

MOTION TO SPLIT ORDINANCE 20-016

BY COUNCILORS SIPRESS, KENNEDY AND RANDORF:

We move to split Ordinance 20-016-O to allow for separate city council votes on accessory home share and vacation dwelling regulations. The two parts of Ordinance 20-016 are attached hereto as Part A and Part B

STATEMENT OF PURPOSE: The purpose of this motion is to split Ordinance 20-026 to allow city councilors to vote separately on proposed changes to Chapter 50 of the Duluth City Code, as amended, also known as the Unified Development Chapter (UDC), concerning accessory home share and vacation dwelling regulations.

Part A.

**..Title**

AN ORDINANCE AMENDING SECTIONS 50-20.3, 50-20.5, AND 50-37.10.E, TO AMEND STANDARDS RELATED TO VACATION DWELLINGS AND ACCESSORY HOME SHARES.

**..Body**

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-20.3.U of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.3.U Vacation dwelling unit.

1. The minimum rental period shall not less than two consecutive nights, nor more than a maximum of 29 consecutive nights;
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
3. Off street parking shall be provided at the following rate:
  - (a) Vacation dwelling units licensed on May 15, 2016, shall provide the following minimum number of off street parking spaces:
    - 1.—1-2 bedroom unit, one space<sub>1</sub>
    - 2.—3-4 bedroom unit, two spaces<sub>1</sub>
    - 3.—5+ bedroom unit, three spaces.
  - (b) Vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off street parking spaces:
    - 1.—1-2 bedroom unit, one space<sub>1</sub>
    - 2.—3 bedroom unit, two spaces<sub>1</sub>
    - 3.—4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
  - (c) Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, ~~on or~~ off the street;
5. In addition to the permit issued pursuant to this chapter, the property owner must obtain any and all other licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property ~~for two to 29 days~~
6. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
7. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbecue grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties.

8. Any vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
  - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
  - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's Association Board of Directors for the vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit;
9. The interim use permit shall ~~expire~~ terminate upon change in ownership of the property or in six years after the date of issuance, whichever occurs first. Upon permit termination, property owner may apply to renew the existing interim use permit. The permit shall be non-transferable.
10. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.

Section 2. That Section 50-20.5.G of the Duluth City Code, 1959, as amended, be amended as follows:

#### 50-20.5.G. Accessory Home Share

An accessory home share may be created within those districts shown where allowed by Table 50.19.8 provided these standards are met.

1. The rental or purchase period shall be for ~~29 days~~ consecutive nights or less;
2. The maximum number of overnight guests allowed is 4 persons in addition to the owner occupants;
3. In addition to the permit issued pursuant to this chapter, the property owner must obtain any and all other licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property.
4. 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, property use rules, taxation, and home share permit violations procedures;
5. The permit shall ~~expire~~ terminate upon change in ownership of the property or ~~one~~ three year from issuance date, whichever occurs first. Upon permit termination, property owner may apply to renew the existing interim use permit. The permit shall be non-transferable;
6. At least one permanent resident must be generally present on or about the premises at all times that the property is rented;
7. A permit holder may not advertise an accessory home share for an accessory structure that is a storage shed or garage or in any area exterior to the dwelling unit or any lot without a principle dwelling, but may advertise for a legal accessory dwelling unit as provided in section 8 below.
8. A permit holder may not advertise an accessory home share in any area exterior to the dwelling unit or any lot without a principle dwelling.

Section 3. That Section 50-20.5.M of the Duluth City Code, 1959, as amended, be amended as follows:

#### 50-20.5.M Accessory vacation dwelling unit.

An accessory vacation dwelling unit may be created within, ~~or detached from,~~ any one-family dwelling, twin home, duplex, or attached or detached accessory dwelling unit 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 attached 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 not less than two consecutive nights, nor more than a maximum of 29 consecutive 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) Accessory vacation dwelling units licensed on or before May 15, 2016, shall provide the following minimum number of off street parking spaces: 1-2 bedroom unit, one space; 3-4 bedroom unit, two spaces; 5+ bedroom unit, three spaces;
  - (b) Accessory vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off-street parking spaces: 1-2 bedroom unit, one space; 3 bedroom unit, two spaces; 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

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

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. In addition to the permit issued pursuant to this chapter, the property owner must obtain any and all other licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for ~~two to 29 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 property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties;
12. Any accessory vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
  - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
  - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's Association Board of Directors for the accessory vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit.
13. The interim use permit shall terminate upon change in ownership of the property or in six years after the date of issuance, whichever occurs first. Upon permit termination, property

owner may reapply for a subsequent interim use permit. The permit shall be non-transferable.

Section 4. That Section 50-41.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.1 Definitions: A

Accessory home share. A habitable room or space in an owner-occupied single family dwelling or owner occupied twinhome or duplex two family dwelling, or attached accessory dwelling unit subordinate to an owner occupied single family, twinhome, or duplex two family dwelling, offered for trade or sale, whether for money or exchange of goods or services, for periods of 29 ~~days~~ nights

Accessory vacation dwelling unit. An accessory dwelling unit as defined by this Chapter that is used as a vacation dwelling unit as defined by this Chapter for periods of occupancy from 2 to 29 ~~days~~ nights

Section 5. That Section 50-41.22 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.22 Definitions: V

Vacation dwelling unit. A dwelling unit, as defined by this Chapter, offered for trade or sale, whether for money or exchange of goods or services, for periods of 2 to 29 ~~days~~ nights

Section 6. That this ordinance shall take effect 30 days after its passage and publication.

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

This ordinance clarifies that vacation rental interim use permits will be void in the event that the current permit holder sells their property or discontinues the use, instead of allowing them to transfer/delegate the interim use permit to property new owners.

The planning commission held a public hearing at their February 11, 2020, regular meeting. Following discussion and additional amendments to the proposed text change by members of the planning commission, the commission voted with 5 yeas, 2 nays, and 0 abstentions, to recommend that the city council approve the text change to the Unified Development Chapter of the City Code.

## Part B

### **..Title**

AN ORDINANCE AMENDING SECTIONS 50-20.5.G 8, AND 50-37.10.E, TO AMEND STANDARDS RELATED TO ACCESSORY HOME SHARES AND TO INCREASE THE NUMBER OF ALLOWABLE VACATION RENTAL PERMITS.

### **..Body**

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-20.5.G. of the Duluth City Code, 1959, as amended, be amended as follows:

#### 50-20.5.G. Accessory Home Share

An accessory home share may be created within those districts shown where allowed by Table 50.19.8 provided these standards are met.

1. The rental or purchase period shall be for 29 days or less;
2. The maximum number of overnight guests allowed is 4 persons in addition to the owner occupants;
3. The property owner must obtain any and all other licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property.
4. 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, property use rules, taxation, and home share permit violations procedures;
5. The permit shall expire upon change in ownership of the property or one year from issuance date, whichever occurs first.
6. At least one permanent resident must be generally present on or about the premises at all times that the property is rented;
7. A permit holder may not advertise an accessory home share for an accessory structure that is a storage shed or garage.
8. ~~A permit holder may not advertise an accessory home share in any area exterior to the dwelling unit or any lot without a principle dwelling.~~ One accessory home share permit may be issued to a property owner of a dwelling that is within a twin home, duplex, or attached accessory dwelling unit, or detached accessory dwelling unit if within 50 feet of the principle dwelling, if the property owner is occupying the property as their exclusive abode at all times that the twin home, duplex, or accessory dwelling unit is rented.

Section 2. That Section 50-37.10.E of the Duluth City Code, 1959, as amended, be amended as follows:

#### 50-37.10.E Criteria for interim use permits.

In addition to the criteria in subsection C above, the council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to

develop a regulation addressing the potential longer term impacts of the requested use in that location;

2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures of improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.
3. No more than ~~60~~ 100 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. Permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued. On February 1 of each year, the maximum number of allowable permits that may be issued shall increase by 10%, or by 10% of the number of new dwelling units created in Duluth the previous year, whichever is less. The maximum number of allowable permits that may be issued may not exceed 175 permits.
4. Except for properties within ~~the~~ the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

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

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

The ordinance also increases the number of allowed vacation permits from 60 to 100, with a limited annual escalator clause. The planning commission included an overall cap of 175 total permits.

The ordinance also extends the accessory home share permit length from one year to three years, to better align with the three year duration of typical rental permits from Duluth Life Safety. In addition the amendment proposes to change the language to allow owners of twin homes, duplexes, or single-family homes with accessory dwelling units to rent their additional dwelling under a home share permit. The current standards for home share permits would not allow this, since the rule is explicit that the property owner must be present within the specific single family dwelling while rented.

The planning commission held a public hearing at their February 11, 2020, regular meeting. Following discussion and additional amendments to the proposed text change by members of the planning commission, the commission voted with 5 yeas, 2 nays, and 0 abstentions, to recommend that the city council approve the text change to the Unified Development Chapter of the City Code.