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Title: AN ORDINANCE AMENDING SECTION 50-21, DIMENSIONAL STANDARDS.

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Date	Ver.	Action By	Action	Result
9/24/2018	1	City Council	adopted	
9/10/2018	1	City Council	read for the first time	

AN ORDINANCE AMENDING SECTION 50-21, DIMENSIONAL STANDARDS.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-21 of the Duluth City Code, 1959, as amended, be amended as follows:

50-21 Dimensional Standards.

50-21.1 General dimensional standards.

A. Residential, mixed use, special purpose and overlay zones.

The dimensional standards for residential, mixed use, special purpose and overlay districts are shown in the description for each district in the following Sections of Article II:

- Standards for residential districts are shown in Section 50-14;
- Standards for mixed Use districts are shown in Section 50-15;
- Standards for special purpose districts are shown in Section 50-17; and
- Standards for overlay districts are shown in Section 50-18.

All dimensional standards shown in Article II are subject to the special dimensional standards in Section 50-21.2 and the exceptions and encroachments in Section 50-21.3 unless specifically noted;

B. Form districts.

The dimensional standards for form districts are integrated into descriptions of each form-based district in Article II and the building form standards in Section 50-22. The special dimensional standards in Section 50-21.2 and the exceptions and encroachments in Section 50-21.3 do not apply in the form districts unless specifically noted.

50-21.2 Special dimensional standards.

A. Lot without municipal sewer.

Lot areas for properties not provided with municipal sewer shall be at least two acres in size or the minimum lot area for the zone district, whichever is larger, and shall be subject to county ordinances and standards regulating individual sewage treatment systems. Lots with large wetlands or shallow bedrock may be required to be larger than two acres, and shall be determined on a case-by-case basis based on the area needed to fit a sewage treatment system on the site. Lots smaller than two acres may be allowed in areas zoned R-P based on soil and site conditions;

B. Front yards on double frontage lots.

On lots having double frontage and where the first and second frontages are on opposite lot lines, the required front yard shall be provided on the frontage that is the generally established frontage on the block, as determined by the building official;

C. Side yards.

1. Dwelling units above commercial uses.

In all residential and mixed use districts, where dwelling units are erected above commercial establishments, no residential side yard is required, except for any side yard required for the commercial building on the side of a lot adjoining a residential district. In form districts, no side yard is required even if the lot adjoins a residential district;

2. Attached and multi-family dwellings.

For the purpose of side yard regulations, a two-family dwelling, townhouse, or multi-family dwelling shall be considered as one building occupying one lot;

3. Driveways.

Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an R-1 or R-2 district, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet;

D. Rear yards.

An accessory structure cannot exceed 20 feet in height, and may not occupy more than 30 percent of the rear yard area. All accessory structures on a lot may not occupy more than 60 percent of the rear yard area;

E. Street improvements in Public Right of Way.

Except as provided in Section 50-37.1.L, for development or redevelopment proposed on lots without a principle structure:

1. The street shall be improved to the most current standards on file in the office of the city engineer and shall be designed for the road classification within the zone in which the property is located;
2. The street shall be improved across the entire frontage of the lot proposed to be developed and all other contiguous property owned by the owner of the subject lot;
3. Any street improvement that results in a dead-end street that is greater than 150 feet in length shall require construction of a turn-around for emergency and maintenance vehicles approved by the city fire marshal.

For lots developed with an existing legal principle structure, the street improvement requirements need not be met when the landowner proposes an expansion of the existing legally constructed structure or a replacement principle structure, if the landowner provides evidence of a perpetual

easement to access the property from an improved street of a distance not greater than 150 feet, and such access shall be improved to meet Fire Code standards;

F. Common Open Space

1. All structures intended to be owned and occupied by an individual unit owner of a Common Interest Community shall be constructed within the space allocated in the governing documents for that specific unit owner, except as allowed in section 2 below;
2. A Home Owner Association or other applicable governing body of the community may grant building easements, with city approval as provided for in this sub-paragraph below, to allow encroachments of structures into the common open space as platted in the Common Interest Community Plat. In such instances, the building easement shall be considered part of the adjacent building parcel or unit. Before constructing any such encroaching structure, the owner of said adjacent building parcel or unit shall file with the Planning Department a copy of a recorded easement and survey depicting same by the private landowner are required to verify the circumstances in each instance. The Land Use Supervisor may grant city approval for the proposed building easement(s) if they do not impact more than 10% of the common open space of the community; the Planning Commission may grant city approval for impacts more than 10%. In no event can more than 30% of the common open space of the community be impacted. The Land Use Supervisor or Planning Commission may require the CIC to be re-platted to reflect the change in the reduced common open space.

50-21.1 Exceptions and Encroachments.

The following exceptions and encroachments to required yard areas and height limits are allowed. These provisions do not apply to form districts except as specifically noted in exceptions to building heights.

Table 50-21-1: Exceptions and Encroachments	
Structure or Feature	Conditions or Limits
Encroachments into Required Yard Areas	
Architectural features (sills, belt courses, eaves, cornices) awnings and canopies, bay windows, gutters and downspouts	Up to 18 in. into any required yard area
Unenclosed or lattice-enclosed stairs, fire escapes and balconies opening upon fire towers	Up to 5 ft. into any required rear yard, except as required to comply with applicable fire code or Americans with Disabilities Act
Chimneys and flues	Up to 2 ft. into any required front or side setback.
Open, sided porch, deck or paved terrace	Up to 10 ft. into front yard, but no closer than 5 ft. from any property line
Enclosed vestibule or fixed canopy with a floor area of not more than 40 sq. ft.	Up to 4 ft. into front yard
Fuel pumps or pump islands	Not closer than 15 ft. from any street line or closer than 50 ft. from any residential use
Fences meeting the standards of Section 50-26.4	Fences may not be located closer than 3 ft. to any publicly maintained right-of-way
Porte cochere, carport or canopy if every part is unenclosed except for necessary structural supports	Permitted in any side setback, but not less than 5 ft. from any side lot line
Residential window well	Permitted to encroach up to two feet from any property line, provided that window well; (a) has a minimum distance of at least 5 feet from any structure on any adjacent property, and (b) is limited to the minimum window well depth and width required by fire and building codes.
Accessory structures	No accessory structure may be located (a) between a street and any façade of a primary building facing that street, or (b) closer than 10 ft. to any principal structure on an adjoining property, or (c) closer than 5 ft. to any rear lot line, or (d) closer than 3 ft. to any side lot line, except as listed for specific accessory structures below.
<i>Accessory structures in MU-W</i>	<u>If 200 square feet or larger, not closer than 25 feet to any side or rear lot line, and not closer than 25 to any existing principal or accessory structure</u>

Table 50-21-1: Exceptions and Encroachments	
Structure or Feature	Conditions or Limits
<i>Accessory boat dock, residential</i>	No setback required from property lines along the water
<i>Accessory clotheslines, play equipment, trash containers, odor-controlled composting bins and rainwater harvesting tanks</i>	Permitted in side and rear yards
<i>Accessory rain garden</i>	Permitted in all (front, side and rear) yards
<i>Accessory wind power equipment</i>	Permitted in side and rear yards except where prohibited by adopted building code
Exceptions to Building Height Limits	
Television and radio towers, accessory communications towers for private use, religious assembly or ornamental spires and towers, belfries, monuments, tanks, water and fire towers, stage tower or scenery lofts, cooling towers, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, flagpoles, accessory wind power equipment or accessory rooftop solar collectors	In the Form District, the exceptions to building height limits for religious assembly or ornamental spires and towers only apply if the applicant proposes an Iconic Building

Section 2. That this ordinance shall take effect 30 days after its passage and publication.
(Effective date: _____, 2018)

STATEMENT OF PURPOSE: This ordinance implements a minor text amendment to Chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

The planning commission held a public hearing and considered the change at an August 14, 2018, regular planning commission meeting and at an August 28, 2018, special planning commission meeting. The planning commission voted 8-0 to recommend that the city council approve this ordinance change.

This amendment is intended to provide flexibility for residents and associations in a common interest community, in the event the association or government body of the development wishes to allow members of the community to build structures, such as three season porches, in the open space set aside for the community members as a whole.