



# City of Duluth

411 West First Street  
Duluth, Minnesota 55802

## Master

**File Number: 16-032-O**

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**Type:** Ordinance

**Status:** Passed

**Version:** 1

**Agenda  
Section:**

**Committee:** Planning and  
Economic  
Development

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**Subject:**

**Final Action:** 07/11/2016

**Title:** AN ORDINANCE AMENDING SECTIONS 50-21.3 EXCEPTIONS AND ENCROACHMENTS AND 50-22.4 CAP TYPES.

**Internal Notes:** Ordinance by Steven Robertson.

**Sponsors:**

**Enactment Date:** 07/11/2016

**Attachments:** Attachment 1

**Enactment Number:** 10457

**Recommendation:**

**Hearing Date:**

**Drafter:** cstafford@duluthmn.gov

**Effective Date:**

### History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	06/27/2016	read for the first time				
1	City Council	07/11/2016	adopted				

### Text of Legislative File 16-032-O

AN ORDINANCE AMENDING SECTIONS 50-21.3 EXCEPTIONS AND ENCROACHMENTS AND 50-22.4 CAP TYPES.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-21.3 of the Duluth City Code, 1959, as amended, be amended as follows:  
50-21.3 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, escapes 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 uncovered porch, deck, or paved terrace Up to 10 ft. into front yard, but no closer than 5 ft. from any street property line on a corner lot

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.

Accessory boat dock, residential No setback required from property lines along the water

Accessory clotheslines, play equipment, trash containers, odor-controlled composting bins and rainwater harvesting tanks Permitted in side and rear yards

Accessory rain garden Permitted in all (front, side and rear) yards

Accessory wind power equipment 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 Section 50-22.4 of the Duluth City Code, 1959, as amended, be amended as follows:  
50-22.4 Cap types.

Cap type standards apply to the cap of all building types as required in this Section.

A. General provisions.

The following provisions apply to all cap types.

1. Intent. To guide the design of building caps in order to ensure an appropriate and aesthetically pleasing cap for all buildings;
2. Applicability. All buildings must meet the requirements of one of the cap types permitted for the building type;
3. Measuring height. Refer to the definition of "height of building" in Article VI;
4. Other cap types. The Iconic building type may seek to incorporate other building caps not listed as a specific type by applying for a special use permit pursuant to Section 50-37.10, but the height may not exceed the maximum height of the tallest cap type permitted for the building type;

B. Parapet cap type.

A parapet is a low wall projecting above a building's roof along the perimeter of the building. It can be utilized with a flat or pitched roof and also serves to limit the view of roof-top mechanics from the street. (Refer to Figure 50-22.4-A)

1. Parapet height. Height is measured from the top of the upper story to the top of the parapet;
  - (a) Minimum height is two feet with a maximum height of six feet;
  - (b) Cap shall be high enough to screen the roof and any roof appurtenances when viewed from the street(s) and any adjacent building of similar height;
2. Horizontal expression lines. An expression line shall define the cap from the upper stories of the building and shall also define the top of the cap;
3. Occupied space. Occupied space may not be incorporated behind this cap type;

C. Pitched roof cap type.

This cap type has a sloped or pitched roof. Slope is measured with the vertical rise divided by the horizontal span or run. (Refer to Figure 50-22.4-B)

1. Pitch measure. The roof may not be sloped steeper flatter than a 6:12 (rise:run) or flatter steeper than 16:12 (rise:run);
2. Roof types. Hipped, gabled, and combination of hips and gables with or without dormers are acceptable. Gambrel and mansard roofs are acceptable provided that when the ridge runs parallel to the street, one dormer per 15 feet of street face is required;
- 3.

Parallel ridge line. A gabled end or perpendicular ridge line shall occur at least every 100 feet of roof for two-story buildings or higher and at least every 50 feet of roof for one-story buildings when the ridge line runs parallel to the front property line;

4.

Roof height. Roof height may not be greater than the total of all floors below the roof. For single story portions of the building, roof height may not exceed one-and-one-half times the floor below the roof;

D. Flat Roof cap type

This cap type has a flat roof with overhanging eaves. (Refer to Figure 50-22.4-C)

1. Roof types. Roofs with no visible slope are acceptable. Eaves are required on all street-facing facades;
2. Eave depth. Eave depth is measured from the building façade to the outside edge of the eave. Eaves shall have a depth of at least 12 inches;
3. Eave thickness. Eave thickness is measured at the outside edge of the eave, from the bottom of the eave to the top of the eave. Eaves shall be a minimum of six inches thick;
4. Interrupting vertical walls. Vertical walls may interrupt the eave and extend above the top of the eave with no discernible cap;
  - (a) No more than one-half of the front façade can consist of an interrupting vertical wall;
  - (b) Vertical walls shall extend no more than four feet above the top of the eave;
- E. Towers.

A tower is a rectilinear or cylindrical vertical element that must be used with other cap types. (Refer to Figure 50-22.4-D)

1. Quantity. One tower is permitted per building;
2. Tower height. Maximum height, measured from the top of the upper story to the top of the tower, is the equivalent of the height of one upper floor of the building to which the tower is applied;
3. Tower width. Maximum width along all facades is one-third the width of the front facade or 30 feet, whichever is less;
4. Occupied space. Towers must be occupied by the same uses allowed in upper stories of the building type to which it is applied;
5. Tower cap. The tower may be capped by the parapet, pitched, or flat roof cap types.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: \_\_\_\_\_, 2016)

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

The text amendment clarifies the exceptions to when structures can encroach into zoning setbacks and corrects an error with the form district standards related to roof pitch.

The proposed changes were discussed at a published public hearing on April 12 and May 24, 2016. At the June 14, 2016, regular meeting, the Duluth planning commission made a motion to recommend that the city council approve the recommended amendments to UDC. The vote passed with a vote of 6 yeas, 0 nays and 0 abstentions.

Action Deadline: Not Applicable

PL: 16-031