



**Planning & Development Division**  
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Date: September 3, 2019  
To: Members of the Planning Commission and Interim Director Fulton  
From: Steven Robertson, Senior Planner and Emilie Voight, Planner  
RE: PL 19-107 & PL 19-108: UDC Text Amendments Pertaining to Tiny Home and Small Lot Development, Shipping Containers and Temporary Structures, Tree Preservation, and Craft Brewing and Distilleries

Planning Staff are recommending changes to the Unified Development Chapter (UDC) related to tiny homes and accessory dwelling units, shipping containers and temporary structures, tree preservation, and craft brewing and distilleries.

The proposed draft ordinances are attached to this document and are based upon comments received from the public and members of the Planning Commission, and are subject to change based upon the final comments or recommendations received at the September 10, 2019, Planning Commission meeting.

**ITEM 1, TINY HOMES AND SMALL LOT DEVELOPMENT (PL 19-107)**

During the Imagine Duluth 2035 comprehensive plan update process, community members asked the City to consider the subject of tiny houses. Upon the adoption of Imagine Duluth 2035 in June 2018, the Planning & Development Division began researching national best practices on tiny houses. Based on this research, city staff have proposed code language amendments to address this subject.

**What is a Tiny Home?**

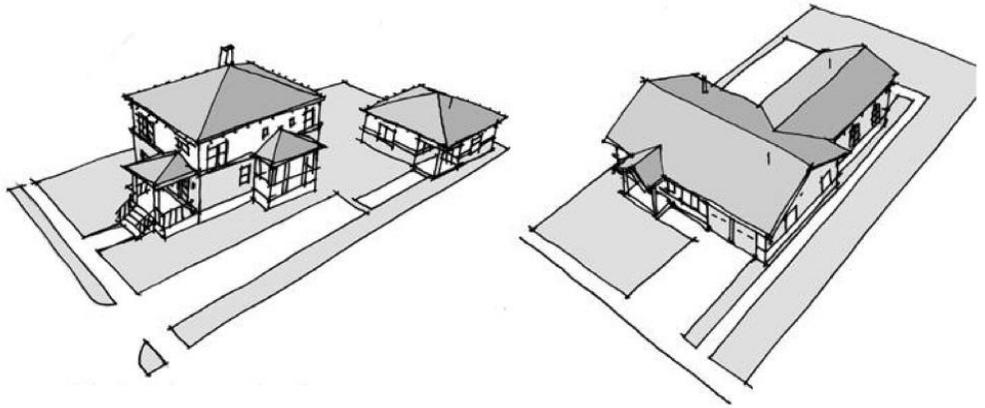
Although descriptions vary, a tiny house is generally defined as a detached single-family dwelling with a total floor area of 400 sq. ft. or less. Gross floor area usually does not include lofts, porches, and/or crawlspaces. They can be a principal dwelling on a parcel or they can be accessory dwelling unit (ADU) subordinate to a one-family dwelling.

There are two principal versions of tiny house: tiny house on wheels (THOW), and permanently fixed-in-place (FIP) tiny house. A THOW can be mobile and function “off the grid” by relying on infrastructure like solar power and composting toilets. THOWs can sometimes be relatively stationary and some may be designed to be removed from their axles and wheels, tied down to slab foundations, and potentially be connected to municipal sewer and water. A permanently fixed-in-place tiny house most strongly resembles a traditional single-family house: it is immobile, built on a permanent foundation with standard utility connections, and not designed to change locations.

A tiny house can be site-built or modular. The Minnesota state building code includes specific regulations for prefabricated, industrialized/modular, and manufactured housing. These standards are laid out in the MN Department of Labor and Industry Tiny Houses Code Fact Sheet (attached).

### **What is an Accessory Dwelling Unit?**

An Accessory Dwelling Unit (ADU) is a secondary dwelling unit with complete independent living facilities for one or more persons and generally detached, and is separated from, the primary structure, but may also be an attached to the primary structure. Commonly called mother-in-law homes, carriage houses, or granny flats, these are limited to no more than 800 square feet in total size.



*Examples of accessory dwelling units. Source: City of Santa Cruz*

### **What are Cottage Developments?**

Staff are proposing an option for development of a village of tiny homes called “cottage home park”. This is an alternative to “planned development” zoning of Residential-Planned or Mixed Use-Planned. These developments would be reviewed and approved by the Planning Commission under a Special Use Permit application. These would not be an urban campground, where houses share a central building for shared services such a running water and shower/bathing facilities, but instead be a collection of tiny homes that each function as individual dwellings, but in a community setting. These projects may be coupled with subdivision applications as applicable, or be part of a subdivision conservation design development.

### **Where can tiny homes be placed?**

Tiny homes fixed in place (FIP) are allowed as principal dwellings or accessory dwelling units on a lot, if they meet applicable building code and zoning standards (setbacks, etc).

Structures built on a permanent chassis intended for use as a permanent dwelling and constructed to code, transportable in one or more sections, are secured to the ground by either a permanent foundation, footings, or similar anchoring and support system, are considered manufactured homes (commonly called mobile homes in the past) and are generally allowed in “manufactured home parks”. They may also may be allowed in zone districts where single-family dwellings are allowed if they meet applicable building code and zoning standards.

Tiny Homes on Wheels (THOW) and vehicles or trailers that are self-propelled or permanently towable are considered recreational vehicles and are subject to UDC standards for recreational vehicles (also called “travel trailers/travel vehicles”). They are allowed in approved “seasonal camp or cabins” or “recreational vehicle parks”. Self-propelled vehicles and trailers equipped as temporary human living quarters need a license plate issued by MNDMV. The Duluth zoning code does not consider self-propelled vehicles or trailers equipped as temporary living quarters as permanent dwellings or permanent accessory dwelling units.

### **Can Shipping Containers Be Used For Housing?**

According to a city staff research memo from 2014 by R. Aho and C. Edwardson, a major issue with using shipping containers for habitation involves removing any contaminants that may have been spilled within the units, as well as removing toxins that have been applied to the wood floors in order to meet international standards for the transport of wood. The toxicity of units can vary considerably, depending upon the history of the unit. Since shipping containers are not, in and of themselves, ready to be occupied without modifications, structural engineering is required for

modifications and for anchoring the containers to a foundation. To cut openings in them or otherwise modify them means that accepted engineering practices must be implemented to ensure their safety and to demonstrate that they are in compliance with the building code.

A shipping container would be considered under the Minnesota code to exceed the limits of Section R301 Design Criteria for structures and would fall under R301.1.3 Engineered design. Once modifications are made to the shipping container, additional construction becomes necessary, and this can add cost. It is essential to keep in mind that modifications are required in order to create habitable space out of shipping containers. It is important to consider all building codes, as well as the health of the occupants, when shipping containers are modified for habitation. Among these are insulation, plumbing, ventilation, heat and electricity. Considerable modifications are necessary before storage containers can meet this criteria. Other building systems must be integrated into and around the shipping container in order for the containers to be used as dwellings, while meeting building codes.

### **What are the Other Codes That Relate to This Discussion?**

In addition to zoning regulations, all structures must adhere to other applicable codes or standards, such as the 2015 Minnesota Building Code, 2015 Minnesota Fire Code, 2019 City of Duluth Construction Standards, or 2015 City of Duluth Engineering Guidelines.

### **Summary of Tiny Home Code Language Change for Tiny Homes**

- Reduce side yard and corner side yard setbacks in R-1 and R-2.
- Eliminate the minimize size of Two family dwellings.
- Clarify the maximum height allowed for Accessory Dwelling Units.
- Amend definitions
- Amend allowed the zone districts allowed for: Cottage Home Park: RR-1, RR-2, R-1, R-2, R-P, MU-N; and Seasonal Camp or Cabin: R-C, RR-1, RR-2, R-P, MU-W; and Recreational vehicle park: R-C, RR-1, RR-2, R-P, MU-W

### **ITEM 2, SHIPPING CONTAINERS AND TEMPORARY STRUCTURES (PL 19-108)**

Staff are proposing to generally maintain current limitations on shipping containers and temporary structures in most zone districts, but to clarify the requirement for screening, and exceptions. Proposed amended language:

Temporary moveable storage containers must comply with the same setback standards as for accessory structures, and shall not be located on any public right of way or utility, pedestrian, or drainage easement.

Temporary moveable storage containers:

- are allowed in the MU-B and MU-W district only if buffered and screened from adjoining property to the same extent required for primary or accessory structures;
- are allowed in the I-G or I-W districts without a requirement for buffering or screening;
- are allowed in the RR-1, RR-2, R-1, R-2, and MU-N zone districts but shall not remain on any property for more than 15 days in any calendar year;
- are allowed in all other zone districts but shall not remain on any property for more than 45 days during any calendar year.

Exceptions to the above standards:

- Licensed and bonded contractors may use shipping containers for temporary housing of equipment and materials during construction projects only as expressly authorized by a City building, excavation, or obstruction permit.
- The Land Use Supervisor may grant extensions to the time limit listed in subsection 2 above, but in no case shall the duration exceed 180 day.

### **ITEM 3, TREE PRESERVATION (PL 19-108)**

A requirement for tree preservation for greenfield sites was introduced in the 2010 UDC, as recommended from the 2006 Comprehensive Land Use Plan. The language requires a tree preservation plan for new development or redevelopment (excluding single-family homes) on lots greater than 10,000 square feet, with the end result is that new development is encouraged to avoid impacting/removing all the existing vegetation on site and instead locate site improvements (structures, parking, drive lanes, outside storage) in such a way as to minimize impacts.

Staff are proposing to generally maintain current standards in the zoning code, but change the terminology from “special trees” and “significant trees” to reduce confusion, improve the preservation plan reporting submission and review process, increase the replacement requirement for removing special trees, and strengthen the requirement that replacement trees be installed by (or under the direction of) an arborist, forester, or landscape architect.

### **ITEM 4, CRAFT BREWING AND DISTILLERIES (PL 19-108)**

When these two new land uses were first proposed in 2015 (Ordinance 10414), the city introduced them in only a few zone districts. In the intervening years, there generally have been few land use conflicts generated from these uses. City staff are proposing to expand these uses in to several additional zone districts, as applicable with the districts’ purpose statements.

Staff are proposing that “Manufacturing, craft, artisan production shop or artisan studio” be allowed in the following zone districts: MU-C, MU-B, All Form; and that “Manufacturing, craft, brewery or distillery” be allowed in the following zone districts: MU-C, MU-B, F-3, 4, 5, 7, I-G.

The ordinance change to the permitted use table (50-19.8) for this item will be incorporated in the permitted use table change for the tiny home ordinance, so as not to have two separate ordinances amending the same section of the code language at the same time.