

ARTICLE THREE: PERMITTED USES

50-19 PERMITTED USE TABLE

50-19.1 General

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

50-19.2 Permitted Uses

A "P" in a cell of the use table indicates that the land use is allowed by right in that base zone district, subject to compliance with the use-specific standards referenced in the final column of the use table. A "U" in a cell of the use table indicates that the land use is allowed by right in that base district on any floor of the structure other than the ground floor, subject to compliance with the use-specific standards referenced in the final column of the table. A "P" in the R-P zone district column indicates that the use is permitted only if it was included in a plan or plan amendment for the R-P district. Permitted uses are subject to all other applicable requirements of this UDC, including those set forth in Article 4, Development Standards.

50-19.3 Special Uses

An "S" in a cell of the use table indicates that the land use is allowed in that base zone district only upon approval of a special use permit as described in Section 50-37.10 and compliance with any use-specific standards referenced in the final column of the use table. Uses subject to a special use permit are subject to all other applicable requirements of this UDC, including those set forth in Article 4, Development Standards. In addition, council may approve interim uses through the procedure described in Section 50-37.10.

50-19.4 Prohibited Uses

A blank cell in the use table indicates that the land use is prohibited in that base zone district.

50-19.5 Overlay Districts Provisions Govern

When a property is located within the boundaries of an overlay district, the provisions for that overlay district prevail over those in the base zone district. For example, if a use is prohibited in the base zone district where the property is located, but is a permitted use in an overlay district applicable to the same property, then the use is allowed on that property. On the other hand, if a use is listed as a permitted use in the base zone district but is listed as a special use in an overlay zone district applicable to the same property, then the use is a special use for that property. Where a property is located in more than one overlay district, then the most restrictive use provision in those overlay zone districts shall apply to the property.

50-19.6 Use-Specific Standards

When a land use is a permitted or a special use in a zone district, there may be additional standards that apply to that specific use. Those additional standards are cross-referenced in the last column of the use table (use-specific standards). The cross-referenced standards appear in subsection 50-20 immediately following the use table.

50-19.7 Unlisted Uses

When a proposed land use is not explicitly listed in the use table, the land use supervisor shall determine whether or not it is included in the definition of a listed use or is so consistent with the size, scale, operating characteristics and external impacts of a listed use that it should be treated as the same use. Any such interpretation shall be made available to the public and shall be binding on future decisions of the city until the land use supervisor makes a different interpretation.

50-19.8 Permitted Use Table

Zone District Name		Residential						Mixed Use					Form									Special			Use-Specific Standards				
		R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1			
TABLE 50-19.8: USE TABLE																													
NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1																													
NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2																													
NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area																													
P = Permitted Use U = Upper Story A = Accessory Use S = Special Use or Interim Use I = Interim Use																													
LAND USE CATEGORY																													
RESIDENTIAL USES																													
Household Living																													
Dwelling, one-family		P	P	P	P	P	P					P	U	U	U	U	U	P	U	U	U								
Dwelling, two-family					P	P	P	P				P	U	U	U	U	U	P	U	U	U							50-20.1.A	
Dwelling, townhouse					S	P	P	P			P	P																50-20.1.B	
Dwelling, multi-family						P		P	P	P		P	P	U	P	U	P	P	P	U	P	P							50-20.1.C
Dwelling, live-work								P	P	P		P	P	P	P	P	P	P	P		P	P							
Group Living																													
Co-housing facility					S	S	P	P				P																	
Residential care facility/assisted living (6 or fewer)			P	P	P	P	P	P				P	U	P	U	P	P	U	U	P	P							50-20.1.D	
Residential care facility/assisted living (7 or more)					S	P		P	P	P		P	P	U	P	U	P	P	U	U	P	P							50-20.1.D
Rooming house						S		P	P	P		P	P	U	P	U	P	P	U	U	P	P							50-20.1.E
PUBLIC, INSTITUTIONAL AND CIVIC USES																													
Community and Cultural Facilities																													
Bus or rail transit station								P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							
Cemetery or mausoleum		S	S	S	S	S	P	S	S	S	S																S		
Club or lodge (private)						S	P	P	P	P		P	P	P	P	P	P	P	P	P	P					S		50-20.2.A	

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		R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W		P-1
LAND USE CATEGORY																										
Government building or public safety facility			P	P	S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	S	S	S	
Museum, library, or art gallery					S	S	P	P	P		S	P	P	P	P	P	P	P	P	P	P				S	
Park, playground, or forest reserve		P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P				P	
Religious assembly, small (less than 50,000 sq. ft.)			P	P	S	P	P	P	P	P	S	P	P	P	P	P	P	P	P	P	P					50-20.2.C
Religious assembly, large (50,000 sq. ft. or more)			S	S	S	S	P	P	P	P	S	P	P	P	P	P	P	P	P	P	P					50-20.2.C
Educational Facilities																										
Business, art, or vocational school								P	P	P	P	P	P	P	P	P	P	P	P	P						
School, elementary			P	P	P	P	P	P	P				P	U	P	U	P	P	U	U	U					50-20.2.D
School, middle or high			S	S	S	S	P	S	S				P	U	P	U	P	P	U	U	U					50-20.2.D
University or college							I			P			P			U	P	P	U	U	U					
Health Care Facilities																										
Hospital										P																
Medical or dental clinic						S	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					50-20.2.B
Nursing home						P	P	P	P	P		P	P		P		P									
Other institutional support uses not listed in this table										P																
COMMERCIAL USES																										
Agriculture and Animal-Related																										
Agriculture, general		P	P																							50-20.3.B

P = Permitted Use U = Upper Story
 A = Accessory Use
 S = Special Use or Interim Use
 I = Interim Use

TABLE 50-19.8: USE TABLE

NOTE: Uses in the Natural Resources Overlay (NR-O) are limited by Section 50-18.1

NOTE: Uses in the Airport Overlay (A-O) district are limited by Section 50-18.2

NOTE: Uses listed in the R-P district are only allowed if included in an approved regulating plan for the area

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Zone District Name	Residential						Mixed Use						Form									Special			Use-Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1				
LAND USE CATEGORY																												
Agriculture, urban		P	P	P	P	P						P																
Kennel	S	S						S	S	P		P																
Riding stable	S	S	S			P					S													S				
Veterinarian or animal hospital	S	S			P	P	P	P	P	P	P	P		P		P	P											50-20.3.U
Food, Beverage, and Indoor Entertainment																												
Adult entertainment establishment																							P					50-20.3.A
Convention or event center								P		P	P	P				P	P		P	P	P						50-20.3.H	
Indoor entertainment facility								P		P	P	P		P		P	P		P	P	P							
Restaurant (no drive-in/drive-through, less than 5,000 sq ft)					S	P	S	P	P	P	P	P	P	P	P	P	P	P	P	P	P						50-20.3.P	
Restaurant (no drive-in/drive-through, 5,000 sq ft or more)						P		P	P	P	P	P	P	P	P	P	P	P	P	P	P						50-20.3.P	
Restaurant (with drive-in/drive-through)								P		P		P		P		P											50-20.3.Q	
Theater							S	P			P	P		P		P	P		P	P	P							
Lodging																												
Hotel or motel							S	P	P	P	P	P		P		P	P		P	P	P							
Bed and breakfast				S	P	P	P	P	P	P	P	P		P		P		P									50-20.3.F	
Seasonal camp or cabin	P	P				P					P												S				50-20.3.S	
Vacation dwelling unit		I	I	I	I	I	I										I										50-20.3.V	
Offices																												
Bank						I	S	P	P	P	S	P	P	P	P	P	P	P	P	P	P						50-20.3.E	

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LAND USE CATEGORY																												
Office					S		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P							50-20.3.M
Data center							S	P	P	P	S	P	U	U	U	U	U	U	U	U	U	P						
Outdoor Recreation & Entertainment																												
Golf course		S	S			P																		P				
Marina or yacht club											P												S	S				
Tourist or trailer camp	S	S	S								S													S				50-20.3.T
Other outdoor entertainment or recreation use not listed		S						S		S	S																	50-20.3.N
Personal Services																												
Business park support activities										P	P																	
Preschool		S	S	S	P	P	P	P	P		P	P	P	P	P	P	P	P	S	P	S							
Day care facility, small (14 or fewer)	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P							50-20.3.I
Day care facility, large (15 or more)		S	S	S	S	P	P	P	P		P	P	P	P	P	P	P	P	S	P	S							50-20.3.I
Funeral home or crematorium					S		S	P	P	P	P			P		P						P						
Mini-storage facility										P												P	P					50-20.3.L
Personal service and repair, small (less than 10,000 sq ft)						P	P	P	P	P	P		P	P	P	P	P	P	P	P	P							
Personal service and repair, large (10,000 sq. ft. or more)						I	S	P	P	P	P			P		P			P			P						
Retail Sales																												
Adult book store																							P					Chapter 5
Building materials sales								S		P	P																	50-20.3.G

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LAND USE CATEGORY																										
Garden material sales		S						P			P					P										
Grocery store, small (less than 15,000 sq ft)						P	P	P			P	P		P		P	P	P	P	P						50-20.3.K
Grocery store, large (15,000 sq ft or more)								P			P															50-20.3.K
Retail store not listed, small (less than 15,000 sq ft)					S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P					50-20.3.R
Retail store not listed, large (15,000 sq ft or more)								P			P	P		P		P	P		P	P						50-20.3.R
Vehicle-Related																										
Automobile and light vehicle repair and service							S	P		P		P		P		P	P	P				P				50-20.3.C
Automobile and light vehicle sales, rental, or storage								P		P												P				50-20.3.D
Filling station					S	P	S	P		P	P	P		P		P	P	P				P	P			50-20.3.J
Parking lot or parking structure (primary use)						I		P	P	P	P	P	S	S	S	S	S	S	S	S	S	P	P			50-20.3.O
Truck or heavy vehicle sales, rental, repair, or storage										P												P				
INDUSTRIAL USES																										
Industrial Service																										
Contractor's shop and storage yard										P	P						P					P	P			50-20.4.B
Dry cleaning or laundry plant										P												P				
Research laboratories									P	P	P											P	P			
Industrial services										P												P	P			
Manufacturing and Mining																										
Manufacturing, light									P	P	P						P					P				50-20.4.F

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LAND USE CATEGORY																											
Manufacturing, heavy																									P		
Manufacturing, hazardous or special																									S		50-20.4.G
Mining, extraction and storage																									S	S	50-20.4.H
Water-dependent manufacturing, light or heavy																									P		
Transportation-Related																											
Airport and related facilities		S																							P		50-20.4.A
Railroad yard or shipyard and related facilities																								P	P		
Truck freight or transfer terminal											P													P	P		
Utilities																											
Electric power or heat generation plant																									P	P	
Electric power transmission line or substation		S	S	S	S	S	P	S	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C
Major utility or wireless telecommunication facility		S	S	S	S	S	P	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E
Radio or television broadcasting tower			S							S															S	S	50-20.4.I
Solar, geothermal, or biomass power facility (primary use)			S				P		S	S	P	P												P	S		
Water or sewer pumping stations/reservoirs		S	S	S	S	S	P	S	S	S	S	P	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Water or sewer treatment facilities																								P	P		
Wind power facility (primary use)			S						S	S														P	S		50-20.4.M
Waste and Salvage																											
Junk and salvage services																									S	S	50-20.4.D

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LAND USE CATEGORY																												
Recycling collection point (primary use)								S	S	S															P	P		
Solid waste disposal or processing facility		S								S															S	S		50-20.4.J
Wholesale Distribution and Storage																												
Storage warehouse										P							P								P			50-20.4.K
Wholesaling										P							P								P			50-20.4.L
Bulk storage not listed elsewhere																									P			
Water-dependent bulk storage or wholesaling not listed elsewhere																										P		
ACCESSORY USES																												
Accessory agriculture roadside stand	A	A																									A	50-20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A																	50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A																	50-20.5.C
Accessory caretaker quarters										A															A	A	A	
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				
Accessory dwelling unit	A	A	A	A	A	A	A																					50-20.5.D
Accessory heliport	A								A		A														A			50-25.5.E
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	A	A	A				50-20.5.F
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				50-20.5.G

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LAND USE CATEGORY																										
Accessory solar or geothermal power equipment		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.H
Accessory uses and structures not listed elsewhere		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I	
Accessory vacation dwelling unit			I	I	I	I	I									I									50-20.5.L	
Accessory wind power equipment		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J	
Minor utilities and accessory wireless antennas attached to existing structures		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K	
TEMPORARY USES																										
Temporary construction office or yard		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Temporary event or sales		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Temporary moveable storage container		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.A	
Temporary real estate sales office					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A						
Temporary use not listed in this table		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		

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50-20 USE SPECIFIC STANDARDS

50-20.1 Residential Uses

A. Dwelling, Two-Family

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

1. Minimum size. A two-family dwelling shall contain at least 1,800 sq. ft. of floor area (not including garages or utility rooms or basement or attic space not used for living quarters);
2. Exterior stairways. No exterior stairways with a total vertical rise greater than five ft. shall be permitted.

B. Dwelling, Townhouse

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

1. Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 15 ft. of street frontage.
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 ft.
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 ft.
4. Screening of refuse areas. Where refuse storage areas are directly viewable from any exterior lot line at a height of 6 ft. above grade, they shall be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of 6 ft., designed so that at least 75% of the refuse area is obscured by opaque materials when viewed at an angle perpendicular to the screening materials.

C. Dwelling, Multi-Family

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

D. Residential Care Facility/Assisted Living

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

E. Rooming House

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

50-20.2 Public, Institutional and Civic Uses

A. Club or Lodge (Private)

1. In the P-1 and R-2 district, the club or lodge shall be operated by a not-for-profit civic, cultural or educational organization, and the primary activity cannot be any service that is customarily carried on as a business.
2. In the RR-1 district, any such buildings shall occupy not more than 10% of the total area of the lot and shall be set back from all yard lines a distance of not less than two ft. for each ft. of building height.
3. In the RR-1, RR-2, and R-1 zone districts, the sum of all structures on the lot shall be not more than 50,000 sq. ft.
4. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen.

B. Medical or Dental Clinic

1. In the Residential districts, the clinic shall occupy 10,000 sq. ft. or less in total floor area.
2. In the MU-N district, the clinic shall occupy 20,000 sq. ft. or less in total floor area.

C. Religious Assembly

1. In the RR-1 district, any such buildings shall occupy not more than 10% of the total area of the lot and shall be set back from all yard lines a distance of not less than two ft. for each ft. of building height.
2. In the RR-1, RR-2, and R-2 zone districts, the sum of all structures on the lot shall not exceed 50,000 square feet without a special use permit. A special use permit is required for all religious assemblies in the R-1 zone district.
3. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen.

D. School, Elementary, Middle or High

1. In the RR-1, RR-2 and R-1 districts, the school shall have a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school.
2. In the RR-1, RR-2, R-1, R-2, MU-N and MU-C districts, any such building shall be located not less than 40 ft. from any side or rear lot line.
3. Notwithstanding any lower maximum height stated in Article 2, in all zone districts except the Form Districts, the maximum height for this use shall be 45 ft.

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, General

1. 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 ft. from any lot line.
2. 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 ft. from any lot line.

C. Automobile and Light Vehicle Repair and Service

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 ft. 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 ft. from any R district.

E. Bank

1. In the MU-N district, 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.

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 sq. ft. 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 6 days per year and shall be restricted to the period of October 15 through June 15.
7. Shall not have signage exceeding 12 sq. ft. 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 10% 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 6 ft. and 8 ft. in height. The fence may exceed 8 ft. 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 or Event Centers

1. 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. Day Care Facility, Small and Large

1. 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% of the lot or parcel area.

J. Filling Station

1. No displays or storage of merchandise, parts or refuse may be located closer than 10 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 Stores, 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 Facility

This use shall comply with the following standards:

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% 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 mini-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 sq. ft. illuminated pole and 20 sq. ft. of non-illuminated wall signage. Signs shall not be located closer than ten ft. to the front property line and no closer than 50 ft. to any side property line;
7. In the RR-1 district, there shall be a minimum of 50 ft. of landscaped or naturally vegetated buffer from all property lines;
8. In the R districts a dense urban screen shall be installed along all side and rear property lines.

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 ft. of an R-C, RR-2 or R district.

O. Parking Lot or Parking Structure (Primary Use)

1. In the MU-C district, any parking structure shall be located at least 50 ft. from any RC, RR or R district.
2. In F-1, F-2, F-3, F-4, F-6, F-8 and F-9 districts, only parking lots are allowed as primary uses. In F-7, only parking structures are allowed as primary uses. In F-5, parking lots and parking structures are allowed as primary uses.

P. Restaurant (No Drive-In/ Drive-Through)

In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area.

Q. Restaurant (With Drive-In/Drive-Through)

Drive through lanes must be located at least 25 ft. from the boundary of any RR or R district and impacts along the boundary with those districts shall be buffered through the use of a dense urban screen.

R. Retail Stores, 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 limited to one drive-through window.
4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.

S. Seasonal Camp or Cabin

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 ft. 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 ft., 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. Tourist or Trailer Camp

When located in a flood plain, this use is limited to trailers without foundations that can be easily moved should flooding occur.

U. Veterinarian or Animal Hospital

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

V. Vacation Dwelling Unit

1. The minimum rental period shall be as follows:
 - (a) For properties zoned RR-1, RR-2, R-1, and R-P the minimum rental period shall not be less than 2 nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than 5 nights.
 - (b) For properties zoned R-2, MU-N, and F-5 the minimum rental period shall not be less than 2 nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than 3 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) 1-2 bedroom unit, 1 space

- (b) 3-4 bedroom unit, 2 spaces
- (c) 5+ bedroom unit, 3 spaces
- 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 3 to 21 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 interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

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.

B. Contractor's Shop and Storage Yard

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

C. Electric Power Transmission Line or Substation

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

1. General corridor criteria:
 - (a) The public need for the route and facility as specifically proposed shall be demonstrated;
 - (b) Where possible, lines shall avoid existing and potential urban density residential neighborhoods;
 - (c) The applicant shall provide an evaluation of the future needs for additional transmission lines in the same general area as the proposed route and the advisability of utilizing structures capable of expansion of transmission capacity through multiple circuiting or design modification;
 - (d) When routing transmission lines, the following shall be avoided unless no reasonable alternative exists: slopes of 20% grade or greater; intrusions into scenic areas such as streams, open water, valleys, overviews, ridge crests and high points; wetlands; forests, by running along the fringe rather than through the forests, and by utilizing open areas in order to minimize cutting, although leaving a strip at the outside for screening purposes; soils susceptible to erosion that would create sedimentation and pollution problems; areas of unstable soils that would be subject to extensive slippages; areas with high water tables, especially if construction requires excavation; open space recreation areas, including parks, golf courses, etc.; long views of lines parallel to highways and trails; airports; and parkways;
 - (e) Routes shall utilize or parallel existing railroads and highway rights-of-way if possible. If such highway rights-of-way are developed the line and structures shall be sufficiently set back and screened in order to minimize view of the line and structures from the highway.
2. Design criteria:
 - (a) If a proposal would unduly harm adjacent property or property values, alternatives must be evaluated to determine whether a feasible alternative to the proposal exists. Such consideration of alternatives shall include the underground placement of the line. Any consideration of feasibility of such underground lines shall include economic, technological or land characteristic factors. Economic considerations alone shall not render underground placement not feasible;

- (b) All structures shall be located and designed in such a way that they are compatible with surrounding land uses, scenic views and existing transmission structures with regard to height, scale, material, color and design;
- (c) Lines shall meet or exceed the National Electric Safety Code;
- (d) Electromagnetic noise and interference with radio and television reception, as well as audible hum outside the line right of way, shall be minimized;
- (e) The cleared portion of the right-of-way shall be kept to a minimum and where vegetation will be removed, new vegetation consisting of native grasses, shrubs and low growing trees shall be planted and maintained. Vegetative screening shall be utilized to the maximum extent consistent with safety requirements.

D. Junk and Salvage Services

- 1. Junk and salvage service operations and facilities shall comply with all state and Western Lake Superior Sanitary District requirements.
- 2. No junk or salvage service facilities, shall be permitted in a designated shoreland or flood plain zone nor in an identified wetland as these are defined or shown in Section 50-18.1, Natural Resources Overlay.
- 3. There shall be no burning of materials.

E. Major Utility or Wireless Telecommunications Facility

1. Policy

Overall policy and desired goals for special use permits for wireless telecommunications facilities. In order to ensure that the placement, construction and modification of wireless telecommunications facilities protects the city's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section 50-20.4.E, the city has adopted an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- (a) Requiring a special use permit for any new, co-location or modification of a wireless telecommunications facility;
- (b) Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities;
- (c) Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent;
- (d) Promoting and encouraging, wherever possible, the sharing and co-location of wireless telecommunications facilities among service providers;
- (e) Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances;

- (f) That in granting a special use permit, the city has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the city.

2. **Applicability and Exemptions**

- (a) Except as otherwise provided by subsection (b) below, no person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, wireless telecommunications facilities after July 25, 2010, without having first obtained a special use permit for wireless telecommunications facilities. All legally permitted wireless telecommunications facilities, constructed as permitted, existing on or before July 28, 2010, shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility will require the complete facility and any new installation to comply with this Section 50-20.4.E. Any repair and maintenance of a wireless facility does not require an application for a special use permit.
- (b) The following shall be exempt from the requirements of this Section 50-20.4.E:
 - (i) The city's fire, police, department of transportation or other public service facilities owned and operated by the city or those owned and operated by county, the state or federal government;
 - (ii) Any facilities expressly exempt from the city's siting, building and permitting authority;
 - (iii) Over-the-Air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception;
 - (iv) Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications;
 - (v) Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

3. **Location Standards**

- (a) Wireless telecommunications facilities shall be located, sited and erected in accordance with the following priorities, (i) being the highest priority and (vi) 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;
 - (iv) A new tower on properties in Special Purpose Districts;
 - (v) A new tower on properties in Mixed Use or Form Districts;
 - (vi) A new tower on properties in Residential Districts.
- (b) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for

the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

- (c) An applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the city why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.
- (d) The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- (e) The city may approve any site located within an area in the above list of priorities, provided that the city finds that the proposed site is in the best interest of the health, safety and welfare of the city and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

4. Other Standards and Requirements

The following requirements are applicable to all wireless telecommunications facilities.

- (a) To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt from appropriate state or federal agency rules or regulations, then the holder of such special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards;
- (b) To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security are changed or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity;
- (c) The wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings; this shall include the utilization of stealth or concealment technology as may be required by the city. Facilities located within the migratory bird flight path shall utilize stealth or concealment technology;
- (d) All utilities at a wireless telecommunications facilities site shall be installed underground whenever possible and in compliance with all laws, ordinances, rules and regulations of the city, including specifically, but not limited to, the city and state building and electrical codes, where appropriate;
- (e) At a telecommunications site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access.

Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion;

- (f) All wireless telecommunications facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the city, state, or federal government, including but not limited to the most recent editions of the ANSI Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply;
- (g) A holder of a special use permit granted under this Section 50-20.4.E shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the city or other governmental entity or agency having jurisdiction over the applicant;
- (h) The holder of a special use permit shall notify the city of any intended modification of a wireless telecommunication facility and shall apply to the city to modify, relocate or rebuild a wireless telecommunications facility;
- (i) All new towers shall be structurally designed to accommodate at least 4 additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
 - (i) The foreseeable number of FCC licenses available for the area;
 - (ii) The kind of wireless telecommunications facilities site and structure proposed;
 - (iii) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites;
 - (iv) Available space on existing and approved towers.
- (j) New guyed towers are prohibited;
- (k) Tower condition inspections shall be conducted every 3 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-222F or most recent version. The inspection report shall be provided to the building official within two days of a request by the city for such records;
- (l) The owner of a proposed new tower, and the owner's successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
 - (i) Respond within 60 days to a request for information from a potential shared-use applicant;
 - (ii) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;

- (iii) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference;
- (m) No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed a height that shall permit operation without required artificial lighting of any kind in accordance with city, state or federal statute, law, code, rule or regulation;
- (n) No tower constructed after July 25, 2010, including allowing for all attachments, shall exceed 75 ft. 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 4 sq. ft. 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 10% of the height of the tower or structure, or the existing setback requirement of the underlying zone district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated;
- (t) The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the city a bond, or other form of security acceptable to the city as to type of security and the form and manner of execution, in an amount that shall be set in accordance with Section 31-6(a) of the city code, and with such sureties as are deemed sufficient by the city to assure the faithful performance of the terms and

conditions of this Section 50-20.4.E and conditions of any special use permit issued. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit;

- (u) A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain for the duration of the special use permit commercial general liability insurance for personal injuries, death and property damage, and umbrella insurance coverage in the following amounts: \$1,000,000 per occurrence/\$2,000,000 aggregate;
 - (i) For a wireless telecommunications facility on city property, the policy shall specifically include the city and its officers, employees, agents and consultants as additional insureds. The amounts of such coverage shall be established as a condition of the special use permit and shall be consistent with the liability limits provided in MSA 466.04;
 - (ii) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A;
 - (iii) The insurance policies shall contain an endorsement obligating the insurance company to furnish the building official with at least 30 days prior written notice in advance of the cancellation of the insurance;
 - (iv) Renewal or replacement policies or certificates shall be delivered to the building official at least 15 days before the expiration of the insurance that such policies are to renew or replace;
 - (v) No permit necessary to the site preparation or construction of a permitted wireless telecommunications facilities may be issued until the holder of the special use permit shall file with the city building official a copy of the required policies or certificates representing the insurance in the required amounts;
 - (vi) Notwithstanding the requirements noted in this subsection no insurance shall be required in those instances where the city, county, state or a federal agency applies for and secures a special use permit for wireless telecommunications facilities.
- (v) All special use permits approved for wireless telecommunication facilities located on city property after July 25, 2010, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the city, and its officers, employees, agents and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the city, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the city. An indemnification provision will not be required in those instances where the

city itself applies for and secures a special use permit for wireless telecommunications facilities.

5. Additional Provisions for Special Use Permit Review

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

- (a) The city may hire any consultant or expert necessary to assist the city in reviewing and evaluating an application for a special use permit for a wireless telecommunications facility, including the construction and modification of the site, once permitted, and any site inspections. An applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation and consultation to the city in connection with the review of any application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be set in accordance with Section 31-6(a) of the city code;
- (b) The placement of the deposit with the city shall precede the pre-application meeting. The city will maintain a separate escrow account for all such funds. The city's consultants shall invoice the city for its services related to the application. The total amount of the funds needed for the review of the application may vary depending on the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification. If at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the city, replenish said escrow account so that it has a balance of at least \$5,000.00. 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 may administratively approve an application to co-locate on an existing tower or other structure or a modification at an existing site, as long as there is no proposed increase in the height of the tower or structure or attachments to the tower or structure;
- (d) At any stage prior to issuing a special use permit the city may require such additional information as it deems necessary to confirm compliance with this UDC;
- (e) The city may refer any application or part of an application to any advisory, other committee or commission for a non-binding recommendation;
- (f) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the city may disapprove an application for any of the following reasons:
 - (i) Conflict with safety and safety-related codes and requirements;
 - (ii) Conflict with the historic nature or character of a neighborhood or historical district;
 - (iii) The use or construction of wireless telecommunications facilities that is contrary to an already stated purpose of a specific zoning or land use designation;
 - (iv) The placement and location of wireless telecommunications facilities that would create an unacceptable risk, or the reasonable probability

of such, to residents, the public, employees and agents of the city or employees of the service provider or other service providers;

- (v) Conflicts with the provisions of this Section 50-20.4.E;
- (vi) The failure of the applicant to provide additional requested information in sufficient time for the city to comply with the requirements of MSA 15.99;
- (g) Except for necessary building permits, once a special use permit has been granted, no additional zoning approvals shall be required by the city for the wireless telecommunications facilities covered by the special use permit;
- (h) In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters and licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the city may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

6. Relief and Appeal

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this Section 50-20.4.E may request relief, waiver or exemption in the submitted application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. The requested relief, and any relief granted by the city, may be temporary or permanent, partial or complete. The burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the city in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the city, its residents and other service providers.

F. Manufacturing, 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.

G. 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.

H. Mining, Extraction, and Storage

1. No special use permit for this use shall be issued until the city determines that:
 - (a) The city engineer has certified that the proposed extraction, removal or processing, and the proposed finished grades on the property, will not endanger the function of any public highway or utility easement of the city. If the city engineer proposes conditions and safeguards that are necessary to protect adjoining property, both city and privately owned, those conditions and safeguards have been included in the application or agreed to in writing by the applicant;
 - (b) The proposed excavation, removal or processing shall not result in the creation of any hazardous sharp pits, steep banks, soil erosion, drainage or sewerage problems or other conditions that would ultimately impair the use of the property in accordance with the general purpose and intent of the zoning regulations for that district;
 - (c) Finished slopes in the excavated area shall not exceed 1 ft. vertical rise to 2 ft. of run except in the case of dams or swimming pools, or where specifically approved in writing by the planning commission;
 - (d) No stagnant water shall be permitted to result from such removal, excavation or processing.
2. No earthmoving, processing or excavating equipment or trucks that are inoperative for more than 30 days shall be stored in the open on the property.
3. Upon completion of the excavation, processing or removal of earth materials in accordance with the approved proposed contour lines, the premises shall be cleared of all debris and, unless the excavated area is beneath water, a top layer of soil that will sustain the growth of turf shall be spread over the premises and shall be seeded with perennial rye or grasses.
4. All excavation, removal and processing, and the extent, limits, and time limits of each activity, shall comply with all terms and conditions in the approved special use permit.
5. The applicant shall post financial security pursuant to Section 50-37.1.P to ensure compliance with the terms and conditions of the permit, including but not limited to remediation of the site following excavation, removal and processing operations.

I. 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.

J. 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 ft. natural vegetation shall be retained in such setbacks where practical. All aspects of yard waste composting facilities shall be set back 100 ft. 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 6;
 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.

K. Storage Warehouse

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

L. Wholesaling

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

M. Wind Power Facility

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

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation

poses no interference with public utility lines or public road and rail rights-of-way;

2. In the MU-B district, towers that are 50 ft. or less in height are permitted by right; taller towers require a special use permit, and no tower shall be approved over 200 ft. in height. In other districts where this use is listed as a permitted use, towers that are 200 ft. or less in height are permitted by right; taller towers require a special use permit;
3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 ft. within any Migratory Bird Flight Path;
4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 ft. as measured at the lowest point of the arc of the blades;
7. All signs on a wind generator, tower, building or other structure associated with a small wind energy system visible from any public road, other than the manufacturer's or installer's identification, appropriate warning signs or owner identification, shall be prohibited;
8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
9. Any climbing ft. pegs or rungs below 12 ft. of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
10. Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings and foundation as provided by the manufacturer. Wet stamps shall not be required;
11. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
12. This use shall not be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator;
13. If a wind turbine is inoperable for 6 consecutive months the owner shall be notified that it must, within 6 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 6 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.

50-20.5 Accessory Uses

A. Accessory Agriculture Roadside Stand

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 sq. ft. and that it is located not nearer than 25 ft. to any street or highway.

B. Accessory Bed and Breakfast

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

1. Have no more than five habitable units;
2. Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 sq. ft. of area on the first floor of the main building;
6. Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;
7. Shall not have signage exceeding 12 sq. ft. in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;
9. May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection.

C. Accessory Boat Dock, Residential

This use shall comply with the following standards:

1. Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;
2. If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;
3. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street

parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;

4. At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;
5. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted.

D. Accessory Dwelling Unit

An accessory dwelling unit may be created within, or detached from, any one-family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

1. Only one accessory dwelling unit may be created per lot;
2. No variances shall be granted for an accessory dwelling unit;
3. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;
4. One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;
5. Accessory dwelling units shall contain no more than 800 sq. ft. of floor space and shall be consistent in character and design with the primary dwelling;
6. If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building.

E. Accessory Heliport

1. All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals.
2. In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use.

F. Accessory Home Occupation

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

1. The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot;
2. No business involving retail sales of goods from the premises is permitted;
3. No person not a member of the family residing on the premises shall work on the premises;
4. Not more than 25% of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50% of an accessory structure may be devoted to such home occupation;
5. The home occupation shall not require external alterations that would change the residential character of the property;
6. No display pertaining to such occupation shall be visible from the street;

7. The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of 2 appointments per hour and appointments shall be limited to the hours of 8 a.m. to 7 p.m. and not more than four clients shall be on site at the same time;
8. No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;
9. All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times.
10. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation.

G. Accessory Sidewalk Dining Area

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

H. Accessory Solar or Geothermal Power Equipment

In all districts, other than building integrated solar collection systems solar collection systems shall comply with the following requirements:

1. **Ground-mounted solar system:**
 - (a) Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;
 - (b) Solar collectors shall be located a minimum of 6 ft. from all property lines and other structures;
 - (c) Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 sq. ft., whichever is greater. The size of solar collector areas in all districts except Residential Districts shall not exceed one-half of the footprint of the principal structure;
 - (d) Free-standing or ground-mounted solar installations shall not exceed 20 ft. in height, when the system is oriented at its maximum design pitch.
2. **Roof-mounted or wall-mounted solar system:**
 - (a) A solar collection system shall be located a minimum of six ft. from all property lines and other structures except the structure on which it is mounted;
 - (b) Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three (3) feet above the ridge level of a roof on a structure with a gable, hip, or gambrel roof and shall not extend higher than ten (10) feet above the surface of the roof when installed on a flat or shed roof.
 - (c) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one (1) foot from the exterior perimeter of a roof for every one (1) foot that the system extends above the parapet wall or roof surface, if not parapet wall exists, on with the system is mounted. Solar energy systems that extend less than three (3) feet above the roof surface shall be exempt from this provision.
 - (d) A solar collection system may be located on an accessory structure;

3. Solar easements

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system.

I. Accessory Uses or Structures Not Listed Elsewhere

1. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:
 - (a) The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;
 - (b) Prior to issuance of a building permit for such accessory use, a building demolition bond shall be approved by the city and in an amount sufficient to demolish such accessory structure be filed with the building official;
 - (c) The owner shall execute a license, in a form approved by the city, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this section.
2. In the RR-2 district, business shall not be conducted from a garage.
3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house.
4. In the MU-N district, accessory buildings shall be subject to the following restrictions:
 - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - (b) Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business.
5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
 - (a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - (b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business.
6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use.
7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article 2 and Section 50-20.

J. Accessory Wind Power Equipment

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

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways;
2. Towers that are 50 ft. or less in height are permitted by right. Towers exceeding 50 ft. in height require approval of a special use permit, provided that in no case shall tower height exceed 130 ft.;
3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 ft. within any Migratory Bird Flight Path;
4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 ft. as measured at the lowest point of the arc of the blades;
7. No sign that is visible from any public street shall be permitted on the generator, tower, building or other structure associated with a small wind energy system other than the manufacturer's or installer's identification and appropriate warning signs;
8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
9. Any climbing ft. pegs or rungs below 12 ft. of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
10. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
11. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

K. Minor Utilities and Accessory Wireless Antennas Attached to Existing Structures

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

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

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

L. Accessory Vacation Dwelling Unit

An accessory vacation dwelling unit may be created within, or detached from, any one-family dwelling or vacation dwelling unit in those districts shown where allowed by Table 50-19.8, provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot.
2. No variances shall be granted for an accessory vacation dwelling unit.
3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling.
4. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building.
5. The minimum rental period shall be as follows:
 - (a) For properties zoned RR-1, RR-2, R-1, and R-P the minimum rental period shall not be less than 2 nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than 5 nights;
 - (b) For properties zoned R-2, MU-N, and F-5 the minimum rental period shall not be less than 2 nights except for the period from June 15 to September 15 when the minimum rental period shall not be less than 3 nights;
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
7. Off-street parking shall be provided at the following rate:
 - (a) 1-2 bedroom unit, 1 space
 - (b) 3-4 bedroom unit, 2 spaces
 - (c) 5+ bedroom unit, 3 spaces
8. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
9. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 3 to 21 days.
10. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
11. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

50-20.6 Temporary Uses

A. Temporary Construction Office or Yard

This use is limited to one month before construction begins to one month after construction is completed, unless extended for good cause by the building official.

B. Temporary Event or Sales

This use is limited to no more than 4 events per calendar year, with the combined length of the 4 events limited to 20 days. Requests for more events or longer periods may be reviewed through the use permit procedure in Section 50-37.10.

C. Temporary Moveable Storage Container

1. Temporary moveable storage containers for residential uses shall not be located on any public street, and shall not remain on any property in a residential zone district for more than 14 consecutive days.
2. Temporary moveable storage containers for non-residential uses shall not be located on any public street and shall not be located on private property for more than 90 days during any calendar year unless located and buffered from adjoining property to the same extent required for primary or accessory structures.

D. Temporary Real Estate Sales Office

This use is limited to one month before lot or unit sales begin to one month after 90% of the lots or units have been sold, unless extended for good cause by the land use supervisor. Requests for longer periods may be reviewed through the temporary use permit procedure in Section 50-37.