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C. Illustration.

**RR-2 Example Lot Configuration**



(Ord. No. 10044, 8-16-2010, § 6.)

A. Purpose.

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 Table 50-19.8;

TABLE 50-14.5-1 R-1 DISTRICT DIMENSIONAL STANDARDS		
<b>LOT STANDARDS</b>		
Minimum lot area per family (One-family) <sup>[1][2]</sup>	The smaller of 4,000 sq. ft. or average of developed 1-family lots on the block face	
Minimum lot area per family (Two-family) <sup>[1][2][3]</sup>	The smaller of 3,000 sq. ft. or average of developed 2-family lots on the block face	
Minimum lot area per family (Townhouse) <sup>[1]</sup>	3,000 sq. ft.	
Minimum lot frontage (one-family) <sup>[1]</sup>	The smaller of 40 ft. or average of developed lots with similar uses on the block face	
Minimum lot frontage (two-family and townhouses) <sup>[1]</sup>	The average of developed lots with similar uses on the block face, but not less than 40 feet.	
<b>STRUCTURE SETBACKS</b>		
Minimum depth of front yard	The smaller of 25 ft. or average of adjacent developed lots facing the same street	
Minimum width of side yard (one- and two-family)	General	6 ft.
	Lots with less than 50 ft. frontage and garage	Combined width of side yards must be at least 12 ft.
Minimum width of side yard (Townhouse)	10 ft. if adjacent to another lot	
	25 ft. if adjacent to platted street	
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	25 ft.	
<b>STRUCTURE HEIGHT</b>		
Maximum height of building	30 ft.	
<sup>[1]</sup> Determined using "Lots on the block face" definition. When doing this calculation, exclude the subject lot from the calculation. <sup>[2]</sup> Lots without municipal sewer must also meet requirements of 50-21.2. <sup>[3]</sup> 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 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

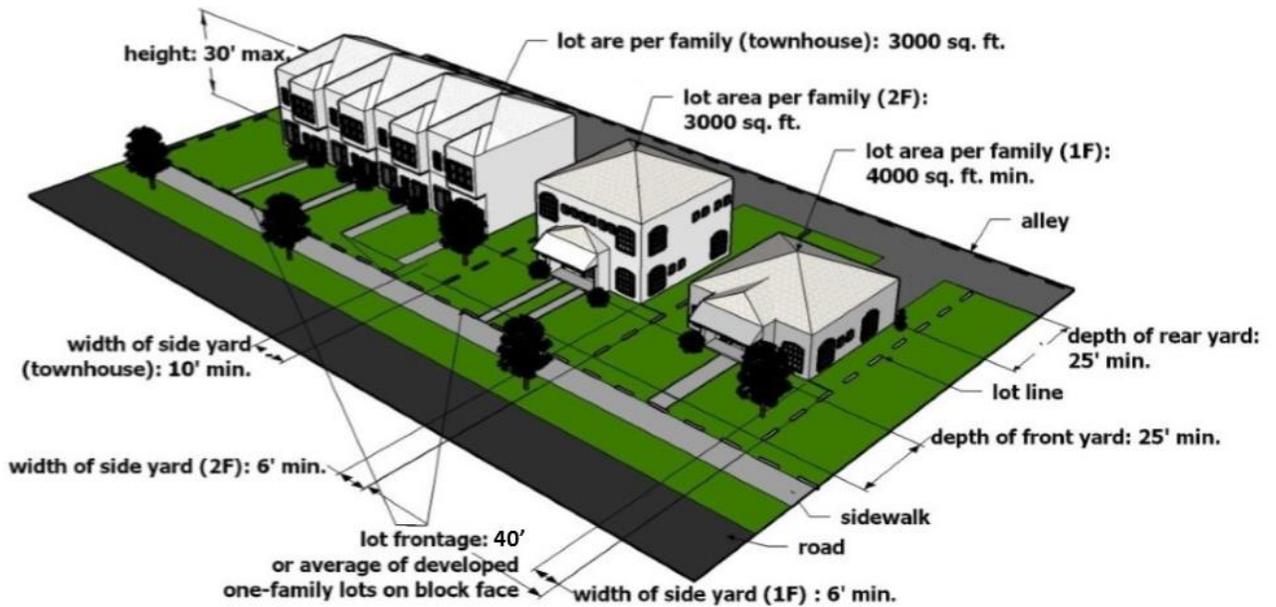
B. Example.

R-1 Example Building Forms



C. Illustration.

*R-1 Example Lot Layout*



(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 7; Ord. No. 10225, 5-28-2013, § 1; Ord. No. 10337, 11-24-2014, § 1; Ord. No. 10421, 11-9-15, § 1.)

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

**A. Purpose.**

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

<b>TABLE 50-14.6-1 R-2 DISTRICT DIMENSIONAL STANDARDS</b>		
		<b>LOT STANDARDS</b>
Minimum lot area per family	One-family	4,000 sq. ft.
Minimum lot area per family	Two-family	2,500 sq. ft.
Minimum lot area per family	Multi-family	750 sq. ft.
Minimum lot area per family	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.
		<b>STRUCTURE SETBACKS</b>
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 building 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		25 ft.
		<b>STRUCTURE HEIGHT</b>
Maximum height of building		45 ft.
Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

**B. Example.**

***R-2 Example Building Form***



## **50-15 Mixed use districts.**

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### **50-15.1 General purposes of mixed use districts.**

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The mixed use districts are established to:

- A. Increase opportunities for residents to live in close proximity to jobs and non-residential development;
- B. Accommodate the mix of residential and non-residential land uses common in and around downtown/waterfront areas, major universities and medical centers and along commercial corridors;
- C. Encourage mixed use redevelopment, conversion and reuse of aging and underutilized areas, and increase the efficient use of available commercial land in the city;
- D. Create pedestrian-oriented environments that encourage transit use, pedestrian access, and more sustainable land use patterns;
- E. Ensure that the appearance and function of residential and non-residential uses are of high and unique aesthetic character and quality, and are integrated with one another and the character of the area in which they are located. (Ord. No. 10044, 8-16-2010, § 6.)

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

### A. Purpose.

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

**TABLE 50-15.2-1**

**MU-N DISTRICT DIMENSIONAL STANDARDS**

		LOT STANDARDS
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
	Townhouse or live-work dwelling	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, or townhouse dwelling	30 ft.
	Multi-family or non-residential	50 ft.
		STRUCTURE SETBACKS
Minimum depth of front yard	For all structures 35 feet in height or less	The smaller of 20 ft. or average of adjacent developed lots facing the same street
	For portions of all structures higher than 35 feet	An additional 12 feet beyond the required front yard setback
Minimum width of side yard	General, unless listed below	5 ft.
	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.
Minimum depth of rear yard		25 ft.
		STRUCTURE HEIGHT
Maximum height of building	Non-residential 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* contains additional regulations applicable to this district.

### B. Example.

#### **MU-N Example Building Form**



C. Illustration.



(Ord. No. 10041, 8-16-2010, § 1; Ord. No. 10042, 8-16-2010, § 2; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 10; Ord. No. 10192, 12-17-2012, § 5; Ord. No. 10232, 6-10-2013, § 1; Ord. No. 10286, 3-10-2014, § 2; Ord No. 10468, 8-29-2016, §1)

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

### A. Purpose.

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

<b>TABLE 50-15.3-1 MU-C DISTRICT DIMENSIONAL STANDARDS</b>		
		<b>LOT STANDARDS</b>
Minimum lot area per family	Live-work dwelling	2,200 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.
<b>STRUCTURE SETBACKS</b>		
Minimum depth of front yard	For all structures 35 feet in height or less	0 ft.
	For portions of all structures higher than 35 feet	12 ft.
Minimum width of side yard 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.
<b>STRUCTURE HEIGHT</b>		
Maximum height of building	Non-residential use	45 ft.
	Residential or mixed use	90 ft.
	Residential or mixed use within 500 ft. of R-1 or R-2 district	45 ft.

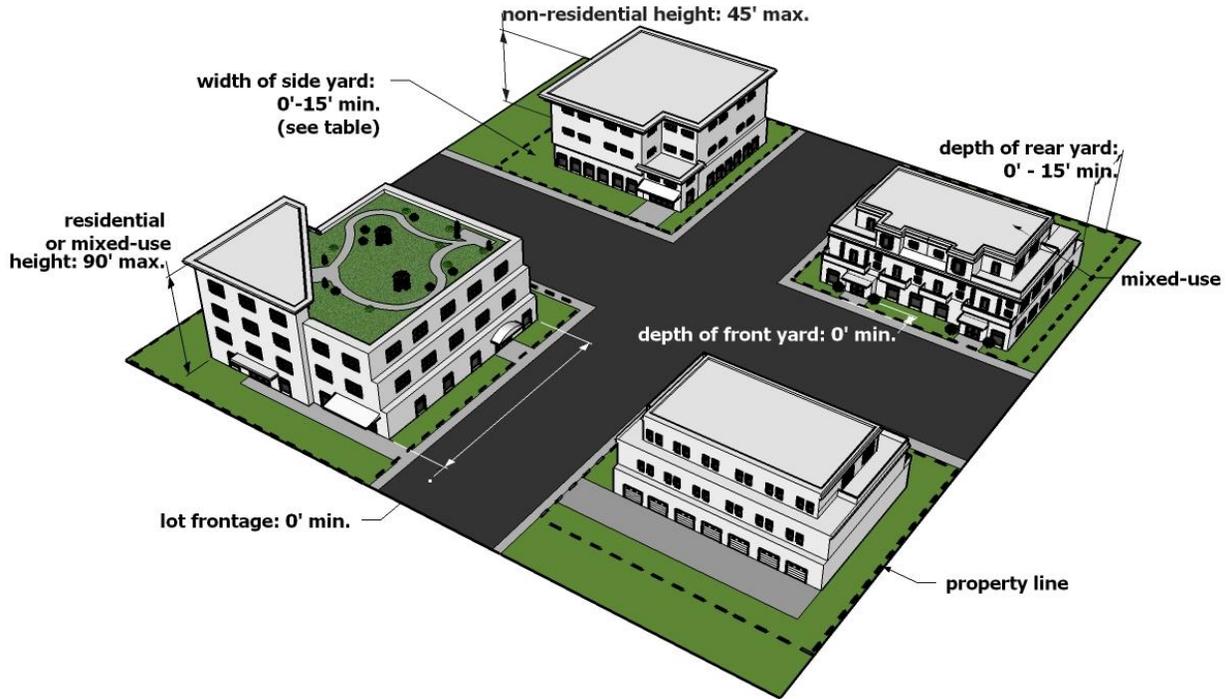
Section 50.21 *Dimensional standards* contains additional regulations applicable to this district.

### B. Example.

#### *MU-C Example Building Forms*



C. Illustration.



D. Planning commission approval required.

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

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

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

E. Development standards.

1. The location, size and number of curb cuts shall be designed to minimize traffic congestion or hazard in the area. Any traffic control improvements required as a result of the proposal such as traffic signals, turning lanes, medians, signage and other types of improvements necessary to accommodate traffic flow to and from the proposed project shall be paid for by the property owner. Any additional right-of-way or easements needed shall be provided by the property owner at no cost to the city;
2. Any necessary public easements over the subject property shall be dedicated, and any necessary improvements within such easements or other easements adjacent to the subject property shall be made. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10232, 6-10-2013, § 2; Ord No. 10468, 8-29-2016, §1)

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

**A. Purpose.**

The MU-I district is established to provide for the unique development needs and impacts of major medical, 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;

<b>TABLE 50-15.4-1 MU-I DISTRICT DIMENSIONAL STANDARDS</b>		
<b>LOT STANDARDS</b>		
Minimum lot area per family	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
<b>STRUCTURE SETBACKS</b>		
Structures and parking facility setbacks		0 ft.
<b>STRUCTURE HEIGHT</b>		
Maximum height of building	Generally	120 ft.
	On development sites totaling not more than 15% of developable area of the zone district, but not within those areas where a lower maximum is noted below.	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.

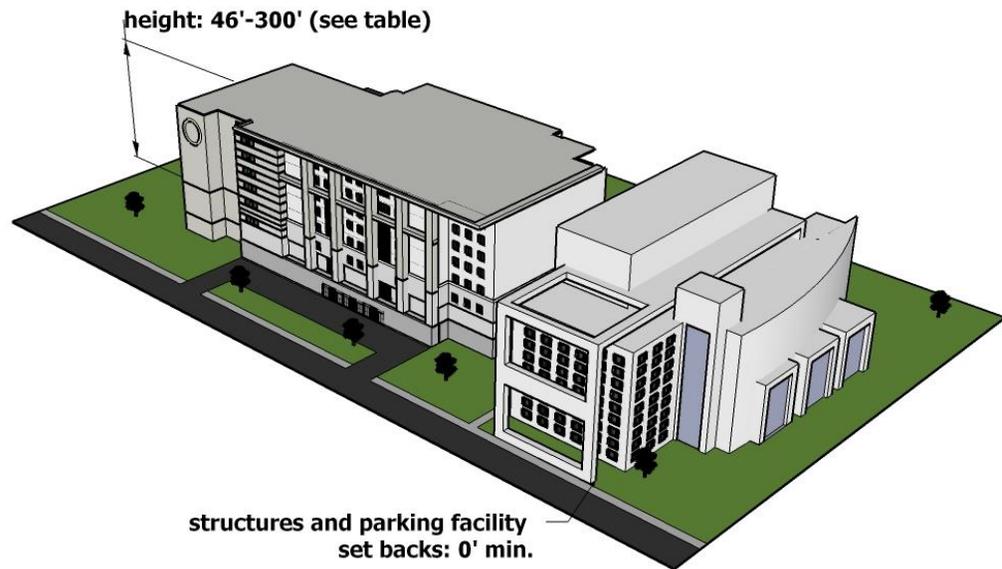
Section 50.21 *Dimensional standards* contains additional regulations applicable to this district.

**B. Example.**

***MU-I Example Building Forms***



**C. Illustration.**



**D. Planning commission approval required.**

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

**E. District plan option.**

1. In an MU-I zone district that contains ten acres or more of land and multiple buildings owned or operated by a single institution, the institution may choose to obtain approval of a district plan from the city as set forth in Article V;
2. After a district plan that complies with this Section 50-15.4 is approved, all subsequent development proposed by the institution that substantially complies with the density, location and uses of the approved district plan shall be administratively approved by the land use supervisor through the planning review process in Section 50-37.11 without the need for additional planning commission review or public hearings;

F. Optional district plan requirements.

1. Planning area.

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

2. Plan requirements.

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

- (a) A statement as to whether the institution intends to acquire any additional properties in the surrounding area for conversion to institution uses over the ten year period, and, if so, the general direction of that proposed expansion;
- (b) A plan and description of the maximum amount of development of land and buildings expected to occur within the planning area boundaries within over the next ten years, including:
  - (i) Location of each potential new building or significant expansion of or addition to existing buildings;
  - (ii) Maximum floor area and height of potential new buildings and additions to and expansions of existing buildings;
  - (iii) Any setbacks and buffering from the external planning area boundaries;
  - (iv) Total number and location of parking spaces that will be developed to serve any new development;
  - (v) A statement of any sensitive natural areas or site features that will be protected from development, and the measures to be taken to protect them;
  - (vi) A statement as to any public improvements anticipated to be required from the city or any public or quasi-public entity to serve the proposed development;
- (c) A transportation and parking management element that identifies traffic circulation patterns, entry and exit points for traffic at the planning area boundaries, any anticipated increases or decreases in traffic entering or exiting the planning area, how parking needs and transit service will be accommodated within the planning area and any measures to be used to mitigate traffic and parking impacts on surrounding areas. If the district plan reflects an increase of ten percent or more in building gross square footage or an increase of ten percent or more of employment or enrolled students within the planning areas, the city may require that the institution base this element on a traffic and parking study prepared by a qualified consultant;
- (d) An open space, trail and pedestrian/bicycle circulation element that describes how those features will be integrated into the proposed development and connected to similar features in the surrounding area;
- (e) A massing plan showing the locations of all existing and planned buildings more than 20 feet taller than the maximum height allowed in any adjacent residential 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;
- (f) A description of any requested variation from the development standards in Article IV 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;

**G. Community meeting.**

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

**H. Approval criteria.**

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

1. The district plan complies with all applicable standards of this Chapter, or offers sound reasons for variations from those standards;
2. The district plan mitigates any potential significant adverse impacts to surrounding areas – including but not limited to traffic, parking, and visual obstruction of views of Lake Superior and the St. Louis River to the extent reasonable;
3. Sufficient public safety, transportation and utility facilities and services are available to serve the planning area at the proposed level of development, while maintaining sufficient levels of service to existing and anticipated development in surrounding areas. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 11.)

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

**A. Purpose.**

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

<b>TABLE 50-15.5-1 MU-B DISTRICT DIMENSIONAL STANDARDS</b>		
<b>STRUCTURE SETBACKS</b>		
Minimum depth of front yard	General	25 ft.
	Lots with less than 250 ft. average depth	Larger of 10 ft. or 10% of lot depth
Minimum width of side yard	Adjacent to residential use or district	6 ft.
	General	0 ft.
Minimum depth of rear yard	Adjacent to residential use or district	10 ft.
	General	0 ft.
<b>STRUCTURE HEIGHT</b>		
Maximum height of building	General	60 ft.
	Within 500 ft. of R-1 or R-2 district	45 ft.

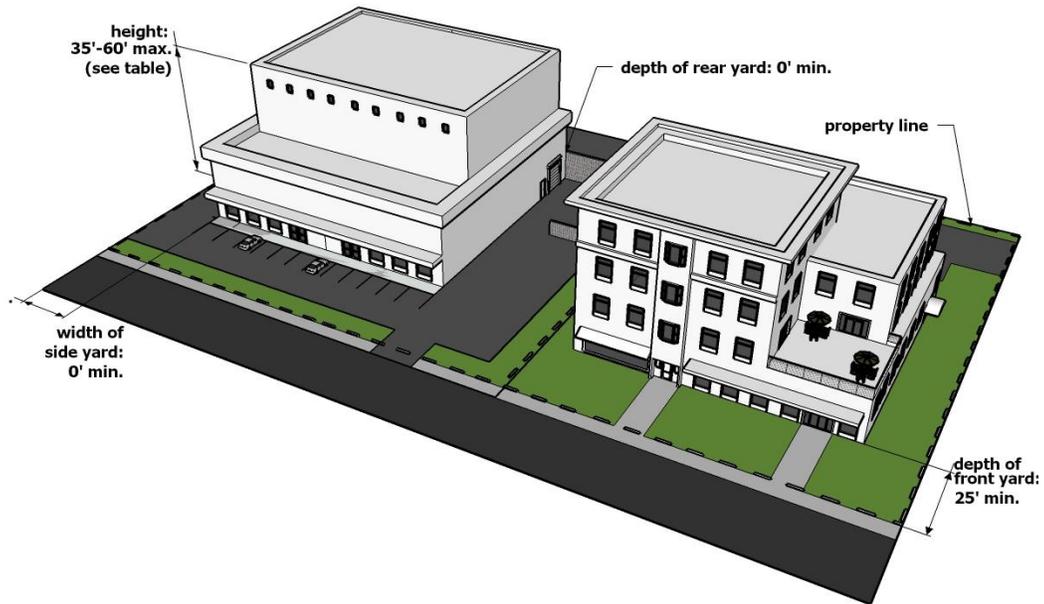
Section 50.21 *Dimensional standards* contains additional regulations applicable to this district.

**B. Example.**

***MU-B Example Building Forms***



C. Illustration.



D. Development standard.

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. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10232, 6-10-2013, § 3, Ord No. 10468, 8-29-2016, §1)

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

**A. Purpose**

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

<b>TABLE 50-15.6-1 MU-W DISTRICT DIMENSIONAL STANDARDS</b>		
<b>LOT STANDARDS</b>		
Minimum lot area per family	Townhouse or live-work dwelling	2,200 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
Minimum lot frontage		50 ft.
<b>STRUCTURE SETBACKS</b>		
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.
Minimum depth of rear yard		25 ft.
<b>STRUCTURE HEIGHT</b>		
Maximum height of building	Residential or mixed use	120 ft.
	Non-residential	60 ft.
	Within 500 ft. of R-1 district	35 ft.
	Within 500 ft. of R-2 district	50 ft.
Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

**B. Example.**

***MU-W Example Building Forms***



**D. Shorelands.**

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

1. Shoreland permit required.

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

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

2. Standards for shoreland permit.

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

3. Dimensional standards.

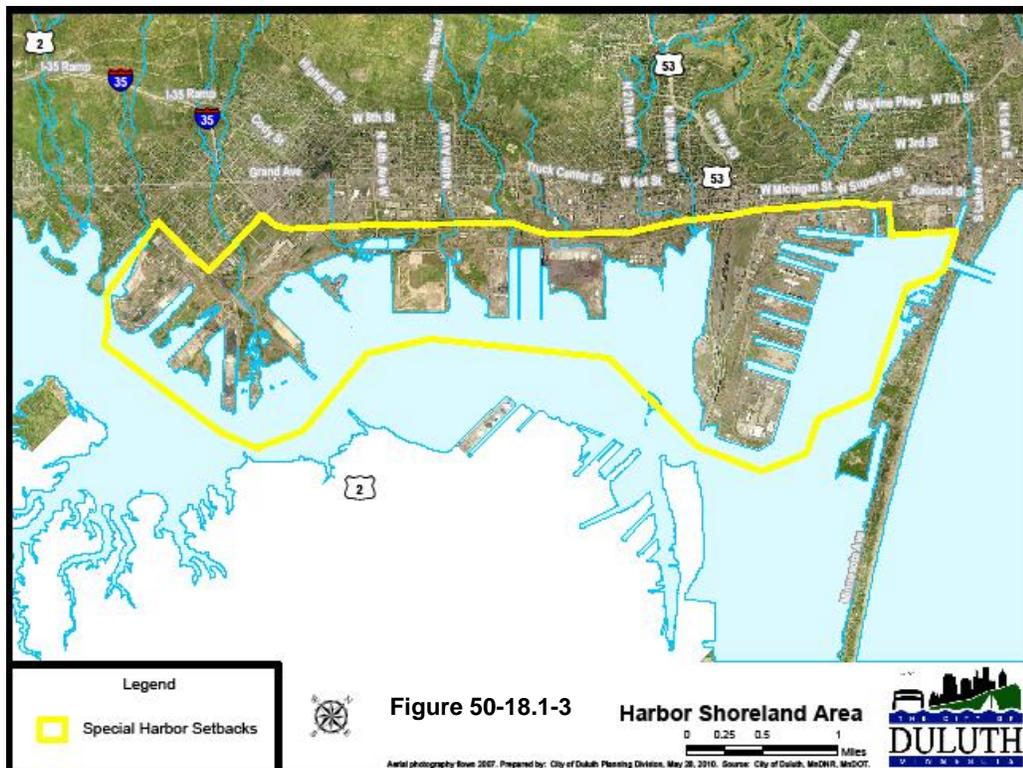
- (a) No shoreland permit shall be approved unless the standards in Table 50-18.1.D-1 are met or a variance obtained pursuant to Article V;

<b>Table 50-18.1.D-1: Minimum Shoreland Area Standards</b>			
<b>Standards</b>	<b>General Development Waters <sup>[1]</sup></b>	<b>Natural Environmental Waters</b>	<b>Coldwater River</b>
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, &amp; industrial structures in the harbor, shown in Figure 50-18.1.- 3</i>	25 ft.	N/A	N/A
<i>Impervious surfaces in the Shore Impact Zone</i>	50 ft.	50 ft.	75 ft.
Lowest floor elevation above Ordinary High Water Level or highest known water level, whichever is higher <sup>[2]</sup>	3 ft.		
Width of naturally vegetative buffer	50 ft.		

<sup>[1]</sup> All Lake Superior shoreland is classified as general development waters.

<sup>[2]</sup> For a structure located in an area where FEMA has established a base flood elevation, the structure is exempt from this shoreland elevation requirement, but must meet flood plain regulations.

- (b) Exceptions to dimensional standards.
- i. Commercial, mixed use, & industrial structures in the harbor, shown in Figure 50-18.1-3: 0 feet setback for grain elevators, cranes, loading bins, and other equipment necessary for loading and unloading, including impervious surface necessary to support these activities;
  - ii. Public trails with previous surfaces, or with impervious surfaces no more than ten feet wide, may be constructed within these setbacks, provided that a minimum amount of natural vegetation is removed and provided that permits are obtained from the DNR and MPCA, if required;
  - iii. Properties in Stormwater Zone B, as defined in Section 50-18.1E.3(f), that have been previously developed with 75 percent or greater impervious surface may use one of the following methods to determine building setback:
    - Use the impervious surface setback for the shoreland classification as the building setback;
    - When principal structures exist on the adjoining lots on both sides of the proposed building site, the structure setbacks can be altered to conform to the adjoining setbacks, provided the proposed building site is not located within the setback required for the naturally vegetative buffer;
  - iv. Park equipment such as playground structures and ball fields (but not including structures such as garages, storage buildings, toilets or warming houses) may be placed closer than the required structure setback provided they lie outside the area required for the native vegetative buffer;
  - v. Ground or pole mounted solar or wind power collection systems shall not be placed within the impervious surfaces setback in the Shore Impact Zone;
  - vi. Removal of invasive vegetative species is allowed within the naturally vegetative buffer area with an approved shoreland permit, provided there is replacement with non-invasive and non-harmful species;



4. Uses and special use permits.
  - (a) Those permitted and special uses shown in Table 50.19.8, subject to the issuance of any shoreland permit required by subsection D.1 and compliance with the standards of subsection D.2, except as listed below. Agricultural uses are not permitted in the shore impact zone. Within shoreland areas that are outside of the shore impact zone, agricultural uses are permitted if steep slopes are maintained in permanent vegetation or the land is operated under an approved conservation plan from the St. Louis County Soil and Water Conservation District;
  - (b) All industrial uses, including mining, extraction and storage, on coldwater rivers or natural environmental waters require a special use permit pursuant to Article V. The application for a special use permit must include a thorough evaluation of the topographic, vegetation and soils conditions on the site;
  - (c) Standards for special use permit:
    - (i) Compliance with all development requirements for shorelands in this Section 50-18.1.D;
    - (ii) Prevention of soil erosion, stormwater runoff or other possible pollution of public waters, both during and after construction or use;
    - (iii) Restoration of the shoreline buffer to a natural state;
    - (iv) Screening of structures and other facilities as viewed from regulated waters, as shown on the NR-O map;
5. Subdivisions.

New subdivisions in the shoreland area shall meet the following requirements:

  - (a) The land shall not be subdivided until the land has been rezoned into the R-P zone district, and the concept and detailed development plans required in the R-P districts shall be designed to comply with the provisions of this Section 50-18.1.D;
  - (b) A buffer at least 50 feet in width, consisting of trees, shrubs and ground cover of plants and understory in a natural state, is required within a line parallel to the ordinary high water level or highest known water level, whichever is higher, and as close to the ordinary high water level as topography and the health of the plants will permit;
  - (c) After construction is completed, the owner of the property shall be responsible for any continued need for erosion and sediment control and restoration on the property;
6. Nonconforming lots of record.

Lots of record in the office of the county recorder on November 19, 2010, may be allowed an exception from the structure setback requirement in subsection D.3. If the lot of record cannot be developed under the setback requirements of subsection D.3, then:

  - (a) The lot may be developed without a variance if (1) principal structures exist on the adjoining lots on both sides of a proposed building site, and (2) the proposed structure will be located no closer to the protected shore than the principal structure on either adjoining site, and (3) the resulting adjusted setback does not result in the proposed building being located in a shore impact zone; or
  - (b) The lot may be developed if a variance is obtained pursuant to Article V;

## E. Stormwater management and erosion control.

### 1. Goals and purpose.

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

### 2. Temporary erosion and sediment controls.

#### (a) Applicability.

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

#### (b) Requirements.

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

## ARTICLE III. PERMITTED USES.

### 50-19 Permitted Use Table.

#### 50-19.1 General.

Table 50-19.8, use table, lists land uses and indicates whether they are allowed by right or with a special use permit, or prohibited in each base zone district. The use table also includes references to any additional regulations applicable to that use.

The following legend in Table 50-19.1 shall be referenced when using the Permitted Use Table in 50-19.8.

TABLE 50-19.1: Use Table Legend for 50-19.8	
Abbreviation	Reference
P	Permitted Use
S	Special Use
I	Interim Use
A	Accessory Use
U	Use Permitted in the Upper Stories of the Form District Building
1	May Require Planning Commission Review Hearing (MU-C, MU-I, and MU-W Only)
2	May Require Additional Development Standards and Planning Commission Review if in the Higher Education Overlay District (HE-O)
3	If allowed by an approved regulating plan
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.	

(Ord. No. 10044, 8-16-2010, § 6; Ord No. 10286, 3-10-2014, § 6; Ord. No. 10446, 4-11-2016, § 1)

#### 50-19.2 Permitted uses.

A “P” in a cell of the use table indicates that the land use is allowed by right 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 allowed by right in that base 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 table. A “P” in the R-P and M-P zone district column indicates that the use is permitted only if its included in a plan or plan amendment for the R-P and MU-P district. Permitted uses are subject to all other applicable requirements of this UDC, including those set forth in Article IV, *Development Standards*. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 15; Ord. No. 10286, 3-10-2014, § 6.)

#### 50-19.3 Special uses and interim uses.

An “S” or an “I” in a cell of the use table indicates that the land use is allowed in that base zone district only upon approval of a special use or interim use permit as described in Section 50-37.10 and compliance with any use-specific standards referenced in the final column of the use table. Uses subject to a special use or interim use permit are subject to all other applicable requirements of this UDC,

including those set forth in Article IV, *Development Standards*. In addition, council may approve interim uses through the procedure described in Section 50-37.10. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10286, 3-10-2014, § 6.)

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**50-19.4 Prohibited uses.**

A blank cell in the use table indicates that the land use is prohibited in that base zone district. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10286, 3-10-2014, § 6.)

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**50-19.5 Overlay districts provisions govern.**

When a property is located within the boundaries of an overlay district, the provisions for that overlay district prevail over those in the base zone district. For example, if a use is prohibited in the base zone district where the property is located, but is a permitted use in an overlay district applicable to the same property, then the use is allowed on that property. On the other hand, if a use is listed as a permitted use in the base zone district but is listed as a special use in an overlay zone district applicable to the same property, then the use is a special use for that property. Where a property is located in more than one overlay district, then the most restrictive use provision in those overlay zone districts shall apply to the property. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10286, 3-10-2014, § 6.)

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**50-19.6 Use-specific standards.**

When a land use is a permitted or a special use in a zone district, there may be additional standards that apply to that specific use. Those additional standards are cross-referenced in the last column of the use table (use-specific standards). The cross-referenced standards appear in Section 50-20 immediately following the use table. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10286, 3-10-2014, § 6.)

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**50-19.7 Unlisted uses.**

When a proposed land use is not explicitly listed in the use table, the land use supervisor shall determine whether or not it is included in 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. Any such interpretation shall be made available to the public and shall be binding on future decisions of the city until the land use supervisor makes a different interpretation. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10286, 3-10-2014, § 6.)

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**50-19.8 Permitted use table.**

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**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 <sup>3</sup>	P				P <sup>3</sup>	U	U	U	U	U	P	U	U	U						
Dwelling, two-family				P	P	P <sup>3</sup>	P				P <sup>3</sup>	U	U	U	U	U	P	U	U	U					50-20.1A	
Dwelling, townhouse				S	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>				P <sup>1</sup>	P <sup>3</sup>													50-20.1B	
Dwelling, multi-family					P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>	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 <sup>3</sup>	P	P	P	P	P		P	P						
Manufactured home park				S	S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>																			50-20.1.F
<b>Group Living</b>																										
Co-housing facility				S	S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>				P <sup>3</sup>															
Residential care facility/assisted living (6 or fewer )		P	P	P	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>				P <sup>3</sup>	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 <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>	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 <sup>3</sup>	U	P	U	P	P	U	U	P	P					50-20.1.E

**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>PUBLIC, INSTITUTIONAL AND CIVIC USES</b>																										
<b>Community and Cultural Facilities</b>																										
Bus or rail transit station							P2	P1	P1	P	P1	P3	P	P	P	P	P	P	P	P	P					
Cemetery or mausoleum	S	S	S	S	S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>	S	S	S															S	
Club or lodge (private)					S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P	P			S		
Government building or public safety facility		P	P	S	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P	P	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P	P	S	S	S	P	
Museum, library or art gallery				S	S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>		S	P <sup>1</sup>	P <sup>3</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 <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</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 <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P						
Religious assembly, large (50,000 sq. ft. or more)		S	S	S	S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P						
<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 <sup>3</sup>	P	P	P	P	P	P	P	P						
School, elementary		P	P	P	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>			P <sup>3</sup>	U	P	U	P	P	U	U	U						
School, middle or high		S	S	S	S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>	S <sup>1</sup>	S <sup>1</sup>			P <sup>3</sup>	U	P	U	P	P	U	U	U						
University or college									P <sup>1</sup>			P <sup>3</sup>			U	P	P	U	U	U						
<b>Health Care Facilities</b>																										
Hospital									P <sup>1</sup>																	
Medical or dental clinic					S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P						
Nursing home					P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>		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 <sup>1</sup>																	

**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>COMMERCIAL USES</b>																											
<b>Agriculture and Animal-Related</b>																											
Agriculture, community garden	P	P	P	P	P		P	P	P																		50-20.3.B
Agriculture, farmers market			S		S <sup>2</sup>		S <sup>2</sup>	S	S		S	P <sup>3</sup>														50-20.3.B	
Agriculture, general	P	P																								50-20.3.B	
Agriculture, urban			P	S	S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>	S	S																	50-20.3.B	
Kennel	S	S						S	S	P		P <sup>3</sup>															
Riding stable	S	S	S			P <sup>3</sup>					S													S			
Veterinarian or animal hospital	S	S			P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</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
Convention or event center								P <sup>1</sup>		P	P <sup>1</sup>	P <sup>3</sup>				P	P		P	P	P					50-20.3.H	
Indoor entertainment facility								P <sup>1</sup>		P	P <sup>1</sup>	P <sup>3</sup>		P		P	P		P	P	P						
Restaurant (less than 5,000 sq. ft.)					S <sup>2</sup>	S <sup>3</sup>	S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	S <sup>3</sup>	P	P	P	P	P	P	P	P	P					50-20.3.Q	
Restaurant (5,000 sq. ft. or more)						S <sup>3</sup>		P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	S <sup>3</sup>	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 <sup>3</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 <sup>3</sup>		P		P	P		P	P	P						
Bed and breakfast				S	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>		P		P		P								50-20.3.F	
Seasonal camp or cabin	P	P				P <sup>3</sup>					P <sup>1</sup>												S			50.20.3.S	
Vacation dwelling unit		I	I	I	I <sup>2</sup>	I <sup>3</sup>	I <sup>2</sup>										I									50-20.3.U	

**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>Offices</b>																										
Bank							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P <sup>3</sup>	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 <sup>3</sup>	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 <sup>3</sup>	U	U	U	U	U	U	U	U	U	P				
<b>Outdoor Recreation &amp; Entertainment</b>																										
Golf course		S	S			P <sup>3</sup>																		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 <sup>3</sup>															
Preschool		S	S	S	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	S	P	S					
Daycare facility, small (14 or fewer)	P	P	P	P	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>	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 <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>	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 <sup>3</sup>		P			P					P				
Mini-storage or self-service storage facility		S								P							P		P	P		P	P			50-20.3.L
Personal service and repair, small (less than 10,000 sq. ft.)						P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P	P					
Personal service and repair, large (10,000 sq. ft. or more)							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>		P			P			P		P				

**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>Retail Sales</b>																										
Adult bookstore																							P			Chapter 5
Building materials sales								S		P	P <sup>3</sup>														50-20.3.G	
Garden material sales		S						P <sup>1</sup>			P <sup>3</sup>					P										
Grocery store, small (less than 15,000 sq. ft.)						P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>			P <sup>1</sup>	P <sup>3</sup>		P		P	P	P	P	P					50-20.3.K	
Grocery store, large (15,000 sq. ft. or more)								P <sup>1</sup>				P <sup>3</sup>													50-20.3.K	
Retail store not listed, small (less than 15,000 sq. ft.)					S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P	P				50-20.3.R	
Retail store not listed, large (15,000 sq. ft. or more)								P <sup>1</sup>			P <sup>1</sup>	P <sup>3</sup>		P		P	P		P	P					50-20.3.R	
<b>Vehicle-Related</b>																										
Automobile and light vehicle repair and service							S <sup>2</sup>	P <sup>1</sup>		P		P <sup>3</sup>		P		P	P	P				P			50-20.3.C	
Automobile and light vehicle sales, rental, or storage								P <sup>1</sup>		P												P			50-20.3.D	
Filling station					S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>	P <sup>1</sup>		P	P <sup>1</sup>	P <sup>3</sup>		P		P	P	P			P	P			50-20.3.J	
Parking lot (primary use)							S	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>	S	S	S	S	S	S		S	S	P	P		50.20.3.O	
Parking structure								P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>					S		S			P	P		50.20.3.O	
Truck or heavy vehicle sales, rental, repair or storage										P												P				

**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>INDUSTRIAL USES</b>																										
<b>Industrial Service</b>																										
Contractor's shop and storage yard										P	P <sup>3</sup>					P						P	P			50-20.4.B
Dry cleaning or laundry plant										P												P				
Research laboratories									P <sup>1</sup>	P	P <sup>3</sup>											P	P			
Industrial services										P												P	P			
<b>Manufacturing and Mining</b>																										
Manufacturing, craft, artisan production shop or artisan studio										P				P	P	P		P								50-20.4.F
Manufacturing, craft, brewery or distillery										P						P	P					P				50-20.4.F
Manufacturing, light									P <sup>1</sup>	P	P <sup>3</sup>					P						P				50-20.4.G
Manufacturing, heavy																						P				
Manufacturing, hazardous or special																						S				50-20.4.H
Mining, extraction and storage		S																				S	S			50-20.4.I
Water-dependent manufacturing, light or heavy																							P			
<b>Transportation-Related</b>																										
Airport and related facilities	S																					P			P	50-20.4.A
Railroad yard or shipyard and related facilities																						P	P			
Truck freight or transfer terminal										P												P	P			
<b>Utilities</b>																										
Electric power or heat generation plant																						P	P			
Electric power transmission line or substation	S	S	S	S	S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>	S	S	S	S	P <sup>3</sup>	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C
Major utility or wireless telecommunication facility	S	S	S	S	S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>	S	S	S	S	P <sup>3</sup>	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E
Radio or television broadcasting tower		S								S												S	S			50.20.4.J

**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	
Solar, geothermal or biomass power facility (primary use)		S				P <sup>3</sup>	S	S	P		P <sup>3</sup>											P	S				
Water or sewer pumping stations/reservoirs	S	S	S	S	S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>	S	S	S	S	P <sup>3</sup>	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Water or sewer treatment facilities																						P	P				
Wind power facility (primary use)		S							S	S												P	S			50-20.4.N	
<b>Waste and Salvage</b>																											
Junk and salvage services																						S	S			50.20.4.D	
Recycling collection point (primary use)								S	S	S												P	P				
Solid waste disposal or processing facility		S								S												S	S			50-20.4.K	
<b>Wholesale Distribution and Storage</b>																											
Storage warehouse											P					P						P				50.20.4.L	
Wholesaling											P					P						P				50-20.4.M	
Bulk storage not listed elsewhere																						P					
Water-dependent bulk storage or wholesaling not listed elsewhere																							P				

**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>ACCESSORY USES</b>																											
Accessory agriculture roadside stand	A	A																								A	50.20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A																50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A																50-20.5.C
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	50-20.5.D
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	A					
Accessory dwelling unit	A	A	A	A	A	A	A																				50-20.5.E
Accessory heliport	A								A		A												A				50-25.5.E
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A						50-20.5.F
Accessory home share	A	A	A	A	A	A	A										A										50-20.5.G
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						50-20.5.H
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	50-20.5.I
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	50-20.5.J
Accessory vacation dwelling unit		I	I	I	I	I <sup>3</sup>	I										I										50-20.5.M
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	50-20.5.K
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	50-20.5.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					
<b>TEMPORARY USES</b>																														
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	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	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								
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			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						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	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								

(Ord. No. 10041, 8-16-2010, § 3; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 15; Ord. No. 10153, 5-14-2012, § 1; Ord. No. 10192, 12-17-2012, § 9; Ord. No. 10225, 5-28-2013, § 4; Ord. No. 10286, 3-10-2014, § 6; Ord. No. 10296, 5-27-2014, § 1; Ord. No. 10329, 10-13-2014, § 1; Ord. No. 10414, 10-12-2015, § 1; Ord. No. 10415, 10-12-2015, § 1; Ord. No. 10446, 4-11-2016, § 1; Ord. No. 10461, 7-11-2016, § 1)

## **50-20 Use specific standards.**

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### **50-20.1 Residential uses.**

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#### **A. Dwelling, two-family.**

In the R-1, R-2 and R-P districts, two-family dwellings shall be designed to protect and reflect the character of one-family residences as set forth below:

1. Minimum size. A two-family dwelling shall 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. Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be 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 facade facing the front property line;

#### **B. Dwelling, townhouse.**

In the R-1 and R-2 districts, each dwelling shall exhibit the characteristics of a series of one-family dwellings that are arranged in an attached side by side fashion and shall be designed to protect the character of one-family residences as set forth below:

1. Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 20 feet of street frontage in the R-1 district, and a minimum of 15 feet of street frontage in the R-2 district;
2. Variation of exterior walls. 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 feet;
3. Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous or evergreen trees meeting the minimum size requirements of Section 50-25.2 shall be planted in required front and back yard areas on an average spacing of 20 feet;
4. Screening of refuse areas. Where refuse storage areas are directly viewable from any exterior lot line at a height of six feet above grade, they shall be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of six feet, designed so that at least 75 percent of the refuse area is obscured by opaque materials when viewed at an angle perpendicular to the screening materials;
5. Maximum number of units. In the R-1 district, townhomes constructed on the corners of blocks or adjacent to the intersections of two or more public or private road may have up to eight dwelling units, but townhomes constructed in the middle of a subdivision block may have no more than six dwelling units. In all other zone districts, townhomes may not exceed eight dwelling units;
6. Separate entrances. Each unit in a townhome must have a separate exterior entrance on the facade facing the front yard property line, or front side yard property line;
7. Design features. At least three of the following design features shall 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 12 inches beyond the building wall or a parapet wall with an articulated design (decorative cornice, etc.);
- (i) Multiple windows with minimum four inches trim;
- (j) Recesses/shadow lines;

**C. Dwelling, multi-family.**

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

**D. Residential care facility/assisted living.**

In the F-2, F-4, F-5, and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

**E. Rooming house.**

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

**F. Manufactured home park.**

1. 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. If allowed in the flood fringe district, these uses shall be subject to the requirements of Section 50-18.1 of this Chapter and the following standards;
2. Existing, new and replacement manufactured homes in the flood fringe district must comply with the following standards:
  - (a) 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 applicable state anchoring requirements for resisting wind forces;
  - (b) New or replacement manufactured homes in existing manufactured home parks must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, unless the property owner has a flood warning and emergency evacuation plan acceptable to the city council as specified in Section 50-18.1. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 16; Ord. No. 10286, 3-10-2014, § 7.; Ord. No. 10421, 11-9-2015, § 2.)

## **50-20.2 Public, institutional and civic uses.**

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### **A. Club or lodge (private).**

1. In the P-1 and R-2 district, the club or lodge shall 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 such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two 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 shall be not more than 50,000 square feet;
4. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

### **B. Medical cannabis distribution facility.**

1. An interim use permit shall be required to operate a medical cannabis distribution facility. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis distribution facility must submit 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;
3. The distance limitations on location of a medical cannabis distribution facility in relation to a public or private school provided for under Minn. Stat. § 152.29, as may be amended, are incorporated herein. 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 shall be setback from all property lines a minimum of 25 feet;
5. Medical cannabis distribution facilities are prohibited from operating drive-throughs;
6. Parking, design standards, and other applicable requirements under the unified development chapter for this use will be the same as for other medical or dental clinics;

### **C. Medical cannabis laboratory.**

1. An interim use permit shall be required to operate a medical cannabis laboratory. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis laboratory must submit 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;
3. A medical cannabis laboratory shall be setback from all property lines a minimum of 25 feet;

4. Parking, design standards, and other applicable requirements under the unified development chapter for this use will be the same as for other medical or dental clinics;

**D. Medical cannabis manufacturer.**

1. An interim use permit shall be required to operate a medical cannabis manufacturing facility. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis distribution facility must submit 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, hours of operation, and odor produced by the manufacturing process;
3. The distance limitations on location of a medical cannabis manufacturing facility in relation to a public or private school provided for under Minn. Stat. § 152.29, as may be amended, are incorporated herein. A medical cannabis manufacturer 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 manufacturing facility shall be setback from all property lines a minimum of 50 feet;
5. No odor produced by a medical cannabis manufacturing facility shall be detectable at the manufacturer's property lines surrounding the facility;
6. Parking, design standards, and other applicable requirements under the Unified Development Chapter for this use will be the same as for other medical or dental clinics;

**E. Medical or dental clinic.**

1. In the residential districts, the clinic shall occupy 10,000 square feet or less in total floor area;
2. In the MU-N district, the clinic shall occupy 20,000 square feet or less in total floor area;

**F. Religious assembly.**

1. In the RR-1 district, any such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two 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 shall not exceed 50,000 square feet without a special use permit. A special use permit is required for all religious assemblies in the R-1 zone districts;
3. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

**G. School, elementary, middle or high.**

1. In the RR-1, RR-2 and R-1 districts, the school shall have a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school;

2. In the RR-1, RR-2, R-1, R-2, MU-N and MU-C districts, any such building shall be located not less than 40 feet from any side or rear lot line;
3. Notwithstanding any lower maximum height stated in Article II, in all zone districts except the form districts, the maximum height for this use shall be 45 feet. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10225, 5-28-2013, § 5.)

### 50-20.3 Commercial uses.

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#### A. Adult entertainment establishment.

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

#### B. Agriculture, community garden, farmers market, general, and urban.

##### 1. Agriculture, community garden.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall 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 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures shall follow requirements in Section 50-21. If no primary structure is present, structures shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height;

(c) Fences must adhere to restrictions in Section 50-26.4;

(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 that typically holds large events, are not allowed unless permitted within the zone district;

(f) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(g) Keeping of bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited;

(h) All tools and equipment shall be stored in an enclosed, secured structure;

##### 2. Agriculture, farmers market.

(a) Farmers markets are only allowed between the hours of 7:00 a.m. to 7:00 p.m.;

(b) As part of the special use permit process, planning commission shall determine that the farmer's market will provide adequate on-site parking, or that sufficient public parking exists nearby;

(c) Sales shall be limited to no more than three days per week;

##### 3. Agriculture, general.

(a) No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(b) All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

(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 all state regulations;

4. Agriculture, urban.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall 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 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures, including ones of a temporary nature such as hoop houses, shall follow requirements in Section 50-21;

(c) For urban agriculture uses where operations are primarily conducted within a building, such as a greenhouse or hydroponic operation, such building shall be considered the primary building and not an accessory building. For urban agriculture uses where operations are primarily conducted outside, structures (including ones of a temporary nature such as hoop houses) shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height, and accessory structures shall not exceed more than 30 percent of the lot area;

(d) Fences must adhere to restrictions in Section 50-26.4;

(e) No sale of produce or other goods is allowed;

(f) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(g) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(h) Keeping of fish for aquaculture or aquaponics is allowed, subject to any conditions of the special use permit. Keeping of chickens, rabbits and bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited unless specifically approved in the City Code;

(i) All tools and equipment shall be stored in an enclosed, secured structure;

C. Automobile and light vehicle repair and service.

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;
3. All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

D. Automobile or light vehicle sales, rental or storage.

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

#### E. Bank.

1. When in the MU-N district, the following standards apply:
  - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
  - (b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any 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 shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;
  - (d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;
  - (e) Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;
2. Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;
3. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;
4. Drive-through lanes shall allow for stacking space for three cars;

#### F. Bed and breakfast.

This is a primary use of land, and the owner need not reside in the use. The use shall:

1. Have no more than 12 habitable units;
2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 square feet of area on the first floor of the main building;
6. Dining areas shall not exceed five seats per habitable unit. 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;
7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;

**G. Building materials sales.**

1. Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;
2. Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where 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;
3. A landscaped earth berm may be used instead or in combination with a required fence or wall;

**H. 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 square feet if it is within 500 feet of a one or two family use;

**I. Daycare facility, small and large.**

In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;

**J. Filling station.**

1. No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

**K. Grocery store, small and large.**

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

**L. Mini-storage and self-service storage facility**

Mini-storage facilities shall comply with the following standards when located in RR-1, MU-B, I-G and I-W districts:

1. The use shall be contained within an enclosed building or buildings;
2. If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;
3. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;
4. At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;
5. Hours of public access to storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;
6. Signage shall be limited to one 40 square foot free standing sign and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line.
7. Mini-storage facilities in the RR-1 district are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a landscaped or naturally vegetated buffer a minimum width of 50 feet along all property lines in addition to a dense urban screen along all side and rear property lines;

Self-service storage facilities shall comply with the following standards when located in the F-5, F-7 and F-8 districts:

1. This use must be completely contained within an enclosed principal building.
2. This use is permitted only on the lowest floor or basement of the building. This use is not allowed on any floor that is above grade with the primary street, except for office or lobby areas associated with the storage facility.
3. Access to the storage units may not be provided from the primary street. Where the access is on a secondary street, parking must be available within 30 feet of the doorway and the doorway may not be a roll up door.
4. Signage for this use is permitted as a commercial use in Sec. 50-27; (Ord. No. 10461, 7-11-2016, § 2).

**M. Office.**

1. In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;
2. In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;
3. In the F-6 district, offices may not have drive-through facilities;

**N. Other outdoor entertainment or recreation use not listed.**

1. No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

**O. Parking lot or parking structure (primary use).**

1. Parking lots.
  - (a) Parking lots (primary use) shall be stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;
  - (b) When in the MU-N district, the following standards apply:
    - (i) Primary use parking lots shall meet all the street landscaping provisions in Section 50-25.3 as applicable. In addition, primary use parking lots shall be screened from adjacent structures and uses. Such screening shall consist of a continuous, view-obscuring fence, wall or compact evergreen hedge along all property lot lines which are adjacent to residential structures and uses, which shall be broken only for egress and access driveways and walkways. Such fence, wall or hedge shall be not less than four feet nor more than six feet in height;
    - (ii) Primary use parking lots shall meet all the landscaping provisions in Section 50-25.4, as applicable. In addition, regardless of the number of parking spaces provided, the parking lot must set aside at least 15 percent of the interior parking area for landscaping islands;
    - (iii) If the primary use parking lot abuts an improved public alley, driveway access must be provided to the alley;
    - (iv) Primary use parking lots must be designed to be a similar lot size as other lots in the neighborhood, and shall not alter the essential character of the neighborhood;
2. Parking structures.
  - (a) In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

P. Recreational vehicle (RV) park.

1. Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;
2. Criteria for exempt recreational vehicles:
  - (a) The vehicle must have a current license required for highway use;
  - (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;
  - (c) No permanent structural type additions may be attached to the vehicle;
  - (d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;
  - (e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;
  - (f) Cost of an accessory structure must not exceed \$500;
3. Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this chapter. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;
4. New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:
  - (a) 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 and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;
  - (b) Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4(a) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section 50-37.10;
    - The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and
    - All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

**Q. Restaurant.**

- 1 In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area;
- 2 Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;
- 3 Drive-through lanes shall allow for stacking space for 5 cars;
- 4 When in the MU-N district, the following additional standards apply:
  - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
  - (b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any 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 shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;
  - (d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;
  - (e) Restaurants are limited to one drive through lane and one speaker box;
- 5 When in the F-3 and F-5 districts, the following additional standards apply:
  - (a) Access to and from the drive-through must be through the alley, if alley exists;
  - (b) Restaurants are limited to one drive through lane;

**R. Retail sales, small and large.**

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;
3. Retail stores are limited to one drive-through window;
4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;
- 5 Drive-through lanes shall allow for stacking space for three cars;
- 6 When in the MU-N district, the following standards apply:
  - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
  - (b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any 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 shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;
  - (d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

**S. Seasonal camp or cabin.**

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;
2. In the R-C district, the design of the site shall preserve the rural character by:
  - (a) Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;
  - (b) Preserving all natural vegetation not required to be removed for access roads, trails or public safety;
  - (c) Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

**T. Veterinarian or animal hospital.**

1. In the R-C and RR-1 districts, this use is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;
2. In the R-2, R-P, MU-N and MU-C districts, this use is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

**U. Vacation dwelling unit.**

1. The minimum rental period shall not less than two consecutive nights.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
3. Off street parking shall be provided at the following rate:
  - (a) Vacation dwelling units licensed on May 15, 2016, shall provide the following minimum number of off street parking spaces:
    1. 1-2 bedroom unit, one space
    2. 3-4 bedroom unit, two spaces
    3. 5+ bedroom unit, three spaces.
  - (b) Vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off street parking spaces:
    1. 1-2 bedroom unit, one space
    2. 3 bedroom unit, two spaces
    3. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
  - (c) Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
4. 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;
5. The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for two to 29 days;
6. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
7. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbecue grill,

recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties.

8. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term. (Ord. No. 10039, 8-16-2010, § 1; Ord. No. 10041, 8-16-2010, § 5; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 17; Ord. No. 10153, 5-14-2012, § 2 Ord. No. 10192, 12-17-2012, § 10; Ord. No. 10225, 5-28-2013, § 6; Ord. No. 10286, 3-10-2014, § 8; Ord. No. 10329, 10-13-2014, § 2; Ord. No. 10415, 10-12-2015, § 2. Ord. No. 10451, 5-23-2016, Ord. No. 10451, 5-23-2016, § 1)

## 50-20.4 Industrial uses.

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### 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-222G 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 collocate 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 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty 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;

**G. 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;

**H. 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;

**I. 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;

#### J. 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;

#### K. 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;

**L. Storage warehouse.**

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

**M. Wholesaling.**

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

**N. 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. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 18; Ord. No. 10414, 10-12-2015, § 2.)

## **50-20.5 Accessory uses.**

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### **A. 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;

### **B. Accessory bed and breakfast.**

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

1. Have no more than five habitable units;
2. Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 square feet of area on the first floor of the main building;
6. 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;
7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;
9. May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection;

### **C. Accessory boat dock, residential.**

This use shall comply with the following standards:

1. 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;
2. 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;
3. 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;
4. At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;

5. 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;

#### **D. 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 Table 50-19.8, provided the following standards are met:

1. Only one accessory dwelling unit may be created per lot;
2. No variances shall be granted for an accessory dwelling unit;
3. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;
4. One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;
5. 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;
6. 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;

#### **E. Accessory heliport.**

1. All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals;
2. 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;

#### **F. Accessory home occupation.**

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

1. 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;
2. No business involving retail sales of goods from the premises is permitted;
3. No person not a member of the family residing on the premises shall work on the premises;
4. 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;
5. The home occupation shall not require external alterations that would change the residential character of the property;
6. No display pertaining to such occupation shall be visible from the street;
7. 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;
8. 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;

9. All home occupations that require a license from the state 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;
10. 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;

#### G. Accessory Home Share

An accessory home share may be created within those districts shown where allowed by Table 50.19.8 provided these standards are met.

1. The rental or purchase period shall be for 29 days or less;
2. The maximum number of overnight guests allowed is 4 persons in addition to the owner occupants;
3. The property owner must obtain all permits from the City of Duluth and State of Minnesota required for guest occupancy on the property;
4. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, property use rules, taxation, and home share permit violations procedures;
5. The permit shall expire upon change in ownership of the property or one year from issuance date, whichever occurs first;
6. At least one permanent resident must be generally present on or about the premises at all times that the property is rented;
7. A permit holder may not advertise an accessory home share for an accessory structure that is a storage shed or garage;
8. A permit holder may not advertise an accessory home share in any area exterior to the dwelling unit or any lot without a principle dwelling.

#### H. Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12;

#### I. 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:

1. Ground-mounted solar system.
  - (a) Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;
  - (b) Solar collectors shall be located a minimum of six feet from all property lines and other structures;
  - (c) 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;
  - (d) Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch;
2. Roof-mounted or wall-mounted solar system.
  - (a) 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;
  - (b) 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;

- (c) 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;
  - (d) A solar collection system may be located on an accessory structure;
3. Solar easements.

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 Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system;

#### J. Accessory uses or structures not listed elsewhere.

1. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:
  - (a) The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;
  - (b) Prior to issuance of a building permit for such accessory use, a building demolition bond shall be approved by the city and in an amount sufficient to demolish such accessory structure be filed with the building official;
  - (c) The owner shall execute a license, in a form approved by the city, authorizing the city 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.
2. In the RR-2 district, business shall not be conducted from a garage;
3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house;
4. In the MU-N district, accessory buildings shall be subject to the following restrictions:
  - (a) 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;
  - (b) 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;
5. 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:
  - (a) 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;
  - (b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) 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 (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business;

6. 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;
7. 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 Article II and Section 50-20;

**K. Accessory wind power equipment.**

In all districts, accessory 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 right-of-ways;
2. Towers that are 50 feet or less in height are permitted by right. Towers exceeding 50 feet in height require approval of a special use permit, provided that in no case shall tower height exceed 130 feet;
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. 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;
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. 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;
11. 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;

**L. Minor utilities and accessory wireless antennas attached to existing structures.**

The following standards apply to accessory wireless antennas that are attached to existing structures and to minor utilities regardless of whether they are attached to an existing structure:

1. A special use permit is required to allow any antenna to exceed 150 feet in height;
2. All building-mounted antennas shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennae and support structures;

3. The size, design and location of each attached antenna shall reduce visibility from surrounding buildings and from the public rights-of-way adjoining the property to the greatest extent feasible;
4. Building-mounted antennas or disguised antenna support structures shall be of a color identical to or closely compatible with the surface to which they are mounted;
5. Except when a support structure for a building-mounted antenna is an otherwise lawfully permitted sign, the placement of advertising on antennae is prohibited;

**M. 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 Table 50-19.8, provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot;
2. No variances shall be granted for an accessory vacation dwelling unit;
3. 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;
4. 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;
5. The minimum rental period shall be not less than two consecutive nights;
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
7. Off-street parking shall be provided at the following rate:
  - (a) Accessory vacation dwelling units licensed on or before May 15, 2016, shall provide the following minimum number of off street parking spaces:
    1. 1-2 bedroom unit, one space;
    2. 3-4 bedroom unit, two spaces;
    3. 5+ bedroom unit, three spaces;
  - (b) Accessory vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off-street parking spaces:
    1. 1-2 bedroom unit, one space;
    2. 3 bedroom unit, two spaces;
    3. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

Accessory vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for accessory vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.

8. 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;
9. The property owner must obtain all licenses and permits from the city of Duluth and State of Minnesota required for guest occupancy on the property for two to 29 days;
10. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
11. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the

provision of any dense urban screen that may be required to buffer these areas from adjoining properties;

12. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of an accessory vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 19; Ord. No. 10192, 12-17-2012, § 11; Ord. No. 10225, 5-28-2013, § 7; Ord No. 10446, 4-11-2016, § 2; Ord. No. 10451. 5-23-2016, §2)

## **50-20.6 Temporary uses.**

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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. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 20; Ord. No. 10414, 10-12-2015, § 3.)

## **50-20.7 Adaptive reuse of a local historic landmark.**

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### **A. Intent.**

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

### **B. Applicability.**

The structure must be designated as a city of Duluth local historic landmark;

### **C. Allowed uses.**

All uses that are permitted in the MU-N zone district shall be considered as eligible for an interim use permit in R-1, R-2, or R-P district;

### **D. Process.**

In order to apply for adaptive reuse of a local historic landmark, the following must be done prior to submitting an interim use permit application.

1. Have an approved preservation plan;
2. Meet with the heritage preservation commission to solicit comments on the proposed adaptive reuse;
3. Hold a community meeting to solicit comments from the public. Notice of the community meeting shall be mailed to all property owners within 350 feet of the landmark.

Provide all comments from the heritage preservation commission and community meeting with the interim use application;

### **E. Standards.**

1. Traffic and parking.
  - (a) The adaptive reuse structure must be able to provide required off-street parking per Section 50-24. The city may require additional parking to minimize impact on the neighborhood;
  - (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;
2. Expansion of the structure.
  - (a) There shall be no expansion made to the footprint of the existing building;
3. Screening and buffering.
  - (a) Screening standards shall be required, as listed in Section 50-26. The city may require additional screening to reduce the impact of the adaptive reuse;
4. General compatibility.
  - (a) The proposed adaptive reuse of the historic structure must not change the essential character of the neighborhood;
5. Preservation.
  - (a) The structure must be preserved according to the preservation plan on file with the heritage preservation commission;

### **F. Amendments to approved adaptive reuse plans.**

Any amendment to the use of the historic landmark must be approved through the interim use permit process, but do not need to follow the process outlined in Section D listed above. (Added by Ord. No. 10262, 12-9-2013, § 1; (Ord. No. 10461, 7-11-2016, §3)



**50-21.3 Exceptions and encroachments.**

The following exceptions and encroachments to required yard areas and height limits are allowed. These provisions do not apply to form districts except as specifically noted in exceptions to building heights.

**Table 50-21-1: Exceptions and Encroachments**

Structure or Feature	Conditions or Limits
<b>Encroachments into Required Yard Areas</b>	
Architectural features (sills, belt courses, eaves, cornices) awnings and canopies, bay windows, gutters and downspouts	Up to 18 in. into any required yard area
Unenclosed or lattice-enclosed stairs, fire escapes and balconies opening upon fire towers	Up to 5 ft. into any required rear yard, except as required to comply with applicable fire code or Americans with Disabilities Act
Chimneys and flues	Up to 2 ft. into any required front or side setback.
Open sided porch, deck, or paved terrace	Up to 10 ft. into front yard, but no closer than 5 ft. from any property line
Enclosed vestibule or fixed canopy with a floor area of not more than 40 sq. ft.	Up to 4 ft. into front yard
Fuel pumps or pump islands	Not closer than 15 ft. from any street line or closer than 50 ft. from any residential use
Fences meeting the standards of Section 50-26.4	Fences may not be located closer than 3 ft. to any publicly maintained right-of-way
Porte cochere, carport or canopy if every part is unenclosed except for necessary structural supports	Permitted in any side setback, but not less than 5 ft. from any side lot line
Residential window well	Permitted to encroach up to two feet from any property line, provided that window well: (a) has a minimum distance of at least 5 feet from any structure on any adjacent property, and (b) is limited to the minimum window well depth and width required by fire and building codes.
Accessory structures	No accessory structure may be located: (a) between a street and any façade of a primary building facing that street, or (b) closer than 10 ft. to any principal structure on an adjoining property, or (c) closer than 5 ft. to any rear lot line, or (d) closer than 3 ft. to any side lot line, except as listed for specific accessory structures below.
<i>Accessory boat dock, residential</i>	No setback required from property lines along the water
<i>Accessory clotheslines, play equipment, trash containers, odor-controlled composting bins and rainwater harvesting tanks</i>	Permitted in side and rear yards
<i>Accessory rain garden</i>	Permitted in all (front, side and rear) yards
<b>Exceptions to Building Height Limits</b>	
Television and radio towers, accessory communications towers for private use, religious assembly or ornamental spires and towers, belfries, monuments, tanks, water and fire towers, stage tower or scenery lofts, cooling towers, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, flagpoles, accessory wind power equipment or accessory rooftop solar collectors	In the Form District, the exceptions to building height limits for religious assembly or ornamental spires and towers only apply if the applicant proposes an Iconic Building

(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 22; Ord. No. 10286, 3-10-2014, § 9. Ord. No. 10457, 7-11-2016, § 1)

## **50-22 Building form standards.**

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The following provisions apply only in the form districts listed in Section 50-16, but do not apply in other zone districts. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10284, 3-10-2014, § 2.)

### **50-22.1 General requirements.**

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#### **A. Intent.**

The building types detailed in this Section outline the desired building forms for new construction and renovated structures within the form districts;

#### **B. Applicability.**

1. All building type standards apply to all new construction and renovation of existing structures, where the renovation includes an addition of more than 50 percent in building square footage;
2. When a renovation of the front facade occurs with no added building square footage, the street facade requirements and base type requirements must be met when:
  - (a) The existing building front, corner, or lakefront facade is located within the build-to zone;
  - (b) The renovation includes any of the following:
    - (i) Installation of additional doors or a change in location of a door;
    - (ii) Expansion or change in location of 30 percent of windows on any street or lakefront façade;
    - (iii) Replacement of 30 percent or more of facade materials on any street or lakefront facade with a different facade material;
3. When a renovation of the shape or style of the roof occurs with no added building square footage, the cap type requirements must be met when the existing building front, corner or lakefront facade is located within the build-to zone;
4. Under all circumstances, no portion of the building type standards must be met in the case of normal repairs required for safety and continued use of the structure, such as replacement of window or door glass;

#### **C. General requirements.**

All construction in the form districts must meet the following requirements:

1. Zone districts.  
No primary building shall be developed within a form district unless it matches one of the building types approved for that district in Table 50-22.2-1;
2. Planning review required.  
Development of any building type must be reviewed and approved by the city through the planning review process in Article V;
3. Permanent structures.  
All buildings constructed must be permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile. Temporary structures and uses are permitted as shown in Article III;

#### **D. Alternative compliance for renovation of existing primary structures.**

Where compliance with the specific requirements of Section 50-22 is not possible as a result of unique site conditions, an owner may propose alternatives consistent with the goals of sections 50-16 and 50-22. Approval of an alternative approach is authorized where an applicant can demonstrate the following:

1. The renovation does not increase the existing primary structure's footprint; and
2. The proposed renovation achieves the goals stated in Section 50-16 relevant to the particular form district to the same degree, or better than, the building form

standards set forth in Section 50-22. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10153, 5-14-2012, § 3; cited only by Ord. No. 10284, 3-10-2014, § 2.)

### **50-22.2 General building type descriptions.**

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Four major categories of building types are described in this Section: Main Street Building, Corridor Building, Cottage Commercial Building, and Iconic Building. The building types proposed for the Form Districts include three variations of the Main Street Building, three variations of the Corridor Building, two variations of the Cottage Commercial Building, and one version of the Iconic Building. The building type variations go from least intense (Type I) to most intense (Type III);

#### **A. Main street buildings.**

Main street buildings, in general, are pedestrian-oriented, mixed use buildings. This building type typically has a storefront on the ground floor with offices or residential uses on the upper floors. The ground floor of the Main Street Building has a high amount of transparency, so that pedestrians walking by can look into the interior space.

##### **1. Main street building I.**

This building type allows for service, retail, and office uses on the ground floor and office or residential above. It is appropriate for commercial uses adjacent to residential neighborhoods, as the intensity of this building type is not as high as the other main street building types. It has a larger build-to zone and a maximum height of two-and-a-half or three stories depending on location;

##### **2. Main street building II.**

Main street building II is slightly more intense than main street building I, as it is required to be built up to the right-of-way and may generally be up to four stories tall. This building type also permits service, retail and office uses on the ground floor and office or residential on upper floors;

##### **3. Main street building III.**

Main street building III is the most intense of the main street building types, as it is meant to be used in the downtown area. It is located directly adjacent to the sidewalk and should include retail or service uses on the ground floor whenever possible. Main street building III has a maximum height of 15 stories in limited locations;

#### **B. Corridor buildings.**

Corridor buildings are primarily meant to house office or multi-family residential uses, with less transparency required on the ground floor.

##### **1. Corridor building I.**

This building type can house a single category of uses, such as office or residential, or a mix of uses. Corridor building I is the least intensive corridor building, located in the more neighborhood oriented study area locations. It has a larger build-to zone that is set back farther than the other corridor buildings and is permitted to be a maximum of three stories;

##### **2. Corridor building II.**

Corridor building II is an intermediary building type between the more neighborhood scale locations and the intensity of Downtown. It is similar to corridor building I in many ways, but is permitted to be built up to the sidewalk and may also be taller, with generally a maximum height of four stories;

##### **3. Lakefront corridor building.**

The lakefront corridor building is a variation on corridor building II that was created for use along Lake Superior in Canal Park. These buildings front the lake, but also require some level of frontage on Canal Park Drive. The maximum height is four stories;

##### **4. Corridor building III.**

Corridor building III was created for use in Downtown. It is required to be built adjacent to the sidewalk and has a maximum height of 15 stories in specified

locations. While the corridor building types are meant to house primarily office and residential uses, commercial uses are also permitted to create a vibrant commercial core for Downtown;

#### C. Cottage commercial.

The cottage commercial building is primarily commercial in nature but, unlike the Main Street Building, it is similar in form to single-family residential areas, providing transitions between commercial and residential areas.

##### 1. Cottage commercial I.

The cottage commercial building type is residential in character but commercial in use. At a maximum height of two and a half stories, it is meant to blend in with a surrounding residential neighborhood while at the same time providing neighborhood-scale commercial uses. Cottage commercial I is for use as a transition to residential locations, with a larger build-to zone and permitted side aisle of parking. Cottage commercial I may also include multiple principal structures on one lot, provided that each building meets the requirements of the building type;

##### 2. Cottage commercial II.

Cottage commercial II is similar to cottage commercial I but is used in the West Duluth study area, which is a more intense context. This building type may be built to the front property line and must locate parking in the rear;

#### D. Iconic building.

While the previously mentioned building types are intended to serve as the fabric buildings of the city, the iconic building is a unique civic or institutional building that has distinctive character and function within the community. The iconic building type is meant to house community, cultural, civic, educational or governmental uses (i.e. uses classified as “Community and Cultural Facilities” or “Educational Facilities” in Table 50-19.8). The iconic building has more flexible requirements for building location and transparency than the other non-residential building types due to its unique nature.

**Table 50-22.2-1: Summary Table of Permitted Building Types by Zone District.**

		Building Types										Areas
		Main Street Building I	Main Street Building II	Main Street Building III	Corridor Building I	Corridor Building II	Lakefront Corridor Building	Corridor Building III	Cottage Commercial I	Cottage Commercial II	Iconic Building	
<b>Districts</b>	F1: Low-Rise Neighborhood Shopping	●										East Superior
	F2: Low-Rise Neighborhood Mix	●			●				●		●	East Superior, London Road
	F3: Mid-Rise Community Shopping		●									West Duluth, Canal Park
	F4: Mid-Rise Community Mix		●			●				●	●	West Duluth London Road
	F5: Mid-Rise Community Shopping/Office		●			●					●	West Superior, Canal Park
	F6: Mid-Rise Neighborhood Shopping		●						●		●	Central Hillside
	F7: Downtown Shopping			●								Downtown
	F8: Downtown Mix			●				●			●	Downtown
	F9: Canal Park						●					Canal Park

● Building Type permitted

(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 23; Ord. No. 10284, 3-10-2014, § 2.)

**50-22.3 Base types.**

Base type standards apply to the ground story and visible basement of front facades of all building types. To determine which base type(s) are permitted for each building type, refer to the building types-specific information found in sections 50-22.7 through 50-22.17.

**A. General provisions.**

The following provisions apply to all base types.

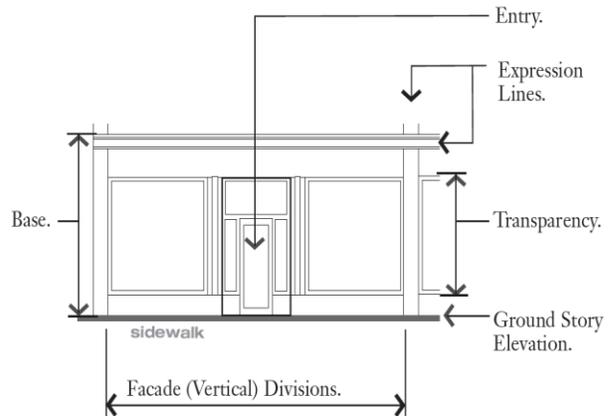
1. Intent. To guide the design of the ground story of all buildings to relate appropriately to pedestrians on the street. Treatment of other portions of the building facades is detailed in each building type standard (refer to 50-22.7 through 50-22.17);
2. Applicability. The entire ground story front facade of all buildings must meet the requirements of one of the permitted base types, unless otherwise stated in this Section;
3. Measuring transparency. Refer to Section 50-22.5.D.1 for information on measuring building transparency;

4. Visible basements. Visible basements, permitted by base type, are optional;
5. Expression lines. For the purposes of this Section, expression lines are an architectural feature comprised of 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. It is typically used to delineate the floors or stories of a building;

#### B. Storefront base type.

The storefront base type is a highly transparent ground story treatment designed to serve as the display area and primary entrance for retail or service uses. (Refer to Figure 50-22.3-A)

1. Transparency. A minimum of 75 percent of the front facade between two and eight feet above the sidewalk must be comprised of transparent, non-reflective windows into the commercial space. A minimum of 25 percent of the windows shall have views directly into and out of the ground floor occupied space;
2. Elevation. Ground story elevation must be less than or equal to one foot above sidewalk;
3. Visible basement. A visible basement is not permitted;
4. Facade divisions. Expression lines shall divide the facade into segments;
  - (a) Vertically divide the base facade into segments no greater than 30 feet in width;
  - (b) Horizontally define the base facade from the upper stories;
5. Entrance. All entries shall be recessed from the front facade closest to the street;
  - (a) Recess shall be a minimum of three feet and a maximum of eight feet deep, measured from the portion of the front facade closest to the street;
  - (b) When the recess falls behind the front build-to zone, the recess shall be no wider than eight feet;

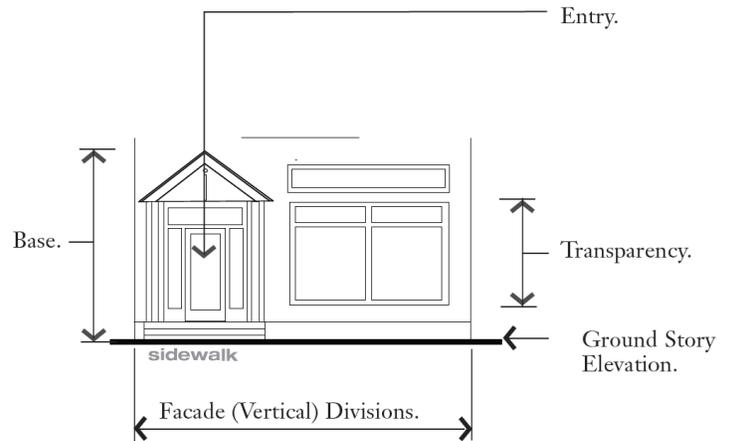


**Figure 50-22.3-A: Storefront base type**

### C. Shopfront base type.

The shopfront base type treatment includes less transparency than the storefront, while still allowing views in and out of the commercial space, and an entrance off of a porch or stoop. (Refer to Figure 50-22.3-B)

1. Transparency. A minimum of 50 percent of the front facade between three and nine feet above the sidewalk must be comprised of transparent, non-reflective windows into the commercial space;
2. Elevation. Ground story elevation must be between zero and three feet above sidewalk and not less than six inches above the curb, with or without optional visible basement;
3. Visible basement. A visible basement is permitted;
4. Vertical facade divisions. For buildings wider than 50 feet, divide base facade into segments no greater than 50 feet in width with an expression line;
5. Entrance. Porch or stoop entrance required;

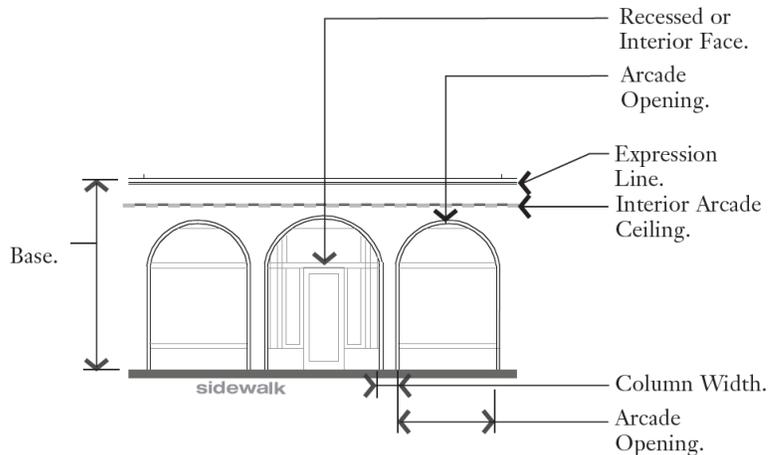


**Figure 50-22.3-B: Shopfront base type**

### D. Arcade base type.

An arcade base type is a covered pedestrian walkway within the recess of a ground story. (Refer to Figure 50-22.3-C)

1. Arcade. An open-air public walkway is required from the face of the building recessed into the building a minimum of eight and a maximum of 15 feet;
2. Recessed or interior facade. Storefront or shopfront base types are required on the recessed ground story façade;
3. Column spacing. Columns shall be spaced between ten feet and 12 feet on center;
4. Column width. Columns shall be a minimum of one foot, eight inches, and a maximum two feet, four inches, in width;
5. Arcade opening. Opening may not be flush with interior arcade ceiling and may be arched or straight;

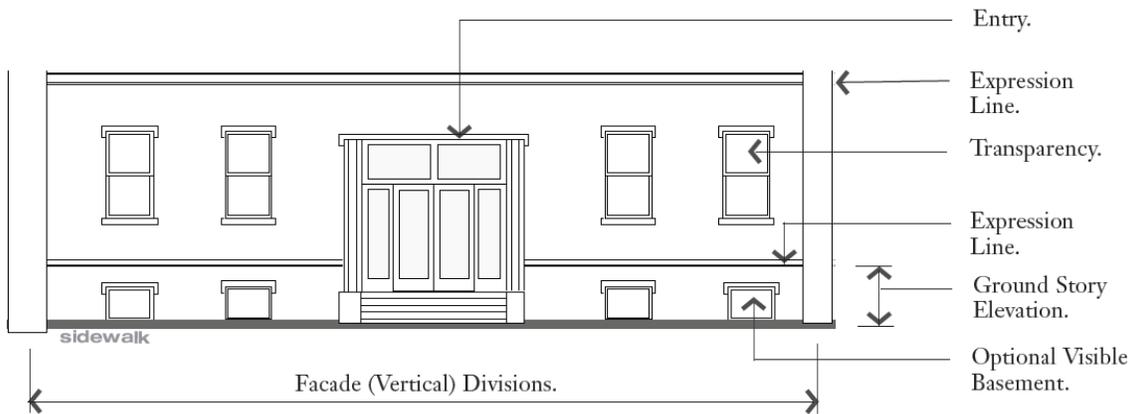


**Figure 50-22.3-C: Arcade base type**

6. Horizontal facade division. Horizontally define the base facade from the upper stories;
7. Visible basement. A visible basement is not permitted;

**E. Stoop base type.**

A stoop is an unroofed, open platform. (Refer to Figure 50-22.3-D)



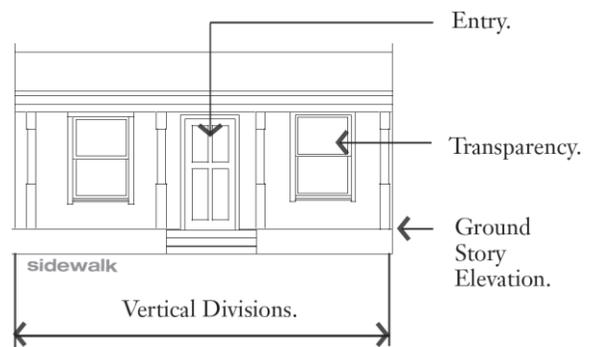
**Figure 50-22.3-D: Stoop base type**

1. Transparency. Minimum transparency per building type is required;
2. Stoop size. Stoops shall be a minimum of three feet deep and four feet wide;
3. Elevation. Ground story elevation must be located a maximum of two feet, six inches, above the sidewalk without visible basement and a maximum of four feet, six inches, above the sidewalk with a visible basement;
4. Visible basement. A visible basement is permitted;
5. Facade divisions. Expression lines shall divide facade segments;
  - (a) Vertically divide the base facade into segments no greater than 100 feet in width;
  - (b) Horizontally define the base facade from upper stories;
6. Entrance. All entries shall be located off a stoop;

**F. Porch base type.**

A porch is a raised, roofed platform that may or may not be enclosed on all sides. (Refer to Figure 50-22.3-E)

1. Transparency:
  - (a) Minimum transparency per building type is required;
  - (b) If enclosed, a minimum of 40 percent of the enclosed porch must be comprised of transparent, nonreflective windows;
2. Porch size. The porch shall be a minimum of five feet deep and maximum of eight feet wide;
3. Elevation. Ground story elevation must be located a maximum of two feet, six inches, above the sidewalk without visible basement, and a maximum of four feet, six inches, above the sidewalk with a visible basement;
4. Visible basement. A visible basement is permitted;
5. Facade divisions. Use expression lines to divide facade segments;



**Figure 50-22.3-E: Porch base type**

- (a) Vertically divide base facade into segments no greater than 60 feet in width;
- (b) Horizontally define the base facade from upper stories;
- 6. Height. Porch may be two stories to provide a balcony on the second floor;
- 7. Entrance. All entries shall be located off a porch. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10284, 3-10-2014, § 2.)

**50-22.4 Cap types.**

Cap type standards apply to the cap of all building types as required in this Section.

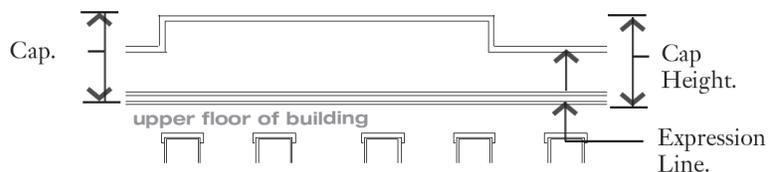
**A. General provisions.**

The following provisions apply to all cap types.

- 1. Intent. To guide the design of building caps in order to ensure an appropriate and aesthetically pleasing cap for all buildings;
- 2. Applicability. All buildings must meet the requirements of one of the cap types permitted for the building type;
- 3. Measuring height. Refer to the definition of “height of building” in Article VI;
- 4. Other cap types. The Iconic building type may seek to incorporate other building caps not listed as a specific type by applying for a special use permit pursuant to Section 50-37.10, but the height may not exceed the maximum height of the tallest cap type permitted for the building type;

**B. Parapet cap type.**

A parapet is a low wall projecting above a building’s roof along the perimeter of the building. It can be utilized with a flat or pitched roof and also serves to limit the view of roof-top mechanics from the street. (Refer to Figure 50-22.4-A)



**Figure 50-22.4-A: Parapet cap type**

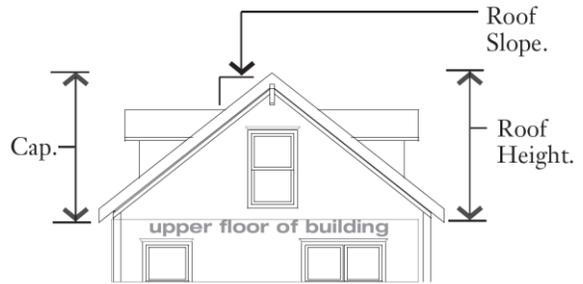
- 1. Parapet height. Height is measured from the top of the upper story to the top of the parapet;
  - (a) Minimum height is two feet with a maximum height of six feet;
  - (b) Cap shall be high enough to screen the roof and any roof appurtenances when viewed from the street(s) and any adjacent building of similar height;
- 2. Horizontal expression lines. An expression line shall define the cap from the upper stories of the building and shall also define the top of the cap;
- 3. Occupied space. Occupied space may not be incorporated behind this cap type;

C. Pitched roof cap type.

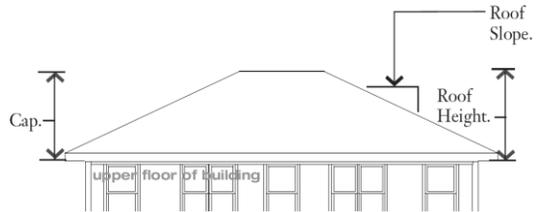
This cap type has a sloped or pitched roof. Slope is measured with the vertical rise divided by the horizontal span or run. (Refer to Figure 50-22.4-B)

1. Pitch measure. The roof may not be sloped flatter than a 6:12 (rise:run) or steeper than 16:12 (rise:run);
2. Roof types. Hipped, gabled, and combination of hips and gables with or without dormers are acceptable. Gambrel and mansard roofs are acceptable provided that when the ridge runs parallel to the street, one dormer per 15 feet of street face is required;
3. Parallel ridge line. A gabled end or perpendicular ridge line shall occur at least every 100 feet of roof for two-story buildings or higher and at least every 50 feet of roof for one-story buildings when the ridge line runs parallel to the front property line;
4. Roof height. Roof height may not be greater than the total of all floors below the roof. For single story portions of the building, roof height may not exceed one-and-one-half times the floor below the roof; (Ord. No. 10457, 7-11-2010, § 2)

Figure 50-22.4-B: Pitched roof



Pitched Roof cap type – Gabled



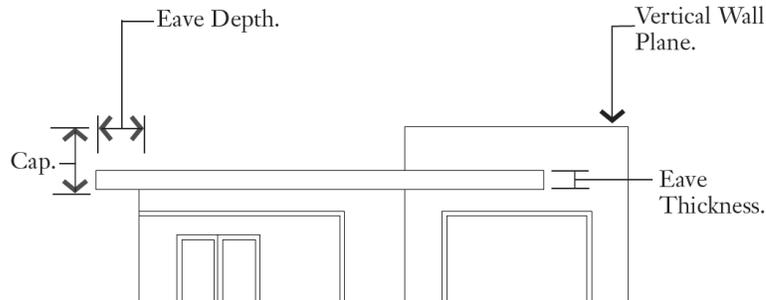
Pitched Roof cap type - Hipped



Pitched Roof cap type - Mansard

#### D. Flat Roof cap type

This cap type has a flat roof with overhanging eaves. (Refer to Figure 50-22.4-C)



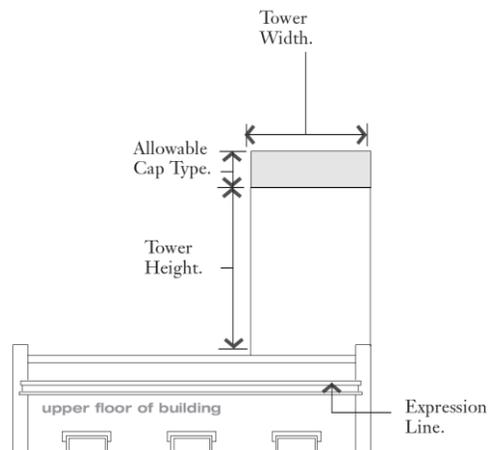
**Figure 50-22.4-C: Flat roof**

1. Roof types. Roofs with no visible slope are acceptable. Eaves are required on all street-facing facades;
2. Eave depth. Eave depth is measured from the building façade to the outside edge of the eave. Eaves shall have a depth of at least 12 inches;
3. Eave thickness. Eave thickness is measured at the outside edge of the eave, from the bottom of the eave to the top of the eave. Eaves shall be a minimum of six inches thick;
4. Interrupting vertical walls. Vertical walls may interrupt the eave and extend above the top of the eave with no discernible cap;
  - (a) No more than one-half of the front façade can consist of an interrupting vertical wall;
  - (b) Vertical walls shall extend no more than four feet above the top of the eave;

#### E. Towers.

A tower is a rectilinear or cylindrical vertical element that must be used with other cap types. (Refer to Figure 50-22.4-D)

1. Quantity. One tower is permitted per building;
2. Tower height. Maximum height, measured from the top of the upper story to the top of the tower, is the equivalent of the height of one upper floor of the building to which the tower is applied;
3. Tower width. Maximum width along all facades is one-third the width of the front facade or 30 feet, whichever is less;
4. Occupied space. Towers must be occupied by the same uses allowed in upper stories of the building type to which it is applied;
5. Tower cap. The tower may be capped by the parapet, pitched, or flat roof cap types. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10284, 3-10-2014, § 2.)



**Figure 50-22.4-D: Tower**

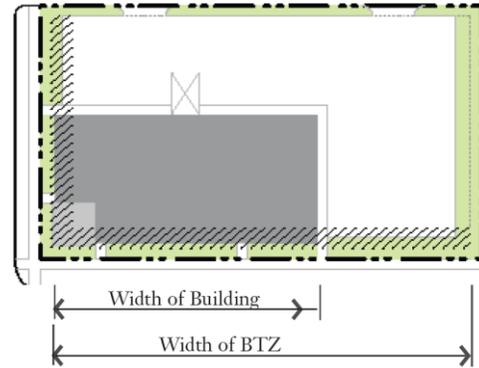
## 50-22.5 Explanation of table requirements.

The following explains and defines the requirements included in the tables for each building type, sections 50-22.7 through 50-22.17, and summarized for all building types in Table 50-22.2.

### A. Building siting.

#### 1. Street frontage.

- (a) Multiple principal buildings permitted on a lot. The presence of more than one principal structure on a lot;
- (b) Front build-to zone (BTZ) or setback. The build-to zone or setback parallel to the front property line. All BTZ and setback areas not covered by the building must contain either landscaping, patio space, or sidewalk space. Build-to zones define the minimum and maximum distance a structure may be placed from a property line;



**Figure 50-22.5-A: Measuring BTZ Coverage**

- (c) Corner BTZ or setback. The build-to zone or setback parallel to the corner property line. All BTZ and setback areas not covered by building must contain landscape area;
  - (d) Minimum coverage of front BTZ. Measurement defining the minimum percentage of street wall or building facade required along the street. The width of the principal structure(s) (as measured within the front build-to zone) shall be divided by the maximum width of the front. Refer to Figure 50-22.5-A;
  - (e) Occupation of corner. Occupying the intersection of the front and corner build-to zones with a principal structure;
- #### 2. Side and rear setbacks.
- (a) Minimum side yard setback. The minimum required setback along a side property line. All side yard setback areas not covered by building must contain landscape area;
  - (b) Minimum rear yard setback. The minimum required setback along a rear property line;
- #### 3. Buildable area.
- (a) Minimum landscape area. The minimum percentage of a lot that must be primarily dedicated to landscape materials, such as planting beds, grass or shrubs. A portion of the area may include hardscape materials for pedestrian use or access to the area or building, such as patio or sidewalk;
  - (b) Minimum lot width. The minimum width of a lot, measured at the front property line;
- #### 4. Parking and access.
- (a) Location of parking facilities. The yard in which a parking lot and associated drive is permitted;
  - (b) Loading facility location. The facade of the building on which access is permitted for loading and unloading activities related to building uses;
  - (c) Number of permitted driveways. Defines the circumstances under which a driveway is permitted on a lot;

## Iconic Building

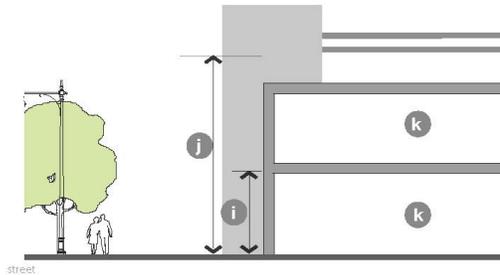


Figure 50-22.17(B): Height & Use Requirements.

D. Street Façade Requirements	
<b>1. Transparency</b> <span style="float: right;">(l)</span>	
Minimum Transparency	10% per floor
Blank Wall Limitations	Not required
<b>2. Building Entrance</b>	
Principal Entrance Location	Front or Corner Side Façade of Building <span style="float: right;">(m)</span>
Street Façades: Number of Entrances	Not required

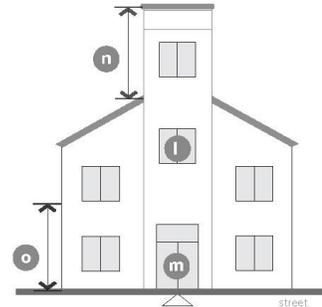


Figure 50-22.17(C): Façade Requirements.

E. Cap & Base Type Requirements	
Cap Type <sup>2</sup>	Parapet, Pitched Roof, Flat Roof <span style="float: right;">(n)</span>
Tower	Permitted
Street Façade Base Type	Stoop <span style="float: right;">(o)</span>
Notes:	
<sup>2</sup> Other cap types not listed here may be approved by the Land Use Supervisor	

(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10284, 3-10-2014, § 2.)

## 50-23 Connectivity and circulation.

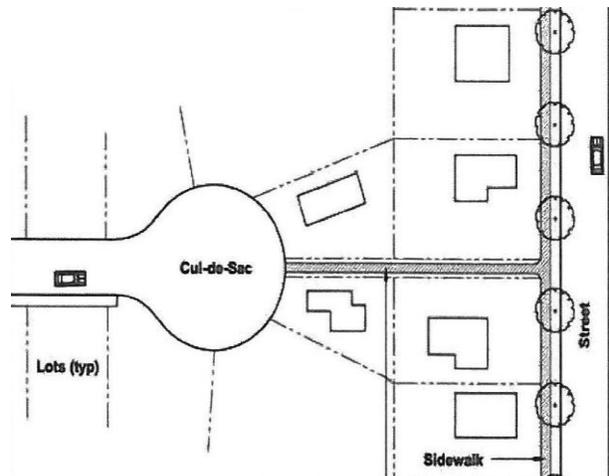
### 50-23.1 Applicability and exemptions.

This Section 50-23 shall apply to all new subdivision, replatting, registered land surveys (RLSs), development and redevelopment applications after November 19, 2010. General circulation requirements are listed in Section 50-23.2, but additional circulation requirements apply in some circumstances. Sites that are (a) located in any zone district other than the RC, RR-1, RR-2, MU-B, I-G, or I-W districts, and (b) larger than three acres, and (c) will contain more than one development parcel shall meet the connectivity index requirements of Section 50-23.3. All new subdivision, replatting, development, and redevelopment applications shall meet the requirements of Section 50-23.4, and those containing more than one principal building shall meet the requirements of Section 50-23.5. (Ord. No. 10044, 8-16-2010, § 6.)

### 50-23.2 General circulation requirements.

Applications for subdivision, replatting, RLS, development, or redevelopment shall meet the following standards:

- A. Where adopted city plans show a bicycle or pedestrian path or trail or sidewalk, the site design shall provide connections to those paths or trails or sidewalks;
- B. Any requests by the city for designation or dedication of land for bicycle or pedestrian trails within a proposed development shall comply with the provisions of Section 50-33.8, *Land for public purposes*;
- C. Unless the city engineer waives the requirement in writing based on concerns of public safety, or due to site/ topography constraints:
  1. Each proposed street within a new subdivision, regardless of zoning designation, shall be public and designed and constructed to city engineer construction standards.
  2. Each proposed public or private street within the R-1, R-2, R-P, MU-P, MU-N, MU-C, MU-I or MU-W districts shall include a sidewalk at least five feet wide on both sides of the street;
  3. Each proposed public or private street within the MU-B, I-G or I-W districts shall include a sidewalk at least five feet wide on one side of the street;
- D. Whenever cul-de-sac streets are created, one ten foot wide pedestrian access/public utility easement shall be provided, between the cul-de-sac head or street turnaround and the sidewalk system of the closest adjacent street or pedestrian sidewalk or pathway, unless the city engineer determines that public access in that location is not practicable due to site or topography constraints (refer to Figure 50-23-A);
- E. A pedestrian way at least ten feet in width shall be provided near the middle of any block face longer than 800 feet in order to provide connections with streets on either side of the block;
- F. Any use requiring vehicle access from a public street or alley shall be referred to the city engineer for review before any permits are issued. The city engineer shall consider, but not be limited to, the following factors when determining whether to approve the proposal:



**Figure 50-23-A: 10 ft. access easement from head of cul-de-sac to nearest street or path**

1. The consolidation of curb cuts shall be encouraged, and new curb cuts shall be discouraged whenever appropriate, considering safe traffic flow, the objectives of this chapter, and access points needed for the proper function of the use;
2. Functional classification of the road where the curb cut is proposed;
3. The location of driveways shall be at least 100 feet from an intersection. The city engineer may permit driveways closer to an intersection due to limited lot frontage or site/topography constraints;
4. The location of driveways relative to other existing uses is such that street traffic shall not be seriously disrupted and no unnecessary hazards shall be established for pedestrians. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 25; Ord. No. 10458, 7-11-2016, § 1)

**50-23.3 Connectivity index for larger non-exempt developments.**

**A. Requirements.**

1. A connectivity index is calculated by dividing the number of “links” in the proposed development by the number of “nodes” in the same development;
2. In order to promote walkability and reduce the number and length of vehicular trips both within developments and between new developments and surrounding areas, each development or redevelopment covered by this Section 50-23 shall provide internal junctions and external connections to achieve a connectivity index calculation of at least 1.65;
3. In addition, each street frontage of the development shall include at least one street stub or connection to the external street system every 1,500 feet;
4. The land use supervisor may reduce the required connectivity index, the requirement for external street connections, or the requirement for cul-de-sac access easements if compliance with the provisions of this subsection is impracticable due to site or topography constraints;

**B. Example.**

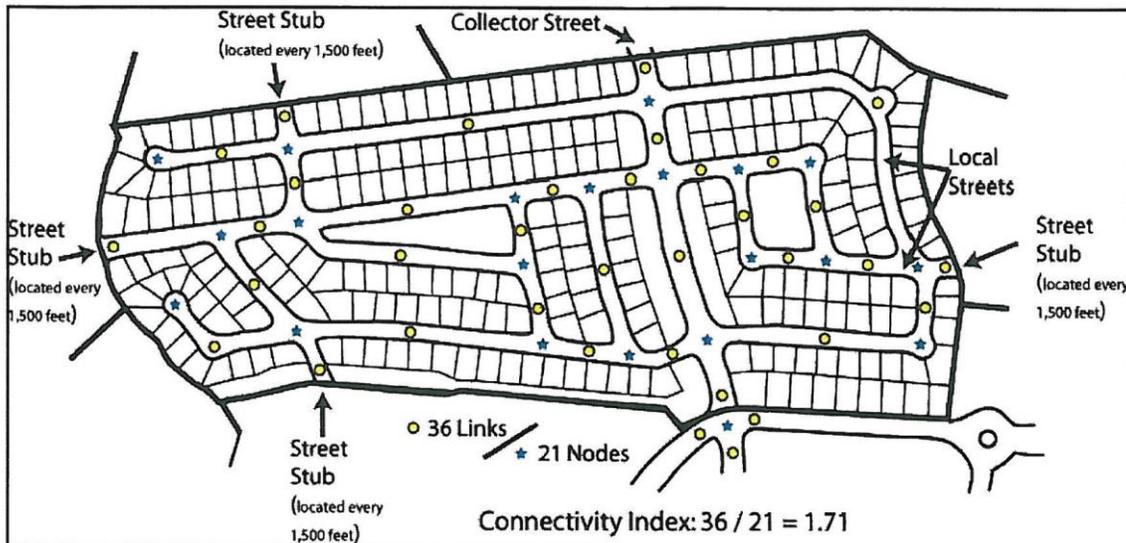


Figure 50-23-B: Example: There are 36 links (circles) and 21 nodes (stars).

(Ord. No. 10044, 8-16-2010, § 6.)

#### **50-23.4 Americans with Disabilities Act.**

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All “places of public accommodation,” as defined in the federal Americans with Disabilities Act (42 U.S.C. 12101 et. seq.) shall comply with the requirements of that act concerning on-site circulation and access. (Ord. No. 10044, 8-16-2010, § 6.)

#### **50-23.5 Multi-building developments.**

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Commercial developments containing more than one principal building on a single lot or parcel shall include an unobstructed walkway or pathway providing access between the principal buildings. The walkway or pathway shall be at least five feet wide. (Ord. No. 10044, 8-16-2010, § 6.)

#### **50-23.6 Skywalks.**

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- A. The location and design of skywalks should not compromise the historic or architectural integrity of existing buildings;
- B. Design of skywalks shall be approved based on their architectural sensitivity, harmony and cohesiveness with the historic/industrial waterfront character of the surrounding area;
- C. New skywalks installed and existing sidewalks remodeled at a cost of more than 50 percent of their assessed value after November 19, 2010, shall be designed so that 66 percent of each vertical side elevation is made of glass or transparent materials. A lower level of transparency can be reduced, but not to less than 50 percent, if a higher level of transparency is technically infeasible due to span length and engineering limitations. (Ord. No. 10044, 8-16-2010, § 6.)

## 50-24 Parking and loading.

### 50-24.1 Applicability.

The standards of this Section 50-24 shall apply to all development and redevelopment, except that:

- A. Development and redevelopment in any of the form districts shall only be required to provide that amount of parking that can be accommodated on the development parcel while allowing the principal building to meet all of the building form standards in Section 50-22;
- B. No off-street parking shall be required for any non-residential use on a lot smaller than 10,000 square feet in any mixed use district or special purpose district;
- C. No off-street parking shall be required for any building with less than 10,000 square feet of gross floor area and with a non-residential primary use in any mixed use district or special purpose district;
- D. No off-street parking shall be required within the boundaries of the Downtown area shown in Exhibit 50-24.1-1;
- E. No off street parking shall be required for any use except (1) hotels or motel, and (2) residential developments with more than ten units, within the boundaries of the Canal Park area shown in Exhibit 50-24.1-1;
- F. Development and redevelopment that is exempt from being required to provide off-street parking but does provide parking, must follow all the provisions of this Section.

(Ord. No. 10044, 8 16 2010, § 6; Ord. No. 10096, 7 18 2011, § 26.)



## 50-24.2 Required parking spaces.

In all districts there shall be provided, at the time any building or structure is erected, except as provided in Section 50-24.5, *Calculation of parking spaces*, the number of off-street parking spaces shown in Table 50-24-1, unless an exemption from or variation of this requirement is provided in another section of this Chapter.

<b>Table 50-24-1: Off-Street parking Spaces Required</b>	
<b>Use</b>	<b>Requirement* (May Be Adjusted to 30% Less or 50% More)</b>
<b>RESIDENTIAL USES</b>	
Dwelling, one-family	1 space per dwelling unit
Dwelling, two-family	
Dwelling, townhouse	
Dwelling, live-work	
Co-housing facility	
Manufactured home park	
Dwelling, multi-family	1.25 space per dwelling unit
Assisted living facility (elderly)	1 space per 3 habitable units
Residential care facility	1 space per 9 residential care beds, but not less than 2 spaces
Rooming house	1 space per habitable unit
<b>PUBLIC, INSTITUTIONAL AND CIVIC USES</b>	
Bus or rail transit station	No requirement
Business, art, or vocational school	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
Cemetery or mausoleum	No requirement
Club or lodge (private)	2.5 spaces per 1,000 sq. ft. of floor area
Government building or public safety facility	As determined by land use supervisor based on anticipated use and neighborhood impacts
Hospital	2 spaces per 1,000 sq. ft.
Medical or dental clinic	4 spaces per 1,000 sq. ft. of gross floor area
Museum, library or art gallery	1 space per 1,000 sq. ft. of gross floor area
Nursing home	1 space per 6 beds
Park, playground or forest reserve	No requirement
Religious assembly	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
School, elementary	1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater
School, middle	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
School, high	5 parking spaces for each classroom or 1.5 parking spaces per 1,000 square feet, whichever is greater
University or college	2 spaces per 1,000 sq. ft. of office, research and library area plus 1 space per 125 sq. ft. of auditorium space.
Other community facility or institutional support uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
<b>COMMERCIAL USES</b>	
Adult bookstore	2.5 spaces per 1,000 sq. ft. of gross floor area
Adult entertainment establishment	5 spaces per 1,000 sq. ft. of gross floor area
Agriculture	No requirement
Automobile and light vehicle repair and service	2 spaces per 1,000 sq. ft. of gross floor area
Automobile and light vehicle sales, rental or storage	2 spaces per 1,000 sq. ft. of gross floor area
Bank	3.5 spaces per 1,000 sq. ft. of gross floor area
Bed and breakfast	1 space for manager plus 1 space per habitable unit
Building material sales	1 space per 1,000 sq. ft. of gross floor area
Business park support activities	2 spaces per 1,000 sq. ft. of gross floor area
Convention and event center	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater

<b>Table 50-24-1: Off-Street parking Spaces Required</b>	
<b>Use</b>	<b>Requirement* (May Be Adjusted to 30% Less or 50% More)</b>
Daycare facility	1 space per 5 persons care capacity
Data center	1 space per 1,000 sq. ft. of gross floor area
Filling station	4 spaces per 1,000 sq. ft. gross floor area plus 1 per service stall
Funeral home or crematorium	1 space per 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms
Garden material sales	1 space per 1,000 sq. ft. of gross floor area
Grocery store	3 spaces per 1,000 sq. ft. of gross floor area
Golf course	2.5 spaces per 1,000 square feet of clubhouse area
Hotel or motel	2 spaces per 3 guest rooms plus 1 per 200 sq. ft. of gross floor area in all accessory uses including restaurants and meeting rooms
Indoor entertainment facility	2.5 spaces per 1,000 sq. ft. of gross floor area.
Kennel	1 space per 1,000 sq. ft. of gross floor area
Marina or yacht club	2.5 spaces per 1,000 sq. ft. of clubhouse area, plus 1 per 10 boat slips
Mini-storage facility	1 space per 20 storage units
Office	2.5 spaces per 1,000 sq. ft. of gross floor area
Parking lot or parking structure (primary use)	No requirement
Personal service or repair	2.5 spaces per 1,000 sq. ft. of gross floor area
Preschool	1 space per 5 persons care capacity
Restaurant	6.5 spaces per 1,000 sq. ft. of gross floor area
Retail store	3 spaces per 1,000 sq. ft. of gross floor area
Riding stable	No requirement
Seasonal camp or cabin	1 space for every two beds, or for each cabin or sleeping unit, whichever is greater
Theater	1 space per 6 seats or per 100 sq. ft. in main auditorium, whichever is greater
Tourist or trailer camp	2 spaces per 3 sleeping rooms, suites, or trailer spaces
Truck or heavy vehicle sales, rental, repair or storage	1 space per 1,000 sq. ft. of gross floor area
Vacation dwelling unit	1 space for 1-2 bedrooms, 2 spaces for 3-4 bedrooms, 3 spaces for 5+ bedrooms
Veterinarian or animal hospital	2.5 spaces per 1,000 sq. ft. of gross floor area
Other commercial use not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
<b>INDUSTRIAL USES</b>	
Airport and related facilities	As determined by airport management
<ul style="list-style-type: none"> <li>• Electric power or heat generation plant</li> <li>• Electric power transmission line</li> <li>• Junk and salvage services</li> <li>• Major utility or wireless communication tower</li> <li>• Radio or television broadcasting tower</li> <li>• Railroad or shipyard and related facilities</li> <li>• Solar or geothermal power facility (primary use)</li> <li>• Truck freight or transfer terminal</li> <li>• Water or sewer works</li> <li>• Wind power facility (primary use)</li> <li>• Bulk storage not listed</li> </ul>	No requirement
<ul style="list-style-type: none"> <li>• Contractor's shop and storage yard</li> <li>• Dry cleaning or laundry plant</li> <li>• Recycling collection point (primary use)</li> <li>• Solid waste disposal or processing facility</li> </ul>	1 per 1,000 sq. ft. of gross floor area
<ul style="list-style-type: none"> <li>• Manufacturing, light manufacturing, heavy manufacturing, hazardous or special</li> <li>• Storage warehouse</li> <li>• Water-dependent manufacturing, light or heavy</li> <li>• Wholesaling</li> </ul>	1 per 1,000 sq. ft. of gross floor area
Research laboratory	As determined by land use supervisor based on anticipated use and neighborhood impacts
Other industrial uses not listed	As determined by land use supervisor based on anticipated use and

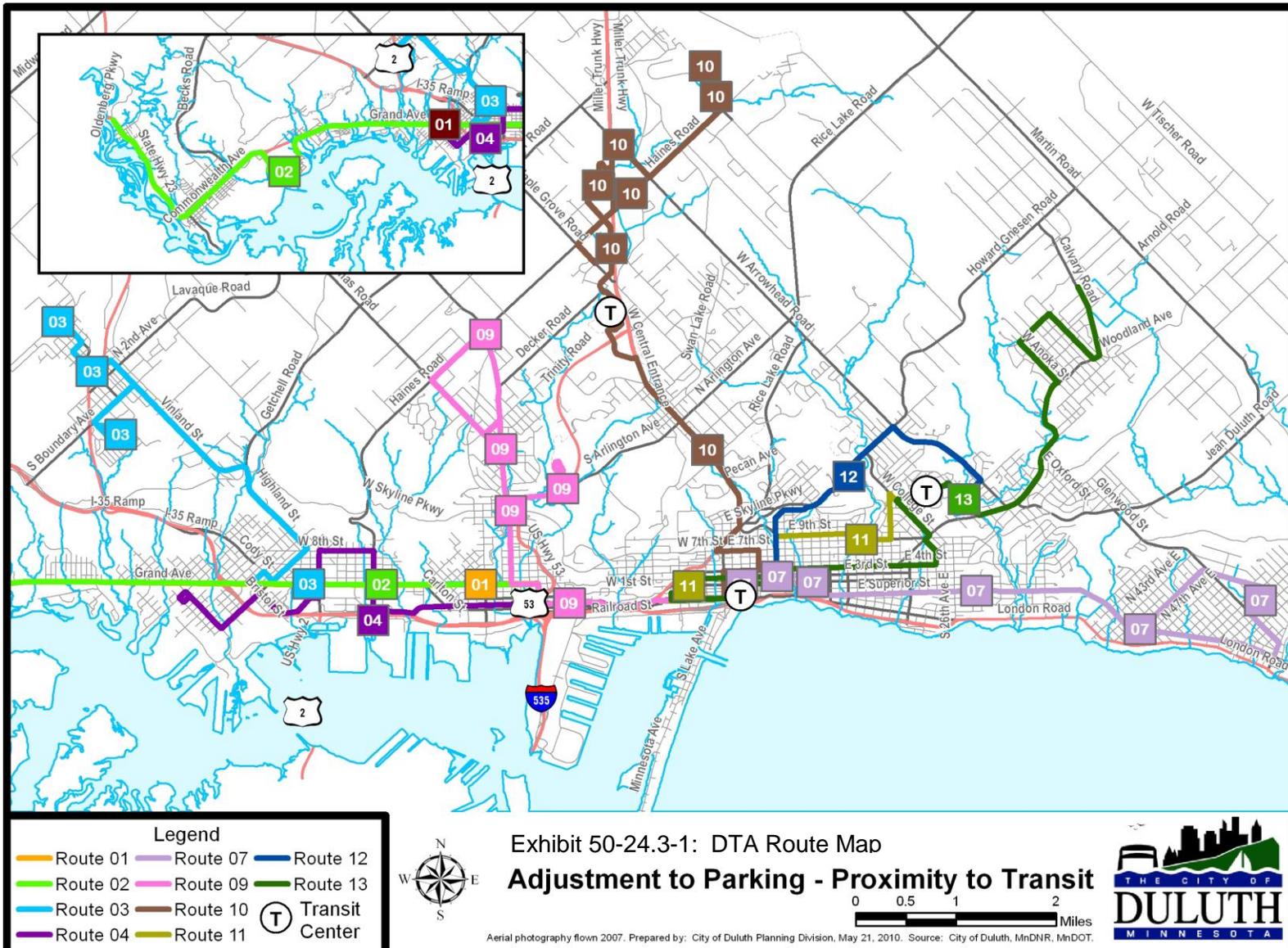
<b>Table 50-24-1: Off-Street parking Spaces Required</b>	
<b>Use</b>	<b>Requirement* (May Be Adjusted to 30% Less or 50% More)</b>
	neighborhood impacts
<b>ACCESSORY USES</b>	
Accessory bed and breakfast	1 space for primary use dwelling; plus 1 space per habitable unit
Accessory caretaker quarters	1 space
All other accessory uses	No requirement
<b>TEMPORARY USES</b>	
Temporary real estate sales office	2 spaces
All other temporary uses	No requirement
*The parking space requirement may be modified by Section 50-18.5 (Higher Education Overlay District), Section 50-24.3 (Adjustment to required off-street parking) and Section 50-24.4 (Maximum parking spaces).	

(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 27; Ord. No. 10286, 3-10-2014, § 10; Ord. No. 10340, 11-24-2014, § 1; Ord. No. 10458, 7-11-2016, § 2)

**50-24.3 Adjustment to required off-street parking.**

The minimum parking requirements listed in Section 50-24.2 above shall be adjusted as follows:

- A. Proximity to transit.
  1. The minimum number of off-street parking spaces required for any development or redevelopment lands may be reduced by 30 percent if they are located within 1/4 mile of existing Duluth Transit Authority routes in operation for one year, or they may be reduced by 20 percent if located within 1/2 mile of any Duluth Transit Authority transit center, as indicated by a "T" on Exhibit 50-24.3-1;
  2. If an existing transit route or center is eliminated or changed in location, any development approved in conformance with this Section 50-24.3 shall not be deemed nonconforming in terms of required parking.



**B Sharing of parking spaces.**

3. General.

Where two land uses listed in separate use categories in Table 50-19.8 share a parking lot or structure, the total off-site parking required for those uses may be reduced by the factors shown in Table 50-24-2. Total off-street parking required shall be the sum of the two parking requirements for the two uses divided by the factors in Table 50-24-2. If uses in three or more categories of Table 50-19.8 share a parking lot or structure, the land use supervisor shall determine the parking reduction based on the relative sizes of the various uses and the reduction factors listed in Table 50-24-2;

<b>Table 50-24-2: Shared Parking Reduction Factors</b> Add the two parking requirements and divide by these factors					
<b>Property Use</b>	<b>Multi-family Residential</b>	<b>Public, Institutional, or Civic</b>	<b>Food, Beverage, Indoor, Entertainment, or Lodging</b>	<b>Retail</b>	<b>Other Commercial</b>
Public, institutional or civic	1.1	1.0			
Food, beverage, indoor, entertainment or lodging	1.1	1.2	1.0		
Retail	1.2	1.3	1.3	1.0	
Other commercial	1.3	1.5	1.7	1.2	1.0

4. Additional sharing permitted for certain uses.

As an alternative to those reduction factors listed in Table 50-24-2, (a) up to 50 percent of the parking spaces required for food, beverage and indoor entertainment uses, and up to 100 percent of parking spaces required for religious assembly uses and elementary, middle, high school, university or college auditoriums may be used jointly by (b) any non-residential use not normally open, used or operated during the same hours as those listed in (a), or any non-residential use that has excess parking capacity based on the minimum off-street parking for that use. A written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit. (Ord. No. 10042, 8-16-2010, § 3; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 28.)

**50-24.4 Maximum parking limits.**

No more than 150 percent of the minimum required number off-street parking spaces, excluding the adjustments allowed in 50-24.3, shall be provided. This limit does not apply to the following uses: one-family, two-family, townhouse and live-work dwellings. Off-street parking spaces that existed on November 18, 2010, and that were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials may continue even if they exceed the maximum parking limit. (Ord. No. 10042, 8-16-2010, § 4; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 29; Ord. No. 10153, 5-14-2012, § 4.)

**50-24.5 Calculation of parking spaces.**

The following rules shall apply to calculation of the number of required parking spaces:

- A. Floor area shall mean the gross floor area of the specific use;
- B. Requirements for a fraction of a parking space shall be ignored;

- C. The parking space requirement for a use not specifically listed in Table 50-24-1 shall be the same as for the most similar use listed in that table, as determined by the land use supervisor;
- D. Whenever a building or use is enlarged to the extent of 25 percent or more in floor area or in the site area used, the building or use shall be required to (a) retain any on-site parking existing prior to the expansion, and if that is not sufficient to comply with the parking required for the use as expanded, then (b) to comply with the requirements in Table 50-24-1 for the expansion area. (Ord. No. 10044, 8-16-2010, § 6.)

#### **50-24.6 Location of parking spaces.**

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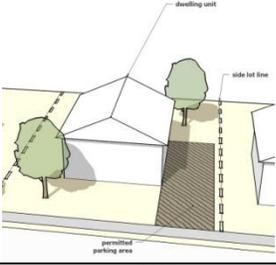
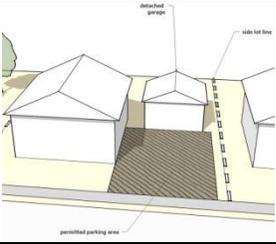
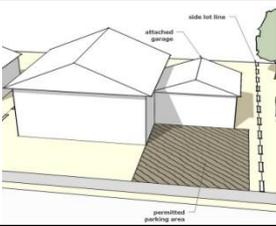
##### **A. On site location and exceptions.**

- 1. All required parking spaces shall be located on the same lot with the principal building or the primary use served; except as provided in subsection 2 below;
- 2. If an increase in the number of parking spaces is required by a change or enlargement of any use the increased parking requirement may be satisfied by utilizing:
  - (a) Primary use parking lots or parking structures located and maintained up to 500 feet from the lot containing the change or enlargement, or
  - (b) Accessory parking lots that existed on November 18, 2010, were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials, and that are located and maintained up to 500 feet from the lot containing the change or enlargement;
- 3. Where required parking spaces are not provided on site, a written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit;

##### **B. Parking location within the site.**

Unless a front yard parking permit was issued for the property on or before June 1, 2009, required parking spaces shall only be provided on those portions of the lot indicated in Table 50-24-3.

**Table 50-24-3: Permitted Parking Areas**

Type of Lot	Permitted Parking Area	
<b>Residential Districts</b>		
Non-corner lot with non-dwelling unit	The rear yard and one side yard	
Non-corner lot with dwelling unit and no garage	The rear yard, and the area between one side lot line and the nearest side wall of the dwelling unit and its extension to the improved street abutting the front yard (see diagram to the right).	
Non-corner lot with dwelling unit and detached garage	The rear yard, and the area between the closest side lot line to the side wall of the dwelling unit nearest to the garage, and its extension to the improved street abutting the front yard (see diagram to the right).	
Non-corner lot with dwelling unit and attached garage	The rear yard, and the area between the closest side lot line to the common wall separating the dwelling unit and garage, and its extension to the improved street abutting the front yard (see diagram to the right).	
Corner lot (dwelling or non-dwelling)	The rear yard and one side yard	
<b>Mixed Use and Special Purpose Districts</b>		
All mixed use and special purpose districts	Buildings or projects constructed after November 19, 2010, shall locate no more than 50 percent of off-street accessory parking within the front yard, except as provided in Section 50-24.6.C.	
Form districts	Parking only permitted on those portions of the lot permitted for the building type being constructed pursuant to secs. 50-16 and 50-22.	

**C. Optional pedestrian walkways within parking areas.**

For parking areas within mixed use and special purpose districts identified in Table 50-24.3, buildings or projects may locate up to 60 percent of off-street accessory parking within the front yard if a pedestrian walkway is provided. The pedestrian walkway shall:

- Include pedestrian-scaled lighting;
- Be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
- Be visually recognizable to both pedestrians and motorists;
- Include trees and other landscaping along the length of the walkway, this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4;
- Be at least eight feet wide; and
- Include well-marked crossings where the walkway intersects with private vehicle drives. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 30; Ord. No. 10153, 5-14-2012, § 5; Ord. No. 10286, 3-10-2014, § 11.)

## 50-24.7 Parking lot design standards.

### A. General standards.

The design of required off street parking areas and spaces shall meet the standards shown in Table 50-24-4;

Table 50-24-4: Parking Design Standards		
Parking Space Size*		
Size of Car	Minimum Size of Parking Space	
Small	8.5 ft. x 15 ft.	
Standard	9 ft. x 17 ft.	
Aisle Widths		
Angle of Parking	Minimum Width of Aisle	
	One-Way	Two-Way
Parallel/no parking	11 ft.	21 ft.
30 degree	11 ft.	21 ft.
45 degree	13 ft.	23 ft.
60 degree	18 ft.	24 ft.
75 degree	20 ft.	24 ft.
90 degree	20 ft.	24 ft.
Permitted Percentage of Small Car Spaces (Applies to lots with more than 5 spaces)		
Size of Parking Lot	Maximum Percentage of Small Cars	
6 to 100 spaces	40%	
100 to 149 spaces	45%	
150 or more spaces	50%	
Required Surface Treatment/Paving		
Zone District	Requirement	
All residential district parking areas not in lawful existence on June 1, 2009.	Surfaced in a dust free, hard surface material such as concrete or bituminous, or pervious paving materials, except for rear yards, which may be surfaced in aggregate materials, compressed aggregates or similar surfaces.	
All mixed use and special purpose districts	All parking areas shall be surfaced in a dust free, hard surface material such as concrete or bituminous. Pervious paving material shall be approved by the city engineer.	

\*The area set aside for a parking space may encroach beyond the face of a curb a maximum of 1.5 ft., provided that (a) it does not include trees, posts, or other obstructions that would prevent a vehicle from fully utilizing the space, and (b) it is not included in required open space, landscape area requirements, or required pedestrian walkways.

### B. Parking lot and driveway entrances.

All parking lot and driveway entrances must conform to the design specification regulations of the city engineer;

### C. Snow storage areas.

A portion of the each accessory surface parking area shall be designated for snow storage. The areas required to meet the minimum parking requirements of this Section 50-24 shall not be used for snow storage. Snow storage areas may be landscaped if the vegetation is selected and installed so as not to be harmed by snow storage. Snow storage areas shall not count towards those landscape areas required by Section 50-25 unless it they are integrated with a side or rear buffer required by Section 50-25;

### D. Parking lot walkways.

Each surface parking area that (a) serves a multi-family residential, commercial, public, institutional, civic, or mixed use, and (b) contains 50 or more parking spaces, and (c) contains any parking spaces located more than 300 feet from the front façade of the building shall

contain at least one pedestrian walkway from allowing pedestrians to pass from the row of parking furthest from the primary building façade to the primary building entrance or a sidewalk allowing the pedestrian to reach the primary building entrance without crossing additional driving spaces or aisles. The required walkway must be at least five feet wide, shall not be located within a driving aisle, and shall be located in a landscaped island running perpendicular to the primary building façade if possible. If located in a landscaped island, the minimum width of the island shall be increased by five feet to accommodate the walkway without reducing the amount of landscaped area. If any parking space in the parking aisle located furthest from the primary structure is more than 200 feet from the walkway, additional similar walkways shall be required within 200 feet of those spaces. If there is a public sidewalk along the street frontage located within 50 feet of any required walkway, the walkway shall connect to that sidewalk;

**E. Tandem or in-line parking.**

Tandem or in-line parking, or other similar arrangements that involve the placement of two or more parking spaces in a row directly behind one another so that one parking space is blocking access for other parking spaces, is not allowed for required off street parking spaces. This provision does not apply to required off street parking spaces within enclosed structures, such as garages or parking structures. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10286, 3-10-2014, § 12; Ord. No. 10340, 11-24-2014, § 2.)

**50-24.8 Required loading space.**

Unless otherwise provided in this Chapter, all construction of new buildings or expansions of existing buildings shall provide off street loading space shown in Table 50-24-5 below.

<b>Table 50-24-5: Off-Street Loading Space Standards</b>	
<b>Type of Use or Facility</b>	<b>Off-Street Loading Requirement</b>
Office, hotel or motel	1 space for 20,000 sq.ft. of gross floor area
Personal service and repair not otherwise listed; building material sales; garden material sales; retail store not listed (large); automobile and light vehicle repair and service, automobile and light vehicle sales, rental, or storage; truck or heavy vehicle sales, rental, repair, or storage; wholesaling.	1 space for 20,000-50,000 sq.ft. of gross floor area; and 2 spaces for more than 50,000 sq.ft. gross floor area
Manufacturing	1 space for 25,000 to 50,000 sq.ft. of gross floor area; 2 spaces for more than 50,000 sq.ft. of gross floor area.

(Ord. No. 10044, 8-16-2010, § 6.)

## **50-25 Landscaping and tree preservation.**

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### **50-25.1 Applicability.**

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- A. The landscaping provisions of secs. 50-25.2 through 25.4 and 25.7 shall apply to lots and parcels in any zone district that contain (i) more than 10,000 square feet of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, when any of the following conditions occur:
  - 1. A new primary structure is constructed;
  - 2. The floor area in an existing primary structure(s), taken collectively, is increased by more than 25 percent;
  - 3. An existing primary structure is relocated on the lot or parcel;
  - 4. The primary structure is renovated or redeveloped (including but not limited to reconstruction after fire, flood or other damage), and the value of that renovation or redevelopment, as indicated by building permits, is 75 percent or more of the pre-application assessor's market value of the primary structure, as shown in the records of the city assessor;
  - 5. A new parking lot containing 25 or more spaces is constructed or an existing parking lot containing 25 or more spaces is reconstructed. Parking lots with less than 25 spaces must only provide the minimum tree canopy coverage as indicated in Section 50-25.4.B.6;
- B. In any form district, landscaping shall not be required on the portion of a lot occupied by a principle structure;
- C. The tree preservation provisions of Section 50-25.9 apply to all development or redevelopment on lots and parcels in any zone district that contain (i) more than 10,000 square feet of lot area, and (ii) a primary structure with a multi-family, mixed use, commercial, institutional, industrial, or parking principal use, as well as to any new lot of record created after November 19, 2010, regardless of the primary use of the property, in any zone district;
- D. The landscaping between differing land uses provisions of Section 50-25.5 apply to all development or redevelopment on lots and parcels when there is a change of use. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 31; Ord. No. 10153, 5-14-2012, § 6; Ord. No. 10160, 6-25-2012, § 1; Ord. No. 10286, 3-10-2014, § 13.)

### **50-25.2 General landscaping standards.**

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#### **A. Landscape plan required.**

A landscape plan shall be submitted as a part of all development applications for those activities listed in Section 50-25.1.A, unless the land use supervisor determines that compliance with the provisions of Section 50-25 can be demonstrated without the use of a landscape plan. A landscape plan may be combined with other required application materials if compliance with Section 50-25 can be demonstrated in the combined materials;

#### **B. Plant materials.**

Plant materials shall be from the city's approved landscaping plant list as shown in the UDC application manual. All plant material shall be hardy to Northeast Minnesota, suitable for the site, free of disease and insects and conform to the American Standard for Nursery Stock of the American Nursery and Landscape Association;

#### **C. Minimum living materials.**

In all areas where landscaping is required, a minimum of 50 percent of the surface area shall be covered by living materials, rather than bark, gravel or other non-living materials;

**D. Existing vegetation.**

Existing vegetation shall be protected during construction through use of a fence around an area sufficient to protect the health of the vegetation, and shall be incorporated into the landscape plan wherever possible;

**E. Vegetation grouping.**

Landscaping shall generally incorporate large irregular groupings of the same species of shrub, avoiding rigid or repeated specimen planting except for boulevard trees, and shall introduce multiple varieties within one general area. Except for plantings used for screening, no one species of tree or shrub may make up more than 50 percent of the total amount of landscape plantings;

**F. Soil condition.**

All required landscaping shall be planted in uncompacted soil with a minimum depth of two feet;

**G. Grading and drainage.**

All open areas shall be graded, properly drained and maintained according to stormwater standards in Section 50-18.1.E;

**H. Raingardens and stormwater management features.**

Areas included in raingardens or vegetated site features created to meet stormwater management requirements in Section 50-18.1.E shall be counted towards any required interior site or parking lot landscaping, and if vegetated to meet the requirements for any landscaped buffers shall count towards those buffer requirements;

**I. Minimum plant sizes.**

Where included as part of the required landscaping, deciduous trees shall have a minimum caliper of 2.5 inches, coniferous trees shall be a minimum of six feet in height, large shrubs shall be of a minimum five gallon container size and have a height of at least six feet at maturity, small shrubs shall be of a minimum five gallon container size and have a height of less than six feet at maturity, and ground cover shall be of a minimum one gallon container size. The above dimensions apply to sizes at time of planting. Deciduous trees planted using air pot containers instead of balled and burlap stock may have a minimum of 2.0 inches;

**J. Plant material spacing.**

Except for buffer zone provisions of Section 50-25.5, *Landscaping between differing land uses*, plant materials shall not be placed closer than four feet from any fence line or property line. Where tree planting requirements are based on linear street frontage, areas occupied by driveways shall be included when calculating the number of trees required to be planted, and any trees that would otherwise be required in driveways shall be planted in other landscaped front yard areas unless prohibited by minimum spacing requirements for that species as recommended by the American Standard for Nursery Stock of the American Nursery and Landscape Association. The land use supervisor may authorize adjustments to these spacing requirements when required due to topography, drainage, utilities or obstructions, provided that the total amount of required landscaping is not reduced;

**K. Snow storage areas.**

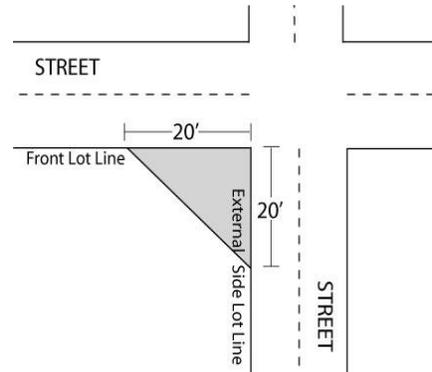
Areas required for snow storage and areas required for landscaping shall not overlap, except that snow may be stored on ground cover landscape areas (e.g., turf) that do not contain required landscape trees or other plantings;

**L. City right-of-way.**

Tree removal or planting in city rights-of-way shall be done only with the approval of the city forester;

**M. Protection of site distances;**

On any corner lot on which a front and side yard are required, no wall, fence, structure, sign, or any plant growth that obstructs sight lines at elevations between 2.5 feet and six feet above the driving surface of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of 20 feet along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection;



**N. Delay of installation due to season.**

Whenever the installation of required landscaping is not possible by the time construction on the primary structure or primary use parking lot has been completed, the city may authorize a delay in installation until no later than the following August 31. As a condition of authorizing a delay in installation, the city may require that a surety or other guarantee, in a form acceptable to the city, in the estimated amount of such installation be provided, or the city may issue a temporary certificate of occupancy, with the permanent certificate of occupancy to be issued following installation of all required landscaping;

**O. Flexibility for redevelopment.**

Where the requirements of this Section 50-25 apply to a redevelopment or reconstruction project, rather than a new development, the land use supervisor may authorize a reduction of minimum off-street parking requirements established in Section 50-24 by up to ten percent if required to accommodate street frontage landscaping required by Section 50-25.3 or parking area landscaping required by Section 50-25.4.

**P. Protection of required landscaping trees**

Trees required by this section that are placed within 5 feet of a driving or parking surface shall be placed behind a raised curb, or planter, or similar physical barrier or obstacle to protect the tree trunks from interference by vehicles or snow removal operations. Curb openings for sidewalks or for drainage to the landscape areas are allowed.

Tree soil shall have a minimum depth of 2 feet and shall not contain different soil layers. The soil may not have any herbicides, heavy metals, biological toxins, or hydrocarbons that will impact plant growth or are at levels exceeding the EPA's standards for soil contaminants. No stones or particles greater than 1 inch in the longest dimension are permitted. This includes fragments of brick, concrete, wood, glass, metal, stone and plastic. (Ord. No. 10459, 7-11-2016, §1)

**50-25.3 Street frontage landscaping.**

The street frontage of the property shall meet the following landscaping requirements.

- A. Minimum average depth: See Table 50-25-1. An average depth allows the width of the landscape area to vary in size along different portions of the property to respond to varying site conditions and allow design flexibility;

<b>Table 50-25-1: Average Depths of Street Frontage Landscaping Required</b>	
Context	Average Depth Required
Lots with no required front setback, and where the primary building abuts the front lot line	Exempt
Lots with less than 10,000 sq. ft. or lot area	Exempt
Lots with 10,000 to 20,000 sq. ft. of lot area	5 ft. along all street frontages
Lot over 20,000 sq. ft. of lot area	15 ft. in front street yards 10 ft. in side street yards 5 ft. on rear lot lines of double frontage lots

- B. Required trees: One tree per 35 feet of linear frontage, planted (a) in alignment with any similar street frontage landscaping on adjacent lots, or if that is not possible or adjacent lots do not contain front yard landscaping then (b) as close to the public right-of-way as the city engineer will permit;
- C. Required shrubs: one large shrub per 25 feet of linear frontage;
- D. On lots adjacent to city-maintained boulevards, landscaping in the boulevards may be credited towards the landscaping requirements of this Section 50-25.3. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 33.)



**Figure 50-25.4-A: Parking lot screening from public right-of-way**

**50-25.4 Parking lot landscaping.**

Accessory and primary use parking lots shall provide the following amounts and types of landscaping unless alternative standards for specific situations are required pursuant to Section 50-26, *Screening, walls and fences*, or Section 50-30, *Design standards*. In any case where landscaping required by this Section 50-25.4 overlaps areas required to be landscaped by any other provision of this Section 50-25, the provisions of the section requiring more planting shall apply.

- A. Perimeter screening from public streets.
  - 1. Minimum width: five feet;
  - 2. Required trees: one tree per 35 feet of linear frontage;
  - 3. Required shrubs: three large shrubs per 25 feet of linear frontage, or if a berm or an opaque fence or wall at least three feet tall is erected, three small shrubs per 25 feet of linear frontage;

2. Any fire lane;
3. Any required off-street parking space;
4. Any location that blocks vehicular or pedestrian traffic;
5. Any location that obstructs drivers' sight lines at intersection of streets and driveways;
6. Any location that may interfere with utilities;

**C. Screening of commercial containers.**

1. Not adjacent to structure wall.

Commercial containers that are not located adjacent to a wall of an existing principal or accessory structure shall be screened from view as follows:

- (a) On three sides with a wall constructed of masonry, brick, wood, stone, or similar material and at least as tall as the container being screened;
- (b) On the fourth side a gate constructed of wood or metal and at least as tall as the container being screened;

2. Adjacent to structure wall.

Commercial containers that are located adjacent to a wall of an existing principal or accessory structure shall be screened from view as follows:

- (a) On two sides with a wall that is (1) constructed of the same principal materials and colors used on the wall of the principal or accessory building that forms the third wall of the enclosure, and (2) at least as tall as the container being screened; and (3) in compliance with applicable fire and building codes;
- (b) On the fourth side a gate constructed of wood or metal and at least as tall as the container being screened. (Ord. No. 10044, 8-16-2010, § 6.)



**Figure 50-26.3-A: Dumpster screening**

**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.



**Figure 50-26.4-A: Form district front setback wall height**

## 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 properties 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;



**Figure 50-26.4-B: Retaining wall terracing and articulation**

## 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. (Ord. No. 10041, 8-16-2010, § 6; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 37; Ord. No. 10153, 5-14-2012, § 10; Ord. No. 10414, 10-12-2015, § 4.)

### 50-26.5 Alternative screening.

Where compliance with the specific requirements of Section 50-26 is not possible as a result of unique site conditions abutting or surrounding a proposed site, an owner may propose alternatives consistent with the goals of Section 50-26. The land use supervisor may approve an alternative proposal where an applicant can demonstrate that the alternative proposal achieves required landscaping to the same degree, or better than, the provisions of Section 50-26. (Ord. No. 10153, 5-14-2012, § 11.)

## 50-27 Signs.

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### 50-27.1 Permit required.

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- A. All signs that require a permit, as described in Section 50-27.7, must obtain a zoning permit as described in Section 50-37.13 (*Zoning permit*) of this Unified Development Chapter;
- B. When submitting a zoning permit application for a sign, the applicant must submit photographs and dimensions of all signs existing on the lot, including all signs that will be removed. The city may request that the applicant submit photographs of all new signs erected on the lot after permit issuance;
- C. The applicant must sign the zoning permit application attesting to the accuracy of the information provided. The city may revoke any sign permit where there has been a violation of the provisions of this section or misrepresentation of fact on the zoning permit application;
- D. All freestanding signs over seven feet in height must submit construction plans prepared by a design professional licensed in Minnesota that comply with the requirements of the Minnesota State Building Code. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10047, 8-30-2010, § 1; Ord. No. 10204, 3-11-2013, § 1; cited only by Ord. No. 10222, 5-13-2013, § 1; Ord. No. 10338, 11-24-2014, § 1.)

### 50-27.2 Enforcement.

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- A. No sign permit shall be required for the types of signs shown in Table 50-27-1, but each such sign shall be required to comply with the provisions of this Section 50-27. Any sign placed on public property or within a public right-of-way or public easement without authorization or without a required sign permit can be removed without notice. Such signs will be held by the city for 30 days. The owner of the sign may reclaim the sign within such period, subject to any fines imposed by the city. If not reclaimed, the city may destroy the sign following expiration of the 30 day period;
- B. If a sign is constructed illegally, either without a required permit or in violation of this section or previous sign regulations, the city may serve notice to the property owner that such sign must be removed or the violation corrected within 30 days. If the sign is not removed or the violation corrected within the 30 day period, the city may remove the sign at the property owner's expense. An extension of this 30 day period may be granted per Section 50-37.1.O (*Appeals*) of this Chapter, and must be applied for prior to expiration of the initial 30 day period. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10204, 3/11/2013, § 1; cited only by Ord. No. 10222, 5-13-2013, § 1.)

### 50-27.3 Design and construction standards.

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All signs constructed, erected, modified or altered must comply with the provisions of this Section and the requirements of the City Code.

- A. Prohibited sign location.
  - 1. No sign may be erected in a location that violates the Minnesota State Building Code, Minnesota State Fire Code or other regulations;
  - 2. No sign, other than that placed by agencies of government or a sign whose placement is authorized by this Section or the city, may be erected in the public right-of-way or on public property;
  - 3. Signs located on public right-of-ways or on/in public or private skywalks must comply with Chapter 44A of the City Charter;
  - 4. No sign may be erected on private property without prior consent of the property owner;
  - 5. No sign may be erected in violation of the view obstruction provisions of Section 50-25.2.M (*Protection of site distance*) with the exception of a freestanding pole sign, if permitted in the district, with a diameter no greater than one foot and

**50-28 Stormwater drainage and erosion control.**

Stormwater drainage and erosion control regulations and standards apply to all lands in the city, and are contained in Section 50-18.1.E. (Ord. No. 10044, 8-16-2010, § 6.)

**50-29 Sustainability standards.**

**50-29.1 Applicability.**

In order to promote sustainable development, all new residential development proposals containing three or more units, and all non-residential development with a gross floor area of 10,000 square feet or more, shall be required to comply with the provisions of this Section 50-29. (Ord. No. 10044, 8-16-2010, § 6.)

**50-29.2 Points required.**

Each new development shall be required to achieve at least a minimum number of points from the menu of options shown in Table 50-29-1:

- A. Residential development minimum requirements.
  - 1. Residential development with 3-29 units: 3 points.
  - 2. Residential development with 30 or more units: 4 points;
- B. Non-residential development minimum requirements.
  - 1. Non-residential development with 10,000 to 25,000 square feet: 3 points.
  - 2. Non-residential development with a total square footage of more than 25,000 square feet: 4 points;

Table 50-29-1: Sustainability Point System	
	Points Earned
<b>LOCATION</b>	
Development on previously used or developed land that is contaminated with waste or pollution (brownfield site with Environmental Site Assessment documented contamination that will be removed by property owner as part of the project)	1.50
Development on previously used or developed land that is not contaminated (site re-use)	0.75
Development on a previously undeveloped site that is located immediately adjacent to existing city roadway and utility infrastructure and that does not require additional public roadway and utility infrastructure to be constructed to service development.	0.25
<b>ENERGY EFFICIENCY</b>	
Meet ASHRAE standard 189.1 (Section 7.4.2) for building envelope design <sup>[1]</sup>	1.50
Meet ASHRAE standard 189.1 (Section 7.4.6) for lighting <sup>[1]</sup>	0.75
Meet ASHRAE standard 189.1 (Section 7.4.3) for HVAC equipment <sup>[1]</sup>	0.75
Meet Energy Star standards for low rise residential or exceed ASHRAE 90.1-2004 energy efficiency standards by 15%. <sup>[2]</sup>	1.00
<b>ALTERNATIVE ENERGY</b>	
Generate or acquire a minimum of 15% of the electricity needed by the development from alternative energy sources (solar, wind, etc)	1.00
Install solar panels on a minimum of 15% of homes dwelling units contained in one-family, two-family, or townhouse dwellings	0.75
Pre-wire a minimum of 10% of residential dwelling units for solar panels	0.25
Install solar panels on primary structure, or at least 50% of buildings in a multi-building complex	0.75
<b>PASSIVE SOLAR</b>	
A minimum of 20% of residential dwelling units or lots are oriented within 20% of east-west for maximum passive solar exposure	1.00
At least 20% of non-residential buildings have one longer axis oriented east-west for maximum solar exposure	1.00

<b>WATER</b>	
Install a "cool roof" on the primary structure, or at least 50% all of primary buildings in a multi-building complex. Cool roofs shall have a Solar Reflectance Index of 78 for flat roofs or 29 for roofs with a slope greater than 2:12.	1.00
Install a green vegetated roof on the primary structure, or at least 50% of all primary buildings in a multi-building complex. Green or vegetated roofs shall include vegetation on at least 50% of the roof area (25% for renovated buildings) and shall use only plant materials permitted by the landscaping standards in Section 50-25.	2.00
Meet ASHRAE standard 189.1 (Section 6.3.1) for site water use reduction <sup>[1]</sup>	0.75
Meet ASHRAE standard 189.1 (Section 6.3.2) for building water use reduction <sup>[1]</sup>	0.50
<b>STORMWATER, ADDITIONAL RETENTION</b>	
Post construction development will retain at least 0.5 inches of runoff on the site from impervious surfaces (retrain through infiltration, need proper native soils verified through geotechnical field testing approved by city engineer)	0.75
Post construction development will retain 1.1 inches of runoff on the site from impervious surfaces (retrain through infiltration, need proper native soils verified through geotechnical field testing approved by city engineer)	0.50
<b>VEGETATION</b>	
Retain at least 20% of existing pre-development native natural vegetation (minimum 5,000 square feet)	0.50
Turf grass is limited to 40% of the landscaped area. (minimum 5,000 square feet)	0.25
Maintain a minimum of 50 foot naturally vegetative buffer from delineated wetlands (minimum 25,000 feet of delineated wetlands on the property)	0.50
<b>URBAN AGRICULTURE</b>	
A fenced, centrally located community garden space is provided for residents and for urban gardening purposes at a ratio of 50 sq. ft. per dwelling unit as part of the overall landscape plan	1.00
A minimum of one on-site composting station is provided for every 25 units	0.25
<b>TRANSPORTATION</b>	
Source a minimum of 20% by cost of structure construction materials from recycled products or products manufactured, extracted, harvested, or recovered within 500 miles of the site (excluding gravel, fill, concrete, asphalt, and similar site construction material)	1.50
A minimum of 2% of required automobile parking spaces are signed and reserved for hybrid/electric/low energy vehicles in preferred locations near the primary building entrance	0.25

[1] *Standard for the Design of High-Performance Green Buildings*, American Society of Heating, Refrigerating, and Air-Condition Engineers, 2009.

[2] *Energy Standard for Buildings Except Low-Rise Residential*, American Society of Heating, Refrigerating, and Air-Condition Engineers, 2004.

(Ord No 10459, 7-11-2016, §2)

**C. LEED-certified building alternative.**

Buildings that have achieved LEED requirements necessary to receive certification from the U.S. green building council at the silver level or above shall not be required to meet the above requirements;

**D. Documentation required.**

Applicants shall provide documentation of techniques that will be used to satisfy the above requirement, as necessary, at the time of application submittal. Documentation for items that may not be visually verified as part of an inspection may be provided in the form of invoices, receipts, or delivery confirmation for the items in question. (Ord. No. 10044, 8-16-2010, § 6.)

## **50-32 Housing and property maintenance code.**

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The city has adopted by reference the year 2012 edition of the International Property Maintenance Code, as the Housing and Property Maintenance Code of the city, as amended by Chapter 29A of the code. (Ord. No. 10044, 8-16-2010, § 6. Ord. No. 10459, 7-11-2016, §3)

## **50-33 Plats.**

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### **50-33.1 General.**

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All subdivision plats and replats, and all registered land surveys, shall create lots, streets and walkways and open spaces consistent with the requirements of the zone district within which the land is located. Without limiting the generality of the previous sentence, all plats and land surveys approved after November 19, 2010, shall be consistent with the lot dimension requirements contained in sections 50-13 through 18 of this Chapter, as well as the requirements of Section 50-21, *Dimensional requirements*, 50-22, *Building form standards*, 50-23, *Connectivity and circulation*, 50-24, *Parking and loading*, and 50-18.1.E, *Stormwater and erosion control*. In addition, all subdivision plats and replats, and all registered land surveys approved after November 19, 2010, shall comply with the standards of this Section 50-33. (Ord. No. 10044, 8-16-2010, § 6.)

### **50-33.2 Site design.**

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- A. The site design process shall begin with an analysis of site constraints and natural resources, and shall avoid both to the degree practicable;
- B. In addition, the site design process shall include a pre-submittal evaluation of storm drainage to ensure that the proposed design will comply with the storm drainage and erosion control standards in Section 50-18.1.E. This study shall be submitted prior to submission of a preliminary plat of the property;
- C. The site design process shall include an evaluation of minimal impact development and low impact development methods;
- D. At a minimum, the lands included in the plat or survey shall be designed so that all developable parcels can be developed in compliance with the requirements of:
  1. Section 50-18.1, *Natural resources overlay district*, which identifies areas subject to flood plain, shorelands and wetland constraints, and stormwater and erosion control;
  2. Section 50-18.4, *Skyline Parkway overlay district*, which identifies constraints on the location of structures and fences on lands located within 200 feet downhill of Skyline Parkway;
- E. Shore and bluff impact zones shall be included in common open space. Wetlands, floodplains, wildlife areas, steep slopes, rock outcrops, tree stands and areas in their natural state that are unsuitable for development shall be included in common open space if possible;
- F. Whenever a portion of a tract is proposed for platting and it is intended to enlarge such platted portion in the future, a tentative plan for the entire tract shall be submitted;
- G. To ensure a harmonious development in areas not subject to any zoning ordinance (areas now outside the corporate limits of Duluth), the subdivider may be required to place upon such plats restrictions comparable to those of this Chapter for similar areas. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 44.)

### **50-33.3 Block size.**

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- A. In the MU-B, I-G and I-W zone districts, block lengths and widths shall be platted to accommodate the anticipated occupancy of the platted lots;

- B. In other zone districts, blocks shall be not less than 300 feet nor more than 600 feet in length;
- C. Through lots or double-frontage lots shall be avoided as far as practicable, but may be permitted when necessary to allow efficient use of the land in light of site topography. (Ord. No. 10044, 8-16-2010, § 6.)

**50-33.4 General lot design and layout.**

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- A. All lots shall have frontage on a public street unless that is impracticable due to topography and the land use supervisor approves an alternative layout based on considerations of public safety and land use efficiency;
- B. Where practicable, side lot lines shall be at approximately right angles to the street on which the lot fronts;
- C. Where practicable, adjacent lots shall not be platted so that their long axes are at right angles to each other;
- D. No strips of land shall be platted for private ownership that control access to public streets or that are untaxable for special improvements;
- E. Where practicable, lots shall be oriented so that the long axis of the lot is within 15 degrees of east-west in order to increase solar orientation;
- F. Flag lots are prohibited in R-1, R-2 and MU-N zone districts. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 45; Ord. No. 10286, 3-10-2014, § 16.)

**50-33.5 Specific layout standards for R-C, RR-1 and RR-2 districts.**

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- A. When (i) a tract or parcel of land in the R-C or RR-1 districts, or (ii) a parcel of land in the RR-2 districts with sewer service, is proposed for platting to create five or more residential building lots, those lots shall be clustered as described in this Section in order to retain the open character of the land and reduce the amount of the tract occupied by building sites;
- B. When these clustering requirements apply:
  - 1. The applicant may create only as many residential building lots as would be permitted under the minimum lot size provisions of sections 50-14.2, 50-14.3 or 50-14.4;
  - 2. If the parcel does not have sewer service, the minimum lot size for residential use shall be two acres and the maximum lot size shall be two- and-one-half acres. All new residential lots shall be clustered in close proximity to each other on a portion of the property that complies with the siting requirements of Section 50-21.2 so that the shortest line around the outer perimeter of all new residential lots encloses an area of land that:
    - a. In the R-C district, totals less than 20 percent of the total parcel being subdivided;
    - b. In the RR-1 district, totals less than 50 percent of the total parcel being subdivided;
  - 3. If the parcel has sewer service, the minimum lot size for residential use shall be one-half acre and the maximum lot size shall be one acre. All new residential lots shall be clustered in close proximity to each other on a portion of the property that complies with the siting requirements of Section 50-21.2 so that the shortest line around the outer perimeter of all new residential lots encloses an area of land that:
    - a. In the R-C district, totals less than 15 percent of the total parcel being subdivided;
    - b. In the RR-1 district, totals less than 25 percent of the total parcel being subdivided;
    - c. In the RR-2 district, totals less than 50 percent of the total parcel being subdivided;

### 50-37.9 Variance.

This Section applies to applications for a variance from the terms and provisions of this Chapter. Different types of variances are subject to differing criteria for approval, and in many cases are also subject to limitations on the types of variances that can be granted.

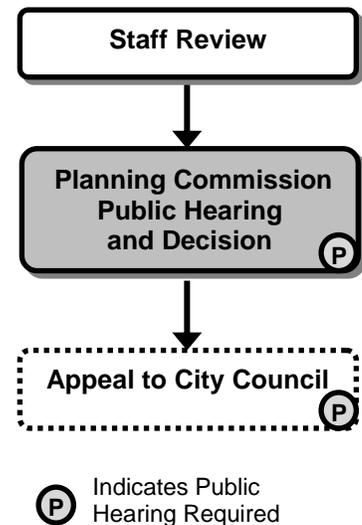
#### A. Application.

An application for a variance shall be filed pursuant to Section 50-37.1.B;

#### B. Procedure.

The planning commission shall review the application, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision on the application based on the criteria in subsections C through M below, as applicable to the specific type of variance being requested. The planning commission may grant a different variance or different form of relief than that requested by the applicant if it determines that the alternative relief better meets the criteria in subsections C through M below. The commission may impose appropriate conditions and safeguards to protect adjacent properties and the public interest, including but not limited to financial security pursuant to Section 50-37.2.P or a development agreement regarding the design, construction and operation of the project, to protect the comprehensive land use plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the variance will continue to be met. Constructing any improvement or beginning any activity authorized by the variance shall constitute the applicant's agreement to conform to all terms and conditions of the permit;

### Variance



#### C. General variance criteria.

Unless different or inconsistent criteria or limitations are stated in subsections D through M below for the specific type of variance being requested, the planning commission shall approve an application for a variance, or approve it with conditions, if it finds that the proposed variance meets the following criteria. If there is a direct conflict between a provision or criteria in subsections D through M below and the general criteria in this subsection C, the provisions in subsections D through M shall govern:

1. Because of the exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property, the strict application of the requirements of this Chapter would result in practical difficulties to the property owner;
2. The plight of the property owner is due to circumstances unique to the property, and not created by the property owner or the property owners predecessors-in-interest;
3. The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;
4. The property owner proposes to use the property in a reasonable manner not permitted by this code;
5. The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property

- values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city;
- 6. The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map, and will not alter the essential character of the neighborhood;
- 7. The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27;
- 8. The relief complies with any additional limitations or criteria applicable to that variance in subsections D through M below;
- 9. Economic considerations alone shall not constitute a practical difficulty;

**D. No use variances.**

No variance may be permitted to allow any use that is not listed in Table 50-19.8 as a permitted or special use in the zone district where the property is located, or Table 50-27.4 for a permitted sign in the district where the property is located;

**E. Variances to lot size in unsewered areas.**

A variance from the minimum lot size in unsewered area shall not be granted without presentation of a permit or letter of intent to issue a permit for onsite sewerage treatment from the county.

**F. Variances for two-family dwellings in the R-1 district.**

The commission shall not grant any variance from the requirements for the allowance of two-family dwellings within the R-1 zone district except:

- 1. A variance from the required front yard setback;
- 2. A variance reducing the minimum dimensional requirements by up to ten percent;

**G. Variances from parking and loading regulations.**

1. Residential districts.

- (a) A variance may be granted to allow parking on a portion of a lot in an R zone where parking is not permitted by Section 50-24.6.B in the following two cases:
  - (i) On any non-corner lot in an R district where the permitted parking area as shown in Table 50-24-3 is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, and the applicant demonstrates hardship;
  - (ii) On any corner lot in an R district where the R district parking area is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, without a showing of hardship;
- (b) The variance shall be subject to the following conditions, and any other conditions determined by the commission to be reasonable and necessary to protect the interests of the abutting property owners and the residential character of the surrounding neighborhood:
  - (i) On a non-corner lot with frontage of less than 50 feet, only one parking area may be located outside the R district parking area;
  - (ii) On a corner lot with frontage of less than 50 feet, the variance may allow for compliance with the off street parking requirements of this Chapter;
  - (iii) On a corner or non-corner lot with frontage of 50 feet or greater, no variance may allow a parking area, including any driveway area leading to it, to exceed an additional 30 percent of the front yard;
  - (iv) The proposed parking area shall be entirely located on the applicant's lot and shall not encroach across any abutting lot line unless such

- abutting lot and the subject lot are under the same ownership and the abutting lot is not occupied by a dwelling unit;
  - (v) Where the proposed parking area will encroach into any unimproved area of a street, the variance shall expire upon improvement of the street;
  - (vi) Economic considerations, in whole or part, shall not constitute a hardship;
2. Reducing required parking spaces.  
 Except as provided in 50-37.9.G, variances from the minimum amount of off-street parking required may be approved if a smaller amount of off-site parking will be adequate to meet the needs of the facility because the facility is restricted to occupancy or use by populations with documented lower vehicle uses, such as the elderly or disabled;
  3. Exceeding required parking spaces.  
 Variances from the maximum parking limits provided in 50-24.4 shall not exceed 200 percent of the minimum requirement provided in Table 50-24.1. In addition to meeting the general variance criteria in 50-37.9C, a parking study that provides justification for the number of off-street parking spaces proposed is required. It must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the City Engineer and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study must document the source of data used to develop the recommendations.

**H. Variances to reduce setbacks;**

When the application is for the reduction of a required front, rear or side yard setback, the commission may require the submission of a landscaping and buffering plan, and may require that all required landscaping or buffering, or landscaping and buffering of equal effectiveness, be installed within the reduced setback area. Decorative fencing and decorative wall structures may be proposed where more intense vegetated landscaping will not provide adequate mitigation of impacts on adjacent properties. The commission shall only approve the variance if the landscaping and buffering will mitigate impacts on adjacent properties as effectively as those required by Sections 50-25 and 50-26 of this Chapter;

**I. Variances in the MU-C district.**

1. Within the MU-C district, the only variances that may be approved are variations in any dimensional standard in Sections 50-15.3 and 50-21 by no more than ten percent. However, if the need for a variance is the result of a government taking pursuant to eminent domain powers, then (a) the limits of this subsection I.1 shall not apply and (b) all or part of the required landscaping and buffering may be placed in the public right-of-way if the property owner executes a perpetual maintenance agreement with the owner of the right-of-way;
2. In the case of a setback reduction variance, the landscaping and buffering in any reduced setback area shall be at least four feet in height and screen out at least 50 percent of the view of any parking area, unless the setback is reduced to less than five feet, in which case it shall screen out at least 75 percent of the view of the parking area;

**J. Variances in A-O airport overlay district.**

Variances shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of

an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern;

**K. Variances from flood plain regulations.**

Variances to the flood plain regulations in Section 50-18.1.C shall only be granted in compliance with the limitations in this subsection K.

1. In a floodway:
  - (a) No variance shall be granted that would result in any increase in flood levels during the base flood discharge;
  - (b) No variance shall authorize the placement of a manufactured home, dwelling unit or any structure designed for human habitation;
  - (c) No variance shall be granted authorizing a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
  - (d) Variances shall be limited to giving the applicant a minimal reasonable use of the site;
2. In a flood fringe:
  - (a) No variance shall authorize a lesser degree of floodproofing or flood protection than is required by Section 50-18.1.C;
  - (b) Variances shall not produce any adverse effects to the flood capacity or efficiency of the watercourse;
3. Flood insurance notice and recordkeeping.

The building official shall notify the applicant for a variance that:

  - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
  - (b) Construction below the 100 year or regional flood level increases risks to life and property. Such copy notification shall be maintained with a record of all variance actions. The building official shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program;
4. General considerations.

The city shall consider the following factors in granting variances and imposing conditions on permits and variances in flood plains:

  - (a) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
  - (b) The danger that materials may be swept onto other lands or downstream to the injury of others;
  - (c) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
  - (d) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
  - (e) The importance of the services to be provided by the proposed use to the community;
  - (f) The requirements of the facility for a waterfront location;
  - (g) The availability of viable alternative locations for the proposed use that are not subject to flooding;
  - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
  - (i) The relationship of the proposed use to the comprehensive land use plan and flood plain management program for the area;
  - (j) The safety of access to the property in times of flood for ordinary and emergency vehicles; and

- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site;
- 5. Submittal of hearing and decision notices to the DNR.
  - (a) The planning commission shall submit to the commissioner of the DNR a copy of the application for proposed variance sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing. Such notice shall specify the time, place, and subject matter of the hearing and shall be accompanied by such supporting information as is necessary to indicate the nature and effect of the proposed use. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist;
  - (b) A copy of all decisions granting variances shall be forwarded to the commissioner of the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. mail to the respective DNR area hydrologist;
- 6. Additional federal emergency management agency conditions.  
The following additional conditions of FEMA must be satisfied:
  - (a) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
  - (b) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
- 7. Conditions attached to variances,  
Upon consideration of the factors listed above and the purpose of this Section, the planning commission may attach such conditions to the granting of variances and permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:
  - (a) Modification of waste treatment and water supply facilities;
  - (b) Limitations on period of use, occupancy, and operation;
  - (c) Imposition of operational controls, sureties, and deed restrictions;
  - (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; and
  - (e) Floodproofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors;

**L. Standards for variances in shorelands.**

No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas;

**M. Reconstruction of a nonconforming building.**

A variance may be granted to permit the reconstruction of a nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 60 percent of its assessed market value as determined by the city assessor, if the commission determines that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10153, 5-14-2012, § 16; Ord. No. 10225, 5-28-2013, § 11; Ord. No. 10285, 3-10-2014, § 2; Ord. No. 10340, 11-24-2014, § 3; Ord. No. 10460, 7-11-2016, § 1)

**50-37.10 Special use or interim use permit.**

This Section applies to all applications for those special uses listed for specific zone districts in Table 50-19.8. It also applies to applications for interim uses that will be authorized for only a specified period of time. This Section is intended to comply with the provisions of MSA 462.3595 and 462.3597 as amended, and shall be interpreted to comply with those provisions wherever possible.

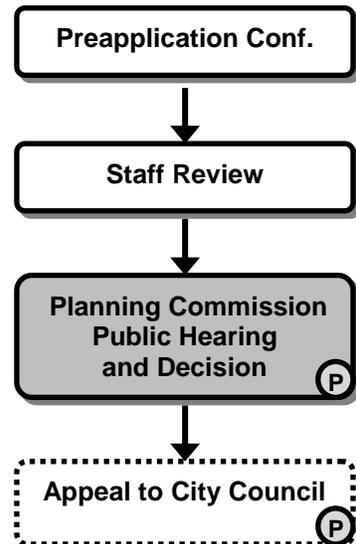
**A. Applications.**

An application for a special use or interim use shall be filed pursuant to Section 50.37.1.B;

**B. Procedure.**

1. The planning commission shall review the application, shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H. In the case of a special use permit, planning commission shall make, and in the case of an interim use permit, council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The commission or council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.2.P, a development agreement regarding the design, construction, and operation of the special use, to protect the comprehensive land use plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to met;
2. If the permit is approved or approved with modifications, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions. The city may require that some or all of the documents presented by the applicant in support of the application, including without limitation any site plan, landscape plan, building elevation drawings, or development agreement, be recorded as a city public document prior to the issuance of any building permit. A decision not to require recording of some or all of those documents shall not relieve the applicant or any successors or assigns in title to the property from the duty to comply with all terms and conditions of the permit. Constructing any improvement or beginning any activity authorized by the permit shall constitute the applicant's agreement to conform to all terms and conditions of the permit;
3. The city may approve an application or approve it with modifications, with a condition that if a structure authorized by the permit is not constructed by a specified date, or if an activity authorized by the permit is not begun by a specified date, the permit shall terminate. If that condition is attached, the city shall notify the applicant and the property owner when a permit has lapsed, and that decision may be appealed pursuant to Section 50-37.1.O;
4. The city may approve an application or approve it with modifications, with a condition that abandonment of an activity authorized by a permit longer than a

**Special Use Permit**



**(P)** Indicates Public Hearing Required

stated period terminates the permit, and any future reactivation of the use will require the filing and approval of a new permit application;

5. The commission may not approve or approve with modifications, a special use permit valid only for a specific period of time, but must instead recommend to council an interim use permit pursuant to subsection D below for that purpose;
6. Any approved permit shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city;

#### C. Criteria for special use permits.

The planning commission shall approve the application or approve it with modifications if the commission determines that the application meets the following criteria:

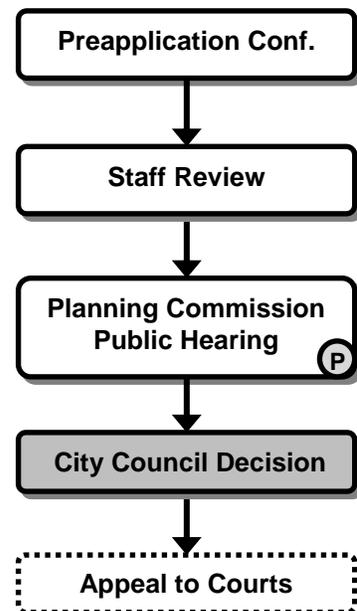
1. The application is consistent with the comprehensive land use plan;
2. The application complies with all applicable provisions of this Chapter, including without limitation any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area;

Without limiting the previous criteria, the commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community;

#### D. Interim use permit.

1. As an alternative to a special use permit, MSA 462.3597 authorizes the city to issue an interim use permit that authorizes a special use to exist until a specified date or until an amendment to this Chapter authorizes or prohibits that use. An applicant may apply for an interim use permit, and the commission may decide to recommend an interim use permit even if the application is for a special use permit;
2. An application for an interim use, or a decision to approve an interim use, shall be subject to the same procedures used for special uses, and the commission shall have all the powers described in Section 50-37.10.B.1 above, except that the commission shall forward a recommendation to council for action, and final approval of an interim use shall be by council resolution rather than commission action. The council may require financial security pursuant to Section 50-37.1.P to ensure that any improvements related to the interim use will be removed at the end of the interim use period;
3. An application to extend the period of an interim use permit shall be treated as major modifications of the initial permit and shall be processed pursuant to Section 50-37.1.N;

#### Interim Use Permit



**(P)** Indicates Public Hearing Required

**E. Criteria for interim use permits.**

In addition to the criteria in subsection C above, the council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.
3. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 52; Ord. No. 10451, 5-23-2016, §3)

**50-37.11 Planning review.**

This Section applies to all development and redevelopment activities except for the construction, reconstruction or modification of one- and two-family residential structures that are located (a) on lots platted and zoned for residential development, and (b) outside of the R-C district and SP-O district.

**A. Applications.**

An application for a planning review shall be filed pursuant to Section 50-37.1.B;

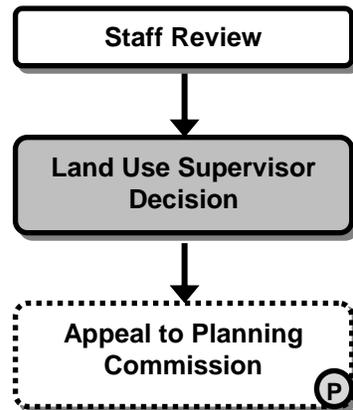
**B. Procedure.**

1. Building permit applications for certain types of development and redevelopment activities will trigger planning review for compliance with the standards of this Chapter. Except as stated in subsection 2 below, this planning review shall be conducted by the land use supervisor pursuant to the criteria in subsection C below;
2. For applications involving covered types of development and redevelopment activities in the MU-C, MU-I, MU-W and HE-O zone districts, the planning commission shall review the application, conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and make a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below;
3. The land use supervisor or the planning commission may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;

**C. Criteria.**

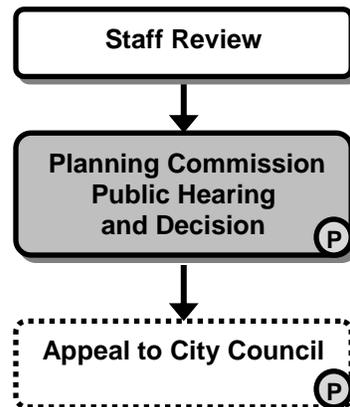
The land use supervisor or planning commission shall approve the planning review or approve it with modifications, if it is determined that the application complies with all applicable provisions of this Chapter. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 53 Ord. No. 10192, 12-17-2012, § 14.)

**Planning Review General**



**P** Indicates Public Hearing Required

**Planning Review in MU-C, MU-I, MU-W and HE-O**



**P** Indicates Public Hearing Required

**50-37.12 Sidewalk use permit.**

This Section applies to uses or proposals to use a portion of a public sidewalk for a café, eating area, transit shelter or bench, bicycle rack, temporary display or other purpose that does not involve the permanent vacation of any part of the street.

**A. Application.**

An application for a sidewalk use permit shall be filed pursuant to Section 50-37.1.B;

**B. Procedure.**

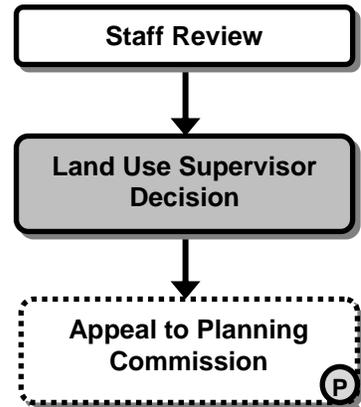
The land use supervisor shall refer the application to the city engineer for a recommendation as to whether the proposed design and location of the sidewalk use will provide for and not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure. The land use supervisor shall then review and make a decision on an application based on the criteria in subsection 50-37.12.C. The land use supervisor may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;

**C. Criteria.**

The land use supervisor shall approve the application, or approve it with modifications, if the supervisor determines that the following criteria have been met:

1. The city engineer has confirmed that the proposed use or structure will not hinder the safety of pedestrians, bicyclists and motor vehicle drivers near the proposed use or structure;
2. The proposed use or structure will not encroach into drive aisles, loading zones, fire lanes or parking lots;
3. The proposed use or structure will not encroach into any area located directly between any operating building entrance and the street curb (other than a building entrance intended only to serve patrons of an outside eating area);
4. The proposed use or structure will be set back at least seven feet from the curb and at least six feet from all parking meters, street trees, and street furniture in order to allow for the free passage of pedestrians;
5. The applicant has signed an agreement with the city (a) to keep the sidewalk and street within 20 feet of the proposed use or structure free from any litter generated by the use or activity, (b) accepting all liability resulting from the proposed use or structure and holding the city harmless for any and all such liability, (c) providing liability insurance meeting city standards, and (d) determining the period of use. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 54; Ord. No. 10413, 10-12-2015 § 1.)

**Sidewalk Use Permit**



**P** Indicates Public Hearing Required

**50-37.13 Zoning permit.**

This Section applies to a variety of permits covering development, redevelopment, and natural resources protection where the land use is a permitted use and the city must confirm whether the application complies with all other applicable provisions of this Chapter. The specific permits included in this Section are summarized in Table 50-37.13-1 below.

<b>Table 50-37.13-1: Types of Zoning Permits</b>	
<b>Type of Permit</b>	<b>Primary Compliance Requirement</b>
Flood Plain Permit	Floodplains (Subsection 50-18.1.C)
Shoreland Permit	Shorelands (Subsection 50-18.1.D)
Erosion and Sediment Control Permit	Temporary Soil and Erosion Control (Subsection 50-18.1.E)
Temporary Use Permit	Temporary Land Uses (Section 50-19, 50-20.6)
Sign Permit	Signs (Section 50-27)
Fence Permit	Fences and Walls (Section 50-26.4)
Airport Environs Permit	A-O Airport Environs Overlay district (Section 50-18.2)

**A. Application.**

An application for a zoning permit shall be filed pursuant to Section 50-37.1.B;

**B. Procedure.**

1. The building official shall review and make a decision on an application for a zoning permit based on the criteria in subsection C below. The building official may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;
2. All buildings, structures and improvements must be constructed and maintained, and all land uses must be operated, in accordance with the terms and conditions of this Chapter and any zoning permit issued pursuant to this Section 50-37.13;

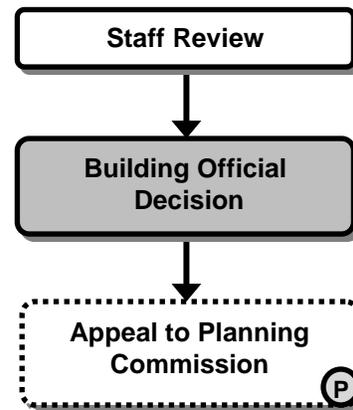
**C. General criteria.**

The building official shall approve the application, or approve it with modifications, if the building official determines that the application complies with all applicable provisions of this Chapter;

**D. Additional provisions for specific areas and types of permits.**

1. Shoreland permit.  
No building or zoning permit for land within any shoreland shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.D;

**Zoning Permit**



**(P)** Indicates Public Hearing Required

2. Erosion and sediment control permit (ESCP).  
No land disturbance activity that requires an erosion and sediment control permit (ESCP) as indicated in Table 50-18.1.E-1 may be begin until a permit has been obtained. The building official shall refer the application to the city engineer, who shall review the plan to ensure that it complies with the requirements of Section 50-18.1.E. The city engineer may require additional information and may require that any information submitted be verified by a licensed engineer, licensed surveyor or other technical professional. If the application is denied, the applicant shall be given a summary of the plan's deficiencies. The ESCP permit shall be considered expired only after all construction activities are completed and the entire site is fully stabilized with 70 percent successful establishment of vegetation;
3. Airport environs permit.  
No airport environs permit shall be issued unless all of the requirements of Section 50-18.2 have been met. A permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour or topographic features, would violate the provisions of Section 50-18.2;
4. Flood plain permit.  
No building or zoning permit for land within any flood plain shown on the Natural Resources Overlay map in Section 50-18.1 may be issued until the building official has confirmed that the application complies with all applicable requirements of Section 50-18.1.C. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 55; Ord. No. 10285, 3-10-2014, § 3; Ord. No. 10413, 10-12-2015 § 2.)

**50-37.14 Historic construction/demolition permit.**

This Section applies to applications for construction or demolition within a historic district or on a historic property listed in Section 50-18.3 where the city must confirm whether the application complies with the standards in Section 50-18.3 and with all other applicable provisions of this Chapter and state law.

**A. Application.**

An application for a historic construction/demolition permit shall be filed pursuant to Section 50-37.1.B;

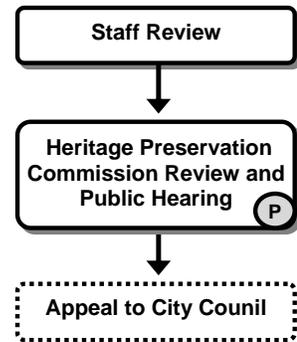
**B. Procedure.**

The application shall be reviewed by the heritage preservation commission. The commission shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a decision to adopt, adopt with modifications, or deny the application based on the criteria in subsection C below;

**C. Criteria.**

The commission shall approve the application, or approve it with modifications, if the commission determines that the application complies with all applicable provisions of this Chapter and state law and that the work to be performed shall not adversely affect the historic preservation landmark or district based on adopted historic preservation guidelines. (Ord. No. 10041, 8-16-2010, § 12; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10286, 3-10-2014, § 19.)

**Historic Construction / Demolition Permit**



**(P)** Indicates Public Hearing Required

**50-37.15 Building permit.**

This Section applies to all applications for a building permit.

**A. Application.**

An application for a building permit shall be filed pursuant to Section 50-37.1.B;

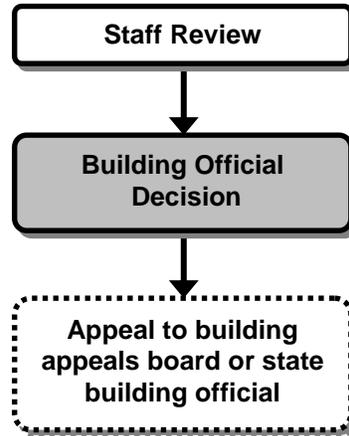
**B. Procedure.**

1. The building official shall review and make a decision on an application for a building permit based on the criteria in subsection C below. The building official may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;
2. All buildings, structures and improvements must be constructed and maintained, and all land uses must be operated, in accordance with the terms and conditions of this Chapter and the building permit;

**C. Criteria.**

The building official shall approve the application, or approve it with modifications, if the building official determines that the application complies with all applicable provisions of this Chapter and all applicable provisions of any building code adopted by the city. (Ord. No. 10044, 8-16-2010, § 6.)

**Building Permit**



**P** Indicates Public Hearing Required



**50-37.17 Accessory home share permit**

This Section applies to an accessory home share permit for the offering or advertising, for trade or sale, of a habitable room or space in an owner-occupied dwelling for a period of 29 days or less;

**A. Application.**

An application for an accessory home share permit shall be filed pursuant to Section 50-37.17;

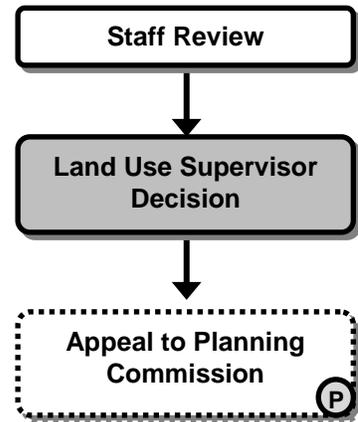
**B. Procedure.**

The The land use supervisor shall review and make a decision on an application based on the criteria in subsection 50-25.5.G. The land use supervisor may refer the application to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection C have been met;

**C. Criteria.**

An application for a certificate of occupancy shall be filed pursuant to Section 50-37.1.B; (Ord No. 10466, 4-11-2016, 3)

**Accessory Home Share Permit**



**(P)** Indicates Public Hearing Required

## **50-38 Nonconformities.**

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This Section clarifies how this Chapter applies to those buildings, structures and land uses that do not comply with this Chapter, including without limitation (a) those that do not comply with the Chapter on the date it is adopted, and (b) those that comply with the Chapter on the date it is adopted but become nonconforming due to the adoption of an amendment to this Chapter. This Section is intended to comply with the provisions of MSA 462.357, subd. 1.e as amended, and shall be interpreted to comply with those provisions wherever possible. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10285, 3-10-2014, § 4.)

### **50-38.1 Types of nonconformities.**

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The city recognizes five different types of nonconformities, each of which is addressed in the subsections below.

- A. Nonconforming buildings;
- B. Nonconforming uses;
- C. Nonconforming lots;
- D. Nonconforming on-premises signs;
- E. Nonconforming off-premises signs. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10285, 3-10-2014, § 4.)

### **50-38.2 General provisions.**

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#### **A. Airport hazards.**

1. The owner of any nonconforming structure or tree within the Airport Overlay is required to allow the installation, operation and maintenance on the structure or tree those markers and lights deemed necessary by the building official to indicate to aircraft the presence of the airport hazards. Any required markers and lights shall be installed, operated and maintained at the expense of the owner;
2. The regulations in Section 50-18.2 A-O Airport Overlay shall not:
  - (a) Require the removal, lowering or other alteration of any structure or tree not conforming to the regulations regarding Duluth International Airport on June 18, 1988, or not conforming to the regulations regarding Sky Harbor Municipal Airport on September 26, 1994;
  - (b) Interfere with the continuance of any nonconforming use as permitted by this Section 50-38;
  - (c) Require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun before September 26, 1994 and completed on or before September 25, 1996;

#### **B. Flood hazard areas.**

A structure or the use of a structure or premises located in a flood plain or flood fringe area as defined and shown in Section 50-18.1.B that was lawful before February 1, 1980, or before an amendment to the flood plain management regulations of Section 50-18.1.B, but that is not in conformity with the provisions of this Chapter may be continued subject to the following conditions. Historic structures, as defined under "substantial improvement" in Section 50-41, are subject to the provisions of subsections 1 through 5 of this Section:

1. No such use or structure shall be expanded, changed or altered in a way that increases its nonconformity. Expansion of uses or structures within the floodway district is prohibited;
2. Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing

techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in 3 and 6 below;

3. The cost of all structural alterations to any nonconforming structure over the life of the structure shall not exceed 50 percent of the assessed market value of the structure as determined by the city assessor unless the conditions of this Section are satisfied. The cost of all structural alterations must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the assessed market value of the structure as determined by the city assessor, then the structure must meet the standards of this Chapter for new structures depending upon whether the structure is in the floodway or flood fringe district, respectively;
4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for one year, any future use of the premises shall conform to this Chapter;
5. If any nonconformity is substantially damaged, as defined in Section 50-41, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in Section 50-18.1.C will apply, depending upon whether the use or structure is in the floodway, flood fringe or general flood plain district;
6. Any substantial improvement, as defined in Section 50-41, to a nonconforming structure requires that the existing structure and any additions must meet the applicable requirements of Section 50-18.1.C for new structures, depending upon whether the structure is in the floodway, flood fringe or general flood plain district. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10285, 3-10-2014, § 4.)

#### **50-38.3 Nonconforming buildings.**

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- A. A nonconforming building may continue to be used, and may be expanded provided that the expansion does not increase or extend any nonconformity horizontally or vertically. All additions must comply with the dimensional requirements in Article II and Section 50-21 or 50-22, as applicable, and the parking requirements of Section 50-24 must be satisfied for the expansion area;
- B. A nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 60 percent or more of its assessed market value at the time of the damage shall not be restored, except in conformity with this Chapter, unless the owner obtains a variance pursuant to Section 50-37.9. When damaged by less than 60 percent of its assessed market value as determined by the city assessor, a nonconforming building may be repaired or reconstructed, provided that a building permit is applied for within 180 days and such repairs or reconstruction are completed within one year of the date of the damage. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10285, 3-10-2014, § 4.)

#### **50-38.4 Nonconforming uses of buildings and land.**

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- A. Any building existing on July 14, 1958, or existing on the date of the adoption of a city ordinance making it nonconforming, may continue to be used for the purposes it was used when it became nonconforming, even though that use does not conform to this Chapter, but may not be expanded or changed in a way that would increase any nonconformity;
- B. The nonconforming use of a building may be extended throughout those parts of the building that were clearly arranged or designed for such use on the date the building became nonconforming;
- C. A nonconforming use of a building or portion of a building that is discontinued for a continuous period of one year shall not again be used except for a permitted or special use in the district where the building is located, as shown in Table 50-19.8;

- D. A building containing a nonconforming use shall not be enlarged, extended, reconstructed or structurally altered, unless the use is changed to a permitted or special use in the district where the building is located, as shown in Table 50-19.8;
- E. A nonconforming use of land existing on July 14, 1958, may be continued but may not be expanded or extended, either on the same or adjoining property. If the nonconforming use of land or any portion of the use is discontinued for a continuous period of one year or changed, any future use of the land shall comply with this Chapter;
- F. If no structural alterations are made to a nonconforming building, a nonconforming use of a building or land may be changed to another nonconforming use with fewer adverse impacts on surrounding properties, as determined by the land use supervisor;
- G. Whenever a nonconforming use of a building or land has been changed to a use with fewer adverse impacts, as determined by the land use supervisor, the use shall not later be changed to a nonconforming use with greater adverse impacts on surrounding properties, as determined by the land use supervisor;
- H. Within the Airport Overlay, whenever the building official determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit in Section 50-18.2. Whether or not an application for a permit is filed, the building official may order the owner of the abandoned or partially destroyed nonconforming structure, at his own expense, to lower, remove, reconstruct or to equip the same in the manner necessary to conform to the provisions of Section 50-18.2;
- I. Whenever a nonconforming use of a building or land has been changed to a conforming use, all nonconforming uses expire, and the property may only be used for a permitted or special use in the district where the building is located, as shown in Table 50-19.8;
- J. A nonconforming use of a building or land existing on the date this Chapter is adopted shall remain a nonconformity unless it complies with all applicable provisions of this Chapter;
- K. The adoption of this Chapter shall not validate any temporary use beyond the expiration date of any temporary permit issued under prior approvals. (Ord. No. 10044, 8-16-2010, § 6; cited only by Ord. No. 10285, 3-10-2014, § 4.)

#### **50-38.5 Nonconforming lots.**

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- A. A lot that existed on November 18, 2010, and was held in separate ownership from adjoining lots on that date and does not meet the minimum lot area or frontage requirements for the zone district in which it is located may nevertheless be used for the construction of a primary structure permitted in that zone district. All other applicable dimensional standards in Article II and Section 50-21 apply unless the applicant obtains a variance from those dimensional standards pursuant to Section 50-37.9;
- B. Nonconforming lots that are not provided with public sewer shall comply with county individual sewage treatment systems ordinance and standards. However a lot or parcel of record that was lawful as to lot area requirements and under separate ownership from any adjoining lot or parcel on May 23, 1993, shall not be deemed nonconforming as to lot area requirements unless subdivided after that date. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 56; cited only by Ord. No. 10285, 3-10-2014, § 4.)

#### **50-38.6 Nonconforming on-premises signs.**

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- A. A legal nonconforming on-premises sign that was previously permitted may remain in use, so long as it remains otherwise lawful, and may be restored, repaired, or altered in

the following ways: replacing lamps, replacing ballast, replacing transformers, painting the pole(s) and the cabinet, replacing or repairing the sign face(s), including H-bars and retainers behind the face(s), replacing trim, and replacement of sign fasteners, nuts, and washers. The following are not considered repair or restoration and shall require the legal nonconforming on-premises sign to be brought into conformance with this Chapter, except as provided in subsection F below: change or replacement in poles, structural supports, bases or shrouds, footings, moving the sign for any reason, change or replacement of the interior and/or exterior cabinet frame (excluding trim) and any changes made to the size, height, light intensity or bulk of the sign or the temporary or permanent removal of the sign for the repair or replacement of the cabinet or any part thereof, not including the face, Temporary removal of the sign cabinet for the replacement of the sign face(s) is permitted and will not require that the sign be brought into conformance with all requirements of this Chapter;

- B. No legal nonconforming sign may be relocated, in whole or in part, to any other location on the same or other lot, unless the entire sign conforms to all regulations of the zoning district in which the sign is relocated;
- C. A legal nonconforming on-premises sign may not be altered in any way that would create any new nonconformity or increase the degree of any previously existing nonconformity;
- D. In the event that any legal nonconforming sign is damaged or destroyed to the extent of more than 50 percent of its value prior to the damage, the sign cannot be restored or repaired unless it conforms to all applicable regulations for the district;
- E. All sign illumination, electronic message signs, and electronic billboards that do not conform with the display requirements of this Chapter, including brightness, message duration and similar performance requirements for the electronic component, are required to conform to the standards of this Chapter for the electronic component within 90 days of this date: March 11, 2013;
- F. A legal nonconforming on-premises sign that does not meet the standards for sign area or sign height is being altered in such a way as to reduce the nonconformity, the alteration may be approved by the land use supervisor. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10204, 3-11-2013, § 2; cited only by Ord. No. 10285, 3-10-2014, § 4.)

#### **50-38.7 Nonconforming off-premises signs.**

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In order to bring nonconforming off-premises signs into closer conformance with the purposes of Chapter, the following system is established to enable the reconstruction, structural alteration or relocation of certain nonconforming off-premises signs. Once rebuilt, the sign shall retain its status as a nonconforming off-premises sign.

- A. **Reconstruction of existing signs.**
  - 1. A sign permit for reconstruction on the same site of a nonconforming off-premises sign that either exists or has been destroyed no more than six months prior to written sign permit application, may be issued after the building official certifies that the sign to be reconstructed has less of an adverse impact on the area near the site than the sign being replaced. A reconstructed sign may be enlarged, up to the maximum size of an off-premises sign permitted within the applicable zone district, by use of an exception credit pursuant to subsection 2. For purposes of this subsection the "same site" shall mean contiguous property owned by one person or entity, or a related person or entity, and not divided by an improved street;
  - 2. No permit shall be issued until the sign to be reconstructed is removed;
  - 3. All signs shall be constructed and placed in strict conformance with the permit and the failure to do so shall constitute a violation of this Chapter, and if not corrected shall be grounds for revocation of the permit and an order for removal of the sign;

**B. Exception credit system.**

1. The owner of a nonconforming off-premises sign may receive an exception credit if it is determined by the building official that a nonconforming off-premises sign is to be removed, or has been removed, due to a termination of lease for reasons beyond the reasonable control of the applicant, or other forced removal (not including destruction or other situations rendering the sign unusable). Such reasons include but are not limited to the refusal of a lessor to renew a lease or the applicant's inability to obtain a lease renewal on reasonable terms and conditions (including lease rent at a fair market rate). An exception credit may be issued for each such sign that has been removed no more than 30 days prior to written application for the exception credit;
2. The building official shall determine if the applicant is eligible to receive an exception credit and shall certify and keep a log of all such credits documenting the owner of the credit, cumulative square footage of sign area credited and number of locations available for sign structures. After approving the use of an exception credit, the building official shall notify the owner, in writing, of the owner's remaining credited total of available square footage of sign area and remaining credited number of locations available for sign structures;

**C. Use of exception credits.**

1. Exception credits may be used to permit the relocation of certain nonconforming off-premises signs that do not meet site, location or other requirements of this Chapter;
2. An application for an exception credit shall include a statement identifying the exception credit(s) to be used for the permit for the new location. No holder of a credit shall be granted a permit under this Section 50-38.7 for more locations than it lost or for more square footage of sign area than it lost. No sign permit shall be issued until the sign(s) that is the basis for the credit is first removed;
3. All signs shall be constructed and placed in strict conformance with the sign permit and the failure to do so shall constitute a violation of this Section, and if not corrected, shall be grounds for revocation of the sign permit and an order for removal of the sign. No sign permit issued under this Section shall be valid until the applicant has complied with all applicable requirements of the NR-O, Natural Resources Overlay district, and MSA Chapter 173. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10047, 8-30-2010, § 4; Ord. No. 10204, 3-11-2013, § 3; cited only by Ord. No. 10285, 3-10-2014, § 4.)

## **50-39 Enforcement and penalties.**

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This Section describes how this Chapter will be enforced, as well as the penalties for violation of the Chapter. This Section is intended to comply with the provisions of MSA 462.362 as amended, and shall be interpreted to comply with those provisions wherever possible. All violations of this Chapter are hereby declared to be public nuisances. (Ord. No. 10044, 8-16-2010, § 6.)

### **50-39.1 Violations.**

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#### **A. Violations defined.**

It shall be a violation of this Chapter, and a public nuisance, to do any of the following:

1. Activities inconsistent with UDC.  
To erect, construct, reconstruct, remodel, alter, maintain, expand, move or use any building, structure or sign, or to engage in development or subdivision of any land inconsistent with this Chapter, or to fail to obtain required approvals for any of those activities;
2. Use of nonconformities inconsistent with UDC.  
To use, occupy, create, expand, replace, or change a nonconforming use, structure, lot or sign except in compliance with this Chapter;
3. Making lots or setbacks nonconforming.  
To reduce or diminish the lot area, setbacks, or open space on any parcel of land below the minimum required by this Chapter;
4. Increasing intensity of use.  
To increase the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Chapter;
5. Activities inconsistent with approval or permit.  
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 city;
6. Violation of stormwater permits.  
In the case of violation of a stormwater permit, the permittee shall take the following actions prior to imposition of a penalty, if any, by the city:
  - (a) Submit reports of noncompliance with requirements contained in a compliance schedule of the permit in writing within 14 days after the compliance schedule deadline. Reports of noncompliance shall include a description of the noncompliance, its cause, the steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance and the effect of the noncompliance on the permittee's ability to meet remaining deadlines;
  - (b) Take all reasonable steps to minimize or prevent any adverse impacts on the waters of the state resulting from noncompliance with a stormwater permit;
7. Violations related to wireless telecommunications facilities.  
Under the following circumstances, the city may declare the wireless telecommunications facility a public nuisance and take all available enforcement actions including, but not limited to, revocation of the special use permit:
  - (a) The wireless telecommunications facility has been abandoned. A facility is deemed abandoned if it is not used as wireless telecommunications facility for a period exceeding 90 consecutive days or a total of 180 days in any 365 day period, except for periods caused by force majeure or Acts of God, in which case repair or removal shall commence within 90 days;
  - (b) The wireless telecommunications facility fall into a state of disrepair and creates a health or safety hazard;

- (c) The wireless telecommunications facility has been located, constructed, repaired, maintained or modified without first obtaining the required special use permit, or in any manner that constitutes a violation of Section 50-20.4.D;
  - (d) For a violation of the conditions and provisions of the special use permit;
  - 8. Failure to remove signs.  
To fail to remove any sign installed, created, erected or maintained in violation of this Chapter, or for which a required sign permit was not obtained, or for which the sign permit has lapsed;
  - 9. Failure to maintain.  
To fail to maintain any property, including without limitation (a) any dwellings, dwelling units, housekeeping units, or rooming units, and (b) any sign, and (c) any required landscaping or screening in the condition required by this Chapter;
  - 10. Failure to replace.  
To fail to replace any site feature or element required by this Chapter if that site feature is removed, or to fail to replace any required landscaping or screening that dies or becomes diseased;
  - 11. Unauthorized actions involving historic resources.  
To fail to obtain required approvals before construction, remodeling, repainting or altering a historic preservation landmark or a structure in a historic preservation district identified in Section 50-18.3;
  - 12. Violations related to vacation dwelling units, accessory vacation dwelling units or accessory home shares.  
To use any lot, structure, dwelling or dwelling unit as a vacation dwelling unit, accessory vacation dwelling unit, or accessory home share without the approvals or permits required by this chapter, in violation of the provisions of this chapter, or in violation of any other applicable provisions of city code;
- (Ord No. 10466, 4-11-2016, §4)

**B. Continuing violations.**

Each day that a violation occurs or remains uncorrected after receipt of notice of the violation from the city shall constitute a separate violation. (Ord. No. 10044, 8-16-2010, § 6.)

**50-39.2 Enforcement.**

**A. Responsibility.**

The building official is responsible for enforcing this Chapter. No permit or approval for the construction, alteration or demolition of any building, or for the use of land, shall be issued if the building as proposed to be constructed, altered or demolished would be a violation of this Chapter;

**B. Authorization for inspections.**

For the purposes of enforcing this Chapter, the building official is authorized to enter, examine and survey, between the hours of 8:00 a.m. and 5:00 p.m., any property subject to the regulations of this Chapter. Prior to making an inspection based on a possible violation, the building official shall inform the owner of the property to be inspected, or their agent, of the date and time of the inspection in writing at least four days prior to the inspection. Advance notice need not be given in the case of routine inspections. After written notice has been given, the owner or occupant of the property to be inspected, or the person in charge of that property, shall give the building official free access to the property between 8:00 a.m. and 5:00 p.m., for the purpose of inspection. The inspection shall not have for its purpose the harassment of the owner or occupant and shall be made so as to cause the least amount of inconvenience to the owner or occupant of the property consistent with the efficient

performance of the duties of the building official. Nothing in this Section 50-39.2.B shall be construed to prohibit the entry of the building official:

1. At any time when in the opinion of the building official an actual emergency tending to create an immediate danger to public health and safety exists;
2. At any time when an inspection is requested by the owner or occupant;

### C. Enforcement tools.

The city may use any of the following tools and powers to enforce this Chapter, in any order, and the use of one tool or power shall not restrict the city from using an additional tool or power to remedy the same violation.

1. Order requiring compliance.
  - (a) The city may issue a written order identifying the violation(s) of this Chapter and requiring that the property owner or occupant bring the property into compliance with this Chapter, at the owner or occupant's expense, within a specified time. The notice shall state what actions are necessary to bring the property into compliance;
  - (b) The time allowed for correction shall be not less than 30 days, except that (i) if the order identifies a threat to public health or safety then a compliance shorter than 30 days may be required, and (ii) if the order involves a violation of the provisions of the Airport Overlay district or the sign regulations in Section 50-27, or the vacation dwelling unit, accessory vacation dwelling unit, or accessory home share regulations in Sections 19 and 20, the time for compliance shall be not less than ten days. In determining a reasonable time for performance the building official shall consider the nature and extent of the work involved, the season of the year, the existence of any immediate danger to public health and safety, and any other pertinent factors. The building official may extend the time for compliance in writing for good cause shown;
  - (c) The property may continue to be used for occupancy or habitation pending compliance with the order unless the notice identifies an imminent threat to public health or safety and requires that occupancy or habitation be limited or end by a certain date;
  - (d) When an order to correct a violation of this Chapter has been issued, the building official is authorized to enter and re-inspect the property subject to the order for the purpose of determining compliance with the order. The owner or occupant of the property, or the person in charge of the property, shall give free access to the property for the purpose of the inspection;
  - (e) Every occupant of property shall give the owner of the property, or his agent or employee, access to any part of the property at all reasonable times for the purpose of making repairs or alterations required to comply with the order;
  - (f) The city shall not charge a fee for inspections made in response to complaints or to confirm compliance with an order;
2. Enforcement of wireless telecommunications facility violations.
  - (a) If the city determines that the wireless telecommunication facility is a public nuisance, the building official shall notify the holder of the special use permit in writing and order the correction of the violation or removal of the facility;
  - (b) If the order requires removal of the wireless telecommunication facility the holder of the special use permit, or its successors or assigns, shall dismantle and remove such facility and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within the deadline provided for in the order to remove. If the owner of the property upon which the wireless telecommunications facilities are located

- wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so if the land use supervisor determines that the retention of those access roads would promote the purposes of this Chapter;
- (c) Notwithstanding anything in this subsection to the contrary, the building official may approve a temporary extension of the order, for no more 90 days, during which time a suitable plan for the repair, sale, removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the city, and an agreement to such plan shall be executed by the holder of the special use permit and the city. If such a plan is not developed, approved and executed within the 90 day time period, then the city may exercise all available legal rights;
  - (d) The holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with an order of the building official or any provision of Section 50-20.4.D;
  - (e) If compliance or substantial progress towards compliance with the order has not been made by the compliance deadline, the city may exercise any legal remedies available to secure compliance with the order at the sole expense of the owner or special use permit holder;
3. Enforcement of Vacation Dwelling Unit, Accessory Vacation Dwelling Unit or Accessory Home Share Violations
- (a) If the city determines that a vacation dwelling unit, accessory vacation dwelling unit, or accessory home share is a public nuisance, operating without approvals or permits required by this Chapter, or operating in violation of this Chapter or any other applicable provisions of city code, the city shall notify the holder of the interim use permit or home share permit in writing and order the correction of the violation in accordance with this Section;
  - (b) Any vacation dwelling unit, accessory vacation dwelling unit, or home share permit issued pursuant to this chapter may be suspended for up to six (6) months or revoked by the city for good cause. If the city intends to suspend or revoke a permit, the land use supervisor shall issue written notice of such intent to the permit holder at least twenty-one (21) days before such suspension or revocation is set to begin. The permit holder may then demand a hearing before the land use supervisor. Such demand shall be made in writing to the land use supervisor within ten (10) days following issuance of the notice;
  - (c) For purposes of this section, "good cause" shall include, but not be limited to:
    - (i) failure to remedy a violation noted pursuant to 50-39.2.C.1;
    - (ii) issuance of three or more violation notices under section 50-39.2.C.1 within a single permit cycle;
    - (iii) the occurrence of one or more nuisance events as defined in Duluth City Code § 40-10;
    - (iv) use or operation of the dwelling unit or home share in a manner that imperils public health, safety or welfare, including, but not limited to, violation of this Chapter or any other provision of local, state, or federal law intended to protect the occupants of the dwelling or the surrounding neighborhood and community;

- (d) Any permit holder whose license is suspended or revoked by the land use supervisor may appeal the final suspension or revocation to the Planning Commission in accordance with 50-37.1.O.
4. Withholding permits or approvals.  
The city may refuse to process applications for permits and approvals under this Chapter if the application concerns a property where (a) the building official has determined to be in violation of the Chapter, (b) the city has issued an order requiring that the violation be corrected, and (c) the owner occupant has not remedied the violation within the time stated in that order, unless the application is for the purposes of remedying the existing violation;
5. Prevention of violation.  
If the city becomes aware that a building, structure, sign or site feature is about to be constructed in violation of this Chapter, the city may take appropriate action to prevent the violation. The city's action may include but is not limited to withdrawal of any permits or approval related to the construction or activity that would constitute a violation;
6. Abatement.  
(a) The city may take action to abate or remove the violation, and to charge the costs of the abatement or removal to the property owner if the property owner or occupant of a property fails to comply with an order to correct a violation of this Chapter within the time specified in the order, as that time may be extended by the building official in writing for good cause shown, and the building official determines that the continuance of the violation creates a threat to public health or safety;  
(b) Following the abatement or removal, the city shall issue an order that the owner of the land on which the violation occurred pay to the city the documented costs of the abatement or removal with 30 days;  
(c) If the owner of the land does not pay the documented costs of abatement or removal to the city within 30 days, those costs may be assessed against the land on which the violation occurred, and the city shall provide the owner of the land written notice of the assessment. Unless the assessment is paid within 90 days from the service of notice on the property owner, the sum shall bear interest at the rate set in accordance with Section 31-8 of this Code, per annum from the date the cost was incurred until paid, and shall be collected in the same manner as are general taxes;  
(d) The city shall end the process of assessing abatement and removal costs against the land, or shall cancel the assessment if it has been finalized, upon receipt of payment in full of all costs documented in the order and all accrued interest on those costs;
7. Administrative citations.  
The city may issue an administrative citation pursuant to Chapter 12 of the City Code and may take all actions authorized;
8. Court actions.  
The city may enforce this Chapter by filing an action in law or equity in any court of competent jurisdiction, including without limitation a request for a declaratory judgment, a request for a restraining order or a temporary or permanent injunction, or a request for money damages based on the penalties for violation established in this Chapter or elsewhere in the City Code. The decision as to whether to seek enforcement in the courts, and what type of enforcement to seek, shall be at the discretion of the city;
9. Nuisance abatement.  
If the building official determines that the violation constitutes a public nuisance under state law, the city may use all powers granted by state law to abate public nuisances;

10. Other enforcement powers.

The city may enforce this Chapter through any other powers granted to the city by state law;

**D. Notices and orders.**

1. Any notice and order under Section 50-39.2.C.1 shall be served upon the owner or the owner's agent and the occupant as the case may require. In the case of a notice involving the sign regulations in Section 50-27, the notice shall also be served on the owner of the sign or the person or entity that erected or caused the erection of the sign;
2. The notice shall be deemed to be properly served upon those individuals or entities identified in subsection 1 if a copy of the notice is:
  - (a) Served personally; or
  - (b) Sent by United States mail, postage prepaid, to the last known address of the owner, occupant or agent shows in the city records; or
  - (c) Posted in a conspicuous place in or about the property affected by the notice; or
  - (d) Served by any other method authorized or required by state law;
3. Any notice served pursuant to subsection 1 shall automatically become an order if a written petition for a hearing is not filed with the building official within 15 days after the notice is served. An order is final unless an appeal is filed pursuant to Section 50-37.1.O;
4. If the building official finds that an emergency exists that requires immediate action to protect the public health and safety, the building official may, without notice or hearing, issue an order declaring that emergency and requiring those actions that the building official deems necessary to meet the emergency notwithstanding the other provisions of this Chapter, and that order shall be effective immediately. Any person to whom the order is directed shall comply with the order immediately, but may file with the building official a request for a hearing following compliance with the order. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 57; Ord. No. 10155, 5-29-2012, § 29; Ord No. 10446, 4-11-2016, §4)

**50-39.3 Penalties.**

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- A. The owner of any property where the violation of this Chapter occurs, and any person violating this Chapter, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of the City Code;
- B. In the case of violation of a stormwater permit, if the contractor or owner fails to install or correct deficiencies related to erosion or sediment control BMPs ordered by the city engineer, the city engineer may withhold payment from related work or levy a fine until adequate BMPs are installed by the contractor or owner. When the contractor or owner fails to conduct quality control or adequately inspect BMPs to ensure function, or fails to take action ordered by the city engineer to remedy erosion or sediment control problems, the city engineer will issue a written order to the contractor and owner. The contractor or owner shall respond within 24 hours with sufficient personnel, equipment, and materials and conduct the required remedial work or be subject to a per calendar day deduction or fine for noncompliance, which shall be set in accordance with Section 31-8 of this Code;
- C. Penalties shall be waived if the violation is corrected within the time stated in any enforcement notice or order. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10155, 5-29-2012, § 30.)



## ARTICLE VI. DEFINITIONS.

### **50-40 RULES OF CONSTRUCTION.**

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In addition to the rules of construction provided in Section 1-2 of this Code, the rules and definitions of this Section shall be observed and applied in the interpretation of this Chapter, except when the context clearly indicates otherwise.

- A. In case of any difference of meaning or implication between the text of this Chapter and any caption or illustration, the text shall control;
- B. The terms “standards” and “guidelines” have different meanings, as follows: Standards mandate the specific course of planning and design action that the applicant must incorporate in its project application. Compliance with standards is mandatory. Statements of standards are indicated by use of the word “shall” in the rule or directive. A failure to meet a mandatory standard may be used as a basis for the city’s denial of a project application. In comparison, “guidelines,” if any, follow the standards and are indicated by the words “may” or “should.” Guidelines are voluntary and not mandatory; however, compliance is strongly encouraged to fulfill the intent of this Chapter. A failure to meet a voluntary guideline cannot be used by the city as a basis for a project denial. (Ord. No. 10044, 8-16-2010, § 6.)

## **50.41. Definitions.**

### **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 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.

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 as a vacation dwelling unit as defined by this Chapter for periods of occupancy from 2 to 29 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, 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

**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.

**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.”

**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.

**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. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10225, 5-28-2013, § 12; Ord. No. 10414, 10-12-2015, § 5; Ord. No. 10446, 4-11-2016, §6.)

**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. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10414, 10-12-2015, § 6.)

**50-41.3. Definitions: C.**

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.

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.

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.

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.

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.

Coldwater river. Rivers including trout streams and their tributaries.

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.

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.

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.

Composting. The controlled microbial degradation of organic waste to yield a humus-like product.

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.

Construction debris. Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

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.

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.

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.

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. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4.)

#### **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. (Ord. No. 10041, 8-16-2010, § 13; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10225, 5-28-2013, § 13; Ord. No. 10285, 3-10-2014, § 5; Ord. No. 10338, 11-24-2014, §4; Ord. No. 10414, 10-12-2015, § 7.)

**50-41.5. Definitions: E.**

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.

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.

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

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.

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.

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 man and nature.

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

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. 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.

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 Chapter. 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.

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 Minn. Stat. § 152.29, subd. 1(b), as may be amended, and the requirements of the commissioner of the Minnesota department of health or other applicable state law.

Medical cannabis manufacturer. Medical cannabis manufacturer shall mean the definition for same provided under Minn. Stat. § 152.22, subd. 7, as may be amended.

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.

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.

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.

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;

Minor system. Those other city 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.

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. Employees typically are not located at the site on an ongoing basis. 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.

Mixed use structure. A structure containing a mix of the four major land uses, as defined by the permitted use table in UDC Section 50-19 (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.

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.

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

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 state, city, town, borough, county, parish, district, association or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial water, stormwater or other wastes. Including special district, or similar entity or an Indian tribe or an authorized Indian tribal organization or a designated and approved management agency under Section 208 of the CWA (33 U. S. C. 1288) 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.

MPCA. Minnesota pollution control agency.

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. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10225, 5-28-2013, § 15; Ord. NO. 10285, 3-109-2014, § 9; Ord. No. 10461, 7-11-2016, §4)