



## Legislation Details (With Text)

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**Enactment date:** 5/10/2021 **Enactment #:** 10746  
**Title:** AN ORDINANCE AMENDING SECTIONS 50-20.1, 50-20.4, 50-24.2, AND 50-41 RELATED TO SOBER HOUSES AND RESIDENTIAL CARE FACILITIES.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment A, 2. Attachment B, 3. Attachment C

Date	Ver.	Action By	Action	Result
5/10/2021	1	City Council	adopted	
4/26/2021	1	City Council	read for the first time	

AN ORDINANCE AMENDING SECTIONS 50-20.1, 50-20.4, 50-24.2, AND 50-41 RELATED TO SOBER HOUSES AND RESIDENTIAL CARE FACILITIES.

### CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as shown in Attachment A, 50-19.8 Use Table, Allowing the New Land Use Designated as Sober House, Allowing Several Land Uses on the Ground Floor of Form Districts, Allowing Self Service Storage Facilities in the MU-C District, Allowing Manufacturing, Craft, in the MU-N District, and Allowing Grocery Store (Small) and Personal Services and Repair (Small) in the R-2 District.

Section 2. That Section 50-20.1.D of the Duluth City Code, 1959, as amended, be amended as follows:

D Residential care facility/assisted living.

~~No use specific standards at this time.~~

1. A residential care facility/assisted living 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. Unless exempted under Minnesota Statutes Section 245A11, subdivision 4, of Minnesota State Statute, a new residential care facility/assisted living may not be located within 1,320 feet of an existing residential care facility/assisted living unless one of the following conditions apply: (1) the existing residential facility/assisted living is located in a hospital licensed by the commissioner of health; (2) the city has granted the existing residential facility/assisted living a special use permit; or (3) the new residential care facility/assisted living is a foster care or a community residential setting as defined under section 245D.02, subdivision 4a <<https://www.revisor.mn.gov/statutes/cite/245D.02>>.of Minnesota State Statute;

Section 3. That Section 50-20.1.H of the Duluth City Code, 1959, as amended, be created as follows:

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. A new sober house shall be a minimum distance of 350 feet from existing sober houses.

Section 4. That Section 50-20.4.F of the Duluth City Code, 1959, as amended, be amended as follows:

F      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;

Section 5. 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)
Residential care facility	1 space per 9 <u>6</u> residential care beds, but not less than 2 spaces
<u>Sober house</u>	1 space per 6 single occupancy beds, but not less than 2 spaces

Section 6. That Section 50-41.18 of the Duluth City Code, 1959, as amended, be amended as follows:

Residential care facility/assisted living. A 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.

Section 7. That Section 50-41.19 of the Duluth City Code, 1959, as amended, be amended as follows:

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.

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 replaces the proposed ordinance 21-010-O, which was withdrawn from consideration earlier in April 2021, to provide for a new ordinance with more clarity and less superfluous text, so as to the specific text changes being proposed.

Section 1 of the ordinance proposes changes to which land uses are allowed in various zone districts, either as permitted by right (P), or with the issuance of a special use permit (S). The most significant change is to allow grocery store (small) and personal services and repair (small) in the R-2 (urban-residential district). Currently the R-2 district allows retail (small) and offices, and these uses have broadly similar traffic generation, staffing needs, hours of operation, etc. to grocery stores and personal services and repair. It is believed that allowing these uses in the R-2 district will allow for the potential to have more robust and active urban neighborhoods, and is supported by the purpose statement of the R-2 district.

Section 1 of the ordinance also proposes to allow other changes for more flexibility, such as allowing craft-manufacturing in the MU-N district as a permitted use, self-service storage facilities in the MU-C district as a special use (self service storage facilities have higher building design and aesthetic standards than mini-storage facilities), and the new land use sober house in some residential and mixed use neighborhoods (similar to what is already allowed with residential-care facilities). Finally, the last the proposed change to 50-19.8 clarifies that some institutional uses are allowed on the ground floor of some form districts, as opposed to previously being only allowed on the upper floors. When the UDC was adopted in 2010, there was concern that having large institutional uses on the ground floor of form districts would negatively impact the intent of a pedestrian focused streetscape, but that concern has not been realized and a change for more flexibility is appropriate.

Section 2 of the ordinance adds an additional use specific standard for new residential care facilities, related to the requirement for additional screening when next to single family dwellings. The amended use specific standard also references a distance requirement from other residential care facilities as required by state statute; this is being added to the UDC to aid staff and citizens in understanding where future new residential care facilities may be placed. These changes impact new proposed residential care facilities, not existing facilities. Section 6 of the ordinance proposes a clarifying change to the definition of residential care facilities, adding that they must be state licensed to be considered residential care facilities.

Section 3 of the ordinance creates new use specific standards for a new land use, called sober house. A sober house is a facility that is intended to provide a non-institutional living environment for individuals as they transition to regular living. No addiction treatment or rehabilitation is provided on site; a sober house provides

only a place for short term habitation during recovery, generally 30 to 90 days. This ordinance is written to allow these uses as Permitted in the R-1 but only if they have 6 or fewer residents. A sober house may have more residents in other zone districts, such as 7 or more residents are allowable in an R-2 district with a Special Use Permit. This density is similar to what is currently allowed for a residential care facility. Section 5 of the ordinance is amended to require off-street parking for staff (note that most residents of a sober house will not have a vehicle). Section 7 of the ordinance creates a new definition for a sober house. None of these changes to the zoning code would pre-empt, exclude, or excuse construction or other safety standards required by the building or fire codes for the promotion and preservation of life.

The planning commission held a public hearing at their March 9, 2021, regular meeting. Following discussion on 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 changes to the Unified Development Chapter of the City Code. In addition, the planning commission held a public hearing at their April 13, 2021, regular meeting, to discuss a change to allow two additional land uses in the R-2 zone district, and the commission voted with 7 yeas, 0 nays, and 0 abstentions, to recommend that the city council approve the additional change to the permitted use table in 50-19, as shown in attachment A.