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Title:	ORDINANCE AMENDING SECTIONS 50-19.8 AND 50-20.3 OF THE DULUTH CITY CODE TO ADD KENNEL AND PRIMARY USE PARKING LOT AS A SPECIAL USE TO CERTAIN ZONE DISTRICTS, TO MODIFY THE USE SPECIFIC STANDARDS FOR THOSE USES, AND TO ADD VACATION DWELLING UNIT AND ACCESSORY VACATION DWELLING UNIT TO FORM DISTRICTS AS AN INTERIM USE.		

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Attachments: 1. Attachment A - Chapter 50-19 Use Table, 2. 17-022 Original

Date	Ver.	Action By	Action	Result
6/12/2017	1	City Council	adopted	

ORDINANCE AMENDING SECTIONS 50-19.8 AND 50-20.3 OF THE DULUTH CITY CODE TO ADD KENNEL AND PRIMARY USE PARKING LOT AS A SPECIAL USE TO CERTAIN ZONE DISTRICTS, TO MODIFY THE USE SPECIFIC STANDARDS FOR THOSE USES, AND TO ADD VACATION DWELLING UNIT AND ACCESSORY VACATION DWELLING UNIT TO FORM DISTRICTS AS AN INTERIM USE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code be amended as shown in Attachment A, Table 50-19-8 Use Table.

Section 2. That Section 50-20.3 of the Duluth City Code be amended as follows:

50-20-3 Commercial uses.

A. Adult entertainment establishment.

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

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

1. Agriculture, community garden.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

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

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

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

(e) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless

permitted within the zone district;

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

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

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

2. Agriculture, farmers market.

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

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

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

3. Agriculture, general.

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

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

(c) Any production or processing of cheese, honey or other products raised on the farm must be done inside a building and in accordance with all state regulations;

4. Agriculture, urban.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

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

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

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

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

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

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

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

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

C. Automobile and light vehicle repair and service.

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;

2. A dense urban screen must be installed and maintained along all side and rear property

lines abutting a residential or mixed use district;

3. All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

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

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

E. Bank.

1. When in the MU-N district, the following standards apply:

(a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

(b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;

(c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;

(d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

(e) Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;

2. Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;

3. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;

4. Drive-through lanes shall allow for stacking space for three cars;

F. Bed and breakfast.

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

1. Have no more than 12 habitable units;

2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;

3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;

4. Be located on a lot or tract containing a minimum of 0.6 acre;

5. Contain a minimum of 1,500 square feet of area on the first floor of the main building;

6. Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;

7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;

8. Shall limit each guest stay to a maximum of 21 consecutive days;

G. Building materials sales.

1. Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;

2. Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;

3. A landscaped earth berm may be used instead or in combination with a required fence or wall;

H. Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

I. Daycare facility, small and large.

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

J. Filling station.

1. No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;

2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;

K. Grocery store, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

L. Mini-storage and self-service storage facility

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

1. The use shall be contained within an enclosed building or buildings;

2. If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;

3. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;

4. At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;

5. Hours of public access to storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;

6. Signage shall be limited to one 40 square foot free standing sign and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line.

7. Mini-storage facilities in the RR-1 district are only allowed on properties within the RR 1 district that are also within the Airport Overlay District Safety Zone B. There shall be a landscaped or naturally vegetated buffer a minimum of 50 feet along all property lines in addition to a dense urban screen along all side and rear property lines;

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

1. This use must be completely contained with an enclosed principal building.

2. This use is permitted only on the lowest floor or basement of the building. This use is not allowed on any floor that is above grade with the primary street, except for office or lobby areas associated with the storage facility.

3. Access to the storage units may not be provided from the primary street. Where the access is on a secondary street, parking must be available within 30 feet of the doorway and the doorway may not be a roll up door.

4. Signage for this use is permitted as a commercial use in Sec. 50-27;

M. Office.

1. In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;

2. In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;

3. In the F-6 district, offices may not have drive-through facilities;
- N. Other outdoor entertainment or recreation use not listed.
 1. No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;
- O. Parking lot or parking structure (primary use).
 1. Parking lots.
 - (a) Parking lots (primary use) shall be stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;
 - (b) When in the R-2 and MU-N districts, the following standards apply:
 - (i) Primary use parking lots shall meet all the street landscaping provisions in Section 50-25.3 as applicable. In addition, primary use parking lots shall be screened from adjacent structures and uses. Such screening shall consist of a continuous, view-obscuring fence, wall or compact evergreen hedge along all property lot lines which are adjacent to residential structures and uses, which shall be broken only for egress and access driveways and walkways. Such fence, wall or hedge shall be not less than four feet nor more than six feet in height;
 - (ii) Primary use parking lots shall meet all the landscaping provisions in Section 50-25.4, as applicable. In addition, regardless of the number of parking spaces provided, the parking lot must set aside at least 15 percent of the interior parking area for landscaping islands;
 - (iii) If the primary use parking lot abuts an improved public alley, driveway access must be provided to the alley;
 - (iv) Primary use parking lots must be designed to be a similar lot size as other lots in the neighborhood, and shall not alter the essential character of the neighborhood;
 2. Parking structures.
 - (a) In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;
- P. Recreational vehicle (RV) park.
 1. Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;
 2. Criteria for exempt recreational vehicles:
 - (a) The vehicle must have a current license required for highway use;
 - (b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;
 - (c) No permanent structural type additions may be attached to the vehicle;
 - (d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;
 - (e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;
 - (f) Cost of an accessory structure must not exceed \$500;
 3. Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this ordinance [Chapter]. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;
 4. New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:
 - (a) On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation

and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;

(b) Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4(a) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section 50-37.10;

- The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and
- All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

Q. Restaurant.

1 In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area;
2 Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts zone districts;

3 Drive-through lanes shall allow for stacking space for 5 cars;

4 When in the MU-N district, the following additional standards apply:

(a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

(b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;

(c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

(d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

(e) Restaurants are limited to one drive through lane and one speaker box;

5 When in the F 3 and F 5 districts, the following additional standards apply;

(a) Access to and from the drive-through must be through the alley, if alley exists;

(b) Restaurants are limited to one drive through lane;

R. Retail sales, small and large.

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;

2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

3. Retail stores are limited to one drive-through window;

4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open part 10:00 p.m.;

5 Drive-through lanes shall allow for stacking space for three cars;

6 When in the MU-N district, the following standards apply:

(a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;

(b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;

(c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;

(d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

S. Seasonal camp or cabin.

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

T. Veterinarian or animal hospital, and kennel.

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

U. Vacation dwelling unit.

1. The minimum rental period shall be not less than two consecutive nights;
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
3. Off street parking shall be provided at the following rate:
 - (a) Vacation dwelling units licensed on May 15, 2016, shall provide the following minimum number of off street parking spaces:
 1. 1-2 bedroom unit, one space
 2. 3-4 bedroom unit, two spaces
 3. 5+ bedroom unit, three spaces.
 - (b) Vacation dwelling units licensed after May15, 2016, shall provide the following minimum number of off street parking spaces:
 1. 1-2 bedroom unit, one space
 2. 3 bedroom unit, two spaces
 3. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

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

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;

5. The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for two to 29 days;

6. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;

7. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not

limited to, deck/patio, barbecue grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties;

8. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance implements zoning text amendments to the existing use table (Table 50-19.8) and sets use-specific standards related to kennels and primary use parking lots in Chapter 50 of the City Code, known as the Unified Development Chapter (UDC). The amendments to the use table allow pet daycare facilities (kennel) through a Special Use Permit in form districts, allows vacation dwelling units and accessory vacation dwelling units in form districts through an Interim Use Permit, and adds primary use parking lots to R-2 districts through a Special Use Permit. The amendments set use-specific standards for primary use parking lots in R-2 districts and pet daycare facilities (kennels) in form districts.

The Planning Commission held a public hearing and considered the changes at their April 11, 2017, regular meeting and at an additional April 25, 2017 special meeting. At the April 25, 2017, meeting they voted 4-3 to recommend that the City Council approve these ordinance changes.