

UDC Interpretation	#15-02	
	<b>Clarification of conditions under which an accessory structure is considered to be attached to the principle structure</b>	
	UDC Section: 50-41.1	Date of Interpretation: 6/16/2015
Approved by:	Keith Hamre, Acting Land Use Supervisor	

**BACKGROUND:** The Unified Development Chapter of the City of Duluth Legislative Code (UDC) is the official body of rules and regulations to guide land use and development in the City of Duluth, Minnesota. UDC Sec. 50-10 *Interpretation* authorizes the Land Use Supervisor to interpret the provisions of this Chapter.

The question was asked: Is a deck that is not physically attached to the principle structure and, therefore, an accessory structure, required to meet setback requirements for an accessory structure or principle structure?

**CODE INFORMATION:** According to Sec. 50-41, the definition of Principle Use or Structure is "all uses or structures that are not accessory uses or structures." The definition of Accessory Use or Structure is, in part:

A use or structure subordinate in use, area or purpose to the principal use or structure on the same lot and serving a purpose naturally and normally incidental to the principal use or structure and that is not included in a separate definition of an accessory use or structure in this Chapter. Where an accessory building is attached to the principal building in a substantial manner by a wall or a roof, it shall be considered part of the principal building . . .

The last sentence in this part of the definition is the focus of this interpretation.

**UDC INTERPRETATION:**

Decks are a common accessory structure of a home providing an extension of the indoor living spaces. They are typically used for relaxing, dining, grilling, and entertaining. The location of these accessory structures can have an impact on neighboring property owners due to smoke from grilling or noise from entertaining drifting over to a neighbor's property. Additionally, the possibility exists that an improperly-used grill could ignite the deck or furnishings and spread to neighboring properties, especially if the deck is close to the property boundary.

The UDC treats an accessory structure attached in a substantial manner to the principle structure as being part of the principle structure recognizing the impact they can have. An accessory structures, such as an attached garage or porch, are subject to the principle structure setbacks of 25' front and rear and 6' side yard in the R-1 zone districts. A detached accessory structure is exempt from these setbacks and is allowed to be built in the rear yard up to 5' from the rear lot line and 3' from the side yard line.

A deck that is physically attached to a principle structure is considered part of the principle structure under the current UDC. Treating a deck that is located adjacent to the principle structure, but is not physically attached to the principle structure, is a distinction without a real

difference, and could result in the negative impacts to neighboring properties listed in the first paragraph. Having the detached deck meet the same setbacks as the principle structure mitigates the negative impacts.

With this interpretation we find that a detached accessory structure that is constructed adjacent to the principle structure and is accessed via a doorway from the principle structure is considered to be "attached to the principle structure in a substantial manner" and is, therefore, considered part of the principle structure.

The City anticipates a technical correction to these provisions will be part of the annual UDC amendment package in the summer 2016.

**DISCLAIMER:** While it is the intent of the administration to submit a technical correction to the City Council consistent with this interpretation, the code can only be amended by City Council action. This interpretation is not intended to be a promise or guarantee that the proposed amendment will be enacted.