

Amendments to Town of Duluth Zoning Ordinance Number 3 – August 12, 2005

Amendments adopted by the Duluth Township Board of Supervisors

September 17, 2009

The Board of Supervisors of the Town of Duluth ordains that the Town of Duluth zoning Ordinance Number 3 – August 12, 2005 (the Ordinance) be amended as described in this document. These amendments are detailed in the following sections which identify the general topic area, the specific changes to the Ordinance, and the effective date of the amendment. New text being added to the ordinance is shown in italics; this text would not be italicized in future printings of the Ordinance, but is italicized here to clearly delineate it from other explanatory text.

1. Long Term Rental of Residential Properties

- a. The following text is added to Article II: Definitions in the appropriate alphabetic sequence

Dwelling, Long-term Rental-A single-family, two-family or seasonal dwelling where the dwelling is rented by the owner for periods of 30 days or more and is not occupied by its owner during rental periods.

- b. The following changes are made to Article V, Table 5.3, Zoning District Land Use Matrix in the appropriate alphabetic position:

Add a line entitled “*Dwelling, long-term rental*”; designate “P” (permitted) in zones : FAM-1, FAM-2, FAM-3, MUNS-4, SMU-6, SMU-6A, SMU-8, SCO-8A, SCO-8B, COM-3; designate “not permitted” in zone LIU-3A.

2. Shoreland Overlay

- a. Article VI, Section 2.A.3 is repealed in its entirety and replaced with the following:

3. removal of vegetation in the SLO area. *The removal of natural vegetation is not allowed without first obtaining a permit from the Planning commission. Exceptions to the requirement are:*

- a. The removal of dead, diseased, dangerous, and storm or fire damaged trees, shrubs, and plants.*
- b. The trimming and pruning of trees, shrubs and plants.*

- b. Article VIII, Section 7.E.9 is repealed in its entirety.

3. Driveways Entering Town Roads

- a. In Article III, Section 8, a new section J is inserted as follows:

J. Permits Required for Driveways Entering Town Roads. *A permit is required before construction of a new driveway from/onto a Township Road.*

4. Conditional Use Permit Applications

- a. In Article IX, Section 2.A is repealed in its entirety and replaced with the following:

A. General.

- 1.** *The Planning Director receives requests for an application for a conditional use permit and determines if the proposed conditional use is prohibited by Ordinance.*

2. *Applicant prepares the written application form and submits it along with the associated fee to the Planning Director*
3. *The Planning Commission will decide and identify the area of impact and identify the people, organizations, agencies, etc. to be notified regarding the proposed conditional use. The Planning Director will prepare a list of those in the area of impact of the proposed conditional use and will notify them of the proposed conditional use. This list will be provided to the applicant for use in preparing the Community Participation Plan.*
4. *The Planning Commission will set a date for the Public Hearing on the conditional use.*
5. *The Community Participation Report must be completed by the applicant and must be submitted to the Planning Director at least seven (7) days prior to the public hearing. Receipt of the completed Community Participation Report completes the application for the conditional use and initiates the 60-day decision period under MN Statutes 15.99. If the Community Participation Report is not completed and submitted at least seven (7) days prior to the scheduled Public Hearing, the Conditional Use Permit shall be denied. The Applicant may re-apply for the Conditional Use permit. The applicant will be required to pay an additional application fee to be heard again.*

5. Hiring of Planning Staff

- a. In Article X, Section 1.A is repealed in its entirety and replaced with the following:

A. Planning Director and Staff.

1. *The Planning Director, and any assistants, will be hired by the Town Board.*
2. *The Planning Secretary will be recruited and hired by the Planning Commission with approval from the Town Board.*

6. Variances

- a. In Article X, Section 3.A is repealed in its entirety and replaced with:

A. General. *Applications for variances from the terms of this Ordinance shall be made to the Planning Commission.*

- b. In Article X, Section 3.B. is repealed in its entirety and replaced with:

B. Application for Variance. *Applications for variances shall meet the following requirements.*

1. *An application for a variance shall be filed with the Planning Director on a proper form provided for that purpose.*
2. *Application forms shall be complete, and shall clearly specify the grounds for the variance. Where required by the nature of the variance, the application shall be accompanied by detailed plans, drawn to scale, showing all details of the land area and the nature of the circumstances surrounding the variance.*
3. *The application shall be accompanied by the required fee.*
4. *The Planning Director shall reject, and refuse to refer to the Planning Commission any application not accompanied by the required fee or by other materials and information as required by this Ordinance.*

7. Planning Commission

- a. Article XIII, Section 2.B is amended by the addition of the following:

4. *Planning Secretary*
5. *Assistant Planning Director (if any)*

- b. In Article XIII, Section 3.D excluding subsections 1 to 6, is repealed in its entirety and replaced with the following:

D. *Removal for Cause – The following shall be deemed sufficient cause for the Town Board to remove any regular Planning Commission member. The Town Board may remove any member upon the occurrence of any of the following conditions as reported to the Board by either the Chairperson of the Planning Commission or the Planning Director.*

c. In Article XIII, Section 3.D.1 is repealed in its entirety and replaced with the following:

1. *Failure of the member to attend two-thirds of the regularly scheduled Commission meetings in any twelve (12) month period. The twelve (12) month period is defined as commencing from the date of the first required meeting of the Town board in a given year to said meeting date in the next following calendar year.*

d. In Article XIII, Section 4.A.2 is repealed in its entirety.

e. In Article XIII, Section 5.A. The term “Planning Administrator” is replaced with “Planning Director” and therefore now reads:

1. *The Planning Commission shall cooperate with the Planning Director and other employees of the Town in preparing and recommending to the Town Board for adoption a comprehensive plan and recommendations for plan execution in the form of official controls and other measures, and amendments thereto.*

2. *The Planning Commission, in conjunction with the Planning Director, shall review any comprehensive land use, or other plans, or any official controls sent to the Town for review by any local unit of government, any council of governments, or any regional, state or federal agency and shall report thereon in writing to the Town Board.*

8. Appeals

a. In Article II, the definition for “Board of Adjustment” is repealed in its entirety and replaced with the following:

Board of Adjustment – *The Board of Adjustment for Duluth Township, Minnesota, as created by ordinance pursuant to Minnesota Statutes 462.354 and all acts amendatory thereof. In amendments to this Ordinance implemented August 2009, the existence of a Board of Adjustment as a separate body within Duluth Township was terminated. Statutory authorities associated with the Board of Adjustment have been assigned to other bodies as described elsewhere in the Ordinance.*

b. In Article IX, Section 8 is repealed in its entirety and replaced with:

Section 8 Appeals from Decisions *Appeals from decisions made by the Planning Commission or appeals from administrative determinations made by the Planning Director may be made according to procedures outlined in Article XIV.*

c. In Article X, Section 1.D.2 is repealed in its entirety and replaced with the following:

2. *Any person taking exception to the Planning Director’s determination may appeal the determination by the procedures specified in Article XIV.*

d. In Article X, Section 8 is repealed in its entirety and replaced with the following:

Section 8. Appeals of Orders, Requirements, Decisions, or Determinations of the Planning Director. *Appeals of any order, requirement, decision, or determination of the Planning Director shall be made according to procedures outlined in Article XIV.*

e. in Article X, Section 9 is repealed in its entirety and replaced with the following:

Section 9. appeals from Planning Commission Decisions. *All decisions by the Planning Commission shall be final except that any aggrieved person or persons, or any department, board or commission of the jurisdiction or of the State shall have the right to appeal according to the procedures specified in Article XIV.*

f. Article XIV “Board of Adjustment” is repealed in its entirety. It is renamed “Appeals” and contains the language provided in Attachment 1 to this document.

9. Fees

a. In Article XVI, Section 1.A is repealed in its entirety and replaced with the following:

Fee Schedule Established. *Fees applicable to all permit applications, petitions, and appeals are provided in Table 16.1.*

b. In Article XVI, Section 1.C is repealed in its entirety and replaced with the following:

C. Refunds.

1. *Should a permit, petition, or appeal be denied, the fee shall not be refunded, except as noted elsewhere in this subsection.*
2. *In matters appealed to the Town Board, if the Town Board reverses or modifies an order, decision, requirement, or determination of the Planning Director or the Planning Commission, the Town Board has the discretion and authority to refund all or a portion of the appeal fee commensurate with the degree to which the Board believes the appellant has prevailed.*

c. In Article XVI, Table 16.1 “Schedule of Fees” is created. The contents of Table 16.1 are provided as Attachment 2 to this document.

Article XIV: Appeals

Section 1 Assignment of Statutory Responsibilities

Through amendments to this ordinance approved in September 2009, the Town Board dissolved the Board of Adjustment as a separate entity, and has assigned the statutory authorities of the Board of Adjustment, pursuant to Minnesota Statutes 462.354, Subdivision 2. As amended and all acts amendatory thereof, to other bodies as specified in this Ordinance. The Planning Commission is assigned to hear requests for 1) variances; 2) rezoning requests; 3) conditional use permits; and 4) appeals of determinations by the Planning Director. The Town Board will hear appeals of decisions by the Planning Commission in these matters.

Section 2 Appeals of Decisions of the Planning Director

- A. Filing an Appeal.** Any aggrieved person may appeal any order, requirement, decision, or determination (“determinations”) made by the Planning Director to the Planning Commission
1. Appeals must be made in writing and submitted, along with the application fee:
 - a. Within fifteen (15) days of notification of an approval or denial of a land use permit by the Planning Director.
 - b. Within thirty (30) days of notification of any other order, requirement, decision, or determination by the Planning Director that does not involve approval or denial of a permit application.
- B. Public Hearing**
1. The Planning Commission shall conduct a public hearing on all appeals of determinations by the Planning Director.
 2. The Planning Commission will set a time for hearing of all appeals and give due notice to the appellant, to the entity from whom the appeal is taken, and to the public, as prescribed by Minnesota Statutes and the applicable ordinances of the County and Town.
- C. Notification**
1. Notification will be determined by:
 - a. Extent of the effects of the case (including effect on natural resources, visual effects, and social effects).
 - b. Intensity of the effects of the case.
 - c. Duration of the effects of the case.
 2. At a minimum, the same area of impact for notification identified for the original decision (if applicable) would be notified of the appeal.
- D. Authorities of Planning Commission in Deciding Appeals.** The Planning Commission may reverse or affirm, wholly or partly, or may modify any appealed order, requirement decision, or determination of the Planning Director, and to that end will have all the powers of the Planning Director.
- E. Decisions**
1. The Planning Commission will deliver a decision on all appeals within thirty-five (35) days from the date the public hearing was closed, or sooner if required to meet requirements of the “60-day rule” (Minnesota Statutes 15.99) or other applicable statute or ordinance.
 2. Criteria for the Planning Commission’s decisions on the appeal shall be based upon:
 - a. The Planning Director’s rationale and consistency in following this Ordinance.
 - b. Relevant findings of fact.
 - c. Interpretation of achieving the goals and visions in the Comprehensive Plan.
 - d. Other criteria the Planning commission deems appropriate to rendering a fair and just decision.

3. Reasons for the decision(s) shall be stated in writing.
4. All decisions made by the Planning Commission in hearing appeals from any order, requirement, decision or determination by the Planning Director shall be final, except that any aggrieved person or persons, or any department board, or commission of the jurisdiction or of the State shall have the right to appeal within fifteen (15) days after receipt of notice of the decision, to the Town Board as described in this article.

Section 3 Appeals of Decisions of the Planning Commission

- A. **Filing an Appeal.** Any aggrieved person may appeal any order, requirement, decision, or determination (“determinations”) by the Planning Commission to the Town Board.
 1. Appeals must be made in writing and submitted, along with the applicable fee within fifteen (15) days of notification to the applicant of the Planning Commission decision to be appealed to the Town Board.
 2. Planning Commission decision appealed to the Town Board may include granting or denial of a variance or conditional use permit, or a decision by the Planning Commission on an appeal of determination by the Planning Director.
 3. An appeal stays all proceedings in furtherance of the action appealed from unless the Town Board makes written findings and certifies that a stay would cause imminent peril to life or property.
- B. **Public Hearing**
 1. The Town Board shall conduct a public hearing on all appeals of determinations made by the Planning Commission.
 2. The Town Board will set a time for hearing of all appeals and give due notice to the appellant, to the entity from whom the appeal is taken, and to the public, as prescribed by Minnesota Statutes and the applicable ordinances of the County and the Town.
- C. **Notification**
 1. Notification will be determined by:
 - a. Extent of the effects of the case (including effect on natural resources, visual effects, and social effects).
 - b. Intensity of the effects of the case.
 - c. Duration of the effects of the case.
 2. At a minimum, the same area of impact for notification identified for the original decision (if applicable) would be notified of the appeal.
- D. **Authorities of Planning Commission in Deciding Appeals.** The Town Board may reverse or affirm, wholly or partially, or may modify any appealed order, requirement decision, or determination of the Planning Commission, and to that end will have all the powers of the Planning Director or Planning Commission.
- E. **Decisions.**
 1. The Town Board will deliver a decision on all appeals within thirty-five (35) days from the date the public hearing was closed, or sooner if required to meet requirements of the “60-day rule” (Minnesota Statutes 15.99) or other applicable statute or ordinance.
 2. Criteria for the Town Board’s decisions on the appeal shall be based upon:
 - a. The rationale and consistency of the appealed determination in following this Ordinance.
 - b. Relevant findings of facts.
 - c. Interpretation of achieving the goals and visions in the Comprehensive Plan.
 - d. Other criteria the Planning Commission deems appropriate to rendering a fair and just decision.
 3. Reasons for the decision(s) shall be stated in writing.
 4. All decisions made by the Town Board in hearing appeals from Planning Commission determinations shall be final, except that any aggrieved person or persons, or any department

board, or commission of the jurisdiction or of the State shall have the right to appeal within thirty (30) days after delivery of the decision to the appellant, to the District Court in St. Louis County on questions of law and fact.

Table 16.1 – Permit and Administrative Fees

Type	Fee
Single Family/Residential Dwelling	
Single family dwelling 1800 sq. ft. or less	\$225
Single family dwelling greater than 1800 sq. ft.	\$350
Single family/residential Accessory structures	
Accessory structure 250 sq. ft. or less	\$75
Accessory structure 250 – 1200 sq. ft.	\$150
Accessory structure greater than 1200 sq. ft.	\$225
Deck	\$75
Single family/residential Additions	
Residential structure additions	\$150
Accessory building additions	\$110
Commercial	
Commercial Structure	\$550
Commercial accessory building	\$200
Commercial structure additions	\$200
Administrative Actions	
Administrative Appeal of Planning Director Decision	\$250
Appeal of Planning Commission Decision	\$1000
After-the-fact permit fee	4 times fee
Permit Extension	\$50
Conditional Uses	
Conditional use permit – adult/sexually oriented business (accessory)	\$2,000
Conditional use permit – adult/sexually oriented business (principal)	\$5,000
Conditional use permit – commercial	\$550
Conditional use permit – home business	\$350
Conditional use permit – public utility facility	\$1,000
Conditional use permit – unless noted	\$350
Conditional use permit – utility corridor	\$5,000
Planned Unit Development	
Commercial	\$4,000
Mixed	\$5,000
Residential (6 or fewer units)	\$2,000
Residential (7 or more units)	\$250
Signs	
All others (on Site)	\$100
Site Permits	
Driveway/site entry to Township road	\$50
Parking lot of 1 acre or greater	\$400
Land Alteration Permit	\$175
Subdivision	
Preliminary Plat	\$1,000
Final Plat	\$500
Variance	
Commercial	\$550
Residential	\$350

Zoning Amendments	
Zoning map amendments – if the request/application falls under the definitions in Article XI, Section 4A and/or 4B	No Charge
Zoning map amendments – All other applications	\$500