



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Master

**File Number: 15-084-O**

**File ID:** 15-084-O

**Type:** Ordinance

**Status:** Passed

**Version:** 1

**Agenda  
Section:**

**Committee:** Planning and  
Economic  
Development

**File Created:** 09/18/2015

**Subject:**

**Final Action:** 10/12/2015

**Title:** AN ORDINANCE AMENDING SECTION 50-20.4 INDUSTRIAL USES, 50-20.6 TEMPORARY USES, 50-26.4 FENCES AND WALLS, AND 50-41 DEFINITIONS, TO ALLOW FOR CRAFT MANUFACTURING.

**Internal Notes:** Ordinance by Steven Robertson

**Sponsors:**

**Enactment Date:** 10/12/2015

**Attachments:** Attachment A, Ordinance Cover Letter, Motion to Split Ordinance 15-084 Larson

**Enactment Number:** 10414

**Recommendation:**

**Hearing Date:**

**Drafter:** cstafford@duluthmn.gov

**Effective Date:** 11/12/2015

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	09/28/2015	read for the first time				
1	City Council	10/12/2015	adopted				Pass
1	Mayor	10/12/2015	approved				
1	City Clerk	10/12/2015	attested				

AN ORDINANCE AMENDING SECTION 50-20.4 INDUSTRIAL USES, 50-20.6 TEMPORARY USES, 50-26.4 FENCES AND WALLS, AND 50-41 DEFINITIONS, TO ALLOW FOR CRAFT MANUFACTURING.

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as per Attachment A, Table 50-19.8 Use Table and Table 50-19.1 Use Table Legend.

Section 2. That Section 50-20.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.4 Industrial uses.

A. Airport and related facilities.

1. In the R-C district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport and only on land on which an airport was established on November 19, 2010;
2. In the I-G district, airport and related facilities are permitted only on land owned by the public or airport authority that is used for the exclusive purpose as an airport;

B. Contractor's shop and storage yard.

In the F-5 zone, this use is permitted only in the West Superior study area;

C. Electric power transmission line or substation.

The following standards shall apply, in addition to regular requirements of the special use permit process:

1. General corridor criteria:
  - (a) The public need for the route and facility as specifically proposed shall be demonstrated;
  - (b) Where possible, lines shall avoid existing and potential urban density residential neighborhoods;
  - (c) The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;
  - (d) When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20 percent grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion that would

create sedimentation and pollution problems; areas of unstable soils that would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;

(e) Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway;

2. Design criteria:

(a) If a proposal would unduly harm adjacent property or property values, alternatives must be evaluated to determine whether a feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

(b) All structures shall 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;

(c) Lines shall meet or exceed the National Electric Safety Code;

(d) Electromagnetic noise and interference with radio and television reception, as well as audible hum outside the line right of way, shall be minimized;

(e) The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements;

D. Junk and salvage services.

1. Junk and salvage service operations and facilities shall comply with all state and Western Lake Superior Sanitary District requirements;

2. No junk or salvage service facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined or shown in Section 50-18.1, *Natural Resources Overlay*;

3. There shall be no burning of materials;

E. Major utility or wireless telecommunications facility.

1. Policy.

Overall policy and desired goals for special use permits for wireless telecommunications facilities. In order to ensure that the

placement, construction and modification of wireless telecommunications facilities protects the city's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section 50-20.4.E, the city has adopted an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- (a) Requiring a special use permit for any new, co-location or modification of a wireless telecommunications facility;
  - (b) Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;
  - (c) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;
  - (d) Promoting and encouraging, wherever possible, the sharing and co-location of wireless telecommunications facilities among service providers;
  - (e) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, 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;
  - (f) That in granting a special use permit, the city has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the city;
2. Applicability and exemptions.
- (a) Except as otherwise provided by subsection (b) below, no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities after July 25, 2010, without having first obtained a special use permit for wireless telecommunications facilities. All legally permitted wireless telecommunications facilities, constructed as permitted, existing on or before July 25, 2010, shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section 50-20.4.E. Any repair and maintenance of a wireless facility does not require an application for a special use permit;

- (b) The following shall be exempt from the requirements of this Section 50-20.4.E:
  - (i) The city's fire, police, department of transportation or other public service facilities owned and operated by the city or those owned and operated by county, the state or federal government;
  - (ii) Any facilities expressly exempt from the city's siting, building and permitting authority;
  - (iii) Over-the-air reception devices including the 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 that are primarily used for reception;
  - (iv) Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications;
  - (v) Facilities 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;
- 3. Location standards.
  - (a) Wireless telecommunications facilities shall 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 in the city;
    - (iii) A new tower on city owned properties, other than property designated for park use, or in the Park and Open Space (P-1) District;
    - (iv) A new tower on city owned properties designated for park use, or in the Park and Open Space (P-1) District;
    - (v) A new tower on properties in Industrial-General (I-G) and Industrial-Waterfront (I-W) districts;
    - (vi) A new tower on properties in form districts or mixed use districts, other than the Mixed-Use Neighborhood (MU-N) District;
    - (vii) A new tower on properties in residential, Mixed-Use Neighborhood (MU-N) and Airport (AP) districts;
  - (b) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or

reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site;

- (c) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the city why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship;
  - (d) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application;
  - (e) The city may approve any site located within an area in the above list of priorities, provided that the city finds that the proposed site is in the best interest of the health, safety and welfare of the city and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood;
4. Other standards and requirements.

The following requirements are applicable to all wireless telecommunications facilities.

- (a) 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;
- (b) 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 issuing entity;

- (c) 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 city. Facilities located within the migratory bird flight path shall utilize stealth or concealment technology;
- (d) All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the city and state building and electrical codes, where appropriate;
- (e) 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;
- (f) 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, or federal government, 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;
- (g) A holder of a special use permit granted under this Section 50-20.4.E shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the city or other governmental entity or agency having jurisdiction over the applicant;
- (h) The holder of a special use permit shall notify the city of any intended modification of a wireless telecommunication facility and shall apply to the city to modify, relocate or rebuild a wireless telecommunications facility;

- (i) 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:
  - (i) The foreseeable number of FCC licenses available for the area;
  - (ii) The kind of wireless telecommunications facilities site and structure proposed;
  - (iii) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
  - (iv) Available space on existing and approved towers;
- (j) New guyed towers are prohibited;
- (k) Tower condition inspections shall be conducted every three years for a guyed tower and five years for monopoles and self-supporting towers. All inspections shall be documented in a report such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report shall be provided to the building official within two days of a request by the city for such records;
- (l) 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:
  - (i) Respond within 60 days to a request for information from a potential shared-use applicant;
  - (ii) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
  - (iii) 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;
- (m) 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 city, state or federal statute, law, code, rule or regulation;

- (n) No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed 75 feet in height within the migratory bird flight path;
- (o) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law;
- (p) 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 Section 50-20.4.E;
- (q) 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;
- (r) 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;
- (s) 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;
- (t) The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the city a bond, or other form of security acceptable to the city as to type

of security and the form and manner of execution, in an amount that shall be set in accordance with Section 31-6(a) of the City Code, and with such sureties as are deemed sufficient by the city to assure the faithful performance of the terms and conditions of this Section 50-20.4.E and conditions of any special use permit issued. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit;

- (u) 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;
  - (i) For a wireless telecommunications facility on city property, the policy shall specifically include the city and its officers, employees, agents and consultants as additional insureds. The amounts of such coverage shall be established as a condition of the special use permit and shall be consistent with the liability limits provided in MSA 466.04;
  - (ii) 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;
  - (iii) The insurance policies shall contain an endorsement obligating the insurance company to furnish the building official with at least 30 days prior written notice in advance of the cancellation of the insurance;
  - (iv) Renewal or replacement policies or certificates shall be delivered to the building official at least 15 days before the expiration of the insurance that such policies are to renew or replace;
  - (v) 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 city building official a copy of the required policies or certificates representing the insurance in the required amounts;
  - (vi) Notwithstanding the requirements noted in this subsection no insurance shall be required in those instances where the city, county, state or a federal agency applies for and secures a special use permit for wireless telecommunications facilities.

(v) All special use permits approved for wireless telecommunication facilities located on city property after July 25, 2010, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the city, and its officers, employees, agents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city. An indemnification provision will not be required in those instances where the city itself applies for and secures a special use permit for wireless telecommunications facilities;

5. Additional provisions for special use permit review.

In addition to those standards and criteria in Section 50-37.1 *Common procedures* and Section 50-37.10 *Special and interim use permits*, each application for a special use permit for a wireless telecommunications facility shall comply with the following additional standards:

(a) The city may hire any consultant or expert necessary to assist the city in reviewing and evaluating an application for a special use permit for a wireless telecommunications facility, including the construction and modification of the site, once permitted, and any site inspections. An applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation and consultation to the city in connection with the review of any application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be set in accordance with Section 31-6(a) of the City Code;

(b) The placement of the deposit with the city shall precede the pre-application meeting. The city will maintain a separate escrow account for all such funds. The city's consultants shall

invoice the city for its services related to the application. The total amount of the funds needed for the review of the application may vary depending on the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the city, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the city before any further action or consideration is taken on the application. In the event that the amount held in escrow by the city is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the applicant, be refunded to the applicant;

(c) The land use supervisor will administratively approve an application to colocate on an existing wireless telecommunication facility upon receiving a complete application, if the application meets all the requirements of the Chapter and would not substantially change the physical dimensions of the wireless telecommunication facility. Substantial changes shall mean:

(i) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or

(ii) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

(ii) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

- (iv) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property; or
- (v) The mounting of the proposed antenna would defeat the concealment elements of the eligible support structure; or
- (vi) The mounting of the proposed antenna would not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment;

(d) At any stage prior to issuing a special use permit the city may require such additional information as it deems necessary to confirm compliance with this UDC;

(e) The city may refer any application or part of an application to any advisory, other committee or commission for a non-binding recommendation;

(f) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:

- (i) Conflict with safety and safety-related codes and requirements;

- (ii) Conflict with the historic nature or character of a neighborhood or historical district;

- (iii) The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation;

- (iv) The placement and location of wireless telecommunications facilities that would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the city or employees of the service provider or other service providers;

- (v) Conflicts with the provisions of this Section 50-20.4.E;

- (vi) The failure of the applicant to provide additional requested information in sufficient time for the city to comply with the requirements of MSA 15.99;

(g) Except for necessary building permits, once a special use permit has been granted, no additional zoning approvals shall be required by the city for the wireless telecommunications facilities covered by the special use permit;

(h) In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters and licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety,

fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the city may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site;

6. Relief and appeal.

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Section 50-20.4.E may request relief, waiver or exemption in the submitted application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. The requested relief, and any relief granted by the city, may be temporary or permanent, partial or complete. The burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the city in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the city, its residents and other service providers;

**F Manufacturing, craft.**

1. Manufacturing, craft, artisan production shop.

(a) In the F-5 and F-7 districts, the use shall not exceed 5,000 sq. ft. in gross floor area;

(b) In the F-5 and F-7 districts, the use is permitted in all building types and on all floors;

(c) Artisan production shops shall maintain at least ten percent of the gross floor area of the facility for retail purposes;

2. Manufacturing, craft, artisan studio.

(a) In the F-5 and F-7 districts, the use shall not exceed 3,000 sq. ft. in gross floor area;

(b) In the F-5 and F-7 districts, this use is permitted in all building types and on all floors;

(c) Artisan studio's shall maintain at least ten percent of the gross floor area of the facility for retail purposes;

3. Manufacturing, craft, brewery or distillery.

(a) No outdoor storage is permitted;

(b) 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;

(c) 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 city may deem pertinent;

(d) All brewing/distilling and storage activities shall be located within a completely enclosed building;

(e) The facility shall comply with all applicable fire, building, health and sanitation codes, and zoning regulations;

(f) The facility shall comply with all applicable licensing and operational requirements of the state and county;

(g) Craft breweries/craft distilleries shall maintain at least ten percent of the gross floor area of the facility for retail purpose;

(h) No more than 500 proof gallons may be stored at a craft distillery premises at any one time;

(i) 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;

(j) Service trucks for the purpose of loading and unloading materials, equipment and product shall be restricted to 30 feet in total length;

**FG** 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;

**GH** Manufacturing, hazardous or special.

1. In permitting any such uses, the city 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;
2. All future use of the land and structures erected on the land shall be governed by and limited to the approved plans and conditions imposed by the city. Any subsequent change or addition to the plan or use shall be submitted for approval as if it were a new use;
3. Without limitation on other valid reasons for denying approval for such a use, the city 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;

**HI** Mining, extraction, and storage.

1. No special use permit for this use shall be issued until the city determines that:
  - (a) The city engineer has certified that 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 of the city. If the city engineer proposes conditions and safeguards that are necessary to protect adjoining property, both city and privately owned, those conditions and safeguards have been included in the application or agreed to in writing by the applicant;

- (b) 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;
  - (c) 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;
  - (d) No stagnant water shall be permitted to result from such removal, excavation or processing;
2. 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;
  3. 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;
  4. 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;
  5. The applicant shall post financial security pursuant to Section 50-37.1.P to ensure compliance with the terms and conditions of the permit, including but not limited to remediation of the site following excavation, removal and processing operations;

**IJ Radio or television broadcasting tower.**

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 applicant 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 applicant's service from that area of the city;

**JK Solid waste disposal or processing facility.**

This use shall comply with the following standards:

1. 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;

2. 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;
3. Solid waste disposal facilities for industrial waste shall only be allowed in I-G and I-W zones. Such facilities shall be approved in the special use permit only for specified types of industrial waste;
4. The special use permit shall specify the types of wastes authorized;
5. Solid waste disposal facilities for construction debris shall only be allowed in I-G and I-W zones;
6. Facilities for composting of yard waste shall not accept materials other than yard waste;
7. 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 Section 50-18.1 or Article VI;
8. All filled areas shall be covered and vegetated in accordance with an approved schedule for filling, covering and vegetating. Further, there shall be an approved plan as part of the special use permit for the vegetation and dust control of stockpiled cover material;
9. There shall be no burning of materials;
10. 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;
11. All vehicles transporting materials to or from the facility shall be covered;
12. Except for yard waste composting facilities there shall be no processing, separating or sorting of materials outside of covered structures;
13. 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;
14. In the absence of other compliance funding required by state permitting agencies, there shall be a bond, letter of credit or other security (including an account to accept deposits of tipping fees) acceptable to the city, prior to the issuance of a permit to ensure compliance with the terms of the permit and to ensure proper closure of the facility. Such bond, letter of credit or other surety shall provide for the amount of the closure costs estimated and

certified by the project engineer for each phase of operation and final closure;

**KL** Storage warehouse.

In the F-5 district, this use is only permitted in the West Superior portion of the F-5 district;

**LM** Wholesaling.

In the F-5 district, this use is only permitted in the West Superior portion of the F-5 district;

**MN** Wind power facility.

In all districts, wind power systems shall comply with the following requirements:

1. 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;
2. In the MU-B district, towers that are 50 feet or less in height are permitted by right; taller towers require a special use permit, and no tower shall be approved over 200 feet in height. In other districts where this use is listed as a permitted use, towers that are 200 feet or less in height are permitted by right; taller towers require a special use permit;
3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 feet within any migratory bird flight path;
4. 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;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
6. 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;
7. 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;
8. No illumination of the turbine or tower shall be allowed unless required by the FAA;

9. 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;
10. Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings and foundation as provided by the manufacturer. Wet stamps shall not be required;
11. 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;
12. 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;
13. 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 city may pursue legal action to have the wind generator removed at the owner's expense.

Section 3. That Section 50-20.6 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.6 Temporary uses.

---

All temporary uses require a zoning permit, as required in Section 50-37.13.

A. 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 building official;

B. 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. Requests for more events or longer periods may be reviewed through the temporary use permit procedure in Section 50-37.10;

C. Temporary moveable storage container.

1. 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;

2. 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;

**D. 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 land use supervisor. Requests for longer periods may be reviewed through the temporary use permit procedure in Section 50-37.10.

Section 4. That Section 50-26.4 of the Duluth City Code, 1959, as amended, be amended as follows:

**50-26.4 Fences and walls.**

Unless otherwise expressly provided for in this Chapter, or unless expressly provided for in conjunction with the approval of a special use permit, fences and walls shall comply with the following general standards:

**A. Fence/wall height.**

1. General front yard standards.

- (a) No fence or wall located between the principal structure on a lot and the front property line shall exceed four feet in height. If a fence is constructed with an ornamental material, such as wrought iron, a six foot high fence is allowed provided that the fence is at least 50 percent open or transparent;
- (b) Chain link fences, fences that are electrically charged, fences constructed of barbed or razor wire and fences constructed of temporary plastic fencing (snow fences) are prohibited;
- (c) Prohibitions on electrically charged fences shall not apply to fences used to protect gardens and landscaping on residential lots. Prohibitions on electrically charged fences and fences constructed of barbed or razor wire shall not apply to fences used to enclose livestock on bona fide farms and those serving a public or quasi-public institution for public safety or security purposes;

2. General side and rear yard standards.

Fences that are electrically charged, and those constructed of barbed or razor wire shall be prohibited.

- (a) This prohibition shall not apply to electrically charged fences used to protect gardens and landscaping on residential lots;
- (b) This prohibition shall not apply to fences used to enclose livestock on bona fide farms and those serving a public or quasi-public institution for public safety or security purposes;

3. Residential zone districts.

The maximum height of a fence or wall within required side and rear yard area is eight feet. The maximum height for fences and

walls for entry gates at the residential subdivision entrance shall be eight feet;

4. Mixed use and special purpose zone districts.

The maximum height of a fence or wall within required side and rear yard area is eight feet, but the land use supervisor may approve a fence or wall up to 12 feet in height where additional height is needed to provide adequate security because of topography or the nature of the material or equipment stored in the area;

5. Form districts.

The maximum height of a fence or wall within required side and rear yard area is eight feet, but the land use supervisor may approve a fence or wall up to 12 feet in height where additional height is to provide adequate security because of topography or the nature of the material or equipment stored in the area. Fences and walls are not permitted in required front yard areas, except for wrought iron fences used to enclose outdoor patio or dining areas, in which case the maximum height of the fence shall be three feet;

6. Vacant property.

As an exception to other fence height limits, vacant property may be fenced with chain-link fencing not to exceed six feet in height when the purpose of such fencing is to prevent unauthorized dumping or soil disturbance that results in fugitive dust or nuisance conditions. Such fencing of vacant property shall not be construed to allow use of the property for outdoor storage;

7. Permit required.

Any fence that exceeds seven feet in height is required to have an approved zoning permit prior to construction;

**B. Retaining walls.**

1. Applicability.

The requirements of this Section apply to construction of new retaining walls in all districts, except for (a) retaining walls on proper-ties containing only one-family and two-family dwellings, and (b) retaining walls that will not be visible from neighboring sites or from a public street frontage;

2. Design standards.

All retaining walls shall comply with the following standards:

(a) Retaining walls more than six feet tall shall be terraced to minimize visual impacts on residents, neighboring properties and the public realm;

(b) Terracing shall be limited to three tiers;

(c) A terrace at least four feet wide, with a maximum slope of 3:1, shall be provided between each tier to create pockets for landscaping. Reduced terrace depths may be administratively approved by the building official where site constraints limit the

amount of space available to accommodate the minimum required width;

- (d) Terraces between retaining wall tiers shall be vegetated with permanent landscaping to screen retaining walls and provide visual interest unless soil conditions are determined by a licensed engineer to be unsuitable due to geologic hazards;
- (e) Retaining walls shall be stacked natural stone or faced with stone or earth-colored materials, textured and colored Mechanically Stabilized Earth (MSE) blocks or other material compatible with the primary building materials;
- (f) Retaining walls constructed of railroad ties, timber and gabion-type materials are not allowed;

#### C. Materials and signs.

No fence, wall or retaining wall shall be constructed of scrap or waste materials unless those materials have been recycled or reprocessed into building materials for sale to the public. No sign may be posted on any fence, wall or retaining wall except for a property identification/management sign not exceeding one square foot in size.

Section 5. That Section 50-41.1 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-41.1. Definitions: A.

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.

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.

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.

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.

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.

**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.

**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.

**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.

**Accessory home occupation.** A business or occupation incidental and subordinate to the principal residential use. All home occupations must comply with the conditions in Section 50-20.5.F. 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.

**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.

**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.

**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 Chapter, provided that they meet all other applicable requirements of this Chapter: solar photovoltaic modules, solar thermal hot water collectors, solar arrays; and geothermal heat pumps, earth tubes, or downhole heat exchangers.

**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 Chapter. 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 stormwater management and water conservation.

Accessory vacation dwelling unit. An accessory dwelling unit as defined by this Chapter that is used for periods of occupancy from three to 21 days.

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

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.

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.

Adult entertainment establishment. See definition in Chapter 5 of the City Code.

Adult bookstore. See definition in Chapter 5 of the City Code.

Agriculture, general. The production 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 primarily for distribution and consumption beyond the Duluth/Superior area. This use also includes wetlands, pasture, forest land, wildlife land, and other uses that depend on the inherent productivity of the land, but not include a use meeting the definition of "agriculture, urban."

Agriculture, urban. The raising of crops and small livestock primarily for local sustenance, rather than commercial purposes, for sale and consumption within the immediate Duluth/Superior area.

Airport boundary. Those lands including the property owned by the city, state, 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. The Duluth International Airport boundaries are illustrated on Sheet 3, airport property map, of the approved set of airport layout plans on file in the offices of the Duluth Airport

Authority. The Sky Harbor Municipal Airport boundaries are illustrated on Exhibit 50-18.2-2.

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.

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.

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.

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.

Alley line. The established side line of an alley easement.

Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

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.

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.

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.

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.

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.

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.

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.

Section 6. That Section 50-41.2 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-41.2. Definitions: B.

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.

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.

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.

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.

Block face. All lots abutting both sides of a street (street A) between the nearest two streets that intersect street A.

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.

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.

Bluff, top of. The higher point of a horizontal ten feet segment with an average slope exceeding 18 percent.

Bluff impact zone. A bluff and land located within 20 feet of a bluff.

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.

**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.

**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.

**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.

**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.

**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.

**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 Chapter.

**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.

**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.

**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.

**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.

**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.

**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.

Section 7. That Section 50-41.4 of the Duluth City Code, 1959, as amended, be amended as follows:

Sec. 50-41.4. Definitions: D.

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.

Daycare facility. A facility that provides accommodations for persons of any age who receive custodial care for less than 24 hours by individual other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.

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.

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.

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.

Design storm. A rainfall event used in the analysis and design of drainage facilities. See the engineering guidelines for the current rainfall data.

Detention. The temporary storage of drainage water.

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.

Developable area. All land within a zone district not occupied by streets and public rights-of-way.

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.

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.

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.

Discharge. The discharge of any pollutant into the waters of the state from any point source.

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.

Discharge volume. The volume of drainage water discharged from a site from a single rainfall event, expressed as cubic feet or acre-feet.

Distillery, craft. A facility that manufactures distilled spirits, as defined by Minn. Stat. § 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.

District. Any section of the city within which the zoning regulations are uniform.

DNR. Minnesota department of natural resources.

Drainage basin. The tributary area through which drainage water is collected, regulated, transported and discharged to receiving waters.

Drainage system. Any system that conveys stormwater or surface water including sewers culverts, ditches, and swales.

Drainage water. Stormwater, snow melt, surface and irrigation water, water from footing drains and sump pumps or other drains approved by the city.

Drip line. A vertical line extending from the outermost edge of a tree's canopy to the ground.

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.

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.

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.

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.

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.

Dwelling, multi-family. A building containing three or more dwelling units that is not a townhouse.

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 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.).

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.

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.

Section 8. That this ordinance shall take effect 30 days after its passage and publication.

Attachment A, Table 50-19.8 Use Table and Table 50-19.1 Use Table Legend

TABLE 50-19.8: USE TABLE																										
	Residential						Mixed Use					Form									Special				Use-Specific Standards	
	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
<b>RESIDENTIAL USES</b>																										
<b>Household Living</b>																										
Dwelling, one-family	P	P	P	P	P	P	P					P	U	U	U	U	U	P	U	U	U					
Dwelling, two-family				P	P	P	P					P	U	U	U	U	U	P	U	U	U					50-20.1.A
Dwelling, townhouse				S	P <sup>2</sup>	P	P <sup>2</sup>				P <sup>1</sup>	P														50-20.1.B
Dwelling, multi-family					P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	P	P	U	P	P					50-20.1.C
Dwelling, live-work							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P		P	P					
Manufactured home park				S	S <sup>2</sup>	P	S <sup>2</sup>																			50-20.1.F
<b>Group Living</b>																										
Co-housing facility				S	S <sup>2</sup>	P	P <sup>2</sup>					P														
Residential care facility/assisted living (6 or fewer )		P	P	P	P <sup>2</sup>	P	P <sup>2</sup>					P	U	P	U	P	P	U	U	P	P					50-20.1.D
Residential care facility/assisted living (7 or more)				S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	P	U	U	P	P					50-20.1.D
Rooming house					S <sup>2</sup>		P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	U	P	U	P	P	U	U	P	P					50-20.1.E
<b>PUBLIC, INSTITUTIONAL AND CIVIC USES</b>																										
<b>Community and Cultural Facilities</b>																										
Bus or rail transit station							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P					
Cemetery or mausoleum	S	S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S	S	S														S		
Club or lodge (private)					S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P				S		50-20.2.A
Government building or public safety facility		P	P	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P	S	S	S	P	
Museum, library or art gallery				S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>		S	P <sup>1</sup>	P	P	P	P	P	P	P	P	P				S		
Park, playground or forest reserve	P	P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P				P		
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P	P	P	P	P	P	P	P	P						50-20.2.F

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use-Specific Standards	
	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
Religious assembly, large (50,000 sq. ft. or more)		S	S	S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P	P	P	P	P	P	P	P							50-20.2.F
<b>Educational Facilities</b>																										
Business, art or vocational school							P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P							
School, elementary		P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>			P	U	P	U	P	P	U	U	U						50-20.2.G
School, middle or high		S	S	S	S <sup>2</sup>	P	S <sup>2</sup>	S <sup>1</sup>	S <sup>1</sup>			P	U	P	U	P	P	U	U	U						50-20.2.G
University or college									P <sup>1</sup>			P			U	P	P	U	U	U						
<b>Health Care Facilities</b>																										
Hospital									P <sup>1</sup>																	
Medical cannabis distribution facility										I												I				50.20.2.B
Medical cannabis laboratory										I												I				50.20.2.C
Medical cannabis manufacturer																						I				50.20.2.D
Medical or dental clinic					S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P						50-20.2.E
Nursing home					P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P		P		P										
Other institutional support uses not listed in this table									P <sup>1</sup>																	
<b>COMMERCIAL USES</b>																										
<b>Agriculture and Animal-Related</b>																										
Agriculture, community garden	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>																	<u>50.20.3.B</u>
Agriculture, farmers market			<u>S</u>		<u>S</u>		<u>S</u>	<u>S</u>	<u>S</u>		<u>S</u>	<u>P</u>														<u>50.20.3.B</u>
Agriculture, general	P	P																								50.20.3.B
Agriculture, urban		P	P	<u>P</u> <u>S</u>	<u>P</u> <sup>2</sup>	P	<u>P</u> <sup>2</sup>	<u>S</u>	<u>S</u>			P														<u>50.20.3.B</u>
Kennel	S	S						S	S	P		P														
Riding stable	S	S	S			P					S													S		
Veterinarian or animal hospital	S	S			P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P									50.20.3.T
<b>Food, Beverage and Indoor Entertainment</b>																										
Adult entertainment establishment																						P				50-20.3.A

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use-Specific Standards		
	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	
Convention or event center								P <sup>1</sup>		P	P <sup>1</sup>	P				P	P		P	P	P						50-20.3.H
Indoor entertainment facility								P <sup>1</sup>		P	P <sup>1</sup>	P		P		P	P		P	P	P						
Restaurant (less than 5,000 sq. ft.)					S <sup>2</sup>	S	S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	S	P	P	P	P	P	P	P	P	P						50-20.3.Q
Restaurant (5,000 sq. ft. or more)						S		P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	S	P	P	P	P	P	P	P	P	P						50-20.3.Q
Theater							S <sup>2</sup>	P <sup>1</sup>			P <sup>1</sup>	P		P		P	P		P	P	P						
<b>Lodging</b>																											
Hotel or motel							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P		P		P	P		P	P	P						
Bed and breakfast				S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P		P		P		P									50-20.3.F
Seasonal camp or cabin	P	P				P					P <sup>1</sup>													S			50.20.3.S
Vacation dwelling unit		I	I	I	I <sup>2</sup>	I	I <sup>2</sup>									I											50-20.3.U
<b>Offices</b>																											
Bank							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P	P	P	P	P	P	P	P	P	P						50-20.3.E
Office					S <sup>2</sup>		P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P						50-20.3.M
Data center							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P	U	U	U	U	U	U	U	U	U	P					
<b>Outdoor Recreation &amp; Entertainment</b>																											
Golf course		S	S			P																			P		
Marina or yacht club											P <sup>1</sup>												S	S			
Recreational vehicle park	S	S	S								S													S			50.20.3.P
Other outdoor entertainment or recreation use not listed		S						S		S	S																50.20.3.N
<b>Personal Services</b>																											
Business park support activities										P	P																
Preschool		S	S	S	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	S	P	S						
Daycare facility, small (14 or fewer)	P	P	P	P	P <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	P	P	P						50-20.3.I
Daycare facility, large (15 or more)		S	S	S	S <sup>2</sup>	P	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P	P	P	P	P	P	P	S	P	S						50-20.3.I
Funeral home or crematorium					S <sup>2</sup>		S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P		P		P		P						P					
Mini-storage facility		S								P												P	P				50-20.3.L







**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special			Use-Specific Standards				
	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		
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				50-20.6.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		50-20.6.B
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			
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		50-20.6.C	
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.D	
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			
<b>FORM DISTRICT BUILDING TYPES</b>																												
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								

**TABLE 50-19.1: Use Table Legend for 50-19.8**

<b>Abbreviation</b>	<b>Reference</b>
P	Permitted Use
S	Special Use
I	Interim Use
A	Accessory Use
U	Use Allowed in the Upper Stories of the Form District Building
<sup>1</sup>	May Require Planning Commission Review Hearing (MU-C, MU-I, and MU-W Only)
<sup>2</sup>	May Require Additional Development Standards and Planning Commission Review if in the Higher Education Overlay District (HE-O)
Notes:	
Additional restrictions may apply on uses within the natural resources, airport, historic resources, or skyline parkway overlay districts (NR-O, A-O, HR-O, SP-O)	
All permitted uses in the MU-N Zone District shall be considered as eligible for an interim use permit in R-1 or R-2 District for structures identified as a city of Duluth Local historic landmark, per Section 50-20.7.	