

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ZONING AND DEVELOPMENT ORDINANCE FOR LANDS LOCATED WITHIN THE CITY OF DULUTH

ORDINANCE # 03/18

CHAPTER 1

AUTHORITY, PURPOSE, AND SCOPE

Section 101. Authority. This Zoning and Development Ordinance for Lands Located within the City of Duluth (“Ordinance”) is enacted by the Fond du Lac Band of Lake Superior Chippewa Reservation Business Committee (“RBC”) pursuant to the inherent sovereign authority of the Fond du Lac Band, as recognized and reserved under the Treaty of LaPointe, 10 Stat. 1109, and exercised in accordance with Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C §476, and the common law of the United States of America.

Section 102. Purpose. The purpose of this Ordinance is:

- a. To administer and enforce the standards set forth in this Ordinance in a uniform manner over all land located within the City of Duluth (“City”) which is subject to the jurisdictional authority of the Fond du Lac Band of Lake Superior Chippewa (“Fond du Lac Band” or “Band”).
- b. To give regulatory force and effect to the obligation of the Fond du Lac Band under Section 5 of the “Settlement Agreement” between the City and the Fond du Lac Band dated June 10, 2016, to adopt and enforce as Band law the generally applicable substantive provisions of the City’s planning and zoning codes for any Trust land within the City during the period the Band is paying the City an annual fee for services.

Section 103. Scope.

- a. This Ordinance applies to all lands held in trust by the United States for the benefit of the Fond du Lac Band that are located within the City of Duluth unless exempted by the terms of specific sections of this Ordinance or unless not applicable as a matter of law.
- b. This Ordinance does not affect, alter, or supersede any Band ordinances governing the Fond du Luth Casino, including, but not limited to, Fond du Lac Band Ordinance # 02/06, Building Code Applicable to the Fond-du-Luth Casino.

- c. The substantive provisions of this Ordinance apply to the extent set forth in this Section 103 only insofar as they do not materially interfere with the Band's right to conduct gaming on its trust lands.
- d. This Ordinance shall be interpreted and administered in a manner which secures and maintains to the greatest degree permissible under law, the independent right of self-government of the Fond du Lac Band over the lands subject to this Ordinance.

Section 104. Reservation of Rights. The Fond du Lac RBC reserves the right to amend or repeal all or any part of this Ordinance at any time and there shall be no vested rights of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant to the Ordinance shall exist subject to the power of the RBC to amend or repeal this Ordinance or any part thereof. Nothing in this Ordinance shall be construed to constitute consent to a waiver of the sovereign immunity of the Fond du Lac Band nor a consent to jurisdiction by any forum not expressly authorized to exercise jurisdiction under this Ordinance. Any provision of this Ordinance which is inconsistent or incompatible with applicable federal law shall be invalid and unenforceable to the extent of such inconsistency or incompatibility, provided however, that all remaining provisions shall be given full force and effect.

Section 105. References to Federal, State, and Municipal Laws. References to federal, state, and municipal laws, rules, and regulations throughout this Ordinance shall not be construed as a concession that such laws apply to or bind the Band in any way in the absence of such references. Rather, to the extent the Band incorporates the substantive provisions of any federal, state, and municipal laws, rules, and regulations through references to such laws in this Ordinance, such action is taken pursuant to the Band's inherent sovereign authority to enact laws governing its territory.

Section 106. Consultation with Land Use and Zoning Administrator and Land Use Committee. Where this Ordinance expressly grants the RBC discretion to render development or land use decisions, the RBC may consult with the Band's Land Use and Zoning Administrator or the Band's Land Use Committee, or both, in rendering such decisions.

CHAPTER 2
DEFINITIONS

Section 201. Definitions.

1. Accessory agriculture roadside stand. A structure erected for the display and sale of agriculture products grown on the premises and that is subordinate to the primary residential or agricultural use of the premises.
2. Accessory bed and breakfast. An owner-occupied building designed as a one-family dwelling that provides no more than five guest rooms for lodging accommodations by prior arrangements for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.
3. Accessory boat dock, residential. A personal use boating structure, subordinate to a primary residential use of property, that is built over or floats upon the water of a lake, river, or stream, and that serves one property owner for mooring boats or as a landing place for marine transport.
4. Accessory caretaker quarters. A subordinate dwelling unit intended for an employee or owner who looks after or takes charge of goods or property. The unit shall be either inside or attached to a main structure by a common wall. The unit is a complete, independent living facility with provisions for cooking, eating, sanitation and sleeping.
5. Accessory communications tower for private use. Any structure, subordinate to a primary use of land, that is designed and constructed primarily for the purpose of supporting one or more wireless analog or digital telecommunication facilities, that is located on the ground or anchored to the ground and exceeds 24 feet in height. Such a tower may have a variety of configurations, including a monopole, a lattice tower or a guyed tower.
6. Accessory day care facility. A private or public establishment licensed by the state that regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, for gain or otherwise, as a secondary and subordinate activity to a permitted or approved special use of the property.
7. Accessory dwelling unit. A subordinate dwelling unit added to, created within, or detached from a single-family residence, but located on the same lot or parcel as a primary residential structure, that provides basic requirements for living, sleeping, cooking and sanitation.

8. Accessory heliport. An area used or intended to be used for the landing and takeoff of helicopters that is secondary and incidental to, and is operated in support of, a permitted or approved special use on the same property, including operations facilities, such as maintenance, loading, and unloading, storage, fueling or terminal facilities.

9. Accessory home occupation. A business or occupation incidental and subordinate to the principal residential use. All home occupations must comply with the conditions in Chapter 5, Section 510(q)(6) of this Ordinance. Examples include but are not limited to: artist's studio; dressmaking; accessory beauty salon or barber shop, office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with instruction limited to not more than two pupils at the same time. A home occupation shall not be interpreted to include accessory bed and breakfast, restaurants or tea rooms.

10. Accessory home share. A habitable room or space in an owner-occupied dwelling offered for trade or sale, whether for money or exchange of goods or services, for periods of 29 days or less.

11. Accessory recycling collection point. A facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper or clothing for recycling purposes conducted totally within an enclosed structure or container, and that is accessory to a permitted or approved special use in the zone district. This definition does not include processing except for can banks that crush cans as they are deposited.

12. Accessory sidewalk dining area. An outdoor eating and drinking area that is generally associated with and subordinate to a permitted or approved special use on the same property and that is, located on a public sidewalk. This use may include removable tables, chairs, planters, or similar features and equipment.

13. Accessory solar or geothermal power equipment. Accessory uses and structures that are clearly subordinate in size and use to the primary use and structure on the property, and that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following, and may be located at ground level or above or below ground unless specifically limited in this Ordinance, provided that they meet all other applicable requirements of this Ordinance: solar photovoltaic modules, solar thermal hot water collectors, solar arrays; and geothermal heat pumps, earth tubes, or downhole heat exchangers.

14. Accessory use or structure. A use or structure subordinate in use, area or purpose to the principal use or structure on the same lot and serving a purpose naturally and normally incidental to the principal use or structure and that is not included in a separate definition of an accessory use or structure in this Ordinance. Where an accessory building is attached to the principal building in a substantial manner by a wall or a roof, it shall be considered part of the principal building. An accessory building or use may be permitted on a lot of record that abuts or is separated by a public easement of no more than 25 feet in width to another lot or lots on which the primary use is located, provided all lots are owned by the same owner and none of the parcels

are severed, legally sold, conveyed, or used without the other parcels. Examples include but are not limited to: pet houses, storage sheds, swimming pools, garages, accessory uses and structures for energy conservation and renewable energy production, and accessory structures for storm water management and water conservation.

15. Accessory vacation dwelling unit. An accessory dwelling unit as defined by subsection 7 of this Chapter that is used as a vacation dwelling unit as defined by subsection 410 of this Chapter for periods of occupancy from 2 to 29 days.

16. Accessory wind power equipment. A small scale accessory wind power generating or distribution system, that is clearly subordinate in size and use to the primary use and structure on the property, and that is used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. Accessory wind power equipment is designed to generate no more than 10Kw of energy.

17. Accessory wireless antenna attached to existing structure. Any wireless service antenna located in or on the roof or upper facade of a structure that is not a telecommunications tower, such as a building, water tower, steeple, silo or utility pole.

18. Adjacent developed lots facing the same street. Where a dimensional standard is related to dimensions on “adjacent developed lots facing the same street” the measurement shall only include those lots that contain a primary structure and that share a side lot line with the subject property and shall not include corner lots where the primary structure faces a different street. If there is only one adjacent developed lot that fronts the same street, the measure shall refer only to the dimension on that lot. For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot, not as separate platted lots.

19. Adult entertainment establishment. A business that is open to only adults and that presents live performances that are distinguished or characterized by an emphasis on the depiction of sexual conduct or sexually-oriented entertainment.

20. Adult bookstore. A retail establishment which is in the business of selling books, pamphlets, magazines or other pictorial or printed material and which:

- a. Advertises or holds out in any manner that the printed or pictorial matter sold therein is for adults only or is distinguished or characterized by a principal emphasis on nudity, sado-masochistic abuse, sexual conduct, or sexual excitement; and/or
- b. Has 40 percent or more of its gross sales in books, pamphlets, magazines or other pictorial or printed material which are distinguished or characterized by a principal emphasis on nudity, sado-masochistic abuse, sexual conduct, or sexual excitement; and/or
- c. Has 30 percent or more of books, pamphlets, magazines or other pictorial or printed material displayed for sale on the premises distinguished or characterized by a principal emphasis on nudity, sado-masochistic abuse, sexual conduct or sexual excitement.

21. Agriculture, community garden. A use in which land managed by a group of individuals is used to grow food or ornamental crops, such as flowers, for donation or for use by those cultivating the land and their households. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members
22. Agriculture, farmers market. A recurring event, held outdoors or in another defined place, on designated days and times, where market vendors, consisting of agricultural producers, home processors, and craft producers that manufacture non-food goods by the force of their own labor, are organized for the purpose of selling their products directly to the public. A minimum of 30% of vendors shall be vendors selling food crops.
23. Agriculture, general. The production or keeping of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. This definition includes all activities listed under “agriculture, urban.”
24. Agriculture, urban. An establishment where food or ornamental crops are grown that includes, but is not limited to, growing on the ground, on a rooftop or inside a building, aquaponics, and aquaculture.
25. Airport boundary. Those lands including the property owned by the city of Duluth, state of Minnesota, and the United States, and their respective political subdivisions, that are used for aeronautical purposes and are contiguous with the runway and building area facilities of the Duluth Airport Authority.
26. Airport elevation. The established elevation of the highest point on the usable landing area, which elevation is established to be 1,428 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.
27. Airport hazard. Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.
28. Airport and related facilities. An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.
29. Alley. A dedicated public right-of-way not more than 30 feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation.
30. Alley line. The established side line of an alley easement.

31. Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.
32. Apartment. A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a one-family, including full cooking and bathroom facilities for individual use.
33. Apartment hotel. A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and newsstands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.
34. Artisan production shop. A building or portion thereof used for the creation of original handmade works of art or craft items by no more than six artists or artisans, either as a principal or accessory use, where the facility includes an area for retail of the art/craft items being produced.
35. Artisan studio. A building or portion thereof used for the creation of original handmade works of art or craft items by no more than three artists or artisans, either as a principal or accessory use, where the facility includes an area for retail of the art/craft items being produced.
36. Automobile and light vehicle sales, rental, or storage. The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.
37. Automobile and light vehicle repair and service. Any building, structure, or lot used for the business of repairing automobiles and small engines or the sale and installation of tires, batteries, and other minor accessories and services for automobiles and small engines. This shall not include car washes, retail sale of automotive supplies, tires, or parts unrelated to repairs being performed on the premises, the retreading or vulcanizing of tires, filling stations, or convenience stores that sell gasoline or lubricating oil, but not other automotive accessories or services.
38. Average lot depth. The average of the lengths of the two side lot lines of a platted lot. In the case of flag lots (lots where the buildable portion of the lot is connected to a public street by an access or driveway 20 feet wide or less), the length of the access or driveway portion of the lot shall be ignored in measuring either side lot line.
39. Band. The Fond du Lac Band of Lake Superior Chippewa, governed through the Fond du Lac Reservation Business Committee.
39. Bank. An establishment that provides retail banking, mortgage lending, and financial services to individuals and businesses, and including check-cashing facilities. Accessory uses may include automatic teller machines, offices, and parking.

40. Basement. Any area of a structure, including crawl spaces, having its floor or base subgrade below ground level on all four sides, regardless of the depth of excavation below ground level.
41. Bed and breakfast. A building designed as a one-family dwelling and operated as a primary use of land containing habitable units providing up to 12 guest rooms of lodging accommodations by prior arrangements, for compensation. It may or may not include serving of meals to guests and the general public, and the operator need not live inside the dwelling.
42. Block. An area of land enclosed by four public or dedicated private streets, or by a combination of public or dedicated private streets and a railroad right-of-way or a natural feature such as a lake shore, riverfront or stream.
43. Block face. All lots abutting both sides of a street (street A) between the nearest two streets that intersect street A.
44. Bluff. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:
- a. Part or all of the feature is located in a shoreland area;
 - b. The slope rises at least 25 feet above the Ordinary High Water level of the water body or bottom of the bluff;
 - c. The grade of the slope from the toe of the bluff to the top of the bluff averages 30 percent or greater.
45. Bluff, bottom of. The ordinary high water level or the lower point of a horizontal ten-foot segment with an average slope exceeding 18 percent.
46. Bluff, top of. The higher point of a horizontal ten-foot segment with an average slope exceeding 18 percent.
47. Bluff impact zone. A bluff and land located within 20 feet of a bluff.
48. Bluff line. The designation of a line to administratively divide the city as above or below the escarpment for purposes of requiring stormwater detention for future development.
49. Boathouse. A structure designed and used solely for the storage of boats or boating equipment and that is not used for human habitation. Any door or opening exceeding 40 inches in width in a boathouse shall face the water.
50. Brewery, craft, small. A facility with a capacity to manufacture 3,500 or fewer barrels of alcoholic and nonalcoholic malt liquor in a calendar year. A small craft brewery is one that contains less than 7,000 square feet of gross floor area. This definition excludes small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use.

51. Brewery, craft, large. A facility with a capacity to manufacture more than 3,500 barrels of alcoholic and nonalcoholic malt liquor in a calendar year. A large craft brewery is one that contains 7,000 square feet or more of gross floor area.
52. Buffer area. A strip of land with natural or planted vegetation located between a structure and a side or rear property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.
53. Buffer, naturally vegetative. Land that is used to protect adjacent lands and waters from development and more intensive land uses. The land is kept in a natural state of trees, shrubs, and low ground cover and understory of plants and functions to filter runoff, control sediment and nutrient movement, and protect fish and wildlife habitat.
54. Build-to zone. The maximum horizontal distance, or a range of maximum horizontal distances, between a front lot line and a building or structure required by this Ordinance.
55. Building. Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and when separated by party or division walls without openings, each portion of such building so separated shall be deemed a separate building.
56. Building material sales. An establishment engaged in the storage, distribution, and sale of building materials such as lumber, brick, tile, cement, insulation, floor covering, lighting, plumbing supplies, electrical supplies, cabinetry and roofing materials. Accessory uses may include repair or delivery services and outside sale of plants and gardening supplies.
57. Bulk storage not listed elsewhere. An establishment engaged in the storage of oils, lubricants, grains, mineral products or other commodities not listed separately as specific types of warehousing, wholesaling or storage.
58. Bus or rail transit station. A facility or structure where bus transit or rail transit vehicles stop to provide transportation services to the public. Accessory uses can include convenience retail or restaurants.
59. Business, art, or vocational school. A school, other than a college, that provides specialized training and education beyond the high school level, principally in the business, commercial or vocational arts, that does not provide lodging or dwelling units for students or faculty, and that has programs that typically result in the awarding of a certificate.
60. Business park support activities. An establishment primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, consulting services, protective services, equipment rental, leasing and financial services. Uses must be incidental to and supportive of business park uses and shall not include activities that are primarily retail in nature and devoted to the sale of consumer goods.

61. Cemetery or mausoleum. Land used or dedicated to the burial of the dead or the storage of cremated remains in a columbaria, and including necessary sales and maintenance facilities.
62. Channel. A natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water either continuously or periodically.
63. Club or lodge (private). A building or portion of a building or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service that is customarily carried on as a business. This category includes fraternities and sororities.
64. Co-housing facility. A residential development that combines individual owned dwelling units with smaller or partial kitchens and a larger community kitchen and dining room intended for communal use on a regular basis, and in which all residents agree to share in the provision of regular communal services such as cooking meals or providing child care.
65. Co-location. The use of an existing tower or structure to support antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonably short time frame after the new tower is constructed.
66. Coldwater river. Rivers including trout streams and their tributaries.
67. Commercial impracticability or commercially impracticable. The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercial impracticable and shall not render an act or the terms of an agreement commercially impracticable.
68. Common open space. A portion of a development permanently set aside to preserve elements of the natural landscape for public or private use, which will not be developed or subdivided and is either owned in common by the individual owners in the development or by a permanently established management entity. Common open space does not include the area within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings when the development is designed using clustered compact lots or clustered units or sites to create and preserve green space, such as in a conservation subdivision, planned unit development, or resort.
69. Common plan of development or sale. A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan. For redevelopment projects, contiguous includes parcels separated by a right-of-way.

70. Composting. The controlled microbial degradation of organic waste to yield a humus-like product.
71. Confined animal feeding operation. A facility, area, or place where the feeding of livestock, poultry, pigs, or small animals takes place for commercial purposes in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means.
72. Construction debris. Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.
73. Contractor's shop and storage yard. A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This definition includes architects, engineers, surveyors' construction offices and shops, real estate sign placement service, and showroom and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal and other material in connection with contracting services.
74. Convention or event center. A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and training facilities, which may be associated with a hotel or motel.
75. Critical root radius. An area around a tree measured with a radius of one foot for every inch diameter of the tree, which is generally the area of soil that must remain undisturbed to ensure long-term viability of the tree.
76. Cutoff angle. For purposes of exterior lighting regulations, the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above from which no light is emitted.
77. Data center. An establishment primarily involved in the compiling, storage, conversion or analysis and maintenance of documents, records, and other types of information in digital form.
78. Daycare facility. A facility that provides accommodations for persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.
79. Decorative fence. A powder coated steel fence, solid core ornamental fence, decorative wood fence, or fence of similar construction or appearance, but not including a snow fence, chain link or highway guard rail.
80. Demolition debris. Solid waste resulting from the demolition of buildings, roads and other man- made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

81. Dense urban screen. Continuous screening wall, berm, fence, or row of planting at least six feet tall, with screening material designed to provide 75 percent opacity one year after planting along the full required height and length of the screening buffer.
82. Design storm. A rainfall event used in the analysis and design of drainage facilities. See the City's engineering guidelines for the current rainfall data.
83. Detention. The temporary storage of drainage water.
84. Deteriorated. A building or component of a building shall be deemed to have deteriorated when its function has been so impaired by natural forces including but not limited to weathering or decay that it needs to be replaced to restore its functionality.
85. Developable area. All land within a zone district not occupied by streets and public rights-of-way.
86. Development. The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels. Within flood plain districts, development is defined as any manmade change to improved or unimproved real estate, including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
87. Diameter at breast height (DBH). The primary method of measuring the diameter of a tree trunk. Diameter is measured in inches 54 inches above the ground. If the tree splits into multiple trunks at a height below 54 inches, but above the ground, the diameter is measured at the highest point beneath the split.
88. Direct illumination. Illumination by light sources that are effectively visible, either directly or through a translucent material, as a part of the sign and illuminating outward.
89. Discharge. The discharge of any pollutant into the Waters of the State from any point source.
90. Discharge rate. The rate at which drainage water is released from a specific site and expressed as a volume per unit of time, such as cubic feet per second.
91. Discharge volume. The volume of drainage water discharged from a site from a single rainfall event, expressed as cubic feet or acre-feet.
92. Distillery, craft. A facility that manufactures distilled spirits, as defined by Minnesota Statute § 340A.301, with a capacity to manufacture 40,000 or fewer proof gallons in a calendar year. A small craft distillery is one that contains less than 7,000 square feet of gross floor area. A large craft distillery is one that contains 7,000 square feet or more of gross floor area.

93. District. Any section within the City of Duluth within which the zoning regulations are uniform as represented on the official zoning map of the City, as incorporated by reference through Chapter 4, Section 403, of this Ordinance in effect at the time of the adoption of this Ordinance.
94. DNR. The department of natural resources for the State of Minnesota.
95. Drainage basin. The tributary area through which drainage water is collected, regulated, transported and discharged to receiving waters.
96. Drainage system. Any system that conveys stormwater or surface water including sewers culverts, ditches, and swales.
97. Drainage water. Stormwater, snow melt, surface and irrigation water, water from footing drains and sump pumps or other drains.
98. Drip line. A vertical line extending from the outermost edge of a tree's canopy to the ground.
99. Dry cleaning or laundry plant. An establishment where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.
100. Dwelling. Any building or portion of a building that is designed for or used for residential purposes and that either (a) has a minimum width of 20 feet, or (b) has a principal entrance facing the front lot line.
101. Dwelling unit. A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only, occupied by the owner or by another family for periods of occupancy exceeding one week, and that is physically separated from any other habitable unit that may be located in the same building.
102. Dwelling unit, efficiency. A dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.
103. Dwelling, live-work. A dwelling unit containing an integrated living and working space that is intended to function predominately as business workspace with incidental residential use. The unit typically has a store-front, with the workspace, public display area, or show-room on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor.
104. Dwelling, multi-family. A building containing three or more dwelling units that is not a townhouse.

105. Dwelling, one-family. A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, having a minimum outside width of 20 feet measured at its narrowest point and placed on a permanent foundation that complies with the State of Minnesota Building Code as adopted under Minnesota Administrative Rule 1300.0080 through the authority vested in the Commission of Labor and Industry under Minn. Stat. § 326B.106 (hereinafter referred to as “State Building Code”). This definition includes a manufactured or modular home that meets this definition and the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sections 5401 et. seq.).

106. Dwelling, townhouse. A structure containing three to eight dwelling units each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

107. Dwelling, two-family. A building containing two dwelling units designed for exclusive occupancy by two families and occupied exclusively by two families. A twin home is a two-family dwelling where each unit shares a common vertical wall and where a side lot line exists on the common wall extending to the front and rear lot lines, but is on two separate lots.

108. Electric power or heat generation plant. A facility or area that generates electricity from mechanical power produced by the firing of fossil fuels, or that produces heat or steam for space heating and other similar uses.

109. Electric power transmission line or substation. A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts, as well as substations related to those facilities.

110. Elevation (flood). In the context of flood related regulation, that elevation above mean sea level referenced in the National Geodetic Datum of 1929.

111. Encroachment lines. In the context of flood related regulation, the lateral limits or lines drawn along each side and generally parallel to a stream or another body of water, which delineates the floodway and within which the flood carrying capacity of the stream or other body of water is to be preserved. Their location, if along a stream, should be such that the floodway between them will effectively carry and discharge a flood not less than the regional flood.

112. Equal degree of encroachment. In the context of flood related regulation, a method of determining the location of encroachment lines so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

113. Erosion. Any process that wears away the surface of the land by the action of water, wind, ice or gravity. Erosion can be accelerated by the activities of humans and nature.

114. Erosion and sediment control plan. A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

115. Erosion and sedimentation practice specifications, or practice. The management procedures, techniques and methods adopted by the City to adequately and effectively control soil erosion and sedimentation incident to land disturbing activity within the City, excluding any procedural components of such practice specifications or practices including, but not limited to, required approvals and processes for such approvals. The specifications are primarily based upon the MPCA handbook entitled Protecting Water Quality in Urban Areas, published in October of 1989, but may be varied on a case by case basis to effectively control erosion and sedimentation.

116. Established residential neighborhood in a built up urban area (ERN BUUA). In the context of airport regulation, an area that, if it existed on or before January 1, 1978 (for low density structures and lots) and an area that, if it existed on or before July 2, 1979 (for all other land uses) shall be considered a conforming use that shall not be prohibited except as provided in this Ordinance. The following criteria shall be applied and considered in determining what constitutes an ERN BUUA:

- a. Location of the airport;
- b. Nature of the terrain within safety zones A and B;
- c. Existing land uses and character of the neighborhood around the airport;
- d. Population of the community;
- e. That the average population density in all areas within one mile of any point on a runway shall be equal to or greater than one dwelling unit per acre;
- f. Population density near the airport compared with population density in other areas of the community;
- g. The age, and the economic, political, and social stability of the neighborhood and the community as a whole;
- h. The proximity of supporting school, commercial, religious, transportation and other facilities, and their degree of integration with residential land uses;
- i. Presence or absence of public utilities including, but not limited to, public sanitary sewer system, electric service and gas mains;
- j. Whether or not the factors listed in subparagraphs (h) and (i) above tend to make the community surrounding the airport a self sufficient unit;
- k. Whether the areas within one mile of the perimeter of the airport property would be considered primarily residential in character;
- l. Other material factors deemed relevant in distinguishing the area in question as established, residential, urban, and built up.

117. Excepted parcel (airport overlay). In the context of airport regulation, any parcel of land exempted from any or all of the regulations imposed by Chapter 4, Section 414(b) of this Ordinance because the joint airport zoning board for the City of Duluth determines that the otherwise applicable requirements or proscriptions are not reasonably necessary to effectuate the purposes of Chapter 4, Section 414(b) by reason of flying operations expected to be conducted, the location of the airport, the nature of the terrain within the airport hazard area, existing land uses and character of the neighborhood around the airport, the uses to which the property to be

zoned are planned and adaptable and the social and economic costs of restricting land uses versus benefits derived from application of Chapter 4, Section 414(b).

118. Expression line. A decorative, three-dimensional, linear element, horizontal or vertical, protruding or indented at least one inch from the exterior facade of a building and extending the length or height of the building with minimal interruptions from doors and windows. This element typically delineates the floors or stories of a building.

119. FAA. The federal aviation administration or its duly designated and authorized successor agency.

120. Family. One or more persons related by blood, marriage or adoption, including foster children, and in addition to and including five other unrelated persons occupying a dwelling and living as a single housekeeping unit.

121. FCC. The federal communications commission or its duly designated and authorized successor agency.

122. Filling station. A building, structure or land used primarily for the dispensing, sale or offering for sale at retail of any automobile fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories but not including major repair work such as motor replacement, body and fender repair or spray painting. This use may include the retail sales of convenience goods.

123. Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

124. Flood frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

125. Flood fringe. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with "floodway fringe."

126. Flood hazard area. The areas identified as flood plain, floodway, or flood fringe at or below the flood protection elevation.

127. Flood peak. The highest value of stage or discharge attained during a flood event; thus peak stage or peak discharge.

128. Flood plain. The beds proper and the areas adjoining a wetland, lake, or watercourse that have been or may in the future be covered by a regional flood.

129. Flood profile. A graph or a longitudinal plot of water surface elevations of a flood event along a reach of a stream or river.

130. Floodproofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

131. Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain that are reasonably required to carry and store the regional flood discharge.

132. Fond du Lac Band of Lake Superior Chippewa; Fond du Lac Band; or FDL. A federally recognized Indian tribe which retains the powers of self government over the Fond du Lac Reservation and all lands held in trust by the United States for the benefit of the Fond du Lac Band in accordance with the laws of the United States.

133. Food processing. The sorting, treatment, or preparation of food products for sale or as inputs to further processing, but not including the slaughtering of small or large livestock or confined animal feeding operations. Examples include: creamery operations and poultry processing.

134. Forest management. Tree removal from a predominantly forested area with the intent of maintaining forest cover and not resulting in conversion to non-forest, such as grassy fields or pavement. Clearcuts constitute forest management as long as tree cover returns by planting or natural regeneration.

135. Frontage. All the property on one side of a street between two streets that intersect such street (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one between a street that intersects such street and the dead end of the street.

136. Funeral home or crematorium. An establishment providing services such as preparing the human dead for burial, cremating human remains, and arranging and managing funerals. This use does not include cemeteries and columbaria.

137. Garage, private. An accessory building designed or used for the storage only of not more than four motor driven vehicles. Not more than one of the vehicles may be a commercial vehicle, and that vehicle shall not exceed a two-ton capacity.

138. Garden material sales. An establishment engaged in the storage, distribution, and sale of garden materials, including a green house used to raise flowers, shrubs and plants for sale. Accessory uses may include delivery services.

139. General development waters. Includes lakes that are generally large, deep lakes, or lakes of varying sizes and depths with high levels and mixes of existing development at the time of the original classification. These lakes often are extensively used for recreation. General development rivers include agriculture and urban rivers. This class has a wide variety of existing land and recreational land use characteristics.

140. General flood plain. The area within a flood plain on the flood insurance rate map and on the flood boundary and floodway map adopted by reference in Chapter 4, Section 414(A)(1)(b) of this Ordinance that does not have a delineated floodway or flood fringe.

141. Golf course. A tract of land laid out with at least 9 holes for playing the game of golf and improved with tees, greens, fairways and hazards. This use does not include a miniature golf course. A golf course may include a driving range, clubhouse, restaurant, putting and chipping greens, maintenance facilities, and shelters as accessory uses.

142. Government building or public safety facility. A building or facility housing the offices or operations of a department or agency of the Fond du Lac Band, or other governmental or quasi-governmental entity, including but not limited to a building or facility that provides fire protection, police protection, or emergency medical services (not including a hospital or medical or dental clinic), together with incidental storage and maintenance of necessary vehicles.

143. Grade.

- a. For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;
- b. For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;
- c. For buildings having no wall adjoining a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building;
- d. Any wall approximately parallel to and not more than 15 feet from a street line is to be considered as adjoining the street. Where sidewalks do not exist the grade shall be as established by the RBC.

144. Grocery store. A retail sales establishment selling primarily food and beverages for off-site preparation and consumption that maintains a sizable inventory of fresh fruits, vegetables, fresh-cut meats, or fresh seafood or specialize in the sale of one type of food item. This use may also include sales of personal convenience and small household goods. A small grocery store is one that contains less than 15,000 square feet of gross floor area. A large grocery store is one that contains 15,000 square feet or more of gross floor area.

144. Groundwater management area. A geographically defined area that may be particularly sensitive in terms of groundwater quantity or quality by nature of the use or movement of groundwater, or the relationship between groundwater and surface water, and where special management measures are deemed necessary to protect groundwater and surface water resources.

145. Groundwater recharge volume. The portion of the water quality volume used to maintain groundwater recharge rates at development sites.

146. Habitable room. Any room used or intended to be used for sleeping, cooking, living or eating purposes, excluding such enclosed spaces as closets, pantries, bath or toilet facilities, service rooms, corridors, laundries, unfinished attics, foyers, storage space, utility rooms or similar spaces.

147. Habitable unit. Any habitable room or group of habitable rooms that provide sleeping facilities alone or in combination with required cooking, eating or living facilities.

148. Hardship. The property in question cannot be put to reasonable use under existing regulations and the plight of the landowner is due to circumstances unique to the property and not created by the landowner. Economic considerations alone shall not constitute a hardship.

149. Hazardous waste. Any refuse, sludge or other waste material or combinations of refuse, sludge or other waste material in solid, semisolid, liquid or contained gaseous form that because of its quality, concentration, or chemical, physical or infectious characteristics may:

- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants and corrosives. Hazardous waste does not include: source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

150. Height of building. The vertical distance at the center of the principal front of a building, measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and hip or gambrel roof.

151. Height of tower or structure. The vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightening protection device.

152. Height of wall or fence. The vertical distance measured from finished grade on the highest side of the fence or wall to the top of the fence or wall.

153. Historic preservation district. A contiguous collection or group of lands, parcels, sites, structures, buildings or objects that is determined to be historically, culturally or architecturally significant as a whole and has been locally designated as a historic preservation district pursuant to Chapter 4, Section 414(c) of this Ordinance.

154. Historic preservation guidelines. The established criteria by which any proposed changes, including architectural or site modifications to a designated historic preservation district or landmark shall be judged.

155. Historic preservation landmark. Any individual property, parcel, place, building, structure, work of art or other object that has been determined to be historically, culturally or architecturally significant and has been locally designated as a historic preservation landmark pursuant to Chapter 4, Section 414(c) of this Ordinance.
156. Hosting platform. Any entity, website, smartphone application or other intermediary used to facilitate reservations of vacation dwelling units, accessory vacation dwelling units, or accessory home shares within the City.
157. Hotel or motel. A building or series of buildings operated as a commercial establishment providing accommodations to the transient traveling public in habitable units for compensation, and including both short-stay and extended stay facilities, and that may offer customarily incidental services.
158. Hospital. An institution or place where sick or injured in-patients are given medical or surgical care, at either public or private expense, but excluding a nursing home and excluding institutions where persons suffering from permanent types of illness, injury, deformity or deficiency or age are given care and treatment on a prolonged or permanent basis.
159. Impaired waters. Those streams, rivers and lakes that currently do not meet their designated use classification and associated water quality standards under the federal Clean Water Act.
160. Impervious surface. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities or at an increased rate than prior to development. Examples include but are not limited to: conventional roofs, concrete/bituminous surfaces, stone pavers and gravel surfaces.
161. Indirect illumination. Illumination that is derived from light sources that are not visible to intended viewers of the sign but which illuminate the sign by being directed at the sign's reflective face.
162. Indoor entertainment facility. A facility providing entertainment or recreation activities where all activities take place within enclosed structures, but not including a theater or a convention or event center. Examples include but are not limited to: bowling alleys, trampoline centers, video arcades, climbing wall centers, paintball or laser tag centers.
163. Industrial services. A facility or area where industrial services such as heating, ventilation, cooking and refrigeration supplies, motion picture production, plumbing supplies, printing and photocopying, publishing, engraving, exposition building or center, and other uses designed to support industrial or heavy commercial activities in the vicinity, provided that such services are not listed separately as a permitted or special use in this Ordinance.
164. Industrial stormwater permit. A national pollutant discharge elimination system (NPDES) permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

165. Industrial use. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

166. Infill development. Land development that occurs within designated areas based on local land use, watershed, or utility plans where the surrounding area is generally developed, and where the site or area is either vacant or has previously been used for another purpose.

167. Infiltration. The process of percolating stormwater into the subsoil.

168. Infiltration facility. Any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

169. Institution. An established organization or foundation, especially one dedicated to education, medicine, public service, or culture, or an organization founded for a specific purpose, such as a hospital, synagogue, college, service club, or charitable entity.

170. Institutional support use. An establishment primarily engaged in rendering services to institutions on a fee or contract basis, such as advertising and mailing, consulting services, protective services, equipment rental, leasing and financial services. Uses must be incidental to and supportive of institutional uses and shall not include activities that are primarily retail in nature and devoted to the sale of consumer goods.

171. Junk or salvage service. A facility or area for storing, keeping, selling, dismantling or salvaging scrap or discarded material or equipment, including ore and elevators. The term “scrap or discarded materials” includes but is not limited to metal, paper, rags, tires, bottles or inoperable or wrecked motor vehicles, motor vehicle parts, machinery, structural steel, equipment and appliances. This definition includes indoor facilities for recycling recoverable resources, such as newspapers, magazines, books and other paper products, glass, metal cans and other products, to return such products to a condition in which they may again be used for production.

172. Jurisdictional wetland. An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

173. kennel. Any facility, public or private, where domesticated animals are temporarily boarded, groomed, and sold for compensation, including animal day care/spa facilities, but not including zoos or veterinary hospitals. This use also includes a public facility for the temporary impoundment of animals.

174. Land development. A human-made change to, or construction on, the land surface that changes its runoff characteristics.

175. Land disturbing activity. Land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands of or downstream of the City,

including clearing, grading, excavating, transporting and filling of land. Land disturbing activity does not include:

- a. Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- b. Construction, installation and maintenance of electric, telephone and cable television utility lines or individual service connection to these utilities;
- c. Installation of septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system;
- d. Tilling, planting or harvesting of agricultural, horticultural or silviculture crops;
- e. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles; or
- f. Emergency work to protect life, limb or property and emergency repairs, except if the land disturbing activity would have required an approved erosion and sediment control plan except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of Chapter 4, Section 414(A)(5) of this Ordinance.

176. Landing area. The area of an airport used for the landing, taking off, or taxiing of aircraft.

177. Land owner. The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

178. Land Use and Zoning Administrator. The Band official responsible for reviewing and providing recommendations to the RBC with respect to Notices of Development and applications for special use and interim use permits under Chapter 7 of this Ordinance, in addition to consulting with the RBC when requested regarding interpretations of the provisions of this Ordinance and decisions regarding land use and development.

179. Land Use Committee. The Fond du Lac Land Use Committee, established by the RBC pursuant to Section 301 of the Band's Land Use Ordinance, No. #02/07.

180. Landscape plan. An accurate scale drawing that indicates the major natural features of a site and all proposed buildings, structures and site improvements in sufficient detail to allow the evaluation of impacts on natural systems and other aspects of the development.

181. Laundromat. An establishment providing home type (large institutional or commercial type) washing, drying or ironing machines for use on the premises.

182. Link. For purposes of the connectivity index described in Section 50-23.3 of the City's Unified Development Chapter ("UDC") as incorporated through Chapter 6 of this Ordinance,

links are stretches of road that connect “nodes” as defined in subsection 226 of this Section 201. Street stub-outs are considered as links, but temporary dead-end streets internal to a development, private streets in gated sections or alleys shall not be counted as links. Every road segment that connects a node in the development to the external street network shall be counted as a link in the index calculation.

183. Loading space. A space within the principal building or on the same lot as the principal, providing for the off street standing, loading or unloading of trucks and trailers.

184. Local watershed. All the water that drains to a natural waterway located primarily within the City.

185. Lot. Land occupied or intended for occupancy by a use permitted in this Ordinance, including one main building together with its accessory buildings, and the yards and parking spaces required by this Ordinance, and having its principal frontage upon a street or upon an officially approved place. For the purposes of this Ordinance, the term “lot” may include two or more lots of record that are contiguous or separated only by a public easement not exceeding 25 feet in width, are owned by the same owner and where none of the parcels can be severed or legally sold, conveyed or used without the other parcels by virtue of a legally binding agreement that runs with the land and is recorded in the office of the county recorder. If at any time any parcel that had been recognized as part of any lot by reason of such proximity, ownership and agreement are severed, legally sold, conveyed or used separately from the other parcel or parcels making up said lot, the parcel so severed, legally sold, conveyed or used shall henceforth not be considered part of the lot, any uses relying on its status as part of the lot shall become nonconforming.

186. Lot, corner. A lot abutting upon two or more streets at their intersection.

187. Lot, double frontage. A lot having a frontage on two streets as distinguished from a corner lot.

188. Lot, flag. A lot so shaped and designed that the main building site is setback from the street and that portion of the lot providing access has a width less than 25 percent of the lot width at its greatest point.

189. Lot, front. The area of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot unless structures exist on the lot. In that case, the frontage shall be established by the orientation of the buildings, or of the principle entrance if building orientation does not clearly indicate lot frontage. For corner lots, where no other method determines conclusively the front of a lot, the RBC shall select one frontage on the basis of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

190. Lot frontage. Frontage shall be the dimension of the lot line at the street, except where the lot line at the street is not straight, in which case the frontage shall be the dimension across the lot at the required front yard line.

191. Lot of record. A parcel of land that is part of a subdivision, the map of which has been recorded by the county recorder or a parcel of land described by metes and bounds the description of which has been recorded by the county recorder.
192. Lots on the block face. When a dimensional standard is calculated based on a dimension measured for “lots on the block face” the measurement shall apply only to (a) developed lots on the same side of the street between the next two intervening side streets, and (b) lots that face developed streets (not to streets shown on a plat or map that have not been constructed). For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot (not as separate platted lots).
193. Low density residential lot. A single lot located in an area that is zoned for one-family or two-family residences and in which the predominant land use is such type of residences.
194. Low density residential structure. A one-family or two-family home.
195. Lowest floor. The lowermost floor of the lowest enclosed area, including basement and crawl space.
196. Maintenance agreement. A legally recorded document that acts as a property deed restriction, and that provides for long-term maintenance of stormwater BMPs.
197. Major system. In the context of stormwater management, one of the 42 major watercourses, or tributaries, as described by the Urban Study for Duluth Area Stormwater Flooding, March 1976. The system includes Lester/Amity Creeks, Tischer Creek, Brewery, Oregon, Miller, Coffee, Kingsbury, Knowlton, Stewart, Sargent, Mission, Buckingham, Chester and other systems as designated by the City.
198. Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
199. Manufacturing, light. A facility or area used for the assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outside operations or storage of goods and materials used in the assembly, fabrication, or processing does not exceed 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: food processing, electronic equipment assembly and manufacturing and assembly from finished products.
200. Manufacturing, heavy. An establishment or use of land that includes the assembly, fabrication, or processing of goods and materials using processes that ordinarily have impacts on the environment or significant impacts on the use and enjoyment of surrounding properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, or any use where the area

occupied by outside storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of buildings on the lot. Examples include but are not limited to: battery, chemicals, machinery, and plastics manufacture; mushroom plant; batching plant; beverage bottling and distribution, packaging plant; slaughterhouse; and rendering plant. This use does not include any use that meets the definition of “light manufacturing” or “hazardous or special manufacturing”, or a solid waste disposal site, or a yard waste compost facility, and does not include any use that constitutes a nuisance.

201. Manufacturing, hazardous or special. An establishment or business that uses hazardous inputs or creates hazardous by-products in the course of manufacturing, assembly, fabrication, or materials treatment, or that uses manufacturing, assembly, fabrication, or treatment processes that create potentially hazardous impacts on the environment or surrounding areas. Examples include but are not limited to: acid manufacture; acid bulk storage; cement, lime, gypsum or plaster of paris manufacture; central concrete mixing or concrete proportioning plant; distillation, manufacture or refining of bones, coal or tar asphalt; explosives, manufacture or storage; fat, grease, lard or tallow rendering or refining; fertilizer manufacture from organic matter; glue or size manufacture; paper manufacture; petroleum or asphalt refining or storage; smelting of tin, copper, zinc or iron ores; storage or processing raw hides or fur; and stockyards or slaughter of animals other than poultry.

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

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

204. Medical cannabis. “Medical cannabis” means:

- a. Any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of:
 - i. liquid, including, but not limited to, oil;
 - ii. pill;
 - iii. vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form; or
 - iv. any other method, excluding smoking, approved by the Commissioner of Health of the State of Minnesota.

- b. This definition includes any part of the genus cannabis plant prior to being processed into a form allowed under paragraph (a), that is possessed by a person while that person is engaged in employment duties necessary to carry out any applicable requirements for a manufacturer or a laboratory under contract with a manufacturer under Band law.

205. Medical cannabis distribution facility. Medical cannabis distribution facility shall mean a facility operated by a medical cannabis manufacturer for purposes of distributing medical cannabis in accordance with Band Law. For purposes of this Ordinance, the Band shall substantially adopt as Band Law the provisions of Minnesota Statute § 152.29, subd. 3, as may be amended, and the requirements of the commissioner of the Minnesota Department of Health or other comparable state law for any medical cannabis distribution facility operated on the lands subject to this Ordinance.

206. Medical cannabis laboratory. Medical cannabis laboratory shall mean an independent laboratory permitted to test medical cannabis produced by a medical cannabis manufacturer in accordance with Band law. For purposes of this Ordinance, the Band shall substantially adopt as Band law the provisions of Minnesota Statute § 152.29, subd. 1(b), as may be amended, and the requirements of the Commissioner of the Minnesota Department of Health or other comparable state law for any medical cannabis laboratory located on the lands subject to this Ordinance.

207. Medical cannabis manufacturer. Medical cannabis manufacturer means an entity registered under Band law to cultivate, acquire, manufacture, possess, prepare, transfer, transport, supply, or dispense medical cannabis, delivery devices, or related supplies and educational materials.

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

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

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

211. Mini-storage or self-service storage facility. A facility with controlled access that contains varying sizes of individual, compartmentalized and controlled access units or lockers leased or rented on individual leases for varying periods of time where individuals can store and remove their own personal property. This use can be located in an individual building or within multiple buildings. This use is not intended for auction, commercial, wholesale or retail sales or miscellaneous or garage sales.

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

213. Minor utilities. A piece or system of service equipment or infrastructure that is necessary to support development within the immediate vicinity and that involves only small structures. Examples include but are not limited to: electric transformer stations, gas regulator stations, telephone exchange buildings, cable equipment boxes, district power distribution lines, electric utility boxes, and well, water and sewer pumping stations.

214. Mixed use structure. A structure containing a mix of the four major land uses, as defined by the permitted use table in Chapter 5, Section 509 of this Ordinance (residential, public, commercial, and industrial). To be considered a mixed use structure, a structure must have at least 20 percent of its total square footage used by one of the four major land uses that is different than its principal use.

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

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

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

- a. Owned or operated by a public body having jurisdiction over the disposal of sewage, industrial water, stormwater or other wastes that discharges to waters of the United States;
- b. Designed or used for collecting or conveying stormwater;
- c. That is not a combined sewer; and
- d. That is not part of a publicly owned treatment works (POTW) as defined in 40 CFR 122.2.

218. Museum, library, or art gallery. A facility or area that is open to the public and is intended for the acquisition, preservation, study, and exhibition of works of artistic, historical or scientific value.
219. Nameplate. An accessory sign containing only the name of the occupant of a dwelling and an occupation permitted in that zone district.
220. National register of historic places. The official list of properties worthy of preservation designated by the United States department of the interior, national park service.
221. Natural environment waters. Rivers that are classified remote, forest, transitional river segments, and tributary river segments that flow into natural environment lakes. The types and intensities of recreational uses within this class vary widely.
222. Natural resource inventory. An inventory that identifies and maps the critical natural resources on a site, including the following resources: existing land cover of vegetative types; streams; wetlands; lakes; significant, sensitive, threatened, or endangered species; critical wildlife habitat; soil types; geologic hazards (floodplains, unstable slopes, highly erodible soils); and mineral resources.
223. Natural state. Where vegetation exists in a wild state, where the condition of the ground and shrub layers and floristic composition of the plant community is substantially unaltered by humans, where restoration has been consistent with Commissioner 525 Guidelines or government approved plans, or where the vegetation has been unaltered for at least one growing season.
224. Navigable airspace. Airspace at and above the minimum flight altitudes prescribed in the FARs including airspace needed for safe takeoff and landing (FAR Part 77 and 91).
225. NIER. Non-ionizing electromagnetic radiation.
226. Node. For purposes of the connectivity index described in Section 50-23.3 of the City's UDC as incorporated through Chapter 6 of this Ordinance, a node exists at each street intersection and cul-de-sac head within the development subject to the connectivity index.
227. Nonconforming use. Any building or land lawfully occupied by a use at the time of passage of this Ordinance or an amendment to this Ordinance that does not conform after the passage of this Ordinance or amendment to this Ordinance with the use regulations of the district in which it is situated.
228. Nonpoint source pollution. Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include but not be limited to pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
229. Nonprecision instrument runway. A runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance,

and for which no precision approach facilities are planned or indicated on an approved planning document.

230. Non-structural measure. When used in the context of stormwater control, a stormwater control and treatment technique that uses natural processes, restoration or enhancement of natural systems, or design approaches to control runoff or reduce pollutant levels. Such measures are used in lieu of or to supplement structural practices on a land development site. Non-structural measures include but are not limited to: minimization or disconnection of impervious surfaces; development design that reduces the rate and volume of runoff; restoration or enhancement of natural areas such as riparian areas, wetlands, and forests; and on-lot practices such as rain barrels, cisterns, and vegetated areas that intercept roof and driveway runoff.

231. NPDES. National pollution discharge elimination system.

232. Nursing home. Licensed facilities primarily engaged in providing shelter, food and intermediate or long term nursing and health related care for individuals, including assisted living facilities, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

233. Nuisance. Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

234. Obstruction. In the context of flood protection, any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood plain that may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

235. Office. A facility where business or philanthropic activities are conducted in an office environment. Examples include but are not limited to: administration of business, civic, religious, or charitable organizations, financial services processing, and radio or television broadcasting stations or studios.

236. Off-site facility. As used in stormwater management, a stormwater best management practice located outside the subject property boundary for land development activity.

237. On-site facility. As used in stormwater management, a stormwater best management practice located within the subject property boundary for land development activity.

238. Ordinary high water mark. A mark delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

239. Outdoor entertainment or recreation use. An outdoor facility which main purpose is to provide entertainment or recreation, with or without charge, including amusement parks, batting

cages, drive-in theatres, golf driving ranges, miniature golf courses, go-cart tracks, target sport ranges, skating rinks, skateboard parks, swimming pools, tennis courts, sports courts, water parks, zoological parks and similar uses, but not including auto or horse race tracks.

240. Owner. In the context of stormwater management, the owner or owners of the freehold or a lesser estate of a premises, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a piece of land. Owner also refers to, in the appropriate context: (a) any other person authorized to act as the agent for the owner, (b) any person who submits a stormwater management concept or design plan for approval or requests issuance of a permit, when required, authorizing land development to commence, and (c) any person responsible for complying with an approved stormwater management design plan.

241. Park, playground or forest reserve. A facility or area for recreational, cultural, or aesthetic use owned or operated by a government or quasi-government agency and available to the general public. This definition may include but is not limited to: parks, public lawns, active and passive recreation areas, playgrounds, water courses and wooded areas. Facilities may also include fountains, swimming pools, pavilions and similar public facilities within their boundaries.

242. Parking area. An open unoccupied space used or required for use for parking of motor vehicles exclusively and in which no gasoline or vehicular accessories are sold or no other business is conducted and no fees are charged.

243. Parking lot. An off-street area used for the temporary storage of operable and street legal motor vehicles. Includes parking spaces, aisles, drives and landscaped areas, and provides vehicular access to public street.

244. Parking space. An off-street space available for the parking of one motor vehicle.

245. Parking structure. A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking, and underground or under-building parking areas.

246. Patterned wall. Walls with a patterned or textured look to mimic stone or similar design or patterned to create reveals and shadow lines. No blank concrete or wood timber walls shall be permitted.

247. Permanent stormwater best management practice (BMP). A stormwater best management practice (BMP) that will be operational after the construction phase of a project and that is designed to become a permanent part of the site for the purposes of managing stormwater runoff.

248. Personal services and repair (small). An establishment containing less than 10,000 square feet of gross floor area and generally having no more than ten employees on site at one time, that is engaged in the provision of informational, instructional, personal improvement, personal care, and similar services. Examples include but are not limited to: catering establishments, custom dressmaking, film processing, garment printing and embroidering, licensed massage salons,

optical and optician services, real estate sign placement service, service and repair establishments, sun tan centers, bicycle rental, small craft rental, tailor shops, and laundromats.

249. Personal services and repair (large). An establishment, containing 10,000 square feet of gross floor area and generally having more than 10 employees on site at one time, that is engaged in the provision of informational, instructional, personal improvement, personal care, and similar services.

250. Personal wireless facility. See definition of “wireless telecommunications facilities” in subsection 423 of this Section 201.

251. Personal wireless service or PWS. This term, which is sometimes also referred to as “personal communications service” or “PCS,” shall have the same meaning as defined and used in the 1996 Federal Telecommunications Act.

252. Place. An open, unoccupied space or thoroughfare other than a street or alley permanently reserved as a principal means of access to abutting property.

253. Place of public or semi-public assembly. A building or portions of a building used for the gathering of persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, dining or awaiting transportation.

254. Planned future airport improvement. As used in Chapter 4, Section 414(b) of this Ordinance, Airport Overlay, those proposed future airport developments that are indicated on a planning document having the approval of the federal aviation administration, Minnesota department of transportation, office of aeronautics, and Duluth airport authority.

255. Power transmission line. A conductor of electric energy and associated facilities designed for and capable of operation at a nominal voltage of more than 46 kilovolts and less than 200 kilovolts. Associated facilities shall include insulators, towers and terminals operating at a nominal voltage greater than 46 kilovolts and less than 200 kilovolts.

256. Precision instrument runway. A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR), or a runway for which a precision instrument approach system is planned.

257. Premises. A lot together with all buildings and structures existing on the lot.

258. Preschool. An establishment licensed to provide a systematic organization or arrangement of activities, personnel, materials, and equipment in a facility to promote the physical, intellectual, social, and emotional development of a child, who is at least 33 months old, but who has not yet attended the first day of kindergarten, in the absence of the parent for a period of less than 24 hours a day.

259. Principle use or structure. All uses or structures that are not accessory uses or structures.

260. Pylon. A decorative extension above the roof line of a building that is designed as an integral part of the building and that is constructed of masonry or is completely enclosed by the same material as the main exterior walls of the building.

261. R-district parking area. The area on a lot in a residential district where vehicles may be parked, unless a variance or other exception has been approved by the RBC. The parking area shall be limited to an area that may include one side yard, the rear yard, and the following additional areas of the lot:

- a. On a lot, other than a corner lot, containing a dwelling unit without garage, the parking area also includes the area between one side lot line and the nearest wall of the dwelling unit and its extension to the improved street abutting the front yard;
- b. On a lot, other than a corner lot, containing a dwelling unit with a detached garage, the parking area also includes the area between the closest side lot line to the side wall of the dwelling unit nearest the garage and its extension to the improved street abutting the front yard;
- c. On a lot, other than a corner lot, containing a dwelling unit with attached garage, the parking area also includes the area between the closest side lot line and the common wall separating the dwelling unit and the garage and its extension to the improved street abutting the front yard;
- d. On any corner lot, any parking area in addition to the rear yard and one side yard may be granted by the RBC.

262. Radio or television broadcasting tower. A structure that is designed and constructed primarily for the purpose of supporting one or more antennae that transmit information (audio, video, data, but not personal wireless communications) in the form of electromagnetic signals to one or more receivers without the use of a physical connection between the transmitting and receiving source. The term includes but is not limited to: lattice towers, guyed towers, and monopole towers. The term does not include a wireless communication tower, clock tower, bell tower, steeple, light pole, power pole, water tower, or similar structure that incidentally supports antennae.

263. Railroad yard or shipyard and related facilities. An area of land, a portion of which is covered by a system of tracks, that provides for the making up of trains by one or more railroads or private industry concerns including roadhouses and repair and overhaul shops. Necessary functions of a railroad yard include but are not limited to the classifying, switching, storing, assembling, distributing, consolidating, repairing, weighing, or transferring of cars, trains, engines, locomotives, and rolling stock. In addition, this use includes a facility or area containing wharves, docks, or other facilities used in connection with water transportation or navigation, and for the repair, service, sales or storage of boats.

264. Rainfall events. See the City's engineering guidelines for the current rainfall data.

265. Reach. As used in the context of flood prevention, the hydraulic engineering term used to describe longitudinal segments of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

266. Receiving stream or channel. The body of water or conveyance into which stormwater runoff is discharged.

267. Receiving waters. Lake Superior, St. Louis River, St. Louis Bay and the 16 trout streams, which are the major receivers of drainage from the City of Duluth.

268. Recharge. The replenishment of underground water reserves.

269. Recreational vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term "travel trailer/travel vehicle."

270. Recycling collection point (primary use). A facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper or clothing for recycling purposes conducted totally within an enclosed structure or container. This definition does not include processing except for can banks that crush cans as they are deposited.

271. Redevelopment. A change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving or excavating, but excluding ordinary maintenance activities. For purposes of the erosion and stormwater controls in Chapter 4, Section 414(A)(5) of this Ordinance, redevelopment does not include remodeling of buildings on the existing footprint, resurfacing of paved areas, and exterior changes or improvements that do not result in the disturbance of equal to or greater than one acre of land.

272. Regional flood. A flood that is representative of large floods known to have occurred generally in the state of Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a one percent chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

273. Regional stormwater. Stormwater BMPs designed to control stormwater runoff from multiple properties or a particular land use district, and where the owners or developers of the individual properties may participate in the provision of land, financing, design, construction or maintenance of the facility.

274. Regulatory flood protection elevation. An elevation corresponding with a point not less than two feet above the water surface profile associated with the regional flood plus any increases in flood stages attributable to encroachments on the flood plain. Within an A-O zone,

as shown on the flood insurance rate map adopted in Chapter 414(A)(1)(b) of this Ordinance, an elevation above the highest adjacent grade of an existing or proposed structure equivalent to two feet plus the depth number in feet specified on the flood insurance rate map.

275. Religious assembly. A facility or area for people to gather together for public worship, religious training or other religious activities including a church, temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions.

276. Repairs and maintenance. When used in the context of wireless telecommunications, the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted. When used in the context of repairing or reconstructing damaged or deteriorated non-conforming structures, the proposed repair or reconstruction must be of the same volume or smaller as the original structure, be located in the same footprint as the original structure, and have fewer adverse impacts on the surrounding properties as the original structure.

277. Research laboratory. A facility or area for conducting scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. This definition also includes labs for the manufacture of dentures and prostheses.

278. Reservation Business Committee (RBC). The duly elected governing body of the Fond du Lac Band.

279. Residential care facility/assisted living facility. A building that houses persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This classification shall include, but not be limited to, the following; residential board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug abuse centers, and convalescent facilities.

280. Responsible party. In the context of stormwater regulations, any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents or assigns, that is named on a stormwater maintenance agreement as responsible for long-term operation and maintenance of one or more stormwater BMPs.

281. Restaurant (no drive-in/drive-through). A commercial establishment, including but not limited to taverns and brewpubs, where food and beverages are prepared, served, and consumed primarily within the principal building.

282. Restaurant (with drive-in/drive-through). A commercial establishment, including but not limited to taverns and brewpubs, where customers order and are served their food and beverages at a walk-up counter or in a motor vehicle to be consumed on or off the site.

283. Retail store. A facility or area for the retail sale of general merchandise or food to the general public for direct consumption and not for wholesale. Typical general merchandise includes clothing and other apparel, equipment for hobbies or sports, gifts, flowers and household plants, dry goods, convenience and specialty foods, toys, furniture, books and stationery, pets, drugs, hardware and similar consumer goods. This definition does not include retail uses defined elsewhere in this Ordinance.

a. A small retail store is one that contains less than 15,000 square feet of gross floor area;

b. A large retail store is one that contains 15,000 square feet or more of gross floor area.

284. Riding stable. An establishment or area for keeping horses or other domestic animals other than for the property owner's personal use, for compensation, hire, boarding, riding or show.

285. Rooming house. A building containing habitable units and that provide sleeping or living accommodations by prior arrangements, regardless of whether those accommodations are offered for compensation or not, and for definite time periods. Some or all bathroom and/or kitchen facilities, where provided, are for use on a communal basis. Individual habitable units are not owned by occupants, except that a habitable unit may be occupied by the owner of the building.

286. Runway. Any existing or planned paved surface or turf covered area of an airport that is specifically designated and used or planned to be used for the landing or taking off of aircraft.

287. School, elementary. A public or private establishment providing educational services from kindergarten or Grade 1 through Grade 5, or from kindergarten or first grade through Grade 8, or some combination of those included years, together with incidental sports and outdoor activity areas.

288. School, middle or high. A public or private establishment providing educational services from Grade 6 through Grade 12, or from Grade 6 through 8, or from Grade 9 through Grade 12, or some combination of those included years, together with incidental sports and outdoor activity areas.

289. Seasonal camp or cabin. A facility containing one or more tent sites or cabins that is offered for use on short-term during defined seasons of the year, for compensation, and that may include accessory facilities such as showers, laundries or cooking and dining facilities.

290. Sediment. Solid mineral or organic material that, in suspension, is being transported, or has been moved from its original site by air, water, gravity or ice and has been deposited at another location.
291. Sedimentation. The process or action of depositing sediment that is determined to have been caused by erosion.
292. Setback. The minimum horizontal distance between a lot line and a building or structure required by this Ordinance.
293. Shore impact zone. Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback, but not less than 50 feet.
294. Shoreland. Lands within 1,000 feet of a lake or within 300 feet of a river and its floodplain, as shown on the NR-O map incorporated by reference through Chapter 4, Section 414(A)(1)(a) of this Ordinance. The limits of shorelands may be less than the above limits whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the RBC.
295. Sidewalk. A paved surface located in the public right of way and used as a pedestrian walkway.
296. Sidewalk café. An outdoor dining area located within the public right of way in front or adjoining a restaurant or other eating and drinking establishment.
297. Sign. Any letter, word, symbol, model, printed, projected or affixed device, poster, picture, reading matter or representation in the nature of an advertisement, announcement, direction or informative device including its structure or component parts, which is more than one square foot in area and is located outdoors or is affixed to the interior or exterior of a window or door, or is displayed within 12 inches of a window intended for viewing from the exterior of the building. A sign shall not include (a) temporary parks and recreation signs of the type permitted pursuant to Chapter 35 of the City Code, or (b) overhead banners and devices of the type regulated under Article III of Chapter 45 of the City Code, or (c) any street name sign, public directional, utility or transportation sign, or motor vehicle traffic signs of any kind when officially placed, or to advertising or other information affixed to any motor vehicle, provided that such vehicle's primary use is not as a stationary advertising device, or (d) any inscription on any publicly owned building when the inscription is incorporated into the architectural design as a permanent feature.
298. Sign, A-frame. A sign ordinarily in the shape of the letter "A," or some variation thereof, that is displayed on the ground, not permanently attached, and usually two-sided.
299. Sign, agricultural identification. A sign describing an agricultural use that includes the name of the farm and/or the products grown on-site.

300. Sign, animated. A sign that uses movement or change of lighting to depict action or to create a special effect or scene. Animated signs do not include electronic message signs.
301. Sign, attention getting. Flags, pennants, streamers and similar devices or ornamentations designated for the purpose of attracting attention. Flags of nations, including Indian Tribes, states, and cities, or fraternal, religious and civic organizations, permanent commercial flags, or temporary holiday decorations are not considered attention getting devices.
302. Sign, awning. A sign that is printed or displayed upon an awning. An awning is a roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway or door, with no supports that extend to the ground.
303. Sign, balloons. Balloons or inflated devices used as a means of directing attention to a business or service offered.
304. Sign, banner. A sign that is printed or displayed upon flexible material with or without frames.
305. Sign, banner-exhibition. A sign that is printed or displayed upon flexible material with or without frames in conjunction with a special exhibit for an educational facility, government building, museum, library or art gallery, or religious assembly.
306. Sign, billboard. A sign that directs attention to a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located.
307. Sign, building directory. A sign that serves as common or collective classification for a group of persons or businesses operating in the same building or on the same lot. A building directory sign may name the persons or businesses included, but carry no other advertising matter.
308. Sign, canopy. A sign that is printed or displayed upon a canopy. A canopy is a roofed structure constructed of fabric or other material placed to extend outward from the building and supported both by the structure and by supports that extend to the ground directly under the canopy.
309. Sign, construction. A temporary sign that identifies an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located and which may identify the proposed use for the property.
310. Sign, community event. Temporary signs that announce community events and activities, including the activities of religious assemblies, social clubs or similar groups, or special events such as fairs, rummage sales and garage sales.

311. Sign, directional-parking lot. A sign that identifies parking lot entrances and exits, driveway intersections, drive-through lanes, and features of a similar nature.
312. Sign, electronic display screen. A sign, or portion of a sign, that displays electronic video via television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.
313. Sign, electronic message. Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text or image form where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs.
314. Sign, flashing. A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.
315. Sign, freestanding. A sign that is placed on or supported by the ground, independent of the principal structure on the lot. Freestanding signs may be either pole or monument signs.
316. Sign, freestanding monument. A freestanding sign where the base of the sign structure is on the ground or up to a maximum of 24 inches above ground. The monument base must be designed as an integral part of the sign structure. The width of the top of the sign structure can be no more than 120 percent of the width of the base.
317. Sign, freestanding pole. A freestanding sign that is affixed, attached or erected on one or two poles that is not itself an integral part of the sign.
318. Sign, ghost. A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community. A ghost sign is not considered an off-premises sign.
319. Sign, government information sign. Traffic signs, legal notices, railroad crossing signs, signs regulating vehicular or pedestrian traffic, or designating or giving direction to streets, schools, historic sites or public buildings, and temporary emergency signs.
320. Sign, home occupation. A sign identifying a home occupation or permitted accessory use on the premises.
331. Sign, illumination types.
- a. Gooseneck reflector. Lighting designed for mounting above or to the side of signs with a long, shepherd hook-shaped arm to hold fixtures at a distance from the area of illumination;
 - b. Illumination, external. Lighting of a sign where lighting components are outside the sign structure and light is directed at the sign face;

- c. Illumination, internal. Lighting of a sign constructed so that all lighting components are internal and illumination occurs as lighting is diffused through the sign face surfaces.
- 332. Sign, marquee. A permanent roof-like sign structure constructed over a building entry, with no supports extending to the ground, where a changeable message area is part of the vertical sign fascia.
- 333. Sign, memorial plaque. A sign, tablet or plaque memorializing a historic person, event, structure or site.
- 334. Sign, menu board. A device that lists items for sale at an establishment with drive-through facilities.
- 335. Sign, moving. A sign that, in whole or in part, rotates, elevates or in any way alters position or geometry. Moving signs do not include clocks.
- 336. Sign, nameplate. A sign that is affixed flat against a wall of a building or imprinted into the wall of a building that designates the name of the building or the name and profession of one who resides or occupies space in the building.
- 337. Sign, noncommercial. A sign advocating action on a public issue or recommending a candidate for public office.
- 338. Sign, off-premises. A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located.
- 339. Sign, on-premises. A sign that directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located.
- 340. Sign, parking lot information. Signs that provide information on the operation of a parking lot, such as “No Parking” or “Unauthorized users shall be towed.”
- 341. Sign, political. Any sign that directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he or she is a candidate, or both.
- 342. Sign, portable. A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs.
- 343. Sign, projecting. A sign that is attached to a structure that extends beyond the surface of the structure to which it is attached.

344. Sign, property identification/management. An accessory sign containing only messages related to the identification or management of the property where the sign is located, including but not limited to signs identifying entrances, exits, parking areas or hazardous areas, prohibiting trespassing, or information about limits on property use.

345. Sign, property identification. A sign identifying the property management company or apartment complex name of a multi-family dwelling.

346. Sign, public information. Signs within an educational facility, cemetery or mausoleum, museum, library or art gallery, and park, playground or forest reserve property that provide information on the use of the facility, such as directional signs, trailhead locations and information kiosks.

347. Sign, public assembly bulletin board. A bulletin board accessory to and located on the same property as a religious assembly or educational use listed in the Use Table in Chapter 5, Section 509 of this Ordinance that identifies the name of the institution and the dates and times of events related to that institution to which some or all of the public are invited. These signs are allowed where electronic message signs are allowed, and are subject to the same regulations and standards.

348. Sign, reader board. A sign or portion of a sign face that allows for the creation of messages by physical manipulation of simple block letters, but not including an electronic message sign or electronic billboard. These signs are allowed where electronic message signs are allowed, and are subject to the same regulations and standards.

349. Sign, real estate. A sign advertising the real estate upon which the sign is located as being for rent, lease or sale. A real estate sign can also advertise an open house.

350. Sign, roof. A sign that is wholly erected, constructed or maintained above the roof structure or parapet of any building with the principal support attached to the roof structure.

351. Sign, scoreboard. A sign that records and displays the score of a game and may include such information as the name of the field or home team and advertising.

352. Sign, snipe. An off-premises sign painted, pasted or otherwise affixed to any tree, rock, retaining wall, fence, utility pole, hydrant, bridge, sidewalk, curb or street, bench or trash receptacle. Logos and labels located on mechanical equipment, recycling bins, trash containers or dumpsters, which are part of the equipment as manufactured and/or installed, are not snipe signs.

353. Sign, temporary off-premises. A temporary sign that advertises a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located, or is sold, offered or conducted on the premises only incidentally, if at all.

354. Sign, under-awning. A sign that is attached to and mounted under an awning.

355. Sign, under-canopy. A sign that is attached to and mounted under a canopy.
356. Sign, wall. A sign that is mounted flat against or painted on a wall, and projects no more than 12 inches from the wall of a structure with the exposed face of the sign in a plane parallel to the face of the wall. Wall sign does not include window sign. For the purposes of this definition, a fence is not considered a wall and wall signs are prohibited mounted on fences.
357. Sign, window. A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within 12 inches of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Window clings are considered a window sign and subject to all window sign regulations.
358. Significant tree. All trees of more than ten inches DBH, and all special tree species of more than six inches DBH shall be considered significant, unless they are under power lines or deemed hazardous by a certified arborist or landscape architect or professional forester. In addition, any replacement tree planted as part of a tree replacement plan shall be considered significant, even if it does not meet the size definition above.
359. Site. A parcel or several adjoining parcels of land under common ownership. For purposes of the natural resources overlay district, this definition is limited to apply to any parcel of land upon which work that would require a permit under the City’s UDC is to be performed, and includes any adjacent lands owned by the owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel that were owned by the same person owning the subject parcel as of January 1, 1980.
360. Site plan. An accurate scale drawing that indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development.
361. Slope. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude (e.g., slope = 3:1 = 3 feet horizontal to 1 foot vertical).
362. Solar, geothermal or biomass power facility (primary use). Uses and structures that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following: solar panels (photovoltaic and hot water), heat exchanges, biomass firing equipment, piping, and other transfer mechanisms, controls and related structural support for transporting and storing collected energy from solar, geothermal, or biomass energy systems. These structures and uses may be located at ground level or above or below ground unless specifically limited in this Ordinance, provided that they meet all other applicable requirements of this Ordinance.
363. Solid land. Any land that is neither a wetland nor located in a floodway.

364. Solid waste. Any waste that satisfies the definition of “solid waste” set forth in Minn. Stat. § 116.06, subd. 22, and also including medical wastes and petroleum contaminated soils.
365. Solid waste disposal or processing facility. Any tract or parcel of land, including any constructed facility that is designed or operated for the purpose of disposing of solid waste on or in the land, at which solid waste is disposed of in or on the land or processed for disposal or reuse, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility, and that is not listed as a separate use in this Ordinance.
366. Special tree species. White pines, red (Norway) pines, white cedars, white spruces, eastern hemlocks, sugar maples, American basswoods, American elms, yellow birches and all oak species.
367. Special use. A specific type of structure or land use listed in the Use Table in Chapter 5, Section 509 of this Ordinance that may be allowed only after review and evaluation of potential impacts on surrounding properties and the attachment of any conditions necessary to mitigate those impacts.
368. Stealth or stealth technology. When used in the context of wireless telecommunications, to minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
369. Steep slope. Land having average slopes over 12 percent, as measured over horizontal distances 50 feet or more, and that are not bluffs.
370. Storage warehouse. A structure containing an area available for storing raw materials, produce, goods or property, but not including mini-storage facilities.
371. Stormwater. Stormwater runoff, snowmelt runoff, surface runoff and drainage.
372. Stormwater management. The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.
373. Stormwater pollution prevention plan. A plan to manage stormwater associated with industrial, commercial, public, institutional, civic or other land use activities, including construction. The plan commonly describes and ensures the implementation of practices that are to be used to reduce pollutants in stormwater and non-stormwater discharges. A permit may be required.
374. Stormwater pollution prevention program (MS4 program). A compilation of best management practices (BMPs) to address the six minimum control measures and other provisions of the federal Clean Water Act municipal separate storm sewer system general permit

(MS4 permit), that is designed and managed to reduce the discharge of pollutants from a municipal separate storm sewer system (MS4) to the maximum extent practicable as appropriate to the community.

375. Stormwater best management practice (BMP). A measure, either structural or nonstructural, that is determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies. Non-structural BMPs are those practices that require modified or additional operational or behavioral practices, such as sweeping or having spill response equipment on site. Structural BMPs are those that require the construction of a structure or other physical modification on the site.

376. Stormwater retrofit. A stormwater BMP designed for an existing development site that previously had either no stormwater BMP in place or a practice inadequate to meet the stormwater management requirements of the site.

377. Stormwater runoff. Flow on the surface of the ground resulting from precipitation.

378. Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

379. Story, half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

380. Stream buffer. An area of land at or near a stream bank, wetland or water body that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes that may result in significant degradation to water quality.

381. Street. A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

382. Street line. The established side line of a street easement or right-of-way.

383. Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground. Examples include but are not limited to: backstops for tennis courts, fences or pergolas.

384. Structural alteration. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

385. Subdivision. The division of a lot, tract or parcel of land into three or more lots, plats, sites or other divisions of land of one acre or less in area, for the purpose, whether immediate or

future, of sale or of building development. This term also includes the division of a lot, tract or parcel of land into two or more lots, plat, sites or other divisions of land of more than one acre and less than ten acres in area, if the division provides or there is shown on a plat of the division a new street or highway. The term also includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

386. Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure, as determined by an assessor certified and chosen by the RBC, before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure, as determined by an assessor certified and chosen by the RBC, before the damage occurred.

387. Substantial improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 60 percent of the assessed market value of the structure, as determined by an assessor certified and chosen by the RBC, before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. For flood plain management and flood hazard purposes, substantial improvement shall be within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed market value of the structure, as determined by an assessor certified and chosen by the RBC, before the “start of construction” of the improvement.

The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of applicable health, sanitary, or safety code specifications which have been identified by a Band official or other authority to whom the RBC has delegated regulatory authority, and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

388. Sustainable development. Development that maintains or enhances economic opportunity and community well being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

389. Telecommunications. The transmission or reception of audio, video, data, and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

390. Telecommunications site. See definition of “wireless telecommunications facilities” in subsection 423 of this Section 201..
391. Telecommunications structure. A structure used in the provision of services described in the definition of wireless telecommunications facilities in subsection 423 of this Section 201.
392. Temporary. A fixed period of time not to exceed 180 days. For the purposes of wireless telecommunications, temporary means not more than 90 days.
393. Temporary construction office or yard. A facility or area used as a temporary field construction office, temporary outdoor storage of construction equipment and materials associated with a project to demolish or construct buildings, structures or infrastructure for which any required approvals required under Chapter 7 (Enforcement) of this Ordinance have been obtained.
394. Temporary event or sales. A temporary outdoor use of land for the purposes of an event or sale including but not limited to: a circus, carnival, fair, part, or celebration that reasonably may be expected to attract more than 100 persons at any one time; or any sale made by a person, firm or corporation engaging in the temporary business of selling goods, wares or merchandise from a tent, truck, vending cart or other area outside of a permanent structure on property owned or leased by the person, firm or corporation. The temporary event or sale must be secondary to or incidental to the permitted use or structure existing on the property and not incompatible with the intent of the zone district.
395. Temporary moveable storage container. A container designed for the storage of personal property that is typically rented to owners or occupants of property for their temporary use, and that customarily is delivered and removed by truck.
396. Temporary real estate sales office. A facility or area used as a temporary office to sell land or buildings within a specified area or subdivision.
397. Theater. A building, structure or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.
398. Tourist or trailer camp. Any park, trailer park, trailer court, camp, site, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodations for any trailer coach or trailer coaches or upon which any trailer coach or trailer coaches are parked, and shall include all buildings used or intended for use as part of the equipment or establishment, whether or not a charge is made for the use of the trailer camp and its facilities. Trailer camp shall not include automobile or trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.
399. Tower. In the context of wireless telecommunications, any structure designed primarily to support an antenna for receiving or transmitting a wireless signal.

400. Trailer. Any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term shall include trailers whose wheels or axles have been removed.

401. Tribal Court. A court established by the Fond du Lac Band that has the authority to hear and decide disputes arising under this Ordinance.

402. Truck. Every motor vehicle designed, used or maintained primarily for the transportation of property.

403. Truck freight or transfer terminal. A facility in which goods shipped by truck are loaded, unloaded, or transferred between trucks for shipping or distribution, together with incidental truck storage, maintenance, and administrative offices.

404. Truck or heavy vehicle sales, rental, repair or storage. A facility that is engaged in the sales, rental, repair or storage of heavy equipment typically used in agricultural, commercial or industrial operations, including tractors, trucks with a gross vehicle weight of over 10,000 pounds, semi trucks or trailers, harvesters, loaders and tracked vehicles as well as sales of parts, whether new or used, for heavy equipment.

405. University or college. An educational institution authorized by the state of Minnesota to award associate, baccalaureate or higher degrees.

406. Useable open space. Open space, other than required building setback areas, that is utilized exclusively for active recreational purposes such as softball, tennis or playgrounds or for passive recreational purposes such as pedestrian walkways or trails that have been preserved in their natural setting or landscaped. Areas with slopes of 15 percent or greater, and areas of wet, spongy land saturated and partially or intermittently covered with water shall not be considered useable open space. Useable open space shall not include streets or other vehicular access not used exclusively for the maintenance of such open space. Land on which buildings or other facilities are located may be considered useable open space if those buildings or other facilities are used for noncommercial, recreational or cultural purposes that are compatible with useable open space objectives and have been specifically approved by the RBC as part of the development plan.

407. Utility, major. A facility providing an important regional utility service, such as water, sewer, or drainage, that normally entails construction of new buildings or structures, and that typically has employees on the site on an ongoing basis. Examples include but are not limited to: water works, sewage treatment plants, reservoirs, regional stormwater detention ponds and other similar facilities.

408. Utility, minor. Equipment necessary to support utility services to development within the immediate vicinity and that involves only minor accessory structures. Employees typically are not located at the site on an ongoing basis. Examples include but are not limited to: electric transformer stations and service boxes, gas regulator stations, telephone service boxes, and well,

water and sewer pumping stations, and related underground and aboveground pipes and wires, but excluding those that meet the definition of an electric power transmission line.

409. Utility runway. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

410. Vacation dwelling unit. A dwelling unit, as defined by subsection 101 of this Chapter, offered for trade or sale, whether for money or exchange of goods or services, for periods of 2 to 29 days.

411. Veterinarian or animal hospital. A facility for the diagnosis, treatment or hospitalization of animals, and including the incidental boarding or breeding of animals.

412. Visual runway. A runway intended solely for the operation of aircraft using visual approach procedures, with no straight in instrument approach procedure and no instrument designation.

413. Watercourse. A channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

414. Water-dependent bulk storage or wholesaling not listed elsewhere. A bulk storage or wholesaling use as defined by this Chapter, but not separately defined, that must be located near water because of the nature of the goods being stored or wholesaled or the means by which they are being transferred to or from the site, or because the establishment's suppliers or customers must be located near water.

415. Water dependent manufacturing, light or heavy. A light or heavy manufacturing use, as defined by subsections 199 and 200 of this Chapter, that must be located near water because of the nature of the goods being manufactured, assembled, fabricated, or treated or the means by which they or their inputs are being transferred to or from the site, or because the establishment's suppliers or customers must be located near water.

416. Water management district. Land that by definition is in a flood plain district, a shoreland district, or a wetland.

417. Water or sewer pumping station/reservoir. Facilities to collect or distribute water or wastewater from a defined service area, and that typically does not have employees at the site, including but not limited to water-pumping stations, water reservoirs and sewage pumping stations.

418. Water or sewer treatment facility. An establishment to treat water or wastewater from a defined service area, and that typically has employees at the site, including but not limited to water treatment plants, sewage treatment plants and sewage disposal plants.

419. Waters of the state. All streams lakes ponds, marshes, water course, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through or border upon the state or any portion of the state. Constructed wetlands designed for wastewater treatment are not waters of the state.

420. Wetland. Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands must have the following attributes:

- a. A predominance of hydric soils;
- b. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
- c. Under normal circumstances support a prevalence of such vegetation.

421. Wholesaling. A use engaged in enclosed wholesale of manufactured products, supplies, and equipment, including accessory offices and showrooms. Products may be picked up on-site or delivered to the customer. This use does not include sales to the public at large or to consumers who are members of a club or association, regardless of whether the name of the business includes some version of the word "wholesale."

422. Wind power facility (primary use). A primary use of land including an aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, in a configuration necessary to convert the power of wind into mechanical or electrical energy. Examples include but are not limited to: wind charger, windmill and wind turbine.

423. Wireless telecommunications facilities. A structure, facility or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures, including but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of antennas. It also includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC. This term also includes a telecommunications site and personal wireless facility.

424. Yard. An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

425. Yard depth or width. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

426. Yard, front. A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the primary building, but ignoring projections permitted by this Ordinance.

427. Yard, rear. A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear of the primary building, but ignoring projections permitted by this Ordinance. On all lots, the rear yard shall be at the opposite end of the lot from the front yard.

428. Yard, side. A yard between the main building and the side line of the lot, and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side of the primary building, but ignoring projections permitted by this Ordinance.

429. Yard waste. The garden wastes, leaves, lawn cuttings, weeds and prunings generated at residential or commercial properties.

430. Yard waste compost facility. A site used to compost or co-compost yard waste that originates off of the site including all structures or processing equipment used to control drainage, collect and treat leachate, and storage area for the incoming yard waste, the final product and residual resulting from the composting process.

CHAPTER 3

GENERAL PROVISIONS

Section 301. Compliance required. Following the adoption of this Ordinance and subject to the limitations on the scope of this Ordinance set forth in Chapter 1, Section 103, (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.

Section 302. One principle structure per lot. Except as specifically provided in this Ordinance, every structure erected or altered after November 19, 2010, shall be located on a lot as defined in this Ordinance. There shall be only one principle structure on one lot unless a specific exception is stated in this Ordinance.

Section 303. Permits and approvals required. Following the adoption of this Ordinance, no person or entity shall use land subject to the scope of this Ordinance, or erect or modify a structure, or create or modify a platted lot on land subject to the scope of this Ordinance without first receiving any approvals or permits required by this Ordinance for such use, structure or lot.

Section 304. Conflicting provisions. In their interpretation and application, the provisions of this Ordinance shall be construed to be the minimum requirements for the promotion of public health, safety and general welfare. It is not intended that this Ordinance 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 Ordinance. If there is a conflict or alleged conflict related to this Ordinance, the RBC shall determine which provision applies. In the case of conflict between one part of this Ordinance and any other part of this Ordinance, the more restrictive provision shall apply, except that provisions of overlay zone districts shall prevail over other provisions of this Ordinance regardless of whether they are less or more restrictive.

Section 305. Third party private agreements. This Ordinance is not intended to interfere with, abrogate, or annul any easements, covenants or other private agreements between parties. However, where this Ordinance 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 Ordinance shall govern. Nothing in this Ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or

restriction shall not excuse any failure to comply with this Ordinance. In no case shall the Band be obligated to enforce the provisions of any easements, covenants or agreements between private parties.

Section 306. Interpretation. The Land Use and Zoning Administrator shall be authorized to interpret the provisions of this Ordinance and provide recommendations and conclusions with respect to such interpretations to the RBC in carrying out his or her duties under Chapter 7 of this Ordinance or when otherwise requested by the RBC, unless the Ordinance specifies otherwise.

CHAPTER 4

ZONE DISTRICTS

Section 401. General categories. This Chapter establishes the base and overlay zone districts subject to regulation under this Ordinance. For purposes of this Ordinance, there are five general district categories:

- a. Residential districts;
- b. Mixed Use districts;
- c. Form districts;
- d. Special Purpose districts; and
- e. Overlay districts.

Section 402. Zone districts. The following zone districts are 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 Based	F-1	Form District 1
	F-2	Form District 2
	F-3	Form District 3
	F-4	Form District 4
	F-5	Form District 5
	F-6	Form District 6
	F-7	Form District 7
	F-8	Form District 8
	F-9	Form District 9
Special Purpose	I-G	Industrial-General
	I-W	Industrial-Waterfront
	P-1	Park and Open Space
	AP	Airport
	NR-O	Natural Resources Overlay

Overlay	A-O	Airport Overlay
	SP-O	Skyline Parkway Overlay
	HR-O	Historic Resources Overlay
	HE-O	Higher Education Overlay

Section 403. Zoning Map. The boundaries of the zoning districts set out in Section 402 are as shown on the Official Zoning Map (“Zoning Map”) for the City of Duluth, as may be updated from time to time, located on the City’s website. The Zoning Map is hereby made a part of this Ordinance and incorporated by reference.

Section 404. Interpretation of map boundaries. Interpretation of the exact boundaries of any zone district shall be based on the following standards:

- a. 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.
- b. Boundaries delineated by lot lines shall follow those lot lines.
- c. Boundaries delineated by railroad lines shall be midway between the main tracks or the centerline of a single track.
- d. 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.
- e. Boundaries shown parallel to or as extension of features indicated in this subsection shall be interpreted as such. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
- f. Where the description of the property is contained in a Duluth City Ordinance, the metes and bounds description of the property in the Ordinance shall control over the Zoning Map.
- g. Whenever any street, alley or other public way is vacated by official action of the Duluth City Council or the RBC, as applicable, the zone district adjoining each side of such street, alley, or public way shall be automatically extended to the center of each 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 zone district.

Section 405. Relationship to overlay districts. When a property is 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.

Section 406. Annexed territory. All territory annexed to the City of Duluth after November 19, 2010 shall be classified as R-C until reclassified according to the rezoning procedures contained in the Article V of the City’s UDC or under this Ordinance, as applicable.

Section 407. Residential districts.

- a. Rural-Conservation (R-C). The R-C district is established to accommodate low-density, single-family detached residential uses on parcels of at least ten (10) acres each. The district encourages development designs that conserve open space and natural resources and preserve rural character. Complimentary uses such as limited agriculture, parks, minor utilities, and certain temporary uses are allowed as shown in the Use Table in Chapter 5, Section 509 of this Ordinance.

1. R-C District Dimensional Standards.

Lot Standards	
Minimum lot area per family (calculated to include any highway easements or parts of highway easements within the original parcel of land)	10 acres
Minimum lot frontage	250 feet
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 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

2. R-C District Development Standards. All homesites in the R-C zone district shall be located so as to preserve the rural character of the district and to avoid unnecessary fragmentation of the rural landscape by:
- A. 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.
 - B. Locating the homesite either (i) adjacent to a side or rear property line of the parcel, or (ii) where the primary structure is hidden from view from public rights-of-way by an intervening natural feature such as a hillside, berm, or tree grove.
 - C. Locating the driveway leading from the public right-of-way to the homesite (i) as close to a side property line of the parcel as is reasonably

possible without significant grading, vegetation, or stream crossings, or (ii) in another location that will minimize the fragmentation of field, pasture, or naturally vegetated areas.

- b. Residential Rural-1 (RR-1). 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. Complimentary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed as shown in the Use Table in Chapter 5, Section 509 of this Ordinance.

1. RR-1 District Dimensional Standards.

Lot Standards	
Minimum lot area per family (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 set backs	
Minimum depth front yard	60 ft.
Minimum width side yard	25 ft.
Minimum depth rear yard	50 ft.
Structure Height	
Maximum height of building	30 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

- c. Residential Rural-2 (RR-2). 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. Complimentary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed as shown the Use Table in Chapter 5, Section 509 of this Ordinance

1. RR-2 District Dimensional Standards.

Lot Standards	
Minimum lot area per family	2 acres
Minimum lot frontage	100 ft.
Structure Setbacks	

Minimum depth front yard	35 ft
Minimum width side yard	10 ft
Corner lot: Minimum width side yard	25 ft
Minimum depth rear yard	25 ft.
	Structure Height
Minimum height of building	30 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

d. Residential Traditional (R-1). The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. Uses are allowed as shown in the Use Table in Chapter 5, Section 509 of this Ordinance.

1. R-1 District Dimensional Standards.

	Lot Standards
Minimum lot area per family (one family) [1][2]	The smaller of 4000 sq. feet or average of 1-family developed lots on the block face.
Minimum lot area per family (two family) [1][2][3]	The smaller of 3,000 sq. ft. or average of developed 2-family lots on the block face
Minimum lot area per family (Townhouse) [1]	3000 sq. ft.
Minimum lot frontage (one family) [1]	The smaller of 40 ft. or average of developed lots with similar uses on the block face
Minimum lot frontage (two family and townhouse) [1]	The average of developed lots with similar uses on the block face, but not less than 40 ft.
	Structure Setbacks
Minimum depth of front yard	The smaller of 25 ft. or average of developed lots facing the same street.
Minimum with of side yard (one and two family) Generally	6 ft.

Minimum width of side yard (one and two family)	Combined with of side yards must be at least 12 ft.
Lots with less than 50 ft frontage and garage	
Minimum width of side yard (townhouse)	10 ft. if adjacent to another lot 25 ft. if adjacent to a platted street
Minimum width of front side yard (Corner lot)	Dwelling: 15 ft. Detached accessory building: 25 ft. Permitted nonresidential building: 25 ft.
Minimum depth of rear yard	25 ft.
	Structure Height
Maximum height of building	30 ft.
[1] Determined using "Lots on the block face" definition. When using this calculation, exclude the subject lot from the calculation.	
[2] Lots without municipal sewer must also meet the requirements Section 50-21.2 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance.	
[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.	
Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.	

- e. Residential-Urban (R-2). 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 the Use Table in Chapter 5, Section 509 of this Ordinance. 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.

1. R-2 District Dimensional Standards.

Lot Standards		
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	750 sq. ft.
	Townhouse	2,200 sq. ft.

No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use.

Minimum lot frontage	One-family, two-family, and townhouse	30 ft.
	Multi-family and non-residential	50 ft.

Structure Setbacks

Minimum depth front yard	The smaller of 25 ft. or average of adjacent developed lots facing the same street	
Minimum width of side yard for buildings less than 3 stories	6 ft.	
Minimum width of side yard for buildings 3 stories or more	10 ft.	
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory building	20 ft.
	Permitted non-residential building	25 ft.
Minimum depth of rear yard	30 ft.	

Structure Height

Maximum height of building	45 ft.
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Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

- f. Residential-Planned (R-P). The R-P district is 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 an R-P regulating plan that includes the location, type and intensity of proposed development and a description of public amenities or benefits included. Single-family residences, two-family residences and townhouses, as well as accessory uses, are permitted, as shown in the Use Table in Chapter 5, Section 509 of this Ordinance, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the R-P plan.
 - 1. Applicability. An R-P district may only be established in a RR-1, RR-2 and R-1 district provided the minimum lot size is 4 acres.

2. Modifications to Dimensional Standards. Modifications to the underlying Zone district dimensional standards may be made as provided in Table below entitled “Modifications Allowed” if the proposed modification supports the purpose of the R-P district and the following desired R-P amenities:
- A. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas.
 - B. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by 50-28 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance.
 - C. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost.
 - D. Recreational facilities that are open to the public, such as parks and playgrounds.
 - E. Accommodations for and linkages to mass transit.
 - F. Creative site design as appropriate for the site, such as New Urbanist design for a walkable community or conservation development for a rural neighborhood.
 - G. Bike lanes and trails within the development and connecting to other trails and destinations.
 - H. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art.

Modifications Allowed	
Zone District Requirement	Maximum Modification allowed
Distance from property lines	Reduction in set-backs; minimum 5 ft. set-back in right of way
Lot frontage	Minimum 25% decrease
Lot area, general	Minimum 20% decrease
Lot area when clustered to preserve open space	Overall density of the R-P district should demonstrate a maximum of 20% decrease over base zone districts. Individual lots sizes are allowed up to a 50% decrease.
Building height	Up to a 5% increase
Landscaping	15% decrease
Street width	Determined by the RBC

3. Rezoning and regulating plan. The establishment of an R-P district by the Band requires rezoning the property by the Band from a current zone district to R-P and the development of an R-P plan that describes in sufficient detail and governs the uses, location, density, dimensional standards and character of the proposed project, in addition to any additional development standard content required in subsection 4 below. The R-P plan developed by the Band must include a description of public amenities or benefits, include all of the land in the proposed R-P district, and must regulate all future development in the R-P district. The Band may consult with the Land Use and Zoning Administrator and/or the Land Use Committee in development a regulating plan that addresses the content required herein.

4. R-P District Development Standards.
 - A. The development standards of the base zone district(s) where the property is located shall apply to any R-P zoned land unless waived or varied by the terms of an R-P regulating plan. The regulating plan shall identify the previous base zone districts for each portion of the property.

 - B. Overall density in residential portions of the R-P district shall follow the density requirements of the previous zone district unless modified as part of the R-P plan.

 - C. Minimum percentage of property (excluding common open space) used for residential purposed shall be 66 percent.

 - D. Adequate provisions shall be made for the permanent preservation and maintenance of active or passive open space. Common open space shall not be less than 30% of the area of the project (excluding right-of-way) and shall comply with the following requirements:
 - i. Common open space shall include the shore and bluff impact zones.
 - ii. Common open space shall include, where possible, lands within the Skyline Overlay.
 - iii. Common open space shall include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state.
 - iv. No more than one-quarter of the required common open space shall consist of wetlands.
 - v. common open space shall not include areas within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings.
 - vi. At least 50% of the common open space shall be retained in a contiguous area.

- vii. Where possible, the design should utilize features such as vegetation, fences, topography, roads or trails to delineate the boundary of the common open space to minimize potential physical encroachments into the common open space by adjacent homeowners.
- viii. Common open space shall not include land within rights-of-way.
- ix. Common open space shall be owned and managed by a property owners' association and shall be encumbered through an easement, restrictive covenant or other suitable legal instrument.

E. All shoreland setbacks and other dimensional requirements from Chapter 4, Section 414(a) (NR-O) shall continue to apply and cannot be varied through the R-P process.

Section 408. Mixed Use Districts.

- a. Mixed-Use Neighborhood (MU-N). 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 (located in separate structures) and vertical (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 the Use Table in Chapter 5, Section 509 of this Ordinance.

1. MU-N District Dimensional Standards.

Lot area per family	Lot Standards
One family	4000 sq. ft.
Two family	2500 sq. ft.
Multi family	500 sq. ft.
Efficiency unit	380 sq. ft.
Townhouse or live-work dwelling	2200 sq. ft.
No lot of record containing 5000 sq. ft. or less shall be used except for a one family dwelling or permitted non-dwelling use.	
Lot frontage per family	Minimum lot frontage
One family, two family or townhouse	30 ft.
Multi-family or non-residential	50 ft.
Structure setbacks	
Minimum depth of front yard for structures 35 height or less	Smaller of 20 ft. or average of adjacent developed lots facing same street
Minimum depth of front yard for portions of structures higher than 35 ft.	Additional 12 ft. beyond required front yard set back
Side yard minimum width, general	5 ft.
Side yard minimum width, nonresidential use adjacent to residential district or use	15 ft.

Side yard minimum width, nonresidential use adjacent to nonresidential district or use	0 ft.
Side yard minimum width, multifamily adjacent to single family district or use	10 ft.
Side yard minimum width, multifamily adjacent to multifamily district or use	0 ft.
Minimum depth of rear yard	25 ft.
Structure Height	
Nonresidential use	45 ft.
Residential or mixed use (general)	75 ft.
Residential or mixed use (within 500 ft. of R-1 or R-2 district)	45 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

- b. Mixed Use-Commercial (MU-C). 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 the Use Table in Chapter 5, Section 509 of this Ordinance. Development should facilitate pedestrian connections between residential and non-residential uses.

1. MU-C Dimensional Standards.

Minimum lot area per family	Lot Standards
Live-work dwelling	2200 sq. ft.
Multi-family	500 sq. ft.
Efficiency Unit	380 sq. ft.
Minimum lot frontage	
Non-residential or mixed use	0 ft.
Multi-family	50 ft.
Minimum depth of front yard	Structure Setbacks
Structures 35 ft. in height or less	0 ft.
Portions of structures in excess of 35 ft.	12 ft.
Minimum width side and rear yard	
Non-residential district or use adjacent to residential or mixed use district or use	15 ft.
Multi-family residential district or use adjacent to one-family residential district or use	10 ft.
Non-residential use adjacent to commercial use or multi-family use adjacent to multi-family use	0 ft.

	Structure Height
Non-residential use	Maximum 45 ft.
Residential or mixed use	Maximum 90 ft.
Residential or mixed use within 500 ft. of R-1 or R-2 district	Maximum 45 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

2. MU-C Development Standards.

A. 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 Band.

B. 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.

c. Mixed-Use Institutional (MU-I). The MU-I district is established to provide for the unique development needs and impacts of major medical, educational, and research 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.

1. MU-I Dimensional Standards.

Minimum lot area per family	Lot Standards
Multi-family	500 sq. ft.
Efficiency unit	380 sq. ft.
Structure Setbacks	
Structure and parking facilities	0 ft.
Structure Height (maximum)	
Generally	120 ft.
Except as stated below, on development sites totaling not more than 15% of the developable area of the district	300 ft.
Within 200 ft. of R-1	46 ft.
Within 200 ft. of R-2	66 ft.

Within 200 ft. of MU-N	91 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

2. District Plan Option.

- A. In an MU-I zone district that contains ten acres or more of land and multiple buildings owned or operated by the Band, the Band may choose to develop a district plan.
- B. After a district plan that complies with the requirements of subsection 3 is developed, all subsequent development proposed by the institution that substantially complies with the density, location and uses of the district plan shall be permissible.

3. District Plan Requirements.

- A. 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
- B. Plan Requirements. A district plan shall, at a minimum, include the following information unless the RBC determines that some elements are not necessary to evaluate the Band’s future impacts on surrounding neighborhoods:
 - i. A statement as to whether the Band intends to acquire any additional properties in the surrounding area for conversion to institution uses over the ten year period, and, if so, the general direction of that proposed expansion;
 - ii. A plan and description of the maximum amount of development of land and buildings expected to occur within the planning area boundaries within over the next ten years, including:
 - a. Location of each potential new building or significant expansion of or addition to existing buildings;
 - b. Maximum floor area and height of potential new buildings and additions to and expansions of existing buildings;
 - c. Any setbacks and buffering from the external planning area boundaries;
 - d. Total number and location of parking spaces that will be developed to serve any new development;

- e. 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;
 - f. 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;
- iii. 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 RBC may consider basing this element on a traffic and parking study prepared by a qualified consultant;
 - iv. 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;
 - v. 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 zone 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;
 - vi. A description of any requested variation from the development standards in this Ordinance that would otherwise apply to the planning area. Unless varied by the district plan, the provisions otherwise applicable to the MU-I zone district will apply.
- d. Mixed-Use Business Park (MU-B). 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 the Use Table in Chapter 5, Section 509 of this Ordinance.

1. MU-B Dimensional Standards.

Minimum depth of front yard	Structure Setbacks
General	25 ft.
Lots with less than 250 ft. average depth	Larger of 10 ft. or 10% of lot depth
Side yard minimum width	
Adjacent to residential use or district	6 ft.
General	0 ft.
Rear yard minimum depth	
Adjacent to residential use or district	60 ft.
General	0 ft.
	Structure Height
General	Maximum 60 ft.
Within 500 ft. or R-1 or R-2 district	Maximum 45 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

2. MU-B Development Standards. In portions of the MU-B zone district developed after May 7, 1979, (a) 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 (b) 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.

e. Mixed-Use Waterfront (MU-W). 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 the Use Table in Chapter 5, Section 509 of this Ordinance. Development may include horizontal or vertical mixed use, and should facilitate transit and pedestrian connections between developments and the surrounding areas and community.

1. MU-W Dimensional Standards.

Minimum lot area per family	Lot Standards
Townhouse or live-work dwelling	2200 sq. ft.
Multi-family	500 sq. ft.
Efficiency unit	380 sq. ft.
Minimum lot frontage	50 ft.
	Structure Setbacks

Minimum depth of front yard	0 ft.
Minimum width of side yard	
Non-residential use adjacent to residential district or use	15 ft.
Non-residential use adjacent to non-residential district or use	0 ft.
Multi-family adjacent to single family district or use	10 ft.
Multi-family adjacent to multi-family district or use	0 ft.
Rear yard minimum depth	25 ft.
	Structure Height
Residential or mixed use	Maximum 120 ft.
Non-residential	Maximum 60 ft.
Within 500 ft. of R-1 district	Maximum 35 ft.
Within 500 ft. of R-2 district	Maximum 50 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

2. MU-W Development Standards. All development in the MU-W district shall comply with the following development standards:

- A. Proposed development shall be visually and functionally oriented toward the waterfront of Lake Superior, the harbor and the St. Louis River to the maximum extend possible so that users of buildings and associated outdoor areas have direct views and physical access to the waterfront.
- B. To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all primary structures shall have a maximum width of 200 feet measured along the shoreline and shall be separated from other primary structures by a minimum of 50 feet. These requirements shall not apply to portions of buildings that do not block public views of Lake Superior, the harbor, and the St. Louis River from the closest landward public street running approximately parallel.
- C. Buildings shall have a primary façade, with a functioning entrance for residents, employees or patrons facing the waterfront, and a second primary the maximum extent feasible.
- D. 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 50-22.5.D.1 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance; 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 façade facing the water may be windowless.\

- E. The parking requirements in Section 50-24 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, shall be met, except that where a property is not adjacent to an R zone district, the required parking may be reduced by 30 percent if the nearby properties provide supplemental on-street or off-street parking.
- f. Mixed Use Planned (MU-P). The MU-P district is 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 development 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, as shown in the Use Table in Chapter 5, Section 509 of this Ordinance, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the MU-P plan.
 - 1. Applicability. A MU-P district may only be established in a R-2, MU-C, and MU-B district, provided the minimum lot size is 2 acres.
 - 2. Modifications to Dimensional Standards. Modifications to the underlying Mixed Use Zone district dimensional standards may be made as provided in Table below entitled “Modifications Allowed” if the proposed modification supports the purpose of the MU-P district and the following desired MU-P amenities:
 - A. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas.
 - B. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by Section 50-28 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance.
 - C. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost.
 - D. Recreational facilities that are open to the public, such as parks and playgrounds.

- E. Accommodations for linkages to mass transit.
- F. Creative site and building design.
- G. Bike lanes and trails within the development and connecting to other trails and destinations.
- H. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming and art.

Modifications Allowed	
District dimensional standard	Maximum modification allowed
Distance from property lines	No requirement
Building Height	20% increase if not within 200 ft. of an R-1 or R-2 district
Lot frontage	10% decrease
Buildings per lot	More than one building per lot
Parking	10% decrease or 10% increase
Landscaping	20% decrease
Street width	As determined by RBC or City engineer, as applicable
Building design	May propose alternative standards to the RBC
Higher Education overlay	May propose alternative standards to the RBC

3. Rezoning Approval and regulating plan. The establishment of an MU-P district requires rezoning the property by the Band from a current zone district to MU-P and the development of an MU-P plan that describes in sufficient detail and governs the uses, location, density, dimensional standards and character of the proposed project, in addition to any additional development standard content required in subsection 4 below. The MU-P plan developed by the Band must include a description of public amenities or benefits, include all of the land in the proposed MU-P district, and must regulate all future development in the MU-P district. The Band may consult with the Land Use and Zoning Administrator and/or the Land Use Committee in development a regulating plan that addresses the content required herein.

4. Development Standards.

A. The development standards of the base zone district(s) where the property is located shall apply to any MU-P zoned land unless waived or varied by the terms of an MU-P regulating plan. The regulating plan shall identify the previous base zone districts for each portion of the property. Overall density in residential portions of the MU-P shall follow the density requirements of the previous zone district unless modified as part of the MU-P plan;

B. Overall density in residential portion of the MU-P shall follow the density requirements of the previous zone district unless modified as part of the MU-P regulating plan.

C. Height standards:

- vii. Maximum building height within 200 feet of an R-1 district is 35 feet.
- viii. Maximum building height within 200 feet of an R-2 district is 50 feet.

D. Adequate provisions must be made for the permanent preservation and maintenance of active or passive open space. Common open space must not be less than 20 percent of the area of the project and must comply with the following requirements:

- ix. Common open space must include the shore and bluff impact zones.
- x. Common open space must include, where possible, wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas unsuitable for development in their natural state.
- xi. At least 50 percent of the common open space must be retained in a contiguous area.
- xii. Common open space must not include roads or right-of-way.
- xiii. The development must encourage walkable, bikeable communities through the use of complete streets, alleys, sidewalks and trails, interconnected street networks, small blocks, front porches, and buildings that are sited adjacent to streets.
- xiv. All shoreland setbacks and other dimensional standards from Chapter 4, Section 414(a) (NR-O) continue to apply and cannot be varied.

Section 409. Form Districts.

- a. Building Types. Ten building types are permitted in the nine form districts. Table 409(a) below sets forth the specific building types permitted in each form district.

Table 409(a)									
Building Type	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9
Main Street Building I	•	•							
Main Street Building II			•	•	•	•			
Main Street Building III							•	•	
Corridor Building I	•								

Corridor Building II			•	•					
Lakefront Corridor									•
Corridor Building III								•	
Cottage Commercial I	•					•			
Cottage Commercial II				•					
Iconic Building		•		•	•	•		•	

- b. Form District 1 (F-1) Low-Rise Neighborhood Shopping. Only one building type is permitted in the F-1 district- Main Street Building I. Main Street Building I has a build to zone of between 0 and 15 feet, that allows the building to either be built adjacent to the sidewalk or set back further on the lot to match its surrounding residential context. A high amount of transparency is required on the ground floor. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.
- c. Form District 2 (F-2) Low-Rise Neighborhood Mix. The F-2 District permits Main Street Building I, Corridor Building I, Cottage Commercial Building I and the Iconic Building. This district is a mixed-use, neighborhood-scale commercial district. Corridor Building I is better suited for office or residential (apartment) uses. Cottage Commercial I is well suited to commercial uses that may occur adjacent to residential areas. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.
- d. Form District 3 (F-3) Mid-Rise Community Shopping. The F-3 District permits Main Street Building II, which preserves a style of building that consists of older mixed use buildings, with retail or office uses on the ground floor and office or residential uses on the upper floors. The F-3 district is intended to preserve this style of development and provide standards for future infill development. Main Street Building II requires the building to be constructed close to the front property line. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.
- e. Form District 4 (F-4) Mid-Rise Community Mix. The F-4 district contains auto-oriented development or a mixture of different building types and includes areas that are not strictly comprised of mixed use buildings. These areas are often transitional in nature ranging from commercial to residential. Integration of Corridor Building II and Cottage Commercial II building styles will assist in stepping down the commercial intensity as the district approaches residential neighborhoods. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.
- f. Form District 5 (F-5) Mid-Rise Community Shopping and Office. Form District 5 consists of a combination of traditional mixed use buildings and office buildings, which conform to the style of Main Street Building II and Corridor Building II. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.
- g. Form District 6 (F-6) Mid-Rise Neighborhood Shopping. This district is for commercial nodes separated by residential developments. Main Street Building II and Cottage Commercial II provide flexibility in the style of commercial building, with the Cottage Commercial II style being particularly applicable in areas adjacent to residential

development. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.

- h. Form District 7 (F-7) Downtown Shopping. This district permits only Main Street Building III, which is intended to preserve the existing urban structure of the heart of downtown. The Main Street Building III style requires a storefront on the ground floor with the building adjacent to the sidewalk. The maximum height in the district is 15 stories. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.
- i. Form District 8 (F-8) Downtown Mix. The F-8 district applies to the other downtown areas not included in the F-7 district. The F-8 district provides for more flexibility in building form and permits both Main Street Building III, as well as Corridor Building III for office and residential uses. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.
- j. Form District 9 (F-9) Canal Park Lakefront. The parcels in this district are unique as they front both Lake Superior and Canal Park Drive. The Lakefront Corridor Building requires frontage on both sides with enough depth to locate parking between buildings. Views to the lake are also addressed with view corridors. Permitted and special uses are shown in the Use Table in Chapter 5, Section 509 of this Ordinance.

Section 410. Special Purpose Districts. The Special Purpose Districts (Sections 411-413 below) are intended to reserve, protect and promote employment-generating uses; create suitable environments for various types of commercial and industrial uses and protect them from the adverse effects of incompatible uses; accommodate special land uses needed by residents, businesses, visitors and workers; encourage planning and design that creates an interesting, pedestrian-friendly environment, where appropriate; minimize negative impacts of non-residential development on adjacent residential areas; preserve natural resources.

Section 411. Industrial Districts.

- a. Industrial-General (I-G). The I-G district is intended to provide for general- to heavy-impact industrial processing, assembly, fabrication, and manufacturing uses. Office uses are permitted provided they are incidental to and supportive of on-site industrial uses as shown in the Use Table in Chapter 5, Section 509 of this Ordinance. The district is intended for locations close to major transportation corridors and active commercial centers and away from residential development.

1. (I-G-) Dimensional Standards.

Lot Standards	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 Sq. ft.
Structure Setbacks	
Front yard depth-general minimum depth	25 ft.

Front yard depth-less than 250 average depth	Larger of 10 ft. or 10% of lot depth
Side yard width-general minimum width	0 ft.
Side yard-adjacent to residential use or district	15 ft.
Rear yard-general minimum depth	0 ft.
Rear yard-adjacent to residential use or district	25 ft.
Structure Height	
General	Maximum 60 ft.
Within 200 ft. of R-1 district	35 ft.
Within 200 ft. of R-2 district	50 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

- b. Industrial-Waterfront (I-W). The I-W district is intended to provide for water-dependent and port-dependent industrial uses as shown in the Use Table in Chapter 5, Section 509 of this Ordinance. Office uses are allowed provided they are supportive of on-site industrial uses. The district should be located away from residential development.

1. I-W Dimensional Standards.

Lot Standards	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 sq. ft.
Structure Setbacks	
Front yard-general minimum depth	25 ft.
Front yard-less than 250 ft. average depth	Larger of 10 ft. or 10% of depth
Side yard-general minimum width	0 ft.
Side yard-adjacent to residential	15 ft.
Rear yard-general minimum depth	0 ft.
Rear yard-adjacent to residential	25 ft.
Structure Height	
General	Maximum height 60 ft.
Within 200 ft. of R-1	35 ft.
Within 200 ft. of R-2	50 ft.
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

Section 412. Park and Open Space District (P-1).

- a. The P-1 district is intended to protect and preserve lands for recreational, scenic, and natural resource uses. The district is intended to be applied to publicly owned land but may be applied to private property with the landowner’s consent. Both passive and active recreational uses are permitted, as shown in the Use Table in Chapter 5, Section 509 of this Ordinance. Small-scale buildings, structures, and development (e.g. parking) incidental to and supportive of an approved use are also permitted. All uses and structures must be compatible in scale, design, and impact with the natural features and character of the land.
- b. P-1 Dimensional Standards.

Lot Standards	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 sq. 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) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

Section 413. Airport District (AP).

- a. The AP district is intended to protect and reserve lands for airport operations. Structures and development (parking and hangars) incidental to and supportive of airport operations are permitted.

1. AP Dimensional Standards.

Lot Standards	
Minimum lot area	0 sq. ft.
Minimum lot frontage	0 ft.
Structure Set backs	
Minimum depth front yard	5 ft.
Minimum width side yard	5 ft.
Minimum depth rear yard	5 ft.
Structure Height	
Maximum height	30 ft. or as indicated in Section 50-18.2 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, whichever is

	greater
	Section 50-21 (Dimensional Standards) of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, contains additional regulations applicable to this district.

Section 414. Overlay Districts.

a. **Natural Resources Overlay (NR-O).** The intent of this overlay is to promote, preserve and enhance the water resources and environment and protect them from adverse effects caused by poorly sited or incompatible development. Wetlands, flood plains and shorelands are protected by regulating development that would have an adverse or potentially irreversible impact on unique and fragile land and by minimizing conflicts and encouraging compatibility between environmentally sensitive lands, thereby achieving a balance between urban growth and development and protection of natural areas.

1. NR-O Map. For purposes of regulating development in the NR-O District, the Band adopts by reference and incorporates into this Ordinance the following maps:

- A. the NR-O map adopted by the City of Duluth in Section 50-18.1(A)(2) of the City’s UDC; and
- B. the Flood Insurance Rate Map and the Flood Boundary and Floodway Map identified in Section 50-18.1(A)(2)(b) of the City’s UDC.

2. Wetlands. This Section 414 applies to all wetlands located within the City of Duluth that are subject to the jurisdictional authority of the Fond du Lac Band. Prior to any development in the NR-O district, the RBC shall determine whether or not the propose site contains wetlands. In making that determination, the RBC may require a professional wetland delineation, including soil analysis, surveys of vegetation, and engineering or hydrological data, and/or consultation with other available wetland experts.

3. Flood Plains. This subsection applies to all lands shown as flood plains on the NR-O map. The NR-O map shall be used in the administration of flood plain controls except to the extent the NR-O map clearly conflicts with the flood insurance rate map or the flood boundary and floodway map. The RBC shall determine if a conflict exists and determine which map controls. All lands within flood plains must be divided into floodway districts, flood fringe districts and general flood plan districts.

- A. The floodway district includes those areas designated as floodway on the Flood Boundary and Floodway Map.
- B. The flood fringe district includes those areas designated as flood fringe on the Flood Boundary and Floodway Map.

- C. The general flood plain district includes those areas designated as Zone A on the Flood Insurance Rate Maps and those areas designated Zone A1-A30 on the Flood Insurance Rate Map that do not have a corresponding floodway or flood fringe delineation on the Flood Boundary and Floodway Map.
- D. Within the floodplain districts, no new structure or land shall be used and no structure shall be constructed, located, extended, converted or structurally altered without full compliance with this Section. Within the floodway, flood fringe and general flood plain districts, all uses not listed as permitted uses or special uses are prohibited.
- E. **Floodway- Uses.** The following uses are permitted in the floodway if the use is a permitted use in the underlying zone district, the use has a low flood damage potential, the use will not obstruct flood flows or increase flood elevations, and the use does not involve structure, fill, obstructions, excavations or storage of materials or equipment.
- i. Agriculture.
 - ii. Industrial, commercial, and mixed use locating areas, parking areas and airport landing strips.
 - iii. Outdoor open space, recreation, and entertainment facilities and structures.
 - iv. Residential lawns, gardens, parking areas and play areas.
- F. **Floodway-Special Uses.** Subject to the standards listed in subsection (g) below, the following special uses are permitted in the floodway.
- i. Structures accessory to a permitted use.
 - ii. Mining, extraction, and storage of sand, gravel, and other materials.
 - iii. Marina or yacht club or accessory residential boat dock.
 - iv. Railroad yard or shipyard and related facilities, electric power transmission lines, major utilities or wireless communication towers, and minor utilities and accessory wireless antennas attached to existing structures.
 - v. Bulk storage not listed elsewhere.
 - vi. Placement of fill or construction of fences.
 - vii. Road-ready recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Chapter 5, Section 510(o)(20) of this Ordinance governing Use-Specific Standards.
 - viii. Structural works for flood control such a levees, dikes, and floodwalls constructed to any height if the intent is to protect individual structures.

G. Floodway-Special Use Standards. The special uses listed in subsection (e) shall only be permitted in the floodway if the following standards are met:

- i. The proposed use or structure will not cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damage in the reach or reaches affected.
- ii. Any fill deposited in the floodway shall be not more than the minimum amount necessary to grade or landscape, shall not in any way obstruct the flow of flood waters, and shall be protected from erosion by the planting of vegetative ground cover, the use of rip rap or other method approved by the the RBC.
- iii. Accessory structures:
 - Must not be designed for human habitation.
 - Must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - Must be constructed whenever possible with the longitudinal axis parallel to the direction of flood flow.
 - Must be place approximately on the same flood flow lines as those of adjoining structures.
 - Must be elevated on fill or floodproofed to the flood protection elevation in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code.
- iv. The RBC may also require floodproofed accessory structures in the floodway to meet the following additional standards if necessary to fulfill the intent of this section.
 - The structure must be adequately anchored to prevent flotation, collapse, or lateral movement and must be designed to equalize hydrostatic flood forces on exterior walls.
 - Any mechanical and utility equipment must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
- v. As an alternative to the standards of subsection (iv) above, an accessory structure may be internally or wet floodproofed to the FP-3 or FP-4 classifications in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed 576 square feet in size at its largest projection, and for a detached garage, it must be used solely for parking of vehicles and limited storage. The structure must also meet the following standards:
 - To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade. Human intervention to open a garage door prior to flooding does not satisfy this requirement.

- vi. A proposed use will not include the storage or processing of materials that are, in time of flooding, flammable, explosive, or injurious to human animal, or plant life. All materials or equipment stored shall be readily removable from the area within the time available after a flood warning.
- vii. Any structural works for flood control that will change the course, current, or cross-section of wetlands or public waters over which the State of Minnesota maintains regulatory authority must comply with the provisions of Minnesota Statutes, Chapter 103G.245.
- viii. Any levee dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood, based on technical analysis that assumes equal conveyance or storage loss on both sides of a waterway.
- ix. Within an A-O zone, there must be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures or structure additions.
- x. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term development plan is adopted by the RBC and includes an erosion/sedimentation prevention element.

H. **Flood Fringe – Uses.** Uses permitted in the flood fringe are those uses permitted in the underlying zone district, provided the following standards are met:

- i. All structures, including accessory structures, shall be elevated on fill so that a structure's lowest floor is above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at that elevation at least 15 feet beyond the outside limits of the structure. In A-O zones, the finished fill elevation for structures must be a minimum of two feet above the highest adjacent grade. The structure's design and as-built condition in relation to the regulatory flood protection elevation must be certified by a professional engineer or architect chosen by the RBC;
- ii. Any portion of a non-residential structure below the regulatory flood protection elevation must be structurally dry floodproofed in accordance with the FP-1 or FP-2 classification found in the State Building Code.
- iii. As an alternative to elevation, accessory structures constituting a minimal investment and that do not exceed 576 square feet may be internally floodproofed in accordance with this Section 414, subsection g (iii), (iv) and (v) above.
- iv. Any placement of fill with a cumulative volume in excess of 1000 cubic yards at any one time may only be used to elevate a structure in accordance with this subsection h (i) above.

- v. Any stored materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- I. **Flood Fringe-Special Uses.** The placement of more than 1000 cubic yards of fill or other similar material, other than for the purpose of elevating a structure to the regulatory flood protection elevation, and the storage of materials and equipment below the regulatory flood protection elevation, is permitted if the following requirements are met:
- i. any fill deposited in the flood fringe must be no more than the minimum amount necessary to grade or landscape, must not in any way obstruct the flow of flood waters and must be protected from erosion by the planting of vegetative ground cover, the use of rip rap, or other method approved by the RBC.
 - ii. The use must not include the storage or processing of materials that are, in time of flooding, flammable, explosive, or injurious to human, animal or plant life. All materials or equipment stored must be readily removable from the area within the time available after a flood warning.
- J. **Flood Fringe- Standards for All Uses.**
- i. All new principle structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted under Chapter 7 of this Ordinance, limitation on the period of use or occupancy during times of flooding may be specified.
 - ii. Flood plain development must not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the NR-O map.
 - iii. Accessory land uses such as yards, railroad tracks, and parking lots may be at elevations more than two feet below the regulatory flood protection elevation. Any facility that will be used by employees or the general public must have a flood warning system that provides adequate time for evacuation if the area would be inundated by the regional flood to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four.
 - iv. Standards for recreational vehicles are contained in section Chapter 5, Section 510(o)(20) of this Ordinance governing Use-Specific Standards.
 - v. All manufactured homes and those recreational vehicles not meeting the exemption criteria in Chapter 5, Section 510(o)(20) of this Ordinance governing Use-Specific Standards must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may

include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to any other applicable anchoring requirements for resisting wind forces.

- vi. Within an A-O zone, there must be adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures or structure additions.

K. **Flood Plain.** The uses permitted in subsection (h) above are permitted in the flood plain district. Land determined to be in the floodway, shall have those permitted and special uses listed in subsections (e) and (f) above. Land determined to be in the flood fringe shall have those permitted and special uses listed in subsections (h) and (i) above.

L. **Floodway and flood fringe determination.** The RBC shall determine if a proposed use is in the floodway or flood fringe. In making this determination, the RBC shall consult with an engineer or other expert knowledgeable in hydrology who must conduct an evaluation consistent with 44 CFR, Part 65 and:

- i. estimate the peak discharge of the regional flood.
- ii. calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- iii. compute the floodway necessary to convey or store the regional flood without increasing flood stages more than .5 feet. A stage increase of less than .5 feet must be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of a stream within the reach will be assumed in computing floodway boundaries.

M. **Public Utilities, Railroads, Roads and Bridges.**

- i. All public utilities and facilities such as gas, electrical, sewer, and water supply systems, with the exception of sumps and wet wells, to be located in the floodway or flood fringe must be floodproofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- ii. Railroad tracks, roads, and bridges to be located within the floodway or flood fringe must comply with subsections (e)-(j) above, as applicable. Elevation to the regulatory flood protection elevation must be provided where failure or interruption of the transportation facilities would result in danger to the public health or safety, or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services will not endanger the public health or safety.
- iii. Where public utilities are not provided:
 - on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems.

- new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and they must not be subject to impairment or contamination during times of flooding. A sewage treatment system designed in accordance with the State of Minnesota statewide standards for on-site sewage treatment systems is deemed to be in compliance with this subsection.

N. **Subdivisions.** New subdivisions in the flood plain area must meet the following requirements:

- No land shall be subdivided if it is unsuitable due to flooding, inadequate drainage, water supply, or sewage treatment facilities. Manufactured home parks, recreational vehicle parks, and campgrounds are considered subdivisions under this subsection.
- All lots within the flood plain district must be able to contain a building site outside of the floodway or above the regulatory flood protection elevation.
- All subdivisions must have water and sewage treatment facilities that comply with the provisions of this Ordinance.
- All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during a regional flood has been approved by the RBC. The plan must be prepared by an engineer or other qualified individual and must demonstrate that adequate time and personnel exist to carry out an evacuation.
- The floodway and flood fringe district boundaries, the regulator flood protection elevation and the required elevation of all access roads must be clearly labeled on subdivision drawings and platting documents.
- Prior to the development of a subdivision in the general flood plain district, the RBC must determine if the subdivision is in the floodway or flood fringe district in accordance with the procedures listed in subsection (l) above.

4. Shorelands. The Shoreland Overlay applies to lands within 1000 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 the provision of this subpart. Waters within the City of Duluth are classified into three categories: general development waters (GD); natural environment waters (NE); and coldwater rivers (CW).

A. Permitted Uses. Subject to the standards listed in subsection (b) below, the following uses are permitted in the shoreland overlay district:

- i. structures.
- ii. grading, filling and excavating.
- iii. construction of impervious surfaces, including roads, driveways, parking areas and trails.
- iv. removal natural vegetation.
- v. removal or disruption of beach grasses on Park Point.

B. Development Standards for shoreland overlay district. No use is permitted in the shoreland overlay district unless the use meets the following standards:

- i. Erosion and sediment control measures are required for any land disturbing activity.
- ii. Grading and filling of more than 250 square feet or placement of more than ten cubic yards of material within the shore impact zone is only permitted if a plan for erosion control, stormwater management and shoreline buffer restoration is approved by the RBC and effectively implemented.
- iii. Impervious surfaces must be designed to prevent erosion into regulated waters and to preserve shoreland aesthetics.
- iv. Removal of trees or shrubs in a contiguous patch, strip, row or block is prohibited in all shore impact zones.
- v. No building may be located in a shore or bluff impact zone.
- vi. Natural vegetation buffers must be restored to the extent feasible after the completion of any project.

C. Shoreland Dimensional Standards.¹

Standards	GD waters ²	NE waters	CR waters
Minimum setbacks from ordinary high water level or highest known water level, whichever is higher			
<i>Structures</i>	50 ft.	75 ft.	150 ft.
<i>Commercial, mixed use, & industrial structures in the harbor.</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	3 ft.		

known water level, whichever is higher. ³	
Width of natural vegetative buffer	50 ft.
<p>¹ The shoreland harbor area is that area identified in Table 50-18.1-3 of the Duluth Development Code, incorporated into this Ordinance by reference.</p> <p>² All Lake Superior Shoreland is classified as GD waters.</p> <p>³ For a structure located in an area where FEMA has established a base flood elevation, the structure is exempt for this shoreland elevation requirement, but must meet any applicable flood plain regulations.</p>	

D. Exceptions to Shoreland Dimensional Standards.

- i. For commercial, mixed use and industrial structures in the shoreland harbor, there is 0 setback for grain elevators, cranes, loading bins, and other equipment necessary for loading and unloading, including impervious surfaces necessary to support these activities.
- ii. Public trails with pervious surfaces, or with impervious surfaces no more than 10 feet wide, may be constructed within these setbacks provided a minimum amount of natural vegetation is removed.
- iii. For properties in Stormwater Zone B, as defined in Section 414(a)(5)(E) of this Ordinance, that have been previously developed with 75% or greater impervious surface, one of the following methods may be used to determine building setback:
 - Use the impervious surface setback for the Shoreland classification as the building setback.
 - When principal structures exist on the adjoining lots on both sides of the proposed building site, the structure setbacks can be altered to conform to the adjoining setbacks, provided the proposed building site is not located within the setback required for the natural vegetative buffer.
- iv. Park equipment such as playground structures and ball fields (but not including structures such as garages, storage buildings, toilets, or warming houses) may be placed closer than the required structure setback provided they lie outside the area required for the naturally vegetative buffer.
- v. Ground or pole mounted solar or wind power collection systems must 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, provided there is replacement with non-invasive and non-harmful species.

- E. Special Uses. Unless stated otherwise in this subsection, the special uses set forth in the Use Table in Chapter 5, Section 509 of this Ordinance are permitted in the shoreland overlay district, provided the special use is in compliance with the development requirements for shorelands in this subsection 4.
- i. Agricultural uses are not permitted in the shore impact zone. Within the shoreland areas outside the shore impact zone, agricultural uses are permitted if steep slopes are maintained in permanent vegetation or the land is operated under a conservation plan approved by the RBC, after consultation with the St. Louis County Soil and Water Conservation District.
 - ii. All industrial uses, including mining, extraction, and storage on coldwater rivers or natural environment waters require a prior thorough evaluation of the topographic, vegetation and soils conditions.
 - iii. Measures must be taken to prevent soil erosion, stormwater runoff, or other possible pollution of public waters, both during and after construction or use.
 - iv. The shoreline buffer must be restored to a natural state.
 - v. There must be screening of structures and other facilities as viewed from regulated waters, as shown on the NR-O map.
- F. Subdivisions. New subdivisions in the shoreland area must meet the following requirements:
- i. The land may not be subdivided until the land is rezoned into the R-P zone district. The development plans for the R-P district must be designed to comply with the requirements for the Shoreland Overlay District in this subsection 4.
 - ii. 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.
 - iii. Erosion and sediment control and restoration of the property must continue after completion of construction.
- G. Nonconforming lots of record. Lots of record in the office of the St. Louis County recorder on November 19, 2010, are excepted from the structure setback requirement in the Dimensional Standards contained in subsection (c) above. If the lot of record cannot be developed under the setback requirements of subsection (c) above, the lot may be developed if:

- i. principal structures exist on the adjoining lots on both sides of a proposed building site.
 - ii. the proposed structure is located no closer to the protected shore than the principal structure on either adjoining site.
 - iii. the resulting adjusted setback does not result in the proposed building being located in a shore impact zone.
 - iv. In the alternative, the lot may be developed if a variance is obtained under Chapter 7 of this Ordinance.

- 5. Stormwater management and erosion control. The Federal Clean Water Act (CWA) requires that stormwater discharges be authorized under the National Pollution Discharge Elimination System (NPDES). Prior to discharging any stormwater into a CWA covered water resource, a NPDES permit shall be obtained, as applicable.
 - A. Applicability. This section applies to all land disturbing activities, except those specifically exempt in this section or those subject to a superseding or preemptive applicable federal law. This section supplements, but is not intended to conflict with the applicable provisions of the Band's Building Code for the Fond du Lac Casino, Ordinance 02/06 Temporary erosion and sediment controls.

 - B. Temporary erosion and sediment controls.
 - i. All proposed development and redevelopment and all subdivision plats and re-plats shall include drainage system and temporary erosion and sediment best management practices (BMP) in compliance with the standards contained in Table 414(5)(b) below. In reaching the BMP, the RBC shall review and adopt as appropriate the requirements of the MS4 program for the City of Duluth.
 - ii. If the stormwater and erosion controls required by this subsection (a) are demonstrated to be technically feasible, the provisions of subsection (a) must be met to the maximum extent practicable. The RBC, after consultation with a certified engineer, may waive the requirements.

Temporary Erosion and Sediment Controls – Table 414(5)(b)			
Measures Required	Land area disturbed		
	≤3000 sq. ft. ¹	>3000 sq. ft. and less than one acre	≥ one acre
Temporary erosion and sediment controls to prevent off-site migration of sediment	√		

Site specific Erosion and Sediment Control Plan		√	√
Site Specific Stormwater Pollution Prevention Plan meeting NPDES permit requirements for construction activity		√	√
NPDES disposal system construction stormwater permit			√
¹ If the proposed development is in a vulnerable area and may cause the degradation of the waters connected to the City of Duluth stormwater system, the provisions applicable to land disturbance areas greater than 3000 sq. ft. apply.			

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

- i. Applicability. This section does not apply to pavement resurfacing and pavement rehabilitation projects that meet all of the following conditions:
- No new impervious surface is created.
 - There is no change in the configuration of the site.
 - There is no change in the land use.

The RBC, after consultation with a certified engineer, may waive the requirements in Table 414(5)(c) below if compliance is technically non-feasible and mitigation for the non-compliance is achieved by increasing the level treatment or control of one of the other requirements.

- ii. All proposed development and redevelopment and all subdivisions plats and re-plats shall include a drainage system with stormwater runoff site, volume and temperature controls and water quality treatment in compliance with Table 414(5)(c)below. If the stormwater run-off will drain into waters connecting to the City of Duluth stormwater system, the RBC shall review and ensure compliance with the City’s MS4 program, as applicable.
- iii. Permanent Water Quality and Discharge Rate, Volume and Temperature Controls must adhere to the following:

Permanent Water Quality and Discharge Rate, Volume and Temperature Controls – Table 414(5)(c)

Development Measures required	Impervious area created or redeveloped ^{1,2}	
	≤3000 sq. ft.	>3000 sq. ft. ^{3,4}
Water quality treatment		√
Run off rate controls		√
Volume controls		√
Temperature controls ⁵		√
Drainage report		√
Site specific SWPPP		√
BMP Operation and Maintenance Manual		√

¹ The total area is the sum of both the new and redeveloped impervious areas part of the common plan of development.

² A pavement resurfacing or pavement rehabilitation project is exempt if (a) no new surface is created; (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 (not part of a common plan of development) with less than 10,000 sq. ft. of disturbed area and less than 7500 sq. ft. of new impervious surface, 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% the drainage report must include an evaluation of the feasibility of increasing the TSS removal to 50% on an annual basis across the entire site.

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

D. Shoreland requirements. In addition to the requirements in subsection (c) above:

- i. No residential development or redevelopment within a shoreland shall result in impervious surface area exceeding 25% of the lot area unless the development includes water quality treatment.
- ii. 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 development includes water quality treatment.
- iii. Where subsection 5(c) above requires the development to include water quality treatment, the development or redevelopment must meet at least the minimum treatment shown in Table 414(5)(d) below.

Water quality treatment requirements (Total Suspended Solids TSS and Total Phosphorus TP) – Table 414(5)(d)

Development type	New and Existing impervious surface	Required Treatment
New	>3000 sq. ft.	No net increase of TSS/TP from predevelopment conditions
Redevelopment	>3000 sq. ft and <1 acre	10% reduction in impervious surface or 50% TSS removal (TP removed via TSS reduction)
Redevelopment	≥ 1 acre	50% TSS removal. No net increase in TP from pre-project condition.

- E. Runoff rate control. Where this subsection 5 (c) above requires that a development include runoff rate control, the development or redevelopment must be designed to provide the controls as follows:
- i. Runoff rate control is beneficial in the upper, flatter part of the watershed above the bluff line.
 - ii. Below the bluff line, the topography is relatively steep and stormwater flows quickly to Lake Superior and the St. Louis River.
 - iii. The stormwater rate control requirement for development and redevelopment are shown in Table 414(5)(e) below.

Discharge Rate Limits – Table 414(5)(e)		
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 rates for 2 year period	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

- F. Run off volume control. Where this subsection 5 (c) requires that a development include storm water runoff volume control, the development or redevelopment must be designed to provide the controls so that the volume of storm water runoff discharged from a proposed project does not exceed the predevelopment conditions.
- G. Storm water temperature control. Storm water temperature controls for development and redevelopment are required as specified in this subsection 5 (c). Temperature controls are beneficial to minimize the increase in stream temperatures from storm water runoff from impervious surfaces. Temperature

control of storm water runoff discharged from a proposed project must be minimized through the use of certain BMPs and/or site design methods.

H. 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 must be evaluated to ensure that no damage occurs to adjacent properties for all systems.
- iv. The storm water management systems for any new or redevelopment project must maintain at least two feet of freeboard between the anticipated 100-year high water elevation and the minimum building opening.
- v. Treating existing untreated impervious areas diverted to the site may be included in the control area analysis if in the best interests of the Band.
- vi. All impervious areas must be considered connected and curve numbers may not be weighted for impervious areas except under special circumstances.
- vii. Ninety-five percent of all newly added impervious surface must have its runoff directed to the water quality treatment area. If it is impractical to direct 95% of the added impervious surface runoff to the water quality area, alternate methods may be used so long as 95% of the impervious surface is treated and all peak flow requirements are fulfilled.
- viii. Flow may not be diverted from one major or minor system to another major or minor system.
- ix. When storm water management plans involve directing runoff from a site, any necessary easements or other property interests concerning flowage of water to a point where the storm water enters a major system must be obtained.
- x. Adequate measures shall be taken to prevent uncontrolled drainage across lot lines.

I. Ownership and maintenance.

- i. During any period of a land disturbing activity, the person engaging in the construction is responsible for installing and maintaining erosion and sediment control practices. Once construction is complete, the Band, or its designee, will maintain erosion and sediment control. During construction, inspection logs shall be maintained and made available to the RBC upon request.
- ii. All components of the storm water management system must be constructed, owned, operated and maintained by the developer, the

Band or the Band's designee, as appropriate and lawful, to their confluence with the major or minor system.

- iii. A storm drain system may exist within the right-of-way and must be maintained by the Band or the Band's designee. No storm water treatment facilities may be located in the right-of-way.
- iv. A storm water management facilities operation and maintenance manual must be prepared by an engineer and approved by the RBC.
- v. Storm water management facilities must be designed to minimize maintenance and provide inspection and maintenance access.
- vi. All facilities must have a plan of operation and maintenance that assures continued effective removal of runoff pollutants and accumulated sediment.
- vii. Storm water facilities must include structural components and all non-structural components (buffer strips, swales and other storm water management practices that were approved as part of the development).
- viii. Inspection and maintenance of the storm water management facilities must be performed on a regular basis so the storm water management facilities function as designed, but not less than annually. Maintenance work and repairs identified in an inspection must be completed within three months of the inspection.
- ix. The inspection and maintenance of the storm water facility must be performed by a qualified professional who must prepare and sign the inspection and maintenance report.

b. **Airport Overlay (A-O).** The intent of the Airport Overlay District is to protect the lives and property of users of Duluth International Airport and Sky Harbor Municipal 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.

- 1. For purposes of regulating development in the A-O District, the Band adopts by reference and incorporates into this Ordinance the following maps contained in the City's UDC:
 - A. Exhibit 50-18.2-1. Duluth International Airport Overlay Zone.
 - B. Exhibit 50-18.2-2. Sky Harbor Airport Overlay Zone.
- 2. For purposes of regulating use within the Airport Overlay Zone, the Band adopts by reference and incorporates into this Ordinance the following sections from the City's UDC:
 - A. Section 50-18.2 (D). Air Space Obstruction Zones.
 - B. Section 50-18.2 (E). Land Use Safety Zones.
 - C. Section 50-18.2 (F). Land Use Restrictions, including Tables 50-18.2-1 and 50-18.2-2.

c. **Historic Resources Overlay (HR-O).** The intent of the Historic Resources Overlay District is to preserve, protect and promote any areas, places, buildings, structures, lands, districts, and other objects having a special historical or aesthetic interest or value.

1. For purposes of regulating development within the Historic Resources Overlay District, the Board adopts and incorporates into this Ordinance the following maps contained in the City's UDC establishing the boundaries of the HR-O Zone:
 - A. Exhibit 50-18.3-1. The Duluth Civic Center Historic District.
 - B. Exhibit 50-18.3-2. The Duluth State Normal School Historic District.

2. For any construction, demolition, remodel or alteration to a historic landmark or district, work must be done to the extent possible in conformance with the U.S. Secretary of Interior's recommended standards for heritage preservation projects and adopted historic preservation guidelines.

3. The HR-O district is also intended to encourage the sensitive rehabilitation, restoration, stabilization, and preservation of historic buildings. 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. Alternative solutions and alternative concepts are encouraged, where practical, to permit the continued use of existing buildings and structures without creating overly restrictive financial burdens on owners or occupants. Nothing in this section prevents the ordinary maintenance or repair of any exterior elements of any building or structure.

- d. **Skyline Parkway Overlay District (SP-O).** The intent of the Skyline Parkway Overlay District is to protect the unique character and visual qualities of the Skyline Parkway to protect views from Skyline Parkway toward Lake Superior, the St. Louis River, and the harbor, from a wide variety of vantage points. The SP-O district is also intended to encourage the construction of narrower buildings located further from the Skyline Parkway rather than wider buildings located closer to the Parkway.
 1. This section applies to property located within 200 feet of the downhill side of Skyline Parkway. The 200-foot distance must be measured from the edge of the right-of-way along the slope of the affected property.

 2. This section applies to all construction of new buildings or additions to buildings, reconstruction of existing buildings or additions, construction of fences and walls, and installation and maintenance of landscaping. Notwithstanding, buildings, additions, fences and walls existing on November 10, 2010, are not required to comply with this section and are considered conforming structures for zoning purposes.

 3. Design controls. When constructing a building or an addition to a building, or reconstructing a building or addition within the SP-O district, the following design standards apply:

- A. The building or addition must 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.
 - B. The long axis of a new structure must 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.
 - C. The width of a new primary structure closest to Skyline Parkway must not exceed 50% of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way. For purposes of this subsection, the width must include all portions of the structure, including attached garages or enclosed porches.
 - D. For an addition to an existing structure, the location of that addition must not result in the width of the structure and addition, taken together, to exceed 50% of the width of the lot at the point closest to or adjacent to the Skyline Parkway right-of-way.
 - E. The provisions of subsections (i) through (iv) do not apply to any structure located and designed so that no part of the structure (other than chimneys) extends taller than 3 feet above the elevation of Skyline Parkway closest to the structure.
 - F. No wall located within 50 feet of the horizontal distance from the property line along Skyline Parkway must exceed a height of 3 feet above the elevation of the centerline of Skyline Parkway.
 - G. All portions of a fence located within 50 feet of the horizontal distance from the property line along Skyline Parkway and extending more than 3 feet above the elevation of the centerline of Skyline Parkway must be at least 75% transparent. No more than 25% of the area bounded by the top, bottom, and sides of the fence may be constructed of solid or opaque materials.
 - H. No landscaping located on the 50% of the lot width not occupied by the primary structure may be of a species that will have a height at maturity of more than 3 feet above the elevation of the centerline of Skyline Parkway, and all installed landscaping in those areas must be maintained so that the height does not exceed 3 feet above the elevation of the centerline of Skyline Parkway.
- e. **Higher Education Overlay (HE-O).** The HE-O district is intended minimize the impacts of potential student use on adjacent residential neighborhoods and to encourage the development of pedestrian friendly neighborhood destinations near the University of Minnesota-Duluth and St. Scholastica campuses.
- 1. For purposes of determining the boundaries of and regulating development within the HE-O district, the Board adopts and incorporates into this Ordinance Exhibit 50-18.5-1 in the Duluth Zoning and Development Code.
 - 2. This section E applies to land within the HE-O district that is zoned R-2 or MU-N and includes new development or redevelopment where the value of the

redevelopment exceeds 75% of the market value of the land and buildings, as indicated by applicable tax records, except for:

- A. One or two family dwellings.
- B. Any residential development where all of the dwelling units are restricted by development agreement or covenant for occupancy by those aged 50 and over or for occupancy by those individuals and households protected by the federal Fair Housing Act Amendments of 1988.

3. Development Standards.

- A. Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 districts and that reduces the potential for pedestrian-vehicular conflicts.
- B. Primary buildings shall adhere to a build-to zone of 5 to 20 feet along primary streets. This requirement supersedes the building setbacks in Chapter 4, Sections 407(e) and 408(a) of this Ordinance. Alternatively, if the RBC determines that this setback is not feasible due to existing buildings or topography, pedestrian walkways can be used to connect people from public sidewalks along primary streets to businesses and residences. These walkways must:
 - i. include pedestrian-scaled lighting;
 - ii. be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
 - iii. be visually recognizable to both pedestrians and motorists;
 - iv. include trees and other landscaping along the length of the walkway, which may also be used to meet parking lot landscaping requirements in Section 50-25.4 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance;
 - v. be at least 5 feet wide; and
 - vi. include well-marked crossings where the walkway intersects with private vehicle drives.
- C. Unless lighting meets the exception criteria in Section 50-31.1.B, the maximum height of any light pole is 20 feet.
- D. Required resident parking spaces must be provided at the ratio of 0.7 space per bedroom, with a minimum of one space per dwelling unit.
- E. Visitor parking spaces must be provided at the rate of 15% of required resident parking spaces.
- F. At least one bicycle or motorized scooter parking space per five parking spaces must be provided, which must not be located in any required yard or between the principal dwelling and the street.
- G. A development that provides an enhanced shelter with space dedicated solely for bicycle or motorized scooter parking must be granted a reduction in the off-street parking requirement of 5% if the shelter complies with the following:
 - i. the enhanced shelter must not be located in any required yard setback;
 - ii. the enhanced shelter must not be located between the principal building and a public street;

- iii. the enhanced shelter must be enclosed on at least 3 sides and covered to adequately protect bicycles from the elements; and
 - iv. the enhanced shelter must utilize primary exterior materials that match the primary exterior materials of the principal structure.
- H. If the development or redevelopment is determined to have mitigated the impacts of potential student use in the adjacent residential neighborhood, the development or redevelopment, if eligible, may adjust the parking requirements as provided in either Section 50-24.3.A or 50-24.3.B, but not both.
- I. No residential balcony, patio, or deck may be located on any side of the property facing and within 200 feet of an R-1 district.
- J. Commercial development must be concentrated on major roads, not on streets intended primarily for neighborhood traffic.
- K. The primary streets in the HE-O district are those listed in the Duluth Zoning and Development Code, Section 50-18.5.D.

CHAPTER 5
PERMITTED USES

Section 501. Permitted Use Table. The Use Table lists land uses and indicates whether they are allowed, restricted or prohibited in each base zone district. The Use Table also includes references to any additional regulations applicable to that use.

Section 502. Use Table Legend.

Use Table Legend	
Abbreviation	Reference
P	Permitted Use
S	Special Use
I	Interim Use
A	Accessory Use
U	Permitted in upper stories of Form District Building
1	May require Land Use and Zoning review
2	May require additional development standards and review if in the Higher Education Overlay District
3	If allowed by an approved regulating plan
	Additional restrictions may apply within the natural resources, airport, historic or skyline parkway overlay districts.
	All permitted uses in the MU-N district are eligible as an interim use in R-1 or R-2 districts for structures identified as a City of Duluth local historic landmark by Chapter 5, Section 510(s) of this Ordinance.

Section 503. Permitted Uses. A “P” in a cell of the Use Table indicates that the land use is permitted in that base zone district, subject to compliance with the use-specific standards referenced in the final column of the Use Table. A “U” in a cell of the Use Table indicates that the land use is permitted in that base zone district on any floor of the structure other than the ground floor, subject to compliance with the use-specific standards referenced in the final column of the Use Table. A “P” in the R-P or M-P districts indicates that a use is permitted only if it is included in a plan or plan amendment to the R-P or MU-P district. Permitted uses are subject to all other applicable requirements of this Ordinance, including those incorporated by reference through Chapter 6, *Development Standards*.

Section 504. Special Uses and Interim Uses. An “S” or an “I” in a cell of the Use Table indicates that the land use is permitted in the base zone district only as a special use or interim use, subject to compliance with the use-specific standards referenced in the final column of the Use Table. Special or Interim uses are subject to all other applicable provisions of this Ordinance, including those incorporated by reference through Chapter 6, *Development Standards*.

Section 505. Prohibited Uses. A blank cell in the Use Table indicates that the land use is prohibited in that base zone district.

Section 506. Overlay District Provisions Govern. When a property is located in an overlay district, the provision for that overlay district prevail over those in the base zone district. Where a property is located in more than one overlay district, the most restrict use provision in the overlay districts applies to the property.

Section 507. Use – Specific Standards. When a land use is a permitted or special use in a zone district, additional standards may apply as noted in Chapter 5, Section 510 of this ordinance governing Use-Specific Standards.

Section 508. Unlisted Uses. When a proposed land use is not explicitly listed in the Use Table, the RBC must determine if the use is included within the definition of a listed use or is so consistent with the size, scale, operating characteristics, and external impacts of a listed use that it should be treated as the same use. The interpretation of the RBC will be binding unless and until the RBC adopts a different interpretation.

Section 509. Use Table.

	Residential					Mixed Use					Form									Special						
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
RESIDENTIAL USES																										
Household Living																										
Dwelling, one-family	P	P	P	P	P	P ³	P				P ³	U	U	U	U	U	P	U	U	U						
Dwelling, two-family				P	P	P ³	P				P ³	U	U	U	U	U	P	U	U	U						
Dwelling, townhouse				S	P ²	P ³	P ²			P ¹	P ³															
Dwelling, multi-family					P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	U	P	U	P	P	P	U	P	P					
Dwelling, live-work							P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P		P	P					
Manufactured home park				S	S ²	P ³	S ³																			
Group Living																										
Co-housing facility				S	S ²	P ³	P ²				P ³															
Residential care facility/assisted living (6 or fewer)	P	P	P	P ²	P ³	P ²					P ³	U	P	U	P	P	U	U	P	P						
Residential care facility/assisted living (7 or more)				S	P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	U	P	U	P	P	U	U	P	P					
Rooming house					S ²	P ²	P ¹	P ¹		P ¹	P ³	U	P	U	P	P	U	U	P	P						

	Residential					Mixed Use					Form									Special							
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP		
PUBLIC, INSTITUTIONAL AND CIVIC USES																											
Community and Cultural Facilities																											
Bus or rail transit station							P ²	P ¹	P ¹	P ¹	P ²	P	P	P	P	P	P	P	P	P	P						
Cemetery or mausoleum	G	G	G	G	G ²	P ²	G ²	G ¹	G ¹	G ¹	P ²													G	G		
Club or lodge (private)				G ²	P ²	P ²	P ¹	P ¹	P ¹	P ¹	P ²	P	P	P	P	P	P	P	P	P	P			G	G		
Government building or public safety facility		P	P	G	P ²	P ²	P ²	P ¹	P ¹	P ¹	P ²	P	P	P	P	P	P	P	P	P	P		G	G	G	P	
Museum, library or art gallery				G	P ²	P ²	P ²	P ¹	P ¹	G	P ²	P	P	P	P	P	P	P	P	P	P				G		
Park, playground or forest reserve	P	P	P	P	P ²	P ²	P ²	P ¹	P ¹	P ¹	P ²	P	P	P	P	P	P	P	P	P	P				P		
Religious assembly, small (less than 50,000 sq. ft.)		P	P	G	P ²	P ²	P ²	P ¹	P ¹	G	P ²	P	P	P	P	P	P	P	P	P	P						
Religious assembly, large (50,000 sq. ft. or more)	G	G	G	G ²	P ²	P ²	P ¹	P ¹	G	P ²	P ²	P	P	P	P	P	P	P	P	P	P						
Educational Facilities																											
Business, art or vocational school							P ²	P ¹	P ¹	P	P ²	P	P	P	P	P	P	P	P	P	P						
School, elementary		P	P	P	P ²	P ²	P ²	P ¹	P ¹		P ²	U	U	U	U	U	U	U	U	U	U						
School, middle or high	G	G	G	G ²	P ²	G ²	G ¹	G ¹			P ²	U	U	U	U	U	U	U	U	U	U						
University or college								P ¹			P ²			U	U	U	U	U	U	U	U						
Health Care Facilities																											
Hospital									P ¹																		
Medical or dental clinic				G ²	P ²	P ²	P ¹	P ¹	P	P ¹	P ²	P	P	P	P	P	P	P	P	P	P						
Nursing home					P ²	P ²	P ²	P ¹	P ¹		P ²			P		P											
Medical cannabis distribution facility										I													I				
Medical cannabis laboratory										I													I				
Medical cannabis manufacturer																							I				
Other institutional support uses not listed in this table								P ¹																			

	Residential					Mixed Use					Form									Special							
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP		
COMMERCIAL USES																											
Agriculture and Animal-Related																											
Agriculture, community garden	P	P	P	P	P		P	P	P																		
Agriculture, farmers market			G		G ²		G ²	G	G		G	P ²															
Agriculture, general	P	P																									
Agriculture, urban			P	G	G ²	P ²	G ²	G	G																		
Kennel	G	G						G	G	P		P ²															
Riding stable	G	G	G			P ²					G														G		
Veterinarian or animal hospital	G	G				P ²	P ²	P ¹	P ¹	P	P ¹	P ²	P	P	P	P	P	P	P	P	P						
Food, Beverage and Indoor Entertainment																											
Adult entertainment establishment																								P			
Convention or event center								P ¹		P	P ¹	P ²				P	P			P	P						
Indoor entertainment facility								P ¹		P	P ¹	P ²			P	P	P	P	P	P	P						
Restaurant (less than 5,000 sq. ft.)					G ²	G ²	G ²	P ¹	P ¹	P	P ¹	G ²	P	P	P	P	P	P	P	P	P						
Restaurant (5,000 sq. ft. or more)					G ²			P ¹	P ¹	P	P ¹	G ²	P	P	P	P	P	P	P	P	P						
Theater							G ²	P ¹			P ¹	P ²			P	P	P	P	P	P	P						
Lodging																											
Hotel or motel							G ²	P ¹	P ¹	P	P ¹	P ²		P		P	P	P	P	P	P						
Bed and breakfast				G	P ²	P ²	P ²	P ¹	P ¹	P	P ¹	P ²		P		P		P									
Seasonal camp or cabin	P	P				P ²					P ¹														G		
Vacation dwelling unit		I	I	I	I ²	I ²	I ²																				

	Residential						Mixed Use						Form									Special				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MUN	MUC	MU-1	MUB	MUW	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
Offices																										
Bank							U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				
Office					U		U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				
Data center							U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U			
Outdoor Recreation & Entertainment																										
Golf course		U	U			U																			U	
Marina or yacht club												U												U	U	
Recreational vehicle park	U	U	U																					U	U	
Other outdoor entertainment or recreation use not listed		U						U		U	U															
Personal Services																										
Business park support activities											U	U														
Preschool		U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				
Daycare facility, small (14 or fewer)	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				
Daycare facility, large (15 or more)		U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				
Funeral home or crematorium					U		U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U		U	U	
Mini-storage or self-service storage facility		U																					U	U		
Personal service and repair, small (less than 10,000 sq. ft.)						U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				
Personal service and repair, large (10,000 sq. ft. or more)							U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				

	Residential						Mixed Use						Form									Special				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MUN	MUC	MU-1	MUB	MUW	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
Retail Sales																										
Adult bookstore																									U	
Building materials sales								U			U	U														
Garden material sales		U						U			U	U				U										
Grocery store, small (less than 15,000 sq. ft.)					U		U	U	U		U	U	U	U	U	U	U	U	U	U	U	U				
Grocery store, large (15,000 sq. ft. or more)							U	U	U		U	U	U	U	U	U	U	U	U	U	U	U				
Retail store not listed, small (less than 15,000 sq. ft.)				U	U		U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				
Retail store not listed, large (15,000 sq. ft. or more)							U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U				
Vehicle-Related																										
Automobile and light vehicle repair and service							U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U			U	
Automobile and light vehicle sales, rental, or storage								U		U	U	U												U	U	
Filling station				U	U		U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U		U	U	
Parking lot (primary use)							U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U			U	U
Parking structure							U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U			U	U
Truck or heavy vehicle sales, rental, repair or storage										U	U	U												U	U	

	Residential						Mixed Use					Form									Special					
	R-C	RR-1	RR-2	R-1	R-2	R-P	MUN	MUC	MU-I	MUB	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
INDUSTRIAL USES																										
Industrial Service																										
Contractors shop and storage yard											P												P	P		
Dry cleaning or laundry plant											P												P	P		
Research laboratories									P	P	P												P	P		
Industrial services										P													P	P		
Manufacturing and Mining																										
Manufacturing, craft, artisan production shop or artisan studio										P					P	P	P									
Manufacturing, craft, brewery or distillery										P						P							P			
Manufacturing, light									P	P	P					P							P			
Manufacturing, heavy																							P			
Manufacturing, hazardous or special																							P			
Mining, extraction and storage			S																				S	S		
Water-dependent manufacturing, light or heavy																								P		
Transportation-Related																										
Airport and related facilities			S																				P			P
Railroad yard or shipyard and related facilities																							P	P		
Truck freight or transfer terminal										P													P	P		
Utilities																										
Electric power or heat generation plant																							P	P		
Electric power transmission line or substation	S	S	S	S	S	P	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Major utility or wireless telecommunication facility	S	S	S	S	S	P	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Radio or television broadcasting tower			S							S													S	S		

	Residential						Mixed Use					Form									Special					
	R-C	RR-1	RR-2	R-1	R-2	R-P	MUN	MUC	MU-I	MUB	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
Solar, geothermal or biomass power facility (primary use)			S			P		S	S	P	P												P	S		
Water or sewer pumping stations/reservoirs	S	S	S	S	S	P	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Water or sewer treatment facilities																							P	P	S	S
Wind power facility (primary use)			S						S	S													P	S		
Waste and Salvage																										
Junk and salvage services																							S	S		
Recycling collection point (primary use)								S	S	S													P	P		
Solid waste disposal or processing facility			S							S													S	S		
Wholesale Distribution and Storage																										
Storage warehouse										P							P						P			
Wholesaling										P							P						P			
Bulk storage not listed elsewhere																							P			
Water-dependent bulk storage or wholesaling not listed elsewhere																								P		

	Residential						Mixed Use						Form									Special				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MUN	MUC	MU-1	MUB	MUW	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
ACCESSORY USES																										
Accessory agriculture roadside stand	A	A																								A
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A															
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A	A	A															
Accessory caretaker quarters										A												A	A	A		
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Accessory dwelling unit	A	A	A	A	A	A	A																			
Accessory heliport	A								A		A											A				
Accessory home occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Accessory home share	A	A	A	A	A	A	A									A										
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Accessory vacation dwelling unit		I	I	I	I	I	I									I										
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

	Residential						Mixed Use						Form									Special					
	R-C	RR-1	RR-2	R-1	R-2	R-P	MUN	MUC	MU-1	MUB	MUW	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP		
TEMPORARY USES																											
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary farm stand	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
FORM DISTRICT BUILDING TYPES																											
Main Street Building I												P	P														
Main Street Building II														P	P	P	P										
Main Street Building III																			P	P							
Corridor Building I													P														
Corridor Building II															P	P											
Lakefront Corridor Building																						P					
Corridor Building III																						P					
Cottage Commercial I													P					P									
Cottage Commercial II															P												
Iconic Building													P		P	P	P			P							

Section 510. Use Specific Standards.

- a. Residential Uses. Two-Family Dwellings. In the R-1, R-2, and R-P districts, two-family dwellings must be designed to protect and reflect the character of one-family residences as set forth below:
 1. A two-family dwelling must contain at least 1,800 square feet of floor area (not including garages or utility rooms or basement or attic space not used for living quarters).
 2. No exterior stairway with a total vertical rise greater than five feet is permitted.

3. In the R-1 and R-2 districts, each unit in a two family dwelling must have a separate exterior entrance on the façade facing the front property line.
- b. Residential Uses. Townhouses. In the R-1 and R-2 districts, each townhouse dwelling must exhibit the characteristics of a series of one-family dwellings that are arranged in an attached side-by-side fashion. The townhouse dwellings must be designed to protect and reflect the character of one-family residences as set forth below:
1. A townhouse dwelling must be located on a lot in such a way that each individual dwelling unit has a minimum of twenty (20) feet of street frontage in the R-1 district and a minimum of fifteen (15) feet of street frontage in the R-2 district.
 2. No more than two adjacent townhouse units may have front facades in the same vertical plane. Where a variation in front façade plane is required, the variation shall be a minimum of three (3) feet.
 3. Prior to the occupancy and use of a townhouse dwelling, coniferous or evergreen trees meeting the minimum size requirements of Section 50-25.2 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, shall be planted in required front and back yard areas on an average spacing of twenty (20) feet.
 4. Where refuse storage areas are directly viewable from any exterior lot line at a height of six (6) feet above grade, they must be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of six (6) feet, designed so that at least seventy-five (75) percent of the refuse area is obscured by opaque materials when viewed at an angle perpendicular to the screening materials.
 5. In the R-1 district, townhomes constructed on the corners of blocks or adjacent to the intersections of two or more public or private roads may have up to eight (8) dwelling units, but townhomes constructed in the middle of a subdivision block may have not more than six (6) dwelling units. In all other zone districts, townhomes may not exceed eight (8) dwelling units.
 6. Each unit in a townhome must have a separate exterior entrance on the façade facing the front yard property line, or front side yard property line.
 7. At least three of the following design features must be provided for visual relief along all facades of each townhome structure:
 - A. Roof dormers
 - B. Gables
 - C. Recessed entries
 - D. Covered porches
 - E. Cupolas
 - F. Pillars, pilasters or posts
 - G. Bay windows
 - H. Eaves of at least twelve (12) inches beyond the building wall or a parapet wall with an articulated design (decorative cornice, etc.)
 - I. Multiple windows with minimum four (4) inch trim
 - J. Recesses or shadow lines

- c. Residential Uses. Multi-Family. In the F-2, F-4, F-5, and F-8 districts, multi-family dwellings are permitted only on the ground floor of the corridor building type. In other building types, multi-family dwellings are only permitted above the ground floor.
- d. Residential Uses. Residential Care/Assisted Living Facility. In the F-2, F-4, F-5, and F-8 districts, residential care/assisted living facilities are permitted only on the ground floor of a corridor building type. In other building types, residential care/assisted living facilities are only permitted above the ground floor.
- e. Residential Uses. Rooming House. In the F-2, F-4, F-5, and F-8 districts, rooming houses are permitted only on the ground floor of a corridor building type. In other building types, rooming houses are only permitted above the ground floor.
- f. Residential Uses. Manufactured Home Park. New manufactured home parks, expansions to existing manufactured home parks, and new or replacement of manufactured home units on lots of record are prohibited in the floodway district. New, existing, and replacement manufactured homes in the flood fringe district must meet the requirements of Chapter 4, Section 414(a) (NR-O) and the following standards:
 - 1. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to any applicable state anchoring requirements for resisting wind forces.
 - 2. New or replacement manufactured homes in existing manufactured home parks must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation, unless the property owner has a flood warning and emergency evacuation plan acceptable to the RBC as specified in Chapter 4, Section 414(a) (NR-O).
- g. Public, Institutional, and Civic Uses. Club or Lodge.
 - 1. In the P-1 and R-2 district, the club or lodge must be operated by a not-for-profit civic, cultural, or educational organization, and the primary activity cannot be any service that is customarily carried on as a business.
 - 2. In the RR-1 district, any club or lodge may occupy not more than ten (10) percent of the total area of the lot and must be set back from all yard lines a distance of not less than two (2) feet for each foot of building height.
 - 3. In the RR-1, RR-2, and R-1 zone districts, the sum of all structures on the lot must not be more than 50,000 square feet.
 - 4. In the R-1 and R-2 zone districts, each club or lodge having a property boundary with a lot occupied by a residential use must be buffered with a dense urban screen.
- h. Public, Institutional, and Civic Uses. Medical Cannabis Distribution Facility.

1. For purposes of this Ordinance, the Band shall substantially adopt as Band Law the substantive provisions of Minnesota Statute § 152.29, subd. 3, as may be amended, and the requirements of the Commissioner of the Minnesota Department of Health or other comparable state law for any medical cannabis distribution facility operated on the lands subject to this Ordinance.
2. Prior to operation of a medical cannabis distribution facility, the operator must develop a security plan stating how the facility will address public health, welfare, and safety concerns, including but not limited to, parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, and hours of operation. If the medical cannabis distribution facility is not operated by the Band, the security plan must be submitted by the operator to and approved by the RBC.
3. No medical cannabis distribution facility may be located closer to a public or private school than as provided for under Minn. Stat. § 152.29, which requirement the Band adopts as Band Law. A medical cannabis distribution facility shall not be closer than 1,500 feet of a zoning district that allows single family, two-family, townhomes, or multi-family dwellings as a permitted use at a density of greater than one unit per five acres.
4. A medical cannabis distribution facility must be set back from all property lines a minimum of twenty-five (25) feet.
5. No medical cannabis distribution facility may operate a drive-through.
6. The parking and design standards and other requirements for a medical cannabis distribution facility must be the same as for other medical or dental clinics under this Ordinance.

i. Public, Institutional, and Civic Uses. Medical Cannabis Laboratory.

1. For purposes of this Ordinance, the Band shall substantially adopt as Band Law the substantive provisions of Minnesota Statute §152.29, subdivision 1(b), as may be amended, and the requirements of the Commissioner of the Minnesota Department of Health or other comparable state law for any medical cannabis laboratory located on the lands subject to this Ordinance.
2. Prior to the operation of a medical cannabis laboratory, the operator must develop a security plan stating how the laboratory will address public health, welfare, and safety concerns, including but not limited to, parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, and hours of operation. If the medical cannabis laboratory is not operated by the Band, the security plan must be submitted to and approved by the Reservation Business Committee.
3. A medical cannabis laboratory must be setback from all property lines a minimum of twenty-five (25) feet.
4. Parking, design standards, and other applicable requirements for a medical cannabis laboratory must be the same as for other medical or dental clinics under this Ordinance.

j. Public, Institutional, and Civic Uses. Medical Cannabis Manufacturer.

1. For purposes of this Ordinance, the Band shall substantially adopt as Band Law the substantive provisions of Minnesota Statute § 152.29 as may be amended, and the requirements of the Commissioner of the Minnesota Department of Health or other comparable state law for any medical cannabis manufacturer located on the lands subject to this Ordinance.
 2. Prior to the operation of a medical cannabis manufacturer, the operator must develop a security plan stating how the manufacturer will address public health, welfare, and safety concerns, including but not limited to, parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, hours of operation, and odor produced by the manufacturing process. If the medical cannabis laboratory is not operated by the Band, the security plan must be submitted to and approved by the Reservation Business Committee.
 3. No medical cannabis manufacturer may be located closer to a public or private school than as provided for under Minnesota Statute § 152.29, which requirement the Band adopts as Band Law.
 4. A medical cannabis manufacturing facility must be setback from all property lines a minimum of fifty (50) feet.
 5. No odor produced by a medical cannabis manufacturer may be detectable at the property lines surrounding the manufacturing facility.
 6. Parking, design standards, and other applicable standards for a medical cannabis manufacturer must be the same as for other medical and dental clinics under this Ordinance.
- k. Public, Institutional, and Civic Uses. Medical or Dental Clinic.
1. In the residential districts, a clinic may not occupy more than 10,000 square feet in total floor area.
 2. In the MU-N district, a clinic may not occupy more than 20,000 square feet in total floor area.
- l. Public, Institutional, and Civic Uses. Religious Assembly.
1. In the RR-1 district, no religious assembly building may occupy more than ten (10) percent of the total area of the lot and the building must be set back from all lot lines at least two (2) feet for each foot of building height.
 2. In the RR-1, RR-2, and R-2 zone districts, the sum of all structures on the lot may not exceed 50,000 square feet, except as a special use. Notwithstanding, a Religious assembly in the R-1 district is a special use.
 3. In the R-1 and R-2 districts, each Religious Assembly having a property boundary with a lot occupied by a residential use must be buffered with a dense urban screen.
- m. Public, Institutional, and Civic Uses. Elementary, Middle or High School.
1. In the RR-1, RR-2 and R-1 districts, each school must have a curriculum similar to that ordinarily given in public schools. There may be no rooms regularly used for

housing or sleeping purposes, except staff quarters when located on the premises of the school.

2. In the RR-1, RR-2, R-1, R-2, MU-N, and MU-C districts, no school may be located less than forty (40) feet from any side or rear lot line.
3. Notwithstanding any lower maximum height stated in Chapter 4 of this Ordinance, in all zone districts, except the form districts, the maximum height for a school is forty-five (45) feet.

n. Commercial Uses. Adult Entertainment Establishment.

1. Adult Entertainment Establishments must comply with the applicable provisions of Chapter 5 of the City Code and the substantive components of Minn. Stat. § 617.242, which for purposes of this Section 510(n) and only to the extent applicable, are incorporated into and made a part of Band Law.

o. Commercial uses. Agriculture, Community Garden, Farmers Market, General and Urban.

1. Agriculture and Community Garden.

- A. Compost bins, water tanks, and other containers must be controlled for odors and pests and must be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that a maturity they will provide at least 75% opacity to the height of the container. No screening is required if the container is not visible from adjacent properties or a public right-of-way.
- B. If a primary structure is present, accessory structures must meet the requirements of Section 50-21 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance. If no primary structure is present, structures must be no closer than twenty (20) feet from the front property line, three (3) feet from any side property line, and five (5) feet from the rear property line. No accessory structure may exceed a height of twenty (20) feet.
- C. Fences must meet the requirements of Section 50-26.4 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance.
- D. No sale of produce or other goods is allowed.
- E. Events such as weddings, parties, and other activities normally associated with an event center, religious assembly or other use typically associated with large events, are not permitted unless otherwise permitted within the zone district.
- F. For outdoor growing operations, mechanized equipment similar in scale to that designed for household use is permitted. Use of larger mechanized farm equipment is generally prohibited, except during the initial preparation of the land.
- G. The keeping of bees is permitted. The keeping of all other animals is prohibited.
- H. All tools and equipment must be stored in an enclosed, secured structure.

2. Agriculture. Farmers Market.

- A. Farmers Markets are allowed between the hours of 7:00 am to 7:00 pm.
- B. The Farmer Market must have adequate on-site parking or sufficient public parking must be available nearby.
- C. Farmers Market sales are limited to not more than three (3) days per week.

3. Agriculture. General.

- A. No killing or dressing of poultry, rabbits, or other small or large animals, fish or creatures is permitted, other than animals, fish or creatures raised on the premises. Any killing or dressing must be done in an accessory building located at least 200 feet from any lot line.
- B. All buildings and enclosures, including fences, for the feeding, breeding, or milking or large livestock or small animals, such as poultry, rabbits, fish and other similar animals, must be at least 200 feet from any lot line. This requirement does not include pasturing and grazing.
- C. Any production or processing of cheese, honey, or other products raised on the farm must be done inside a building and in accordance with any applicable regulations.

4. Agriculture. Urban.

- A. Compost bins, water tanks, and other containers must be controlled for odors and pests and must be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least seventy-five (75) percent capacity to the height of the container. No screening is required if the container is not visible from any adjacent properties or a public right-of-way.
- B. If a primary structure is present, accessory structures, including ones of a temporary nature, such as hoop houses, must follow the requirements in Section 50-21 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance.
- C. For urban agriculture uses where operations are primarily conducted within a building, such as a greenhouse or hydroponic operation, such a building is considered the primary building and not an accessory building. For urban agriculture uses where operations are primarily conducted outside, structures, including those of a temporary nature such as hoop houses, must be located at least twenty (20) feet from the front property line, three (3) feet from a side property line, and five (5) feet from the rear property line. No accessory structure may exceed twenty (20) feet in height. Accessory structures may not encompass more than thirty (30%) percent of the lot area.
- D. Fences must meet the requirements in Section 50-26.4 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance.
- E. The sale of produce or other goods is prohibited.

- F. Events, such as weddings, parties, activities normally associated with an event center, religious assembly or other use that typically involves large events, are prohibited unless permitted within the zone district.
- G. For outdoor growing operations, mechanized equipment similar in scale to that designed for household use is permitted. Use of larger mechanized farm equipment is prohibited, except that during the initial preparation of the land, heavy equipment may be used.
- H. The keeping of fish for aquaculture or aquaponics is permitted as a special use, subject to any conditions imposed by the RBC. The keeping of chickens, rabbits and bees is permitted, subject to conditions imposed by the RBC. For purposes of this Ordinance, conditions imposed by the RBC for the keeping of chickens, rabbits and/or bees must be consistent with the substantive provisions of Chapter 6 of the Duluth City Code. The keeping of all other animals is prohibited unless the keeping of such animals would be permitted under the substantive requirements Duluth City Code.

5. Automobile and Light Vehicle Repair and Service.

- A. Displays or storage of merchandise, parts or refuse may not be located closer than twenty (20) feet to any public right-of-way.
- B. A dense urban screen must be installed and maintained along all side and rear property lines that abut a residential or mixed use district.
- C. All areas for outdoor storage of automobiles or light vehicles must be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property.

6. Automobile or light vehicle sales, rental or storage. The sales, rental or storage of automobiles or light vehicles is permitted in the MU-C district if located at least one hundred (100) feet from any R district.

7. Bank. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8, or F-9 are permitted but may not have a drive-through facility. Banks in the MU-N district may have a drive through facility subject to the following standards:

- A. The speaker box and drive-through window must be at least fifty (50) feet from any property line containing a residential structure.
- B. The drive-through may not be open before 7:00 am or after 10:00 pm on a weekday, or before 8:00 am or after 10:00 pm on a weekend. A drive-through may be open at 6:00 am on a weekday or at 7:00 am on a weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding a residential use or structure on the same property or within the same development.
- C. Glare from cars in the drive-through lane and stacking space for cars must be shielded from adjacent residential properties by screening, fencing or a dense urban screen.

- D. The RBC may require that a drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed.
 - E. There may be no more than two (2) drive-through windows and one (1) drive-through lane for ATM services on the premises.
 - F. Any drive-through lane that is located between a bank and a residential district or structure must be buffered from the residential district or structure by a dense urban screen.
 - G. Drive-through lanes must allow stacking space for three (3) cars.
8. Bed and Breakfast. A bed and breakfast is permitted as a primary use of land and is subject to the following:
- A. The owner need not reside in the bed and breakfast.
 - B. The bed and breakfast may have not more than twelve (12) habitable units.
 - C. If located in a residential zone district, the bed and breakfast must appear outwardly to be a one-family dwelling with no appearance as a business other than for allowed signs.
 - D. The bed and breakfast must be located on a lot or tract containing a minimum of .6 acre.
 - E. The bed and breakfast must have a minimum of 1500 square feet of area on the first floor of the main building.
 - F. Dining areas must not exceed five seats per habitable unit. Only resident guests and guests of resident guests are permitted to dine in a bed and breakfast, except that guests participating in meetings or other private events hosted by the bed and breakfast are permitted when other overnight guests are not present as long as the dining area seating capacity is not exceeded. Notwithstanding, for-profit events on the premises involving a total number of participants in excess of the approved dining area seating capacity are permitted up to six days per year and only during the period of October 15 through June 15.
 - G. Signage may not exceed twelve (12) square feet in size and must complement the architecture of the structure.
 - H. No guest may stay longer than twenty-one (21) consecutive days.
9. Building Material Sales. Building material sales are permitted subject to the following:
- A. Outdoor storage is limited to ten (10%) percent of the parcel's land area and is not permitted in any required front yard area.
 - B. An outdoor storage area must be screened from view from any ground floor window or door on any adjacent property and from all rights-of-way by an opaque fence or wall between six and eight feet in height. The fence may exceed eight (8) feet in height if the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence

necessary to effectively screen the area. A landscaped earth berm may be used instead or in combination with a required fence or wall.

10. Convention Center. A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use or 15,000 feet if it is within 500 feet of a one- or two-family use
11. Daycare Facility, small and large. In the RR-1 and RR-2 districts, daycare facilities and related parking and structures, other than driveways, may not exceed twenty (20%) percent of the lot or parcel area.
12. Filling Station. Filling stations are permitted, subject to the following:
 - A. No displays or storage of merchandise, parts, or refuse may be located closer than ten (10) feet to any public right-of-way.
 - B. A dense urban screen must be installed and maintained along all side and rear property lines that abut a residential or mixed use district.
13. Grocery Store, small and large. Grocery stores are permitted, subject to the following:
 - A. Merchandise must not be located within or obstruct required parking or pedestrian and vehicular circulation areas.
 - B. Outdoor display may be used for the temporary display of merchandise but may not be used for the permanent storage of stock.
14. Mini-Storage Facility. When located in an RR-1, MU-B, I-G and I-W district, mini-storage facilities must meet the following standards:
 - A. Storage must be contained within an enclosed building or buildings.
 - B. If the Mini-storage facility abuts a residential zone district on any property line, the building architecture must employ sloped roofs and display wall relief features and colors commonly found in residential construction.
 - C. The doors to individual storage units must not face any abutting street frontage.
 - D. Any wall facing an abutting public street must have at least fifty percent (50%) of the wall surface area faced with brick or split-block materials. Exposed concrete masonry unit construction (CMU) is not permitted on those facades.
 - E. Mini-storage facilities abutting a residential zone district must restrict access to the storage units to the period 6:00 am to 10:00 pm.
 - F. Signage must be limited to one 40 square foot free standing sign and not more than 20 square feet of non-illuminated wall signage. Signs must be at least ten (10) feet from the front property line.
 - G. Mini-storage facilities in the RR-1 district are only allowed on properties that are also within the Airport Overlay District Safety Zone B. There must also be a landscaped or naturally vegetated buffer of a minimum width of fifty (50)

feet along all property lines in addition to a dense urban screen along all side and rear property lines.

15. Self-Service Storage Facilities. When located in the F-5, F-7, and F-8 districts, self-service storage facilities must comply with the following:
 - A. The self-service storage facility must be completely contained in an enclosed principal building.
 - B. Self-service storage facilities are permitted only on the lowest floor or basement of a building and not allowed on any floor that is above grade with the primary street. The only exception is for office or lobby areas associated with the self-service storage facility.
 - C. Access to the self-services storage facilities may not be from the primary street. Where access is on a secondary street, parking must be available within thirty (30) feet of the doorway. The doorway may not be a roll-up door.
 - D. Signage is permitted as a commercial use in Section 50-27 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance.

16. Office. Offices are subject to the following:
 - A. In the M-U district, offices are limited to those in support of the permitted institutional uses in the district. General offices unrelated to the activities of the permitted institutional uses are not permitted.
 - B. In the MU-B district, offices are limited to those in support of the permitted industrial uses in the district. General offices unrelated to the activities of the permitted industrial uses are not permitted.
 - C. In the F-6 district, offices may not have drive-through facilities.

17. Other Outdoor Entertainment or Recreation Use not listed. No circus ground, carnival ground, event ground or amusement park may be located within 300 feet of an R-C, RR-2 or R district.

18. Parking Lot (Primary Use).
 - A. Parking lots (primary use) must be stand-alone and self-contained, separate, and distinct from other adjacent land uses. Parking lots must conform to the requirements of this Ordinance, such as for lot frontage and drive aisle widths, independent of adjacent properties.
 - B. When in the MU-N district, parking lots must meet the following:
 - i. Parking lots must meet all the street landscaping provisions in Section 50-25.3 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, as applicable. Parking lots must be screened from adjacent structures and uses. The screening must consist of a continuous, view-obstructing fence, wall or compact evergreen hedge

along all property lot lines that are adjacent to residential structures and uses. The fence, wall or hedge may be broken only for egress and access to driveways and walkways. The fence, wall or hedge must be at least four (4), but not more than six (6) feet in height.

- ii. Parking lots must meet all landscaping requirements of Section 50-25.4 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance, as applicable. Regardless of the number of parking spaces provided, at least fifteen (15) percent of the interior parking area must be set aside for landscaping islands.
- iii. If the parking lot abuts an improved public alley, driveway access must be provided to the alley.
- iv. Parking lots must be of a similar lot size as other lots in the neighborhood and must not alter the essential character of the neighborhood.

19. Parking Structures (primary use). In the MU-C district, a parking structure must be located at least fifty (50) feet from any RC, RR, or R district.

20. Recreational Vehicle (RV) Park.

- A. Within any Flood plain district, recreational vehicles that do not meet the exemption criteria listed in subsection B below, shall be subject to the elevation and anchoring provisions of Chapter 4, Section 414(a)(3)(j)(v) of this Ordinance for new structures.
- B. The exemption criteria for recreational vehicles are:
 - i. The recreational vehicle must have a current license as required for highway use.
 - ii. The recreational vehicle must be highway ready, meaning on wheels or the internal jacking system must be attached to the site only by quick disconnect-type utilities as are commonly used in campgrounds and recreational vehicle parks.
 - iii. No permanent structural additions may be attached to the recreational vehicle.
 - iv. The recreational vehicle and the associated use must be permitted in the underlying zone district/
 - v. Accessory structures are not permitted within the floodway district. An accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as required by Section 50-18.1.C.3.v.
 - vi. The cost of the accessory structure may not exceed \$500.
- C. The exemption criteria listed in subsection B above no longer apply when development occurs on the site. Development occurs on the site when an accessory structure valued at more than \$500 (such as a garage or storage

building) is added to the site. If the exemption criteria no longer applies, the recreational vehicle and all accessory structures will be considered new structures and subject to the elevation and floodproofing requirements and the land use standards listed in Chapter 4, Section 414(a)(3)(j) of this Ordinance. No development or improvement on the lot, or attachment to the recreational vehicle is permitted if it would hinder the removal of the vehicle to a flood-free location.

- D. New commercial recreational vehicle parks or campgrounds, subdivisions, condominium associations, and the expansion of a similar existing use that exceeds five (5) units or dwelling sites is permitted subject to the following:
- i. On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation. Adequate road access to the site must be provided in accordance with Chapter 4, Section 414(a)(3)(j) of this Ordinance. Notwithstanding, no fill placed in the floodway may increase the flood stage of the regional flood.
 - ii. A new or replacement recreational vehicle site may be located in the floodway district, and a new or replacement recreational vehicle site may be located in the flood fringe district without compliance with the requirements of Section (D)(i) above if the new or replacement recreational vehicle site complies with the provisions of Chapter 4, Section 414(a)(3)(n)(iv) of this Ordinance and the following:
 - A flood warning emergency plan for the safe evacuation of all vehicles and people during a regional flood has been approved by the RBC. The plan must be prepared by an engineer or other qualified individual and must demonstrate that adequate time and personnel exist to carry out an evacuation.
 - All vehicles meet the exemption criteria contained in subsection 20.B above.
 - The sewage and water facilities must be protected or constructed so as to not be impaired or contaminated during times of flooding.

21. Restaurant.

- A. In the R-2 and MU-N districts, no restaurant may exceed 5000 square feet in gross floor area.
- B. Drive-in and drive-through restaurants are only permitted in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts. Drive through lands must have stacking space for at least five (5) cars. In the MU-N district the following additional standards apply:
 - i. No speaker box or drive-through window maybe less than fifty (50) feet from a property containing a residential structure.
 - ii. A drive-through may not be open before 7:00 am or after 10:00 pm on a weekday, or before 8:00 am or after 10:00 pm on a weekend. Notwithstanding, a drive-through may be open at 6:00 am on a

weekday or at 7:00 am on a weekend if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding a residential structure or residential use on the same property or within the same development.

- iii. Glare from cars in the drive-through lane and stacking space must be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen.
 - iv. The RBC may require that a drive-through be located on the opposite side of a building from a residential use or that a masonry sound wall be constructed to shield the drive-through from the residential use.
 - v. There may be no more than one drive-through lane and one speaker box.
- C. In the F-3 and F-5 districts, there may be no more than one drive-through lane and access to and from the drive-through lane must be through the alley, if an alley exists.

22. Retail Sales, small and large.

- A. Merchandise may not be located within or obstruct required parking or pedestrian and vehicular circulation areas.
- B. Outdoor display may be used for the temporary display of merchandise but not for the permanent storage of stock.
- C. No retail store may have more than one drive-through window and there must be stacking space for three cars.
- D. A drive-through lane located between a retail store and a residential district or structure must be buffered from the residential district or structure by a dense residential district or structure by a dense urban screen. The drive-through window may not be open past 10:00 pm.
- E. In the MU-N district, the following additional standards apply:
 - i. The speaker box and drive-through window must be at least fifty (50) feet from a property containing a residential structure.
 - ii. The drive-through may not be open before 7:00 am or after 10:00 pm on weekdays, or before 8:00 am or after 10:00 pm on a weekend. Notwithstanding, the drive-through may be open at 6:00 am on a weekday and at 7:00 am on a weekend if all speaker boxes and drive-through windows are located at least 125 feet from any residential structure, excluding a residential use or structure on the same property or within the same development.
 - iii. Glare from cars in the drive-through lane and the stacking space must be shielded from adjacent residential properties by screening, fencing, or a dense urban screen.
 - iv. The RBC may require that a drive-through be located on the opposite side of a building from a residential use or that a masonry sound wall be constructed to shield the drive-through from the residential use.

23. Seasonal Camp or Cabin.

- A. In the R-C and RR-1 districts, camp or cabin buildings must be located at least 200 feet from any other R district.
- B. In the R-C district, the site design must preserve the rural character by:
 - i. Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area.
 - ii. Preserving all natural vegetation not required to be removed for access roads, trails or public safety.
 - iii. Using gravel or pervious paving, rather than impervious materials, for all access roads and driveways serving fewer than twenty-five (25) camp or cabin sites.

24. Veterinarian or animal hospital.

- A. In the R-C and RR-1 districts, a veterinarian or animal hospital is permitted, provided service is limited to large livestock and/or large animal care and any building or enclosure used for that purpose is located at least 100 feet from any lot line.
- B. In the R-2, R-P, MU-N, and MU-C districts, a veterinarian or animal hospital is permitted, provided that the practice is limited to the treatment of small animals (household pets ordinarily permitted in the house for company, like dogs, cats, or birds) and all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation.

25. Vacation Dwelling Unit. Vacation dwelling units are subject to the following:

- A. The minimum rental period is two consecutive nights.
- B. The total number of people that may occupy the vacation dwelling unit is one plus the number of bedrooms multiplied by two.
- C. Vacation dwelling units must provide at least the following off-street parking spaces:
 - i. 1-2 bedroom unit- one space.
 - ii. 3 bedroom unit- two spaces
 - iii. 4+ bedroom unit- the number of spaces must equal the number of bedrooms, minus one.

p. Industrial Uses.

1. Airport and related facilities.

- A. In the R-C district, airport and related facilities are permitted only on land owned by the public or airport authority that is used exclusively as an airport and only on land on which an airport was established on November 19, 2010.
- B. In the I-G district, airport and related facilities are permitted only on land owned by the public or airport authority that is used exclusively as an airport.

2. Contractor's Shop and Storage Yard. In the F-5 Zone, a contractor's shop or storage yard is permitted only in the West Superior study area.
3. Electric Power Transmission Line or Substation.
 - A. Any person proposing the construction of an electric power transmission line or substation must apply to the RBC for a special use permit.
 - B. The applicant must demonstrate the public need for the route or facility as specifically proposed.
 - C. The applicant must provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of using structures capable of expansion of transmission capacity through multiple circuiting or design modification.
 - D. When routing transmission lines, the following must be avoided unless no reasonable alternative exists:
 - i. Slopes of twenty percent (20%) grade or greater.
 - ii. Intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points, wetlands, and forests.
 - iii. Running the line along the forest fringe, rather than through the forest and utilizing open areas in order to minimize cutting (even though leaving a strip at the outside for screening purposes).
 - iv. Soils susceptible to erosion that would create sedimentation and pollution problems.
 - v. Areas of unstable soils that would be subject to extensive slippage.
 - vi. areas with high water tables, especially if construction requires excavation.
 - vii. Open space recreation areas, including parks, golf courses, etc.
 - viii. Long views of lines that are parallel to highways or trails.
 - ix. Airports.
 - x. Parkways.
 - E. Routes must use or parallel existing railroads or high-way rights-of-way if possible. If highway rights-of-way are developed, the line and structures must be sufficiently set back and screened to minimize the view of the line and the structures from the highway.
 - F. If a proposal would unduly harm adjacent property or property values, the applicant must evaluate alternatives to determine if a feasible alternative to the proposal exists. The evaluation must include the underground placement of the line and must consider its feasibility in light of economic, technological, or land characteristic factors. Economic considerations alone will not render underground placement of the line not feasible.
 - G. All structures must be located and designed in such a way that they are compatible with surrounding land uses, scenic views, and existing transmission structures with regard to height, scale, material, color and design.
 - H. All lines must meet or exceed the requirements of the National Electric Safety Code.
 - I. Electromagnetic noise and interference with radio and television reception, as well as any audible hum outside the line right-of-way, must be minimized.

- J. Clearing of the right-of-way must be kept to a minimum. Where vegetation must be removed, new vegetation consisting of native grasses, shrubs and low growing trees must be planted and maintained. Vegetative screening must be used to the maximum extent consistent with safety requirements.

4. Junk and Salvage Services.

- A. Junk and salvage service operations and facilities must comply with all state and Western Lake Superior Sanitary District requirements.
- B. No junk or salvage service facility is permitted in a designated shoreland or floodplain zone or in an identified wetland, as defined or shown in Chapter 4, Section 414(a).
- C. No burning of materials is permitted.

5. Major Utility or Wireless Telecommunications facility.

- A. No person may place, construct or modify a wireless communications facility without first having obtained a special use permit from the RBC. The RBC may in its sole discretion require inclusion of certain requirements, limitations, or other provisions within the special use permit as a condition of approval.
- B. To the extent possible, the placement, height, and quantity of wireless telecommunications facilities should minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding and in the general area of other facilities adjacent to or in generally the same area, which means using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- C. The following are exempt from the requirements of this section:
 - i. A fire, police, department of transportation or other public service facility owned and operated by the Band, or other federal, state or local government.
 - ii. Any facilities exempt from the siting, building and permitting authority of the City of Duluth.
 - iii. Over-the-air reception devices, including reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS), and other customer-end antennas that receive and transmit fixed wireless signals used primarily for reception.
 - iv. Facilities used exclusively for private, non-commercial radio and television reception and private citizen bands, license amateur radio and other similar non-commercial telecommunications.
 - v. Facilities use exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g, (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

- D. Wireless telecommunications facilities must be located, sited, and erected in accordance with the following priorities, (i) being the highest priority and (vii) being the lowest priority:
- i. On existing towers or other structures on City owned properties.
 - ii. On existing towers or other structures on other property located within the City of Duluth.
 - iii. A new tower on government-owned property, other than property designated for park use or in the Park and Open Space (P-1) district.
 - iv. A new tower on government owned property designated for park use, or in the Park and Open Space (P-1) district.
 - v. A new tower on property in the Industrial-General (I-G) and Industrial-Waterfront (I-W) districts.
 - vi. A new tower on property in form or mixed use districts, other than the Mixed-Use Neighborhood (MU-N) district.
 - vii. A new tower on property in residential, Mixed-Use Neighborhood (MU-N), and the Airport (AP) districts.
- E. Other Standards and Requirements. The following requirements are applicable to all wireless telecommunications facilities:
- i. To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate state or federal agency rules or regulations, then the holder of such special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
 - ii. To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security are changed or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed or modified rule, regulation, standard or provision, or sooner as may be required by the RBC.
 - iii. The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may be required by the RBC. Facilities located within the migratory bird flight path shall utilize stealth or concealment technology.

- iv. All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all substantive laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the City and state building and electrical codes, where appropriate.
- v. At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- vi. All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, state, federal government, and Band, including but not limited to the most recent editions of the ANSI Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.
- vii. The holder of a special use permit obtained from the RBC shall notify the RBC of any intended modification of a wireless telecommunication facility and shall apply to the RBC to modify, relocate or rebuild a wireless telecommunications facility.
- viii. All new towers shall be structurally designed to accommodate at least four additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
 - The foreseeable number of FCC licenses available for the area;
 - The kind of wireless telecommunications facilities site and structure proposed;
 - The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
 - Available space on existing and approved towers.
- ix. New guyed towers are prohibited.

- x. The owner of a proposed new tower, and the owner's successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
- Respond within 60 days to a request for information from a potential shared-use applicant;
 - Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
 - Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- xi. No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed a height that shall permit operation without required artificial lighting of any kind in accordance with any applicable City, state, federal and Band statute, law, code, rule or regulation.
- xii. No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed 75 feet in height within the migratory bird flight path.
- xiii. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by applicable law.
- xiv. Towers shall be galvanized or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Chapter 5, Section 510(p)(5)(E).
- xv. Wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. All antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

- xvi. Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration sign as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.
- xvii. All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus ten percent of the height of the tower or structure, or the existing setback requirement of the underlying zone district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.
- xviii. A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain for the duration of the special use permit commercial general liability insurance for personal injuries, death and property damage, and umbrella insurance coverage in the following amounts: \$1,000,000 per occurrence/\$2,000,000 aggregate;
- The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.
 - The insurance policies shall contain an endorsement obligating the insurance company to furnish the RBC with at least 30 days prior written notice in advance of the cancellation of the insurance.
 - Renewal or replacement policies or certificates shall be delivered to the RBC at least 15 days before the expiration of the insurance that such policies are to renew or replace.
 - No permit necessary to the site preparation or construction of a permitted wireless telecommunications facilities may be issued until the holder of the special use permit shall file with the

RBC a copy of the required policies or certificates representing the insurance in the required amounts.

- Notwithstanding the requirements noted in this subsection no insurance shall be required in those instances where the Band applies for and secures a special use permit for wireless telecommunications facilities.

6. Manufacturing, craft.

A. Manufacturing, craft, artisan production shop.

- i. In the F-5 and F-7 districts, the use shall not exceed 5,000 sq. ft. in gross floor area.
- ii. In the F-5 and F-7 districts, the use is permitted in all building types and on all floors.
- iii. Artisan production shops shall maintain at least ten percent of the gross floor area of the facility for retail purposes.

B. Manufacturing, craft, artisan studio.

- i. In the F-5 and F-7 districts, the use shall not exceed 3,000 sq. ft. in gross floor area.
- ii. In the F-5 and F-7 districts, this use is permitted in all building types and on all floors.
- iii. Artisan studios shall maintain at least ten percent of the gross floor area of the facility for retail purposes.

C. Manufacturing, craft, brewery or distillery.

- i. No outdoor storage is permitted.
- ii. Access and loading areas facing any street, adjacent residential use or residential zoning district, shall have the doors closed at all times, except during movement of raw material, other supplies and finished products into and out of the building.
- iii. A facility at the proposed site will not have an adverse impact on the character of the neighborhood. The following criteria may be used to evaluate proposed sites: the effect on traffic movements in the area; the general nature, character, age, and condition of the adjacent development; the proximity to residential areas, regardless of zoning; or any other criteria the RBC may deem pertinent.
- iv. All brewing/distilling and storage activities shall be located within a completely enclosed building.
- v. The facility shall comply with all applicable fire, building, health and sanitation codes, and zoning regulations.

- vi. The facility shall comply with all applicable licensing and operational requirements of the state and county.
 - vii. Craft breweries/craft distilleries shall maintain at least ten percent of the gross floor area of the facility for retail purpose.
 - viii. No more than 500 proof gallons may be stored at a craft distillery premises at any one time.
 - ix. Service trucks for the purpose of loading and unloading materials, equipment and product shall be restricted to between the hours of 8:00 a.m. and 8:00 p.m. Monday through Saturday and between 11:00 a.m. and 7:00 p.m. on Sundays and national holidays.
 - x. Service trucks for the purpose of loading and unloading materials, equipment and product shall be restricted to 30 feet in total length.
7. Manufacturing, light. In the MU-I district, this use is permitted provided it is related to and incidental to a permitted institutional primary use on the property.
8. Manufacturing, hazardous or special.
- A. The RBC may impose appropriate conditions and safeguards, including performance bonds, to protect the health, safety and welfare of the residents of the community and the environment.
 - B. All future use of the land and structures erected on the land shall be governed by and limited to any approved plans and conditions imposed by the RBC. Any subsequent change or addition to an approved plan or use shall be submitted for approval as if it were a new use.
 - C. Without limitation on other valid reasons for denying approval for such a use, the RBC may deny approval if it finds that the use would have negative environmental, health or safety impacts on the community or have little or no contiguity with existing or programmed development in the affected area.
9. Mining, extraction, and storage.
- A. No person engage in mining, extraction, or storage related to mining or extraction without first having obtained a special use permit from the RBC. The RBC may in its sole discretion require inclusion of certain requirements, limitations, or other provisions within the special use permit as a condition of approval.
 - B. As a condition of approving a special use permit hereunder, the RBC must determine that:
 - i. The proposed extraction, removal or processing, and the proposed finished grades on the property, will not endanger the function of any public highway or utility easement.

- ii. The proposed excavation, removal or processing shall not result in the creation of any hazardous sharp pits, steep banks, soil erosion, drainage or sewerage problems or other conditions that would ultimately impair the use of the property in accordance with the general purpose and intent of the zoning regulations for that district.
 - iii. Finished slopes in the excavated area shall not exceed one foot vertical rise to two feet of run except in the case of dams or swimming pools, or where specifically approved in writing by the planning commission.
 - iv. No stagnant water shall be permitted to result from such removal, excavation or processing.
- C. No earthmoving, processing or excavating equipment or trucks that are inoperative for more than 30 days shall be stored in the open on the property.
- D. Upon completion of the excavation, processing or removal of earth materials in accordance with the approved proposed contour lines, the premises shall be cleared of all debris and, unless the excavated area is beneath water, a top layer of soil that will sustain the growth of turf shall be spread over the premises and shall be seeded with perennial rye or grasses.
- E. All excavation, removal and processing, and the extent, limits, and time limits of each activity, shall comply with all terms and conditions in the approved special use permit.

10. Radio or television broadcasting tower.

- A. No person may place, construct or modify a radio or television broadcasting tower without first having obtained a special use permit from the RBC. The RBC may in its sole discretion require inclusion of certain requirements, limitations, or other provisions within the special use permit as a condition of approval.
- B. All radio or television broadcasting towers shall be located in the area of the City known as the tower farm within Section 28, Township 50, Range 14, so as to place the visual and safety impacts of the structure near similar structures, unless the person seeking to place, construct, or modify a radio or television broadcasting tower provides a report from a qualified specialist in the type of facility being constructed or the type of service being provided stating that it is technically not possible to construct the required structure or to provide the service from that area of the City.

11. Solid waste disposal or processing facility. This use shall comply with the following standards:

- A. All aspects of the solid waste disposal operation shall be setback from all property lines a minimum of 150 feet. Natural vegetation shall be retained in

such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 feet from all property lines.

- B. All solid waste disposal operations and facilities, including without limitation yard waste composting facilities, medical waste disposal facilities and petroleum soil disposal sites, shall comply with all state and Western Lake Superior Sanitary District requirements.
 - C. Solid waste disposal facilities for industrial waste shall only be allowed in I-G and I-W zones.
 - D. Solid waste disposal facilities for construction debris shall only be allowed in I-G and I-W zones.
 - E. Facilities for composting of yard waste shall not accept materials other than yard waste.
 - F. No solid waste disposal facilities, except composting facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as defined in Chapter 4, Section 414(a) of or Chapter 2 of this Ordinance.
 - G. All filled areas shall be covered and vegetated in accordance with a schedule for filling, covering and vegetating approved by the RBC.
 - H. There shall be no burning of materials.
 - I. Facility locations shall have direct access to an arterial street and shall not access through a neighborhood. Increased traffic generated by the facility shall not have an adverse effect on the neighborhood. All roads leading to and from and within facilities located in RR-1 and MU-B zones shall be constructed with an approved dust-free material.
 - J. All vehicles transporting materials to or from the facility shall be covered.
 - K. Except for yard waste composting facilities there shall be no processing, separating or sorting of materials outside of covered structures.
 - L. Noise emanating from a building in which dumping, separating or other processing of material is performed shall not exceed state noise requirements at any property line that abuts property zoned other than I-G and I-W.
12. Storage warehouse. In the F-5 district, this use is only permitted in the West Superior portion of the F-5 district.
13. Wholesaling. In the F-5 district, this use is only permitted in the West Superior portion of the F-5 district.
14. Wind Power Facility. In all districts, wind power systems shall comply with the following requirements:
- A. No person may place, construct or modify a wind power facility without first having obtained a special use permit from RBC. The RBC may in its sole discretion require inclusion of certain requirements, limitations, or other provisions within the special use permit as a condition of approval.
 - B. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A

tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail rights-of-way.

- C. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 feet within any migratory bird flight path.
- D. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms.
- E. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer.
- F. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades.
- G. All signs on a wind generator, tower, building or other structure associated with a small wind energy system visible from any public road, other than the manufacturer's or installer's identification, appropriate warning signs or owner identification, shall be prohibited.
- H. No illumination of the turbine or tower shall be allowed unless required by the FAA through applicable laws or regulations;
- I. Any climbing feet pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed.
- J. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
- K. This use shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
- L. If a wind turbine is inoperable for six consecutive months the owner shall be notified that it must, within six months of receiving the notice, restore their system to operating condition. If the owner(s) fails to restore their system to operating condition within the six month time frame, then the owner shall be required, to remove the wind turbine from the tower for safety reasons, at its expense. If the owner(s) fails to remove the wind turbine from the tower, the Band may pursue legal action to have the wind generator removed at the owner's expense.

q. Accessory Uses.

- 1. Accessory agriculture roadside stand. Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an

area of 200 square feet and that it is located not nearer than 25 feet to any street or highway.

2. Accessory bed and breakfast. The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, an accessory bed and breakfast shall:
 - A. Have no more than five habitable units.
 - B. Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs.
 - C. Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests.
 - D. Be located on a lot or tract containing a minimum of 0.6 acre.
 - E. Contain a minimum of 1,500 square feet of area on the first floor of the main building.
 - F. Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15.
 - G. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure.
 - H. Shall limit each guest stay to a maximum of 21 consecutive days.
 - I. May be subject to other conditions deemed necessary by the RBC to ensure the use complies with the purpose of this subsection.

3. Accessory boat dock; residential. This use shall comply with the following standards:
 - A. Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number.
 - B. If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property.
 - C. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off

street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance.

- D. At the request of the RBC, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards.
 - E. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted.
4. Accessory dwelling unit. An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in the Use Table in Chapter 5, Section 509 of this Ordinance, provided the following standards are met:
- A. Only one accessory dwelling unit may be created per lot.
 - B. No variances shall be granted for an accessory dwelling unit.
 - C. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit.
 - D. One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling.
 - E. Accessory dwelling units shall contain no more than 800 square feet of floor space and shall be consistent in character and design with the primary dwelling.
 - F. If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building.
5. Accessory heliport.
- A. All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation as required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals.
 - B. In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use.
6. Accessory home occupation. All home occupations not listed separately in the Use Table in Chapter 5, Section 509 of this Ordinance must comply with the following standards:
- A. The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot, except that the growing of food crops

or ornamental crops, to be sold or donated off-site, shall be exempt from this provision.

- B. No business involving retail sales of goods from the premises is permitted.
- C. No person not a member of the family residing on the premises shall work on the premises.
- D. Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50 percent of an accessory structure may be devoted to such home occupation.
- E. The home occupation shall not require external alterations that would change the residential character of the property.
- F. No display pertaining to such occupation shall be visible from the street.
- G. The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of two appointments per hour and appointments shall be limited to the hours of 8 a.m. to 7 p.m. and not more than four clients shall be on site at the same time.
- H. No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;
- I. All home occupations subject to applicable state licensing requirements shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times.
- J. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation.

7. Accessory home share. An accessory home share may be created within those districts shown where allowed by the Use Table in Chapter 5, Section 509 of this Ordinance provided these standards are met.

- A. The rental or purchase period shall be for 29 days or less.
- B. The maximum number of overnight guests allowed is 4 persons in addition to the owner occupants.
- C. The property owner must obtain all required permits from the Band and, to the extent applicable, the State of Minnesota for guest occupancy on the property;
- D. If requested by the RBC, the property owner must provide required documents and adhere to any additional requirements imposed by the RBC related to the keeping of a guest record, property use rules, taxation, and home share permit violations procedures.
- E. At least one permanent resident must be generally present on or about the premises at all times that the property is rented.
- F. The owner may not advertise an accessory home share for an accessory structure that is a storage shed or garage.
- G. The owner may not advertise an accessory home share in any area exterior to the dwelling unit or any lot without a principle dwelling.

8. Accessory solar or geothermal power equipment. In all districts, other than building integrated solar collection systems, solar collection systems shall comply with the following requirements:

A. Ground-mounted solar system.

- i. Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way.
- ii. Solar collectors shall be located a minimum of six feet from all property lines and other structures.
- iii. Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all districts except residential districts shall not exceed one-half of the footprint of the principal structure.
- iv. Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch.

B. Roof-mounted or wall-mounted solar system.

- i. A solar collection system shall be located a minimum of six feet from all property lines and other structures except the structure on which it is mounted.
- ii. Notwithstanding the height limitations of the zoning district, building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof.
- iii. The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the parapet wall or roof surface, if no parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three feet above the roof surface shall be exempt from this provision.
- iv. A solar collection system may be located on an accessory structure.

C. Solar easements.

- i. A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted

by this Ordinance on nearby properties on grounds that the construction would cast shadows on the solar collection system.

9. Accessory uses or structures not listed elsewhere.

- A. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:
 - i. The construction of the principal building shall be completed within two years of any required approvals for the development of the accessory building under Chapter 7 of this Ordinance.
 - ii. The owner shall execute a license, in a form approved by the RBC, authorizing the RBC to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section.
- B. In the RR-2 district, business shall not be conducted from a garage.
- C. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house.
- D. In the MU-N district, accessory buildings shall be subject to the following restrictions:
 - i. Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck.
 - ii. Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business.
- E. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
 - i. Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck.
 - ii. The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (a) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (b) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business.
- F. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use.
- G. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Chapter 4 and Chapter 5, Section 510 of this Ordinance.

10. Accessory wind power equipment. In all districts, accessory wind power systems shall comply with the following requirements:

- A. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways.
- B. No wind power facility shall be taller than 75 feet within any migratory bird flight path.
- C. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms.
- D. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer.
- E. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades.
- F. No sign that is visible from any public street shall be permitted on the generator, tower, building or other structure associated with a small wind energy system other than the manufacturer's or installer's identification and appropriate warning signs.
- G. No illumination of the turbine or tower shall be allowed unless required by the FAA through applicable laws or regulations.
- H. Any climbing feet pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed.
- I. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
- J. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

11. Accessory vacation dwelling unit. An accessory vacation dwelling unit may be created within, or detached from, any one-family dwelling or vacation dwelling unit in those districts shown where allowed by the Use Table in Chapter 5, Section 509 of this Ordinance, provided these standards are met:

- A. Only one accessory vacation dwelling unit may be created per lot.
- B. No variances shall be granted for an accessory vacation dwelling unit.

- C. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling.
 - D. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building.
 - E. The minimum rental period shall be not less than two consecutive nights.
 - F. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
 - G. Off-street parking shall be provided at the following rate:
 - i. Accessory vacation dwelling units approved on or before May 15, 2016, shall provide the following minimum number of off street parking spaces:
 - 1-2 bedroom unit, one space.
 - 3-4 bedroom unit, two spaces.
 - 5+ bedroom unit, three spaces.
 - ii. Accessory vacation dwelling units approved after May 15, 2016, shall provide the following minimum number of off-street parking spaces:
 - 1-2 bedroom unit, one space.
 - 3 bedroom unit, two spaces.
 - 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- Accessory vacation dwelling units approved on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for accessory vacation dwelling units approved on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- H. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.

r. Temporary Uses.

1. Temporary construction office or yard. This use is limited to one month before construction begins to one month after construction is completed, unless extended for good cause by the RBC.
2. Temporary event or sales. This use is limited to no more than 4 events per calendar year, with the combined length of the 4 events limited to 20 days.
3. Temporary moveable storage container.
 - A. Temporary moveable storage containers for residential uses shall not be located on any public street, and shall not remain on any property in a residential zone district for more than 14 consecutive days.

- B. Temporary moveable storage containers for non-residential uses shall not be located on any public street and shall not be located on private property for more than 90 days during any calendar year unless located and buffered from adjoining property to the same extent required for primary or accessory structures.
4. Temporary real estate sales office. This use is limited to one month before lot or unit sales begin to one month after 90 percent of the lots or units have been sold, unless extended for good cause by the RBC.
- s. Adaptive reuse of a local historic landmark.
- A. This Section applies to structures designated as a City of Duluth local historic landmark.
 - B. All uses that are permitted in the MU-N zone district shall be considered as eligible for approval in R-1, R-2, or R-P districts
 - C. Standards.
 - i. Traffic and parking.
 - a. The adaptive reuse structure must be able to provide required off-street parking per Section 50-24 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance. The RBC may require additional parking to minimize impact on the neighborhood.
 - b. The adaptive reuse of the site must not create additional traffic after 10:00 p.m. on local residential streets.
 - c. The adaptive reuse of the structure will not create frequent truck traffic on local residential streets.
 - ii. Expansion of the structure. There shall be no expansion made to the footprint of the existing building.
 - iii. Screening and buffering. Screening standards shall be required, as listed in Section 50-26 of the UDC, as incorporated by reference through Chapter 6 of this Ordinance. The RBC may require additional screening to reduce the impact of the adaptive reuse.
 - iv. General compatibility. The proposed adaptive reuse of the historic structure must not change the essential character of the neighborhood.
 - v. Preservation. The structure must be preserved according to the preservation plan on file with the City's heritage preservation commission.

CHAPTER 6

DEVELOPMENT STANDARDS

Section 601. Incorporation of Article IV of the City's Unified Development Chapter (UDC). The substantive development standards set forth in Article IV of the City's UDC are hereby incorporated by reference into this Ordinance with the following modifications and limitations:

- a. Incorporation of Article IV of the City's UDC into this Ordinance is limited to the substantive development standards set forth in Article IV. No procedural component of Article IV is incorporated into this Ordinance. Procedural components include, but are not limited to:
 1. any requirement to draft or otherwise develop a plan, application, or other instrument as a condition of obtaining approval for Development, Redevelopment, or use of any kind;
 2. any requirement to obtain approval of a plan, permit, application, or other instrument or action by any individual or body;
 3. any process to obtain approval of a plan, permit, application, or other instrument or action by any individual or body, including, but not limited to, application or plan submission procedures, review procedures, or hearing requirements;
 4. any requirement that a particular structure, fixture, or other item include a name of the individual or entity installing the structure, fixture, or other item or an identification of a permit number on the structure, fixture, or other item; and
 5. any provisions related to enforcement of any requirements or provisions, substantive or procedural, of the City's UDC.
 6. any provision requiring compliance with any procedural state law or regulation.
- b. To the extent the substantive provisions of Article IV of the City's UDC require or allow for the exercise of the City's discretion, or the discretion of a City official or body, such discretion shall be exercised by the RBC.
- c. To the extent a proposed development or use included in Article IV of the City's UDC requires a permit, the RBC may in its discretion, require a permit as provided in Chapter 7, Section 704 of this Ordinance.
- d. Any cross reference within Article IV to a provision of the City's UDC in an article other than Article IV shall be replaced with the chapter, section, and, if appropriate, subsection of the substantive equivalent of the provision within this Ordinance, to the extent that a substantive equivalent has been incorporated into this Ordinance.

CHAPTER 7

ENFORCEMENT

Section 701. Notice of Development. Prior to the Band engaging in Development or Redevelopment on any lands within the scope of this Ordinance as set forth in Section 103, the RBC shall forward a Notice of Development to the Land Use and Zoning Administrator that includes information that the RBC believes in its discretion is sufficient for the Land Use and Zoning Administrator to determine whether the proposed development actions and planned use(s) are consistent with the requirements of this Ordinance. At a minimum, the Notice of Development must include:

- a. a letter of intent indicating the proposed use of the property; and
- b. plans drawn to scale and showing all details of the land area and proposed use;

The Land Use and Zoning Administrator may request additional information from the RBC that in his or her discretion would aid in the determination of whether the actions proposed in the Notice of Development are consistent with the requirements of this Ordinance.

Section 702. Administrator Review and Recommendation to RBC. Within 60 days of receiving a Notice of Development from the RBC pursuant to Section 701, the Land Use and Zoning Administrator shall review the Notice and determine whether the actions and uses proposed therein are consistent with the requirements of this Ordinance. The Land Use and Zoning Administrator may consult with the Land Use Committee in making its determination. After review, the Land Use and Zoning Administrator shall forward a written recommendation of compliance or non-compliance to the RBC that includes the reasons supporting the recommendation.

Section 703. RBC Determination. The RBC shall review the recommendation of the Land Use and Zoning Administrator. Based on that review, the RBC may in its sole discretion:

- a. proceed with the proposed Development or Redevelopment and use(s) contemplated by the Notice of Development;
- b. alter the proposed Development or Redevelopment and uses(s) contemplated by the Notice of Development before taking further action; or
- c. take any other action it sees fit to ensure compliance with this Ordinance.

Section 704. General Permits. The RBC may require a person or entity to obtain a permit prior to engaging in any Development or Redevelopment on any lands within the scope of this Ordinance. This section shall not apply if the proposed use is part of a development or

redevelopment plan proposed by the Band or if a Special Use Permit or Interim Use Permit is required pursuant to Section 707.

Section 705. Application for General Permit. If the RBC determines pursuant to its discretion under Section 704 that a general permit is required for proposed Development, Redevelopment, or use, the person or entity seeking the permit must submit an application to the RBC. At a minimum, the application must include:

- a. a letter of intent indicating the proposed use of the property;
- b. a site plan with an accurate depiction of the lot, lot size, existing and proposed structures, parking and any other relevant features;
- c. sufficient additional information to allow the RBC to determine that the proposed actions and use(s) are consistent with the provisions of this Ordinance.

The RBC may develop standard forms, rules, and instructions consistent with this Section 705 to aid an applicant in submitting an application for a permit.

Section 706. Permit Review and Decision. Within sixty (60) days of the receipt of a complete application for a permit, the RBC shall render a final decision on whether to grant or deny the permit. The RBC may refer the application to the Land Use and Zoning Administrator for evaluation and a recommendation. The recommendation of the Land Use and Zoning Administrator is not binding on the RBC.

Section 707. Special Use Permit or Interim Use Permit Required. Any person or entity other than the Band seeking to engage in the following uses on land subject to this Ordinance must obtain a special use or interim use permit from the RBC prior to engaging in said use:

- a. Special Use Permit: Chapter 5, Section 510(p)(3) (Electric Power Transmission Line or Substation)
- b. Special Use Permit: Chapter 5, Section 510(p)(5) (Major Utility or Wireless Telecommunications Facility)
- c. Special Use Permit: Chapter 5, Section 510(p)(9) (Mining, Extraction, and Storage)
- d. Special Use Permit: Chapter 5, Section 510(p)(10) (Radio or Television Broadcasting Tower)
- e. Special Use Permit: Chapter 5, Section 510(p)(14) (Wind Power Facility)
- f. Interim Use Permit: for any use designated as an “Interim Use” in the Use Table set forth in Chapter 5, Section 509 of this Ordinance within a particular zone district.

Section 708. Application for Special or Interim Use Permit. A person or entity seeking to apply for a special use or interim use permit must submit an application to the RBC. At a minimum, the application must include:

- a. a letter of intent indicating the proposed use of the property;
- b. a site plan with accurate depiction of the lot size, existing and proposed structures, parking, and any other relevant features;

- c. a statement about how the requested use will not have a negative impact on the community, with supporting evidence (such as photos) as needed; and
- d. any materials needed to confirm compliance with Use-Specific Standards in Chapter 5 or any Development Standards in Chapter 6.

The RBC in its discretion may also require an applicant to submit the follow additional materials:

- a. a survey of the property;
- b. a traffic study for projects that the RBC determines in its sole discretion has the potential to create significant traffic;
- c. a landscape or screening plan detailing species type and number of trees and shrubs; and
- d. any additional information that would aid in the RBC's determination of whether to grant a special use or interim use permit to the applicant.

The RBC may develop standard forms, rules, and instructions consistent with this Section 708 to aid applicants in submitting an application for a special use or interim use permit.

Section 709. Special Use or Interim Use Permit Review and Decision. Within 60 days of receiving a special use or interim use permit application, the Land Use and Zoning Administrator shall review the application and shall make a recommendation to grant or deny the permit based on the content of the application and the requirements of this Ordinance. The Land Use and Zoning Administrator may consult with the Land Use Committee in making its recommendation. After review, the Land Use and Zoning Administrator shall forward its written recommendation and its written reasons in support of the recommendation to the RBC. The RBC shall review the recommendation of the Land Use and Zoning Administrator and shall render a final decision on whether to not to grant the application. The RBC shall not be bound by the recommendation of the Land Use and Zoning Administrator in rendering its decision.

Section 710. Modifications of Approvals. Any person or entity who has received a general permit, special use permit, or interim use permit from the RBC may apply to the RBC to modify the permit. If the RBC determines that the proposed modification is minor, the RBC may modify the permit it determines that the applicant would have practical difficulties designing or constructing the project without the modification. If the RBC determines the modification to be major, the RBC may require the submission of a new application.

Section 711. Variances.

- a. **Application Required.** A person or entity other than the Band seeking a Variance from the terms and conditions of this Ordinance when applying for a special use or interim use permit required by Section 707 or general permit as required by the RBC pursuant to Section 704 must submit an application for such Variance to the Land Use and Zoning Administrator. The applicant shall present a statement and evidence, in such form as the Land Use and Zoning Administrator may require, sufficient to demonstrate that:

1. Special circumstances or conditions affect the land, building or use referred to in the application for the Variance such that the literal enforcement of this Ordinance would result in unnecessary hardship. The Land Use and Zoning Administrator shall determine on a case by case basis whether or not a hardship exists.
 2. The granting of the Variance will not be detrimental to the health, safety or welfare of the residents of the City of Duluth or to property in the area adjacent to the property for which the Variance is sought; and
 3. The granting of the Variance will be consistent with the spirit and intent of this Ordinance, and will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the underlying District.
- b. **Review, Recommendation, and Decision.** The Land Use and Zoning Administrator shall review the application for Variance and make a recommendation to the RBC for granting or denying the Variance. In making a recommendation, the Land Use and Zoning Administrator may recommend such additional conditions as necessary to ensure compliance with the provisions of this Ordinance and to protect adjacent property. Such conditions may include but need not be limited to a periodic review of the Variance as well as conditions and restrictions upon the use for which the Variance is issued. Within sixty (60) days of receiving a recommendation from the Land Use and Zoning Administrator regarding a Variance, the RBC shall issue a decision on the Variance application.
- c. **Resubmission.** No application for a Variance which has been denied wholly or in part shall be resubmitted for a period of twelve (12) months from the date of the order of denial, unless the Land Use and Zoning Administrator determines that new evidence or a change of circumstances warrants reconsideration.

Section 712. Violations. It shall be a violation of this Ordinance to do any of the following:

- a. To engage in any Development, Redevelopment, use, construction, remodeling, or other activity without first obtaining a permit or other approval required under this Chapter.
- b. To engage in any Development, Redevelopment, use, construction, remodeling, or other activity inconsistent with the terms and conditions of any permit or approval issued by the RBC.
- c. Abandon any wireless telecommunications facility or wind power facility. A facility is deemed abandoned if it is not used as a wireless telecommunications facility or a wind power facility for a period exceeding 90 consecutive days or a total of 180 days in any 365 day period. A facility is not abandoned if the non-use is caused by a force majeure or Act of God, provided repairs or removal commence within 90 days.
- d. To modify a wireless telecommunications facility or wind power facility without obtaining a special use permit or other RBC approval for a modification pursuant to Section 710.

- e. Fail to maintain any electric transmission line or wind power facility causing it to fall into a state of disrepair or create a health or safety hazard.

Each day that a violation occurs or remains uncorrected after receipt of notice of the violation constitutes a separate violation.

Section 713. Penalties.

- a. The RBC may issue a written Order identifying a violation of this Ordinance and requiring a violating party to correct any violation at the party's expense.
- b. When an Order to correct a violation of this Ordinance has been issued, the Land Use and Zoning Administrator, or other official designated by the RBC, may enter and inspect the property for the purpose of determining compliance with the Order. Failure to correct a violation as provided in the Order is grounds for the revocation of any permit issued for the property by the RBC.
- c. Failure of the special permit holder of a wireless telecommunications facility or wind power facility to correct any violation identified in a RBC Order may also result in an Order to remove the facility from the property. If the RBC orders removal of the facility, the permit holder shall dismantle and remove the facility and all associated structures and facilities from the site and restore the site to as close to its original condition as is possible, subject only to physical or commercial impracticability.
- d. The RBC may also take action to abate or remove the violation and may issue an Order to charge the costs of the abatement or removal to the violating party if the violating party fails to comply with an Order to correct a violation of this Ordinance.

Section 714. Appeals.

- a. **Right of Appeal.** Any person or entity that applies for a general permit, a special use permit, an interim use permit, or a variance may appeal a decision denying such application to the Tribal Court, and the Tribal Court is vested with the necessary jurisdiction to hear such appeals. The appeal must be in writing and must be filed with the Tribal Court within 30 days after the decision denying the application. The person or entity appealing a denial must serve the RBC with a notice of appeal at the time the appeal is filed with the Tribal Court.
- b. **Record.** Unless the Tribal Court determines that a public hearing is necessary to gather additional information, or otherwise to fulfill the purposes of this Ordinance, appeals shall be on the record without a hearing. The record shall include:
 - 1. The application, together with any supporting maps, plans and other related documents;
 - 2. The RBC's decision denying the application, together with any materials in support thereof;
 - 3. Any recommendation and materials supporting the recommendation of the Land Use and Zoning Administrator if the Administrator provided a recommendation to the RBC regarding the application; and

4. The notice of appeal, together with any supporting memos and documents.
- c. **Decision.** The Tribal Court shall issue a decision on an appeal within ninety (90) days after the receipt of the notice of appeal or any hearing ordered by the Tribal Court, whichever is later. A decision of the Tribal Court on a notice of appeal filed under this Section 715 shall be final and not subject to further review by the Court of Appeals.

Section 715. No Right of Appeal. The following actions are final and not subject to appeal, whether administrative, judicial or otherwise, under this Ordinance:

- a. a recommendation of the Land Use and Zoning Administrator regarding a Notice of Development under Section 702; and
- b. any action taken by the RBC regarding a Notice of Development under Section 703.

CHAPTER 8

ENFORCEMENT

Section 801. Effective Date. The provisions of this Ordinance shall become effective immediately upon adoption by the Reservation Business Committee.

Section 802. Amendment or Rescission. The Reservation Business Committee may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation. The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

Section 803. Severability. If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #03/18 was duly presented and adopted by Resolution #1147/18 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on May 29, 2018.



Kevin R. Dupuis, Sr.
Chairman



Ferdinand Martineau, Jr.
Secretary/Treasurer