

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;

Dwelling, multi-family.

Every multi-family dwelling unit on or above the ground floor of a new multifamily structure constructed after January 1, 2021 shall have at least one exterior window that allows for the exchange of air and the admittance of daylight;

D Residential care facility/assisted living.

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

E. Rooming house.

No use specific standards at this time;

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.

Cottage Home Park

In the RR-1, RR-2, R-1, R-2, and MU-N districts, this use is subject to the use-specific standards as set forth below:

1. Development standards. All dwelling units within a cottage home park shall be subject to setback, height, off-street parking, and other regulations appropriate for one-family dwellings in the applicable zone district that the cottage home park is located, except as provided within this section;
2. Minimum lot area and lot frontage. Dwelling units shall meet the minimum lot area and lot frontage requirement for multi-family, townhome, or two family developments of the applicable zone district that the home park is located, whichever is smaller or least;

3. Principal entrance. Each dwelling unit shall have a principal entrance facing the front lot line. Exceptions to the requirement of a dwelling unit having a principal entrance facing the front property line may be made by the Land Use Supervisor, but only if the unit has a porch or deck on the front façade and the primary entrance is within 10 feet of the front façade;
4. Common open space or amenity area. Cottage housing developments shall provide common open space or an amenity area which is centrally located, equally accessible from, and at the disposition of all dwelling units;
5. Connectivity and access. Sidewalks or multi-use paths must be provided to ensure pedestrian access from each individual dwelling unit to the front property line or public street;
6. Subdivision. Approval of a cottage home park does not negate to the need for subdivision review and approval, where applicable.
7. Utility Connections. Cottage home parks must provide separate sewer and water services for each dwelling unit as required by the city engineer. (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; Ord. No. 10659, 10-28-2019 §5)

H Sober House.

1. A sober house serving six or fewer persons shall be considered a permitted single-family residential use of property as allowed in 50-19.8, Permitted Use Table;
2. This use shall provide landscaping as required 50-25.5.A, multi-family residential abutting single-family residential;
3. As of July 31, 2021, new sober houses shall be a minimum distance of 350 feet from existing sober houses.

Section 3. That Section 50-24.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20-4 Industrial uses.

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

Contractor's shop and storage yard.

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

Electric power transmission line or substation.

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

3. 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;
4. 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;

Junk and salvage services.

5. Junk and salvage service operations and facilities shall comply with all state and Western Lake Superior Sanitary District requirements;
6. 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*;
7. There shall be no burning of materials;

Major utility or wireless telecommunications facility.

8. 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;

9. 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:

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;

Any facilities expressly exempt from the city's siting, building and permitting authority;

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;

Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications;

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;

10. 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;

11. 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:
 - The foreseeable number of FCC licenses available for the area;
 - The kind of wireless telecommunications facilities site and structure proposed;
 - The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
 - Available space on existing and approved towers;
- (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 F 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:
 - Respond within 60 days to a request for information from a potential shared-use applicant;
 - Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
 - Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project

administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference;

- (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;

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;

The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A;

The insurance policies shall contain an endorsement obligating the insurance company to furnish the building official with at least 30 days prior written notice in advance of the cancellation of the insurance;

Renewal or replacement policies or certificates shall be delivered to the building official at least 15 days before the expiration of the insurance that such policies are to renew or replace;

No permit necessary to the site preparation or construction of a permitted wireless telecommunications facilities may be issued until the holder of the special use permit shall file with the city building official a copy of the required policies or certificates representing the insurance in the required amounts;

Notwithstanding the requirements noted in this subsection no insurance shall be required in those instances where the 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;

12. Additional provisions for special use permit review.

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

- (a) The city may hire any consultant or expert necessary to assist the city in reviewing and evaluating an application for a special use permit for a wireless telecommunications facility, including the construction and modification of the site, once permitted, and any site inspections. An applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation and consultation to the city in connection with the review of any application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be set in accordance with Section 31-6(a) of the City Code;
- (b) The placement of the deposit with the city shall precede the pre-application meeting. The city will maintain a separate escrow account for all such funds. The city's consultants shall invoice the city for its services related to the application. The total amount of the funds needed for the review of the application may vary depending on the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the city, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be

deposited with the city before any further action or consideration is taken on the application. In the event that the amount held in escrow by the city is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the applicant, be refunded to the applicant;

- (c) The land use supervisor will administratively approve an application to colocate on an existing wireless telecommunication facility upon receiving a complete application, if the application meets all the requirements of the Chapter and would not substantially change the physical dimensions of the wireless telecommunication facility. Substantial changes shall mean:
- (i) the mounting of the proposed antenna on the tower would increase the existing height of the tower by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
 - (ii) the mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
 - (ii) the mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
 - (iv) the mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property; or
 - (v) the mounting of the proposed antenna would defeat the concealment elements of the eligible support structure; or
 - (vi) the mounting of the proposed antenna would not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.
- (d) At any stage prior to issuing a special use permit the city may require such additional information as it deems necessary to confirm compliance with this UDC;
- (e) The city may refer any application or part of an application to any advisory, other committee or commission for a non-binding recommendation;
- (f) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:
- Conflict with safety and safety-related codes and requirements;
 - Conflict with the historic nature or character of a neighborhood or historical district;
 - The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation;
 - 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;
 - Conflicts with the provisions of this Section 50-20.4.E;

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;

13. 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;

Manufacturing, craft

1. Manufacturing, craft, artisan production shop.

- (a) In the MU-N and Form Districts F-5 and F-7 districts, the use shall not exceed 5,000 sq. ft. in gross floor area;
- (b) In the MU-N and Form Districts 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 MU-N and Form Districts F-5 and F-7 districts, the use shall not exceed 3,000 sq. ft. in gross floor area;
- (b) In the MU-N and Form Districts F-5 and F-7 districts this use is permitted in all building types and on all floors;
- (c) Artisan studios 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;

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;

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;

Mining, extraction, and storage.

14. 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;
15. 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;
 16. 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;
 17. 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;
 18. 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;

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;

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;

Storage warehouse.

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

Wholesaling.

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

Wind power facility.

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

19. 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;
20. 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;
21. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 feet within any migratory bird flight path;
22. 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;
23. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
24. 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;
25. 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;
 26. No illumination of the turbine or tower shall be allowed unless required by the FAA;
 27. 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;
 28. 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;
 29. 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;
 30. 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;
 31. 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.)

Section 4. That Section 50-24.2 of the Duluth City Code, 1959, as amended, be amended as follows:

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.

Table 50-24-1: Off-Street parking Spaces Required

Use	Requirement* (May Be Adjusted to 30% Less or 50% More)
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RESIDENTIAL USES

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 <u>3</u> residential care beds, but not less than 2 spaces
Rooming house	1 space per habitable unit
Sober house	1 space per 3 single occupancy beds, but not less than 2 spaces

PUBLIC, INSTITUTIONAL AND CIVIC USES

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

COMMERCIAL USES

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
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 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

INDUSTRIAL USES

Airport and related facilities	As determined by airport management
<ul style="list-style-type: none"> • Electric power or heat generation plant • Electric power transmission line • Junk and salvage services • Major utility or wireless communication tower • Radio or television broadcasting tower • Railroad or shipyard and related facilities • Solar or geothermal power facility (primary use) • Truck freight or transfer terminal • Water or sewer works • Wind power facility (primary use) • Bulk storage not listed 	No requirement
<ul style="list-style-type: none"> • Contractor's shop and storage yard • Dry cleaning or laundry plant • Recycling collection point (primary use) • Solid waste disposal or processing facility 	1 per 1,000 sq. ft. of gross floor area
<ul style="list-style-type: none"> • Manufacturing, light manufacturing, heavy manufacturing, hazardous or special • Storage warehouse • Water-dependent manufacturing, light or heavy • Wholesaling 	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 neighborhood impacts

ACCESSORY USES

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

TEMPORARY USES

Temporary real estate sales office	2 spaces
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All other temporary uses	No requirement
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*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), Section 50-24.4 (Maximum parking spaces), and Section 50-37.1.L (Administrative Adjustments).

Section 5. That Section 50-41.18 of the Duluth City Code, 1959, as amended, be amended as follows:

R-district parking area. The area on a lot in a residential district where vehicles may be parked, unless a front yard parking variance has been approved pursuant to Section 50-37.9. The parking area shall be limited to an area that may include one side yard, the rear yard, and the following additional areas of the lot:

A. On a lot, other than a corner lot, containing a dwelling unit without garage, the parking area also includes the area between one side lot line and the nearest wall of the dwelling unit and its extension to the improved street abutting the front yard;

B. On a lot, other than a corner lot, containing a dwelling unit with a detached garage, the parking area also includes the area between the closest side lot line to the side wall of the dwelling unit nearest the garage and its extension to the improved street abutting the front yard;

C. On a lot, other than a corner lot, containing a dwelling unit with attached garage, the parking area also includes the area between the closest side lot line and the common wall separating the dwelling unit and the garage and its extension to the improved street abutting the front yard;

D. On any corner lot, any parking area in addition to the rear yard and one side yard may be granted by variance as provided in Section 50-37.9.

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

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

Rainfall events. See the engineering guidelines for the current rainfall data.

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

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

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

Recharge. The replenishment of underground water reserves.

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

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

Redevelopment. A change to previously existing, improved property, including but not limited to the demolition or building of structures, filling, grading, paving or excavating, but excluding ordinary maintenance activities. For purposes of the erosion and stormwater controls in Section 50-18.1.E, redevelopment does not include remodeling of buildings on the existing footprint, resurfacing of paved areas, and exterior changes or improvements that do not result in the disturbance of equal to or greater than one acre of land.

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

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

Regulatory flood protection elevation. An elevation corresponding with a point not less than two feet above the water surface profile associated with the regional flood plus any increases in flood stages attributable to encroachments on the flood plain. Within an A-O zone, as shown on the flood insurance rate map adopted in Section 18.1.A.2(b), an elevation above the highest adjacent grade of an existing or proposed structure equivalent to two feet plus the depth number in feet specified on the flood insurance rate map.

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

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

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

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

Responsible party. In the context of stormwater regulations, any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents or assigns, that is named on a stormwater maintenance agreement

as responsible for long-term operation and maintenance of one or more stormwater BMPs.

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

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

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

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

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

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

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

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

Section 6. That Section 50-41.19 of the Duluth City Code, 1959, as amended, be amended as follows:

Safe Routes to School Program. A federal program under Title I, Section 1404 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005, Public Law 109-59, and adopted by the State of Minnesota in Minnesota Statutes, Section 174.40.

Safe Routes to School Program Funding. A State of Minnesota account consisting of state bond proceeds and other funds as appropriated to be expended on eligible costs of a Safe Routes to School Program project receiving financial assistance. Assistance may be offered for acquisition of land or permanent easements, predesign, design, preliminary and final engineering, environmental analysis, construction and reconstruction of publicly owned infrastructure with a useful life of at least ten years that provides for non-motorized to and from a school; preparation of land for which a route to school is established, including demolition of structures and remediation of any hazardous conditions on the land; payment for the unpaid principal on debt issued by a political subdivision for a Safe Route to School project; and for any other eligible activity described in Minnesota Statutes, Section 174.40, as amended.

Safe Routes to School Administration. The Minnesota Department of Transportation program requirements and competitive process for financial assistance following Minnesota Statutes, Section 174.40, establishing criteria to evaluate capital improvements of transportation infrastructure that improves safety and encourages non-motorized transportation to and from a school.

Safe Routes to School Infrastructure. A safe and appealing non-motorized means of transportation to and

from a school consistent with the Safe Routes to School Program and the Safe Routes to School Administration criteria and guidelines.

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

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

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

Sediment. Solid mineral or organic material that, in suspension, is being transported, or has been moved from its original site by air, water, gravity or ice and has been deposited at another location.

Sedimentation. The process or action of depositing sediment that is determined to have been caused by erosion.

Setback. The minimum horizontal distance between a lot line and a building or structure required by this Chapter.

Shore impact zone. Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback, but not less than 50 feet.

Shoreland. Lands within 1,000 feet of a lake or within 300 feet of a river and its floodplain, as shown on the NR-O map. The limits of shorelands may be less than the above limits whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the commissioner.

Sidewalk. A paved surface located in the public right of way and used as a pedestrian walkway.

Sidewalk café. An outdoor dining area located within the public right of way in front or adjoining a restaurant or other eating and drinking establishment.

Sign. Any letter, word, symbol, model, printed, projected or affixed device, poster, picture, reading matter or representation in the nature of an advertisement, announcement, direction or informative device including its structure or component parts, which is more than one square foot in area and is located outdoors or is affixed to the interior or exterior of a window or door, or is displayed within 12 inches of a window intended for viewing from the exterior of the building. A sign shall not include (a) temporary parks and recreation signs permitted pursuant to Chapter 35 of the City Code, or (b) overhead banners and devices regulated under Article III of Chapter 45 of the City Code, or (c) any street name sign, public directional, utility or transportation sign, or motor vehicle traffic signs of any kind when officially placed, or to advertising or other information affixed to any motor vehicle, provided that such vehicle's primary use is not as a stationary advertising device, or (d) any inscription on any publicly owned building when the inscription is incorporated into the architectural design as a permanent feature.

Sign, A-frame. A sign ordinarily in the shape of the letter "A," or some variation thereof, that is displayed on the ground, not permanently attached, and usually two-sided.

Sign, agricultural identification. A sign describing an agricultural use that includes the name of the farm and/or the products grown on-site.

Sign, animated. A sign that uses movement or change of lighting to depict action or to create a special effect or scene. Animated signs do not include electronic message signs.

Sign, attention getting. Flags, pennants, streamers and similar devices or ornamentations designated for the purpose of attracting attention. Flags of nations, states, and cities, or fraternal, religious and civic organizations, permanent commercial flags, or temporary holiday decorations are not considered attention getting devices.

Sign, awning. A sign that is printed or displayed upon an awning. An awning is a roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway or door, with no supports that extend to the ground.

Sign, balloons. Balloons or inflated devices used as a means of directing attention to a business or service

offered.

Sign, banner. A sign that is printed or displayed upon flexible material with or without frames.

Sign, banner-exhibition. A sign that is printed or displayed upon flexible material with or without frames in conjunction with a special exhibit for an educational facility, government building, museum, library or art gallery, or religious assembly.

Sign, billboard. A sign that directs attention to a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located.

Sign, building directory. A sign that serves as common or collective classification for a group of persons or businesses operating in the same building or on the same lot. A building directory sign may name the persons or businesses included, but carry no other advertising matter.

Sign, canopy. A sign that is printed or displayed upon a canopy. A canopy is a roofed structure constructed of fabric or other material placed to extend outward from the building and supported both by the structure and by supports that extend to the ground directly under the canopy.

Sign, construction. A temporary sign that identifies an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located and which may identify the proposed use for the property.

Sign, community event. Temporary signs that announce community events and activities, including the activities of religious assemblies, social clubs or similar groups, or special events such as fairs, rummage sales and garage sales.

Sign, directional-parking lot. A sign that identifies parking lot entrances and exits, driveway intersections, drive-through lanes, and features of a similar nature.

Sign, electronic display screen. A sign, or portion of a sign, that displays electronic video via television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

Sign, electronic message. Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text or image form where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs.

Sign, flashing. A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.

Sign, freestanding. A sign that is placed on or supported by the ground, independent of the principal structure on the lot. Freestanding signs may be either pole or monument signs.

Sign, freestanding monument. A freestanding sign where the base of the sign structure is on the ground or up to a maximum of 24 inches above ground. The monument base must be designed as an integral part of the sign structure. The width of the top of the sign structure can be no more than 120 percent of the width of the base.

Sign, freestanding pole. A freestanding sign that is affixed, attached or erected on one or two poles that is not itself an integral part of the sign.

Sign, ghost. A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community. A ghost sign is not considered an off-premises sign.

Sign, government information sign. Traffic signs, legal notices, railroad crossing signs, signs regulating vehicular or pedestrian traffic, or designating or giving direction to streets, schools, historic sites or public buildings, and temporary emergency signs.

Sign, home occupation. A sign identifying a home occupation or permitted accessory use on the premises.

Sign, illumination types.

A. Gooseneck reflector. Lighting designed for mounting above or to the side of signs with a long, shepherd hook-shaped arm to hold fixtures at a distance from the area of illumination;

B. Illumination, external. Lighting of a sign where lighting components are outside the sign structure and

light is directed at the sign face;

C. Illumination, internal. Lighting of a sign constructed so that all lighting components are internal and illumination occurs as lighting is diffused through the sign face surfaces.

Sign, marquee. A permanent roof-like sign structure constructed over a building entry, with no supports extending to the ground, where a changeable message area is part of the vertical sign fascia.

Sign, memorial plaque. A sign, tablet or plaque memorializing a historic person, event, structure or site.

Sign, menuboard. A device that lists items for sale at an establishment with drive-through facilities.

Sign, moving. A sign that, in whole or in part, rotates, elevates or in any way alters position or geometry. Moving signs do not include clocks.

Sign, nameplate. A sign that is affixed flat against a wall of a building or imprinted into the wall of a building that designates the name of the building or the name and profession of one who resides or occupies space in the building.

Sign, noncommercial. A sign advocating action on a public issue or recommending a candidate for public office.

Sign, off-premises. A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located.

Sign, on-premises. A sign that directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located.

Sign, parking lot information. Signs that provide information on the operation of a parking lot, such as "No Parking" or "Unauthorized users shall be towed."

Sign, political. Any sign that directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he is a candidate, or both.

Sign, portable. A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs.

Sign, projecting. A sign that is attached to a structure that extends beyond the surface of the structure to which it is attached.

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

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

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

Sign, public assembly bulletin board. A bulletin board accessory to and located on the same property as a religious assembly or educational use listed in Table 50-19.8 that identifies the name of the institution and the dates and times of events related to that institution to which some or all of the public are invited. These signs are allowed where electronic message signs are allowed, and are subject to the same regulations and standards.

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

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

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

Sign, scoreboard. A sign that records and displays the score of a game and may include such information as

the name of the field or home team and advertising.

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

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

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

Sign, under-canopy. A sign that is attached to and mounted under a canopy.

Sign, wall. A sign that is mounted flat against or painted on a wall, and projects no more than 12 inches from the wall of a structure with the exposed face of the sign in a plane parallel to the face of the wall. Wall sign does not include window sign. For the purposes of this definition, a fence is not considered a wall and wall signs are prohibited mounted on fences.

Sign, window. A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within 12 inches of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Window clings are considered a window sign and subject to all window sign regulations.

Site. A parcel or several adjoining parcels of land under common ownership. For purposes of the natural resources overlay district, this definition is limited to apply to any parcel of land upon which work requiring a permit under this Chapter is to be performed, and includes any adjacent lands owned by the owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel that were owned by the same person owning the subject parcel as of January 1, 1980.

Site plan. An accurate scale drawing that indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development, and meeting all requirements of the UDC application manual.

Slope. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude (e.g., slope = 3:1 = 3 feet horizontal to 1 feet vertical).

Sober house. A dwelling unit occupied by persons that are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendments of 1988. It provides a non-institutional residential environment in which the residents willingly subject themselves to written rules and conditions, including prohibition of alcohol and drug use (except for prescription medications obtained and used under medical supervision), intended to encourage and sustain their recovery. The residents of a sober house share kitchen and bathroom facilities and other common areas of the unit. Sober houses do not provide on-site supportive services to residents, such as mental health services; clinical rehabilitation services; social services; medical, dental, nutritional and other health care services; financial management services; legal services; vocational services; and other similar supportive services.

Solar, geothermal or biomass power facility (primary use). Uses and structures that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following: solar panels (photovoltaic and hot water), heat exchanges, biomass firing equipment, piping, and other transfer mechanisms, controls and related structural support for transporting and storing collected energy from solar, geothermal, or biomass energy systems. These structures and uses may be located at ground level or above or below ground unless specifically limited in this Chapter, provided that they meet all other applicable requirements of this Chapter.

Solid land. Any land that is neither a wetland nor located in a floodway.

Solid waste. As defined in MSA 116.06, Subd. 22, and also including medical wastes and petroleum contaminated soils.

Solid waste disposal or processing facility. Any tract or parcel of land, including any constructed facility that is designed or operated for the purpose of disposing of solid waste on or in the land, at which solid waste is

disposed of in or on the land or processed for disposal or reuse, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility, and that is not listed as a separate use in this Chapter.

Special tree species. White pines (*pinus strobus*), red (Norway) pines (*pinus resinosa*), white cedars (*Thuja occidentalis*), white spruces (*Picea glauca*), eastern hemlocks (*Tsuga canadensis*), sugar maples (*Acer saccharum*), American basswoods (*Tilia americana*), American elms (*Ulmus americana*), yellow birches (*Betula alleghaniensis*) and all oak species.

Special use. A specific type of structure or land use listed in Table 50-19.8 that may be allowed only after review and evaluation of potential impacts on surrounding properties and the attachment of any conditions necessary to mitigate those impacts.

Stealth or stealth technology. When used in the context of wireless telecommunications, to minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

Steep slope. Land having average slopes over 12 percent, as measured over horizontal distances 50 feet or more, and that are not bluffs.

Storage warehouse. A structure containing an area available for storing raw materials, produce, goods or property, but not including mini-storage facilities.

Stormwater. Stormwater runoff, snowmelt runoff, surface runoff and drainage.

Stormwater management. The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater pollution prevention plan. A plan, usually required by a permit, to manage stormwater associated with industrial, commercial, public, institutional, civic or other land use activities, including construction. The plan commonly describes and ensures the implementation of practices that are to be used to reduce pollutants in stormwater and non-stormwater discharges

Stormwater pollution prevention program (MS4 program). A compilation of best management practices (BMPs) to address the six minimum control measures and other provisions of the MS4 permit, that is designed and managed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable as appropriate to the community.

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

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

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

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

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

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

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

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

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

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

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

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

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

The term does not, however, include either:

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

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

Section 7. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2021)

STATEMENT OF PURPOSE: This ordinance implements text amendment related to development standards regulated by chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

This ordinance creates a new land use, sober house, with new use specific standards, off-street parking requirements, and definition. It also amends existing use specific standards, off-street parking requirements,

and definition for residential care facilities. It also amends the Permitted Use Table to allow for sober house, and amends the approved location for two existing land uses (mini-storage and self-service storage facilities, and manufacturing, craft), as well as slightly relaxes some requirements for a few uses in the form districts, allowing them to be located on the ground floor of structures in form districts.

The planning commission held a public hearing at their March 9, 2021, regular meeting. Following discussion and additional amendments to the proposed text change by members of the planning commission, the commission voted with 9 yeas, 0 nays, and 0 abstentions, to recommend that the city council approve the text change to the Unified Development Chapter of the City Code.