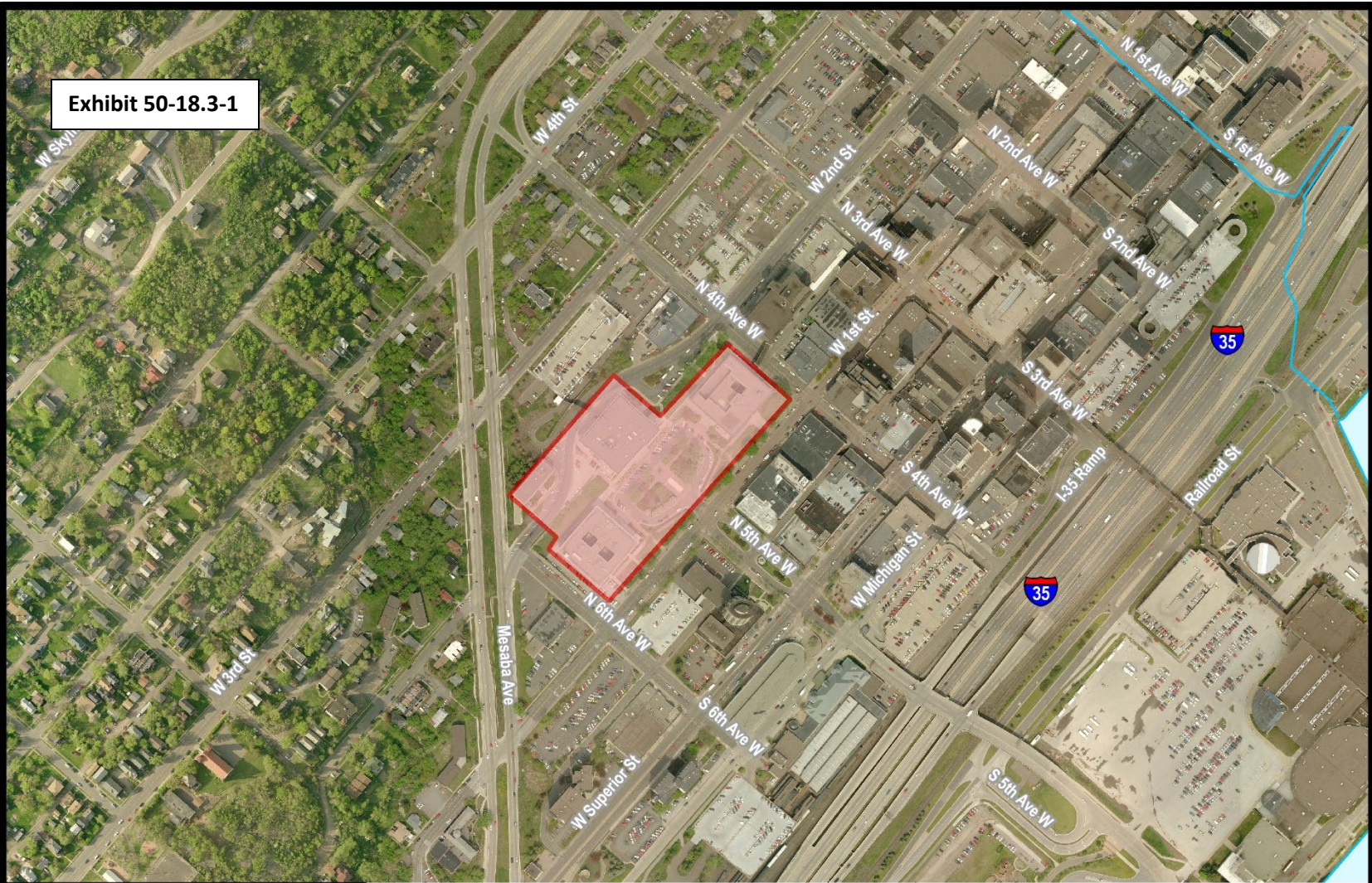
D. Emergency repair.

In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the building official may approve the repair of only those items needed to ensure safety. In the case of a permit issued pursuant to this Section, the building official shall require that the repairs be made in conformance with the U.S. Secretary of Interior's recommended standards for heritage preservation projects and adopted historic preservation guidelines for the landmark or district to the extent possible. In addition, the building official shall immediately notify the historic preservation commission of the action and specify the facts or conditions constituting the emergency situation;

E. Building code enforcement.

This Section 50-18.3 is also intended to encourage the sensitive rehabilitation, restoration, stabilization and preservation of historic buildings throughout the city. These rehabilitation and preservation efforts should provide for the upgrading and maintenance of the safety features of the building or structure to provide a practical level of safety to the public and surrounding properties. While ensuring this increased level of public safety, the enforcement authorities are encouraged to be open to acceptable alternative solutions and alternative compliance concepts, where practical, that will permit the continued use of existing buildings and structures without creating overly restrictive financial burdens on owners or occupants. Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure.

Exhibit 50-18.3-1



Legend

 Duluth Civic Center Historic District



Duluth Historic Preservation Districts Map 1 of 2

0 200 400 800 Feet


Aerial photography flown 2007. Prepared by: City of Duluth Planning Division, May 24, 2010. Source: City of Duluth, MnDNR, MnDOT.





Exhibit 50-18.3-2

Legend



Duluth State Normal School Historic District



Duluth Historic Preservation Districts Map 2 of 2

0 100 200 400 Feet

Aerial photography flown 2007. Prepared by: City of Duluth Planning Division, August 21, 2009. Source: City of Duluth, MnDNR, MnDOT.



F. Adaptive reuse of a local historic landmark.

The purpose of adaptive reuse of a local historic landmark is to allow for economic use of historic landmarks by allowing a variety of uses that are not normally permitted in some zone districts. Standards for adaptive reuse are designed to ensure that the adaptive reuse of a local historic landmark is compatible with surrounding areas.

1. Applicability.
The structure must be designated as a City of Duluth local historic landmark;
2. Allowed Uses.
All uses that are permitted in the MU-N district shall be considered as eligible for an interim use permit in R-1, R-2, or R-P district;
3. Process.
In order to apply for adaptive reuse of a local historic landmark, the following must be done prior to submitting an interim use permit application;
 - (a) Have an approved preservation plan;
 - (b) Meet with the heritage preservation commission to solicit comments on the proposed adaptive reuse;
 - (c) Hold a community meeting to solicit comments from the public. Notice of the community meeting shall be mailed to all property owners within 350 feet of the landmark;
 - (d) Provide all comments from the heritage preservation commission and community meeting with the interim use application;
4. Standards.
All adaptive reuse of a local historic landmark shall comply with the following standards;
 - (a) Traffic and parking.
 - (i) The adaptive reuse must be able to provide required off-street parking per Section 50-24. The city may require additional parking to minimize impact on the neighborhood;
 - (ii) The adaptive reuse of the site must not create additional traffic after 10:00 p.m. on local residential streets;
 - (iii) The adaptive reuse of the structure will not create frequent truck traffic on local residential streets;
 - (b) Expansion of the structure. There shall be no expansion made to the footprint of the existing building;
 - (c) Screening and buffering. Screening standards shall be required, as listed in Section 50-26. The city may require additional screening to reduce the impact of the adaptive reuse;
 - (d) General compatibility. The proposed adaptive reuse of the historic structure must not change the essential character of the neighborhood;
 - (e) Preservation. The structure must be preserved according to the preservation plan on file with the heritage preservation commission;
5. Amendments to approved adaptive reuse plans.
Any amendment to the use of the local historic landmark must be approved through the interim use permit process, but do not need to follow the process outlined in Section 50-18.3.F.3 listed above.

6. Duration of use.

The application must specify how long the use is anticipated to operate. Uses in areas with high transition or that have potential negative impacts on surrounding areas may be limited to 1-2 year periods. In no event shall a permit be granted for longer than 10 years.

50-18.4 Skyline Parkway Overlay (SP-O).

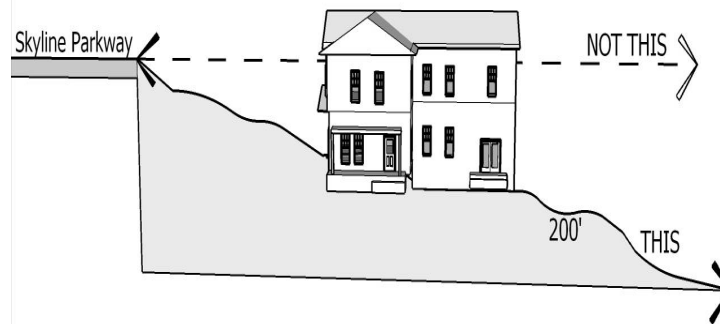
A. Purpose.

The purpose of the SP-O district is to protect the unique character and visual qualities of Skyline Parkway as documented in the Skyline Parkway corridor management plan and the comprehensive land use plan while protecting the property rights of private property owners affected by these regulations. One key purpose is to protect views from Skyline Parkway toward Lake Superior, the St. Louis River, and the harbor, from a wide variety of vantage points along the Parkway and to encourage the construction of narrower buildings located farther from the Skyline Parkway rather than wider buildings located closer to the parkway;

B. Land affected.

The regulations of this Section 50-18.4 apply to all private and public property located within 200 feet of the downhill side of Skyline Parkway as shown on Exhibits 50-18.4-1 to 4. The 200-foot distance shall be measured from the edge of the right-of-way along the slope of the affected property (not horizontally from the road), as shown in Figure 50-18.4-1. The Skyline Parkway Overlay maps are shown only for illustrative purposes and are not intended to regulate the boundary of the 200 feet distance as described above;

Figure 50-18.4-1: Measurement of 200' boundary

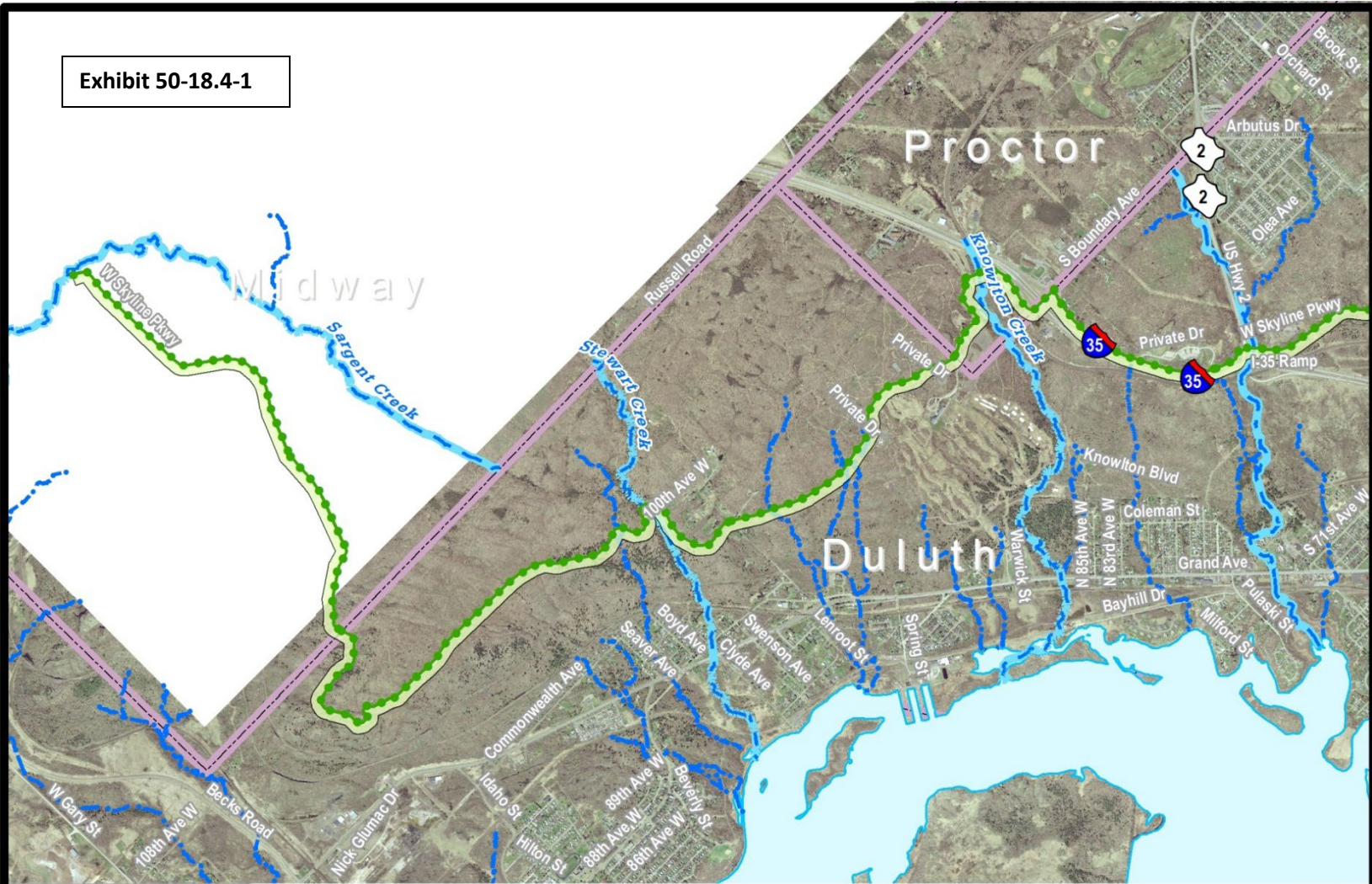


C. Construction and reconstruction affected.

This Section 50-18.4 shall apply to:

1. All construction of new buildings or additions to buildings;
2. All reconstruction of an existing building or addition;
3. All construction of fences and walls, and;
4. All installation and maintenance of landscaping within the SP-O district, after November 10, 2010. Buildings, additions, fences and walls that are permitted or exist on November 19, 2010, shall not be required to comply with the provisions of this Section, and shall be considered conforming structures for zoning purposes;

Exhibit 50-18.4-1

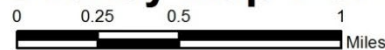


Legend

- Skyline Parkway
- Skyline Overlay
- Municipal Boundary



Skyline Parkway Overlay Map 1 of 4



Aerial photography flown 2011. Prepared by: City of Duluth Planning Division, June 6, 2012. Source: City of Duluth, MnDNR, MnDOT.



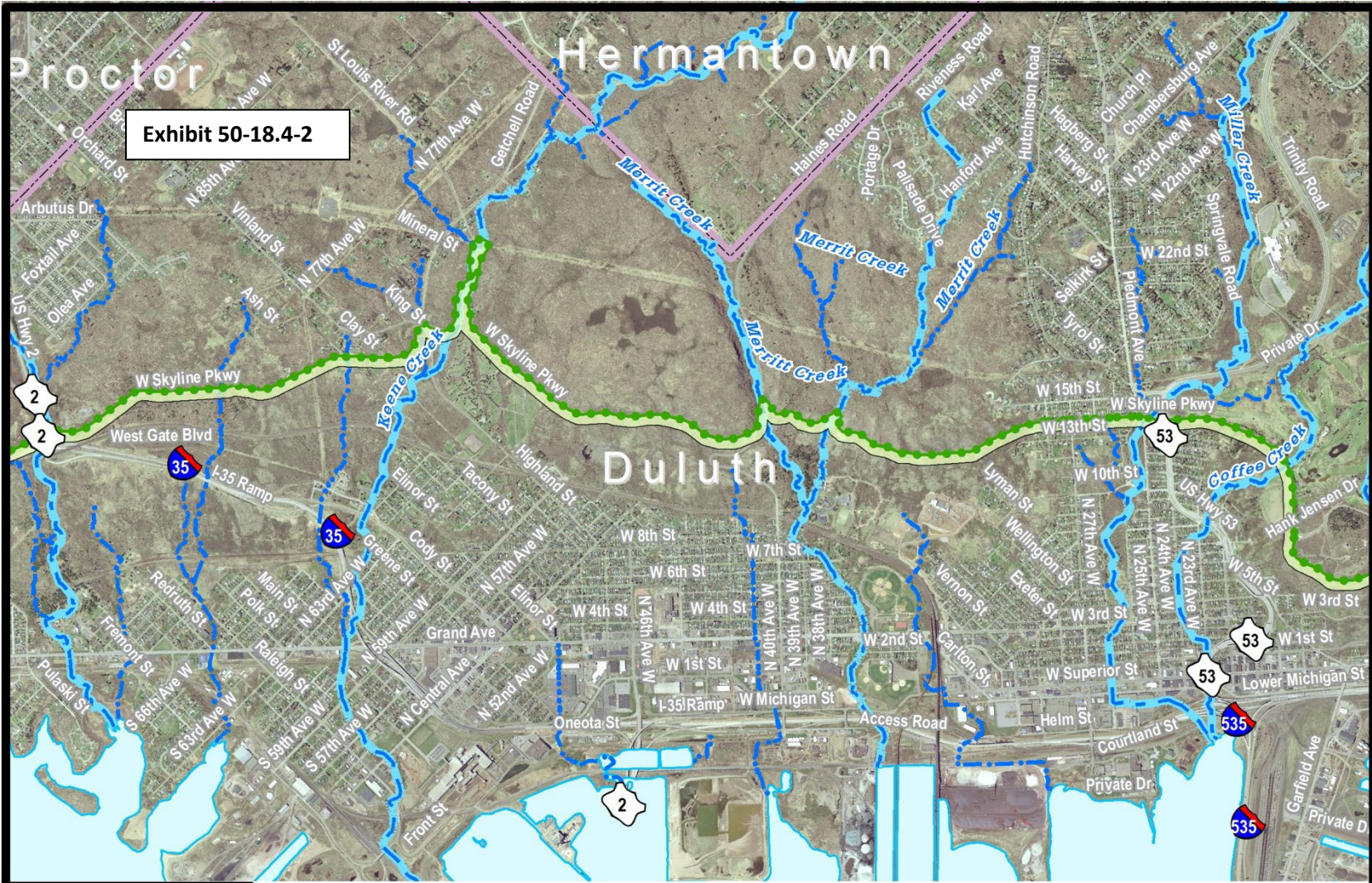


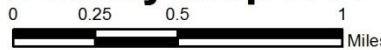
Exhibit 50-18.4-2

Legend

-  Skyline Parkway
-  Skyline Overlay
-  Municipal Boundary



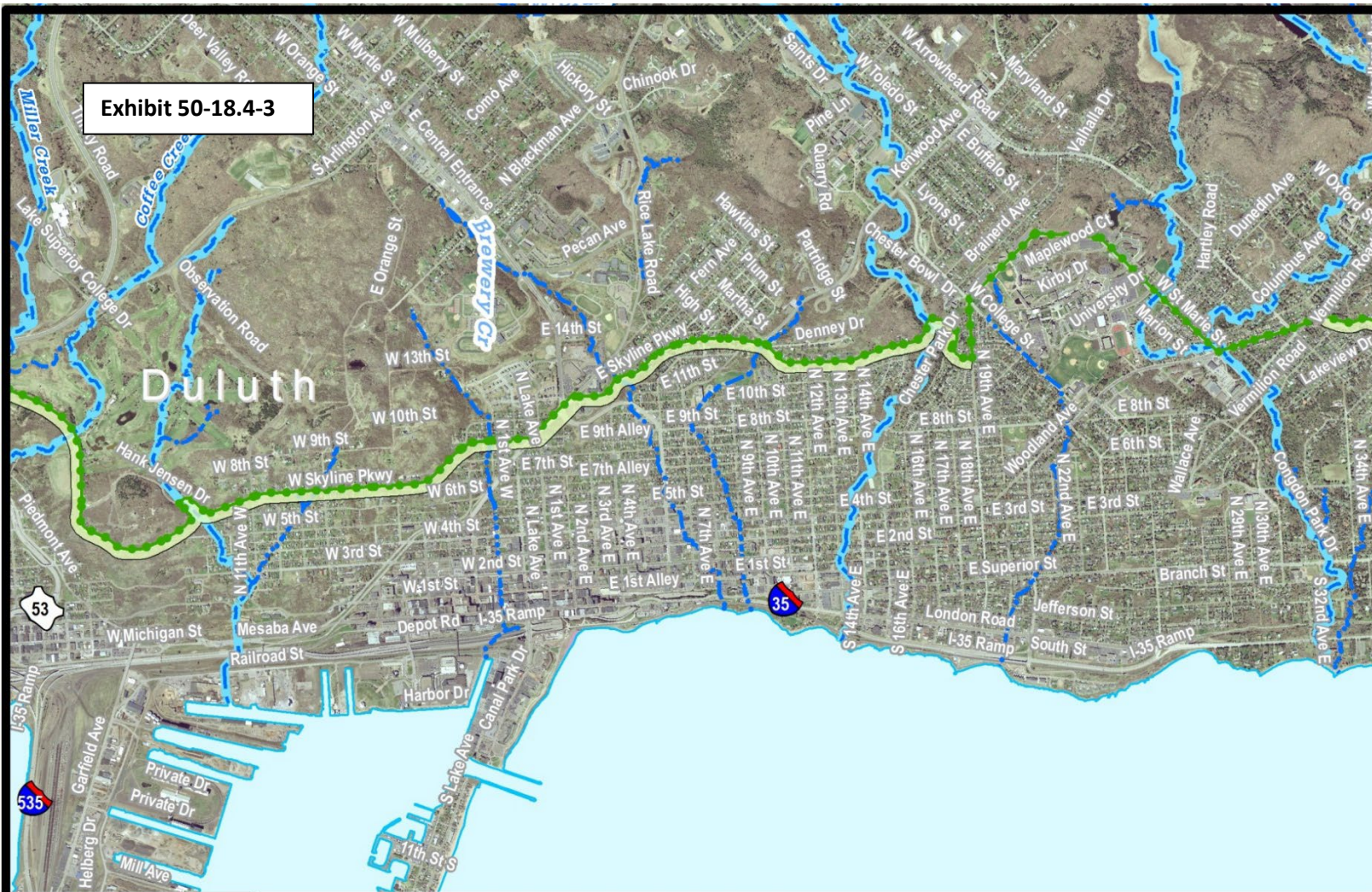
Skyline Parkway Overlay Map 2 of 4






Aerial photography flown 2011. Prepared by: City of Duluth Planning Division, June 6, 2012. Source: City of Duluth, MnDNR, MnDOT.



Exhibit 50-18.4-3

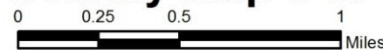


Legend

-  Skyline Parkway
-  Skyline Overlay
-  Municipal Boundary



Skyline Parkway Overlay Map 3 of 4



Aerial photography flown 2011. Prepared by: City of Duluth Planning Division, June 6, 2012. Source: City of Duluth, MnDNR, MnDOT.



D. Design controls.

When construction of a building or an addition to a building, or reconstruction of an existing building or addition is proposed within the SP-O district, the following standards shall apply:

1. The building or addition shall be located at least 50 feet from the right-of-way of Skyline Parkway, or as close to that distance as is reasonably possible without violating required side or rear setbacks;
2. The long axis of a new structure shall be located within 20 degrees of perpendicular to the right-of-way line of Skyline Parkway at the midpoint of the front property line, or if that is not possible due to site or engineering constraints, then as close to that number as is reasonably possible, illustrated in Figure 50-18.4-2;

Figure 50-18.4-2:

Measurement of Long Axis

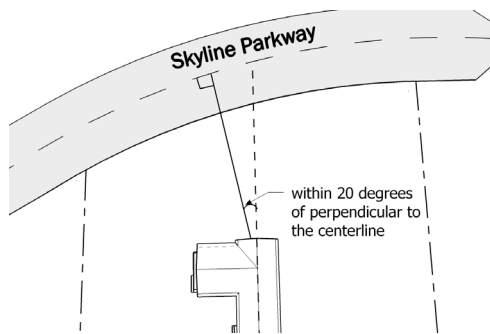
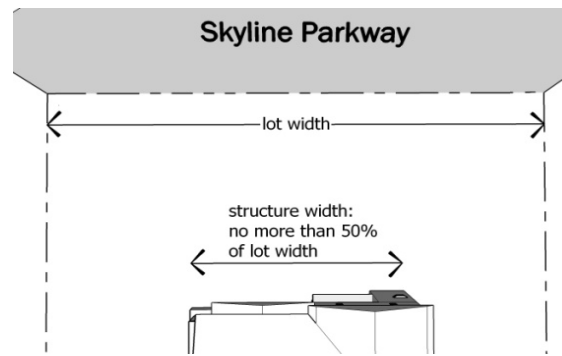


Figure 50-18.4-3:



3. The width of a new principal structure closest to Skyline Parkway shall not exceed 50 percent of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way. For purposes of this paragraph, the width shall include all portions of the structure (including attached garages or enclosed porches), illustrated in Figure 50-18.4-3;
4. Where an addition to an existing structure is proposed, the location of that addition shall not result in the width of structure and addition, taken together, exceeding 50 percent of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way;
5. The provisions of Section 50-18.4.D 1 through 4 above shall not apply to any structure located and designed so that no part of the structure (other than chimneys) extends taller than three feet above the elevation of Skyline Parkway closest to the structure;
6. No wall located within 50 feet of horizontal distance from the property line along Skyline Parkway shall exceed a height of three feet above the elevation of the centerline of Skyline Parkway;
7. All portions of a fence located within 50 feet of horizontal distance from the property line along Skyline Parkway and extending more than three feet above the elevation of the centerline of Skyline Parkway shall be at least 75 percent transparent. No more than 25 percent of the area bounded by the top, bottom, and sides of the fence may be constructed of solid or opaque materials;

8. No landscaping located on the 50 percent of the lot width not occupied by the principal structure may be of a species that will have a height at maturity of more than three feet above the elevation of the centerline of Skyline Parkway, and all installed landscaping in those areas shall be maintained so that its height does not exceed three feet above the elevation of the centerline of Skyline Parkway.