

Article One. General Provisions

50-1 HOW TO USE THIS UNIFIED DEVELOPMENT CHAPTER.

1. Consult the zoning map. Consult the zoning map to identify the base zone district for your property. There are four types of base zone districts: Residential (R), Mixed Use (MU), Form (F) and Special Purpose (SP);
2. Review your base zone district. Find the description of that base zone district in Article 2. In some cases there are special controls or procedures that apply to the base zone district;
3. Review the overlay zone districts. Also review Section 50-18 in Article 2 to determine if your property is included in any of the city's four overlay zone districts – the Natural Resources Overlay (NR-O), Airport Overlay (AO), Historic Resources Overlay (HR-O), or Skyline Parkway Overlay (SP-O). Each overlay includes additional development regulations that modify the base district regulations. It is particularly important that you review the Natural Resources Overlay in Section 50-18.1, because federal, state, or local environmental controls may determine what parts of the property may be developed;
4. Find permitted uses of property. Review the permitted use table in Article 3 to determine whether your proposed use of the property is permitted by right, or available as a special use, or is prohibited in your base zone district. Article 3 also contains use-specific standards that control how some uses may be developed or operated;
5. Review what development standards apply. Review Article 4 to determine what type and size of structure may be constructed on your property and what quality standards will apply to the development. If your property is located in a Form District (one that begins with an "F"), only specific types of structure will be allowed, and those structure types are explained in Section 50-22. If your property is located in an R, MU, or SP district, the basic lot and building requirements are found in Section 50-21. The remaining provisions of Article 4 apply to all zone districts;
6. Find what procedures may be required. If your proposed use requires a special use permit, you will need to follow the process for obtaining that permit as described in Article 5. If your proposed development requires any other types of approvals (for example, a variance from setback requirements), those procedures are also described in Article 5.

50-2. PURPOSE.

1. The purpose of this unified development chapter is to protect public health, safety, and welfare and to implement the goals and objectives of the comprehensive land use plan using those authorities over the development, redevelopment, use, and occupancy of land and structures, and over the protection of the environment, granted to the city by the state. This general purpose includes, but is not limited to, the following:
2. To provide for more sustainable development within the city by reducing carbon emissions, vehicle miles travelled, energy consumption, and water consumption, and by encouraging production of renewable energy and food production;
3. To control or eliminate soil erosion and sedimentation within the city;
4. To protect and enhance the city's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
5. To enhance the visual and aesthetic character, diversity and interest of the city;
6. To promote the use and preservation of historic landmarks and districts for the educational and general welfare of the people of the city;
7. To regulate erection and maintenance of signs in the city in order that signs might fulfill their necessary and useful function in such a way to preserve the public welfare and safety;
8. To preserve the integrity of residential areas and the character and dignity of public structures, parks and other open spaces;
9. To enhance property values and the general appearance and natural beauty of the city;
10. To protect the public investment in streets and highways;
11. To establish a comprehensive system of sign controls governing the display, design, construction, installation and maintenance of signs and to promote the orderly and effective display of outdoor advertising;
12. 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 in wetlands, shorelands and floodplains.

50-3. FINDINGS OF FACT.

The council hereby finds that:

1. In order to implement the comprehensive land use plan and to promote the orderly development and redevelopment of property in the city, several ordinances related to land use, permitted construction, and environmental protection need to be consolidated into a single unified development chapter;
2. Regulation of permitted uses in each zone district, and the designation of uses that require the issuance of a special use permit, are necessary to protect the comprehensive land use plan and to conserve and protect property and property values in neighborhoods;
3. The regulation of the creation of subdivision plats and the creation of individual building lots in the city is necessary to ensure accuracy and consistency in legal descriptions of land, to ensure that all created lots have adequate access to roads, to ensure that adequate public services are available to serve new development, and to protect the environment;
4. The provision of a residential-planned zone district is necessary to encourage a variety of housing types within established neighborhoods while maintaining the character and vitality of such neighborhoods, and to allow variation in the relationship of uses and required yards in developments compatible with the massing, use and scale of structures within established neighborhoods;
5. The provision of a mixed use-commercial zone district is necessary to ensure orderly and attractive commercial growth in areas of the city that exhibit sensitive environmental problems, traffic congestion or other characteristics of urban sprawl, and that individualized review of the design of development within the zone district is necessary in order to minimize blighting influences on surrounding uses and neighborhoods, reduce adverse effects of development on the natural environment, enhance the visual and aesthetic quality of development and ensure the provision of adequate and cost efficient public facilities;
6. The provision of a mixed use-business zone district is necessary in order to provide for modern light industrial developments of attractive integrated design and function while also accommodating older light industrial developments in the city;
7. Regulation of land disturbance activities is necessary to control or eliminate soil erosion and sedimentation within the city. It establishes standards and specifications for conservation practices and planning activities that minimize soil erosion and sedimentation and provides a permit system to secure the enforcement of these standards and specifications;
8. The preservation, protection, perpetuation and use of areas, places, structures, lands, districts and other objects having a special historical, cultural or aesthetic interest or value is a public necessity and is required in the interest of public health, prosperity, safety and welfare of the people of the city;
9. Protection of the water resources found within the city is necessary for the public good. These water resources relate strongly to other valuable natural resources that include, but are not limited to, air, soil, plants, animals and scenic and aesthetic values. Uncontrolled and inadequately planned use of natural resources adversely affects the public health, safety and general welfare by contributing to pollution, erosion, flooding and other environmental problems, and by creating nuisances, impairing other beneficial uses of environmental and natural resources or destroying the resources themselves, impairing the quality of life of the community, impairing the local tax base and hindering the ability of the city to provide adequate water, flood and fire protection and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in areas that may be affected by unplanned land usage;

10. Regulation of the erection and maintenance of signs is necessary to ensure that signs fulfill their function in such a way to preserve the public welfare and safety; to preserve the integrity of residential areas and the character and dignity of public structures, parks and other open spaces; to enhance property values and the general appearance and natural beauty of the city; to protect the public investment in streets and highways; to assure creation of an attractive business environment and to promote the orderly and effective display of outdoor advertising;
11. Regulation of the use of private rights-of-way, or portions of public rights-of-way, by nearby private development is necessary to protect the public health, safety, and welfare of auto and bicycle users as well as pedestrians, and to avoid congestion of streets, sidewalks and walkways;
12. Wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the city and its inhabitants. The city also recognizes that facilitating the development of wireless service technology can be an economic development asset to the city and of significant benefit to the city and its residents. This Chapter intends to minimize impacts of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the city.

50-4. CITATION

This ordinance may be cited as the Duluth unified development chapter (UDC) and cited as Chapter 50 of the Code.

50-5. EFFECTIVE DATE.

The effective date of this UDC is November 19, 2010.

50-6. APPLICABILITY.

This Chapter shall apply to all lands within the boundaries of the city unless specifically exempted by the terms of specific sections of this UDC or unless applicability is prohibited by law.

50-7. EFFECT OF CHAPTER.

50-7.1 Compliance required.

Following the adoption of this Chapter, (1) no land shall be used, and (2) no structure shall be erected, converted, enlarged, reconstructed, moved, structurally altered, or used, and (3) no platted lot or tract of land shall be created or modified, and (4) the minimum yards, parking spaces, and open spaces, including lot area per family existing on July 14, 1958, or for any structure constructed after that date shall not be encroached upon or considered as part of the yard or parking space or open space required of any other lot or structure, except in accordance with all provisions of this ordinance that apply in the zone district where the property is located and to the type of use, structure or development in question and in accordance with all provisions and conditions attached to any approval or permit granted for the use, structure, activity or development

50-7.2 One principal structure per lot.

Except as specifically provided in this Chapter, every structure erected or altered after November 19, 2010, shall be located on a lot as defined in this Chapter. There shall be only one principal structure on one lot unless a specific exception is stated in this UDC;

Accessory structures shall not be constructed or occupied prior to the construction and occupation of the principal structure without prior written approval from the Land Use Supervisor unless allowed in 50-20.5.J. The Land Use Supervisor may attach reasonable conditions to the approval, which shall include but is not limited to a financial security to guarantee removal of the accessory structure if the principle structure is not constructed within two years of the accessory structure's construction;

50-7.3 Permits and approvals required.

Following the adoption of this Chapter, no person shall use land, or erect or modify a structure, or create or modify a platted lot within the city without first receiving any approvals or permits required by this Chapter for such use, structure or lot.

50-8. RELATIONSHIP TO THE COMPREHENSIVE LAND USE PLAN.

A primary intent of this Chapter is to implement the goals and objectives of the comprehensive land use plan, as that plan may be amended by the council from time to time. The provisions of this Chapter will be interpreted liberally to achieve the goals and objectives of the comprehensive land use plan while remaining consistent with all applicable requirements of federal and state law.

50-9. CONFLICTING REGULATIONS OR PROVISIONS.

In their interpretation and application, the provisions of this Chapter shall be construed to be the minimum requirements for the promotion of public health, safety and general welfare. It is not intended that this Chapter interfere with, abrogate or annul any other resolution or rules, regulations or permits previously adopted or issued or that shall be adopted or issued not in conflict with any of the provisions of this Chapter. If there is a conflict or alleged conflict between regulations related to this Chapter, the land use supervisor shall determine which provision applies.

50-9.1 Provisions of this chapter.

In the case of conflict between one part of this Chapter and any other part of this Chapter, the more restrictive provision shall apply, except that provisions of overlay zone districts shall prevail over other provisions of this Chapter regardless of whether they are less or more restrictive.

50-9.2 Municipal ordinances or regulations.

In the case of a conflict between any part of this Chapter with any other provision of the city code or ordinance of the city, the more restrictive provision shall apply.

50-9.3 Other ordinances or regulations.

In the case of a conflict between any part of this Chapter and any other public law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements shall govern, unless state or federal law requires a different outcome.

50-9.4 Third-party private agreements.

This Chapter is not intended to interfere with, abrogate, or annul any easements, covenants or other private agreements between parties. However, where this Chapter imposes a greater restriction or higher standards or requirements upon the use of land, structures or premises than those imposed or required by other easements, covenants or agreements, the provisions of this Chapter shall govern. Nothing in this Chapter shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this Chapter. In no case shall the city be obligated to enforce the provisions of any easements, covenants or agreements between private parties.

50-10. INTERPRETATION.

1. The land use supervisor shall be authorized to interpret the provisions of this Chapter unless a different city official is specifically designated in this Chapter to make a particular interpretation. The decisions of the land use supervisor are subject to appeal as described in Article V;
2. Land use supervisor interpretations affecting specific projects or property. Notice shall be provided by first class mail to owners of property located within 100 feet of any land use supervisor interpretations when the land use supervisor determination is limited in application to a specific project or property. The notice shall be mailed within 10 days of the date the interpretation is made. This requirement does not apply to land use supervisor determinations made under Section 50-37.1.L;
3. A notice of an interpretation of the land use supervisor that is not limited to any one subject property but applies to an area or region of the city such as all property within a specific zone district, shall be noticed in a newspaper of general circulation at least twice within 21 days of the date of the interpretation, and shall also be published on the City's website within 10 days of the date of the interpretation being made;
4. Notices under this section shall not be deemed to be effective until the later of the date of mailing or publication;

50-11. TRANSITION REGULATIONS.

50-11.1 Approved projects.

A. Validity.

Permits and approvals that are valid on November 19, 2010, shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed;

B. Changes.

Nothing in this Chapter shall require any change in the plans, construction, size or designated use of a structure or part of a structure for which a building permit has been granted or for which plans were on file with the building official before November 19, 2010, provided that construction pursuant to the building permit begins before the building permit expires. If any of these requirements have not been fulfilled or if the building operations are voluntarily discontinued for a period of 90 days, any further construction shall be in conformity with the provisions of this Chapter;

C. Extensions and re-application.

The decision-making body that granted the original approval may renew or extend the time of a previous approval if the required standards or criteria for approval remain valid. Any extension granted shall not exceed the time specified for the extension of the specific permit approval in this Chapter. Any reapplication for an expired project approval shall meet the standards in effect at the time of re-application.

50-11.2 Applications in progress.

A. Completed applications.

Complete applications for permits and other approvals pursuant to this Chapter that have been accepted as complete and are pending approval on November 19, 2010, may, at the applicant's option, be reviewed wholly under the terms of the previous chapters of the City Code. If approved, these projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application. The applicant may not choose to have some parts of the previous chapters and other parts of the current Chapter apply to the project;

D. No applications submitted.

Projects for which an application (including all required supporting materials) has not been submitted and accepted as complete prior to November 19, 2010, shall be subject to all requirements and standards of this Chapter;

E. Expiration.

Regardless of whether or not a completed application has been received prior to the adoption of this Chapter, any permit or approval issued following the adoption of this Chapter shall be subject to any provisions for the lapsing of that type of permit or approval contained in this Chapter.

50-11.3 Special use permits deemed approved.

If;

1. A use of land or structure was listed as a permitted use in a specific zone district under the previous sections of the City Code consolidated into this Chapter, and
2. That use of land or structure was established prior to the adoption of this Chapter, and
3. The same use of land or property is now listed as a special use in the same zone district, then the established use shall be deemed to have received a special use permit and shall be a legal, conforming use of land. Upon documentation by the property owner that the use was established prior to approval of this Chapter, the land use supervisor shall provide written confirmation of the legal, conforming status of the use.

50-11.4 Violations continue.

Any violation occurring under previous sections of the city code consolidated into this Chapter will continue to be a violation under this Chapter and be subject to penalties and enforcement pursuant to Section 50-39, Enforcement and penalties, unless the use, development, construction, or other activity complies with the provisions of this Chapter. Any violation issued prior to the adoption date of this Chapter shall be subject to the fines and penalties of the previous ordinance unless the violation is not addressed by the property owner and is reissued by the city after the adoption of this Chapter, in which case the violation shall be subject to the fines and penalties in Section 50-39.

50-11.5 Nonconformities continue.

Any nonconformity under previous sections of the Code consolidated into this Chapter will also be a legal nonconformity under this Chapter, as long as the situation that resulted in the nonconforming status under the previous Code section continues to exist. If a nonconformity under the previous code section becomes conforming because of the adoption of this Chapter, then the situation will no longer be a nonconformity.

50-12. SEVERABILITY.

If any provision or section of this Chapter is determined to be invalid, illegal, or inoperative for any reason, or to constitute a taking or deprivation of property in violation of the constitutions of the state or of the United States, that provision or section shall be severed from the remaining provisions of the Chapter, and the remainder of this Chapter shall remain effective and fully operative as far as possible.