

Article VIII: Performance Standards

Section 1 General

- A. Review as Conditional Use or Variance.** If a use requiring performance standards cannot meet the standards contained in this article, or the applicant does not wish to follow those standards, the use may then be reviewed as a conditional use or variance, and is subject to additional or alternative conditions, or denial, in accordance with the criteria found in this ordinance.
- B. Revocation of Permit for Failure to Comply.** Every land use permit issued with performance standards shall be conditioned upon the proposed development being in full compliance with the terms of the specified standards. Failure to comply with the terms shall result in the Planning Director revoking the permit.
- C. Minimum Standards for Conditional Use or Variance.** Uses that are listed, as performance standards as stated in "A" above, shall use the standards contained in this section as minimum standards. Failure to comply with the terms shall result in the Planning Director revoking the permit.
- D. Applied to Accessory Structures.** All land use districts permit accessory structures related to the principal structure, but in designated circumstances, performance standards or a conditional use permit may be required.

Section 2 Residential Uses

- A. In Commercial and Borrow Pit Areas.** Residential uses in Commercial and Borrow Pit Areas are permitted in such areas provided they meet the following standards:
 - 1. All standards found in this and other Duluth Township ordinances are met.
 - 2. An affidavit shall be signed by the homeowner acknowledging the existence of the commercial or borrow pit area and that he/she understands the potential impact such uses may have on the home.
- B. Two Structures on One Parcel.** Two (2) residential structures may be allowed on one (1) parcel, if each structure meets the minimum lot area, width, and dimensional requirements of the zone district and for a proper and legal subdivision.
- C. Seasonal Cabins on Lease Land.** Seasonal cabins leased on State and Federal land in the **FAM-1 FAM-2 or FAM-3** zone districts may be permitted on lots as small as 2 and one-half acres provided that each forty-acre tract is limited to one (1) lease.
- D. Single Family Residences in FAM-1 and FAM-2.** Single-family dwellings may be allowed in **FAM 1** and **FAM-2** zones as an allowed use if they have frontage on an improved public road or are part of a planned unit development or platted subdivision.
- E. Dimension Requirements.** See **Table 5.1, Article 5, Section 3, page 51, *Dimension Requirements for Land Use Districts.***

Section 3 Recreational Camping Vehicles on Lots

Recreational Camping Vehicles and other camping are permitted on parcels without a permit, provided the following standards are followed.

- A. Number of vehicles.** No more than one (1) Recreational Camping Vehicle per parcel.

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- B. Licensed.** The Recreational Camping Vehicle shall have a current motor vehicle license.

- C. **Standards.** All standards, including but not limited to bluff setbacks, vegetative removal, and shoreland alteration standards are observed.
- D. **Privies.** Privies shall be the only sanitary facility outside the vehicle
- E. **Other structures.** No structures including decks shall be placed on the property.
- F. **Required permits.** If the above standards are not met, the applicant shall apply for the appropriate permits.

Section 4 Community Centers

All community centers that are operated by a public agency shall be considered permitted uses on any acreage and width if the following standards are met.

- A. **Setbacks and lot size.** The lot is of sufficient size to meet the following standards: side and rear yard setbacks of the district in which the use is located.
- B. **Parking.** On-site parking must be adhered to as required in this ordinance.
- C. **Wastewater.** The on-site sewage treatment system must meet with the approval of the County.
- D. **ISTS expansion.** A sufficient amount of land must be permanently set aside for sewage expansion area of an Individual Septic Treatment System (ISTS).
- E. **Wells.** The State Well Code is followed.
- F. **Access.** Appropriate road authority authorizes access onto the road from the parcel.
- G. **Public participation.** The authorization to place the use on the parcel was done at a public meeting where members of the public had an opportunity to know about the proposal and comment on it.

Section 5 Home Based Business in Commercial Areas (COM-3, SCO-8A and SCO-8B).

In that Home Based Businesses are associated with a residential dwelling, the same standards listed in **Section 2 of this Article** must be met.

Section 6 Livestock

- A. **General.** The Town of Duluth recognizes that agricultural, residential, and other uses should exist in a manner that promotes and protects the interests of all concerned. Therefore, the following standards shall apply in the areas designated for keeping of animals. If these standards are exceeded an individual must apply for a Conditional Use Permit.
- B. **Shoreland, Bluffs, and Steep Slopes.** Animals shall not be picketed, fenced or otherwise contained in shore and bluff impact zones or on steep slopes. However, access to the shore shall be allowed for watering purposes only, on a site to be approved by the Soil Conservation Service.

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- C. **All Zone Districts.**
The following standards shall be met in all districts.

1. Impact of animals is determined by using **animal unit** equivalents. The following table shows the animal unit conversion for each type of animal.

Table 8.1 – Animal Unit Equivalents

Animal	Animal Units (A.U.)
One dairy cow	1.4
One slaughter steer or heifer	1.0
One horse	1.0
One swine	0.4
One sheep, goat, dog, cat (see D-3 below on pets)	0.2
One duck, turkey, chicken	0.1

(For example, 1.4 acres is needed per dairy cow, one acre per heifer, one acre per horse, 0.4 acre per swine, 0.2 acre per sheep/goat/dog/cat, or 0.1 acre per duck/chicken/turkey. Combinations of different types of animals can also be calculated using Table 8.1. See D-3 for pets.)

D. Animal Units Allowed

1. Parcels Two (2) Acres or Larger – One (1) Animal Unit (AU) is allowed per acre in zone districts **MUNS-4** and **FAM-1, FAM-2** and **FAM-3**. Use **Table 8.1**, above. (Note: in zone district **SMU6** a conditional use permit is required.)
2. Parcels under Two (2) Acres – No animal units, except pets, shall be permitted on parcels less than two (2) acres except as a conditional use.
3. Dogs and cats may be kept as pets as long as they do not equal or exceed the threshold of one (1) Animal Unit on parcels less than two (2) acres.
4. No animals may be penned within two-hundred (200) feet of a neighboring residence or one-hundred-fifty (150) feet from any well, except up to five (5) domesticated dogs or cats shall be permitted. Penned is defined as the confined feeding, breeding, raising, or holding of animals. This provision does not apply if the animals are pastured in an area of ten (10) acres or more.
5. The keeping of amounts greater than one-thousand (1,000) poultry or small animals, or more than two-hundred-fifty (250) swine shall require a conditional use permit.
6. Where any parcel contains five (5) or more animal units of swine or poultry, enclosed quarters or fencing shall be provided at no less than twice the required setback for the zone district unless the provision in #4. above results in a greater setback.
7. All required state and federal permits shall be obtained for the keeping of animals.
8. If the landowner is operating any type of business involving animals, a Home Based Business or conditional use permit is required
9. Animal waste must be disposed of in an environmentally sound manner, and in no case shall runoff from waste discharge directly into a lake, river, unsealed well, or wetland.

E. Allowed Without a Conditional Use Permit in FAM-1, FAM-2, FAM-3 and MUNS-4. (see **Table 5.3, p54, Livestock**).

1. **Parcels under 2 acres** – No animal units without a permit (except pets, see **D-3**, above).
2. **Parcels 2-4.50 acres** – One (1) animal unit without a permit.
3. **Parcels 4.51-9.00 acres** – Five (5) animal units without a permit.
4. **Parcels over 9 acres** –One (1) animal unit per acre without a permit.

F. FAM Zone Districts – The keeping of livestock and related farming activities should be considered preeminent over non-agricultural uses in the FAM districts.

- A. Sign regulation purposes.** The purposes of this section (Article VIII, Section 7) are to protect the natural scenic beauty and rural character of Duluth Township, promote aesthetic interests, minimize visual clutter, maintain property values, protect public safety, eliminate traffic hazards, and provide important information to the residents of the Township and the traveling public. These purposes shall be achieved by restricting the number, size, location, maintenance, and spacing of outdoor advertising signs through the administration of this section.
- B. General restrictions.** No outdoor advertising sign visible to the traveling public shall be erected, structurally altered, or maintained except as provided in this section (**Article VIII, Section 7**).
- C. Off-Site signs.** Off-site signs are prohibited.
- D. Sign Permits.** Sign permits for on-site signs shall be required and shall be subject to performance standards herein, except for the following exemptions:
1. Signs not exceeding six (6) square feet in area and bearing only property numbers, post box numbers, names of occupants, or other identification of premises, not having commercial connotations other than that listed in **D-7**, below. All signs shall be set back a minimum distance of ten (10) feet from any front, side, or rear lot line.
 2. Flags and insignias of any government except when displayed in connection with commercial promotion.
 3. Legal notices, identification, information, or directional signs erected or required by governmental bodies, as defined in Minnesota Laws 1971, Chapter 173, Sec. 173.02, Subdivision. 6.
 4. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.
 5. A temporary sign indicating real estate for rent or for sale, related to the premises only on which it is located, and not exceeding six (6) square feet in area.
 6. Signs used on a temporary basis in conjunction with garage, estate, rummage and produce sales, and not exceeding six (6) square feet in area.
 7. Home Based Businesses and Bed & Breakfast businesses shall be limited to one, non-illuminated, on-site sign not to exceed twenty (20) square feet in area and shall not exceed eight (8) feet in height. Home occupations shall be limited to one, non-illuminated on-site sign not to exceed six (6) square feet.
 8. Political posters, erected or placed in accordance with all applicable State laws, may be allowed without obtaining a Land Use Permit provided that they are removed within thirty (30) days following the election for which they were intended, and provided that such posters do not exceed thirty-two (32) square feet in area. In the event that the posters are not removed within the specified period of time, the Town may remove them at the name bearer's expense.
- E. Prohibited devices.** No advertising device shall be erected or maintained that:
1. Claims to be or resembles, hides from view, or interferes with the effectiveness of any official traffic or railroad control device, sign, or signal.
 2. Obstructs or interferes with a driver's view of approaching, merging or intersecting traffic.
 3. Prominently displays the words "stop" or "danger".
 4. Displays messages that are painted or drawn upon rocks, trees, public utility poles, or abandoned buildings.
 5. Allows access to be obtained only from an interstate main-traveled way, but excluding frontage roads adjacent thereto.
 6. Is structurally unsafe, or in disrepair.
 7. Is located within the right-of-way of any public way.
 8. Is located in, over, or upon public waters, unless authorized by public authority.

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9. Is located within the Shoreland Overlay (SLO), unless attached to a permanent structure.
- F. On-Site Signs.** All on-site signs, not otherwise excepted, shall require a sign permit and conform to the following:

1. Signs joined with a common standard and angled no more than thirty degrees between surfaces shall be considered a single sign and sized according to the larger surface.
2. All signs shall be set back a minimum distance of 10 (ten) feet from any front, side, or rear lot line.
3. Signs in Zone Districts allowing commercial and industrial uses must meet the following standards.
 - a. One (1) sign is allowed, not to exceed fifty (50) square feet in surface area and not exceeding twenty (20) feet in height. Modifications from the above standard shall require a conditional use permit.
 - b. Illuminated signs are permissible provided they are lighted by light sources directed from above the sign toward the ground.

Section 8 Outdoor Lighting

- A. Floodlight projection.** Outdoor floodlighting by floodlight projection above the horizontal plane or onto adjoining properties is prohibited.
- B. Light pollution.** All light fixtures shall be located, aimed, or shielded to minimize stray light trespassing across property boundaries.
- C. High intensity lights.** Search lights, strobe lights, laser source lights, or any similarly, high-intensity fixture shall not be permitted except in emergencies by police and fire personnel or at their direction or for meteorological data gathering purposes.
- D. Shielding.** All new outdoor light fixtures shall be fully shielded or constructed so that minimal light rays are emitted by the installed fixture at angles above the horizontal plane or on to adjoining properties.
- E. Advertising lighting.** Lighting for outdoor advertising signs shall be mounted at the top of the sign structure and such fixtures shall comply with shielding requirements above.
- F. Energy efficiency.** The preferred illumination sources for lighting are those lamps that are most energy efficient.
- G. Height.** Except for towers as permitted by the Federal Government, no mounted lighting fixture shall exceed thirty-five (35) feet in height.
- H. Elimination of non-conforming lighting.** Non-conforming lighting is subject to the following standards.
 1. No outdoor lighting fixture, which was lawfully installed prior to the enactment of this ordinance, shall be required to be removed or modified; however, no modification or replacement shall be made to a non-conforming fixture unless the fixture thereafter conforms to the provisions of this ordinance.
 2. In the event that any non-conforming lighting fixture is abandoned or is damaged and if the damage exceeds fifty percent (50%) of the replacement value, exclusive of foundations, the fixture shall be brought into conformance with the provisions of this ordinance.
- I. Exemption.** Seasonal decorative lighting is permitted.

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Section 9 Accessory Structures

Where performance standards are required for accessory structures (see **Table 5.3, page 53, in Article 5, Section 4**), and in the Sensitive Area Overlay (**SENSO**), the following standards shall be met.

- A. Minimum Side Yard Setback.** For any increase in square footage above the allowable maximum size the minimum side yard setback will be determined as follows:
 - 1. Divide the square footage of the proposed structure by the allowable maximum.
 - 2. Multiply the side yard set back by this figure and round to the nearest whole number.
- B. Screening.** Permanent and effective screening from the lakeshore and adjacent properties shall be established and maintained (see **Article III, Section 5, page 42**).
- C. Solar access.** Structure shall not be placed in a manner that obstructs solar access of adjacent properties, as far as practicable.

Section 10 Commercial Districts (COM-3, SCO-8A)

- A. Commercial design review.** Until design guidelines have been written and adopted for commercial structures each new proposed structure will require review by the Planning Commission before a land use permit will be issued.
- B. Other requirements.** In addition to those items listed in **C** and **D** below, the commercial proposal must meet the requirements of all other articles in this Zoning Ordinance.
- C. Loading.** Space for off-street loading and unloading of vehicles shall be provided for every building used or designed for commercial, light industrial, manufacturing or warehousing purposes. One (1) such space shall be provided for every ten-thousand (10,000) square feet of floor area or fraction thereof, and such spaces shall be a minimum of ten (10) feet in width, thirty-five feet in length.
- D. Parking.**
 - 1. Off-street automobile parking or storage space shall be provided on every lot on which any new structures are hereafter established. Such space shall be provided with vehicular access to a street or alley, and such space shall be provided with a suitable area for vehicle turn-around so as to allow vehicles safe entry onto the roadway, and such space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
 - 2. When a structure is enlarged, the required off-street parking space shall be provided for the enlarged portion if the enlargement increases the demand for parking. If a use is changed, to a different use requiring more parking, additional parking area as determined by the Planning Director shall be provided.

3. Facilities that operate on shifts shall have sufficient parking based on the standards in this section and the maximum number of employees that would park at the facility at any given time. In addition, the following minimum standards shall apply:
 - a. An off-street parking space shall comprise an area with dimensions of nine (9) feet by eighteen feet plus necessary maneuvering space; total area for parking and maneuvering shall not encroach upon any public right-of-way.
 - b. Residential dwellings shall have one (1) parking space for each unit.
 - c. Tourist accommodations shall have one (1) parking space for each room or unit, and one (1) parking space for each non-resident employee.
 - d. Theater, stadium, auditorium, church, or other places of public assembly shall have one (1) parking space for each five (5) seats, based on maximum seating capacity, and one (1) parking space for each employee.
 - e. Stores and other retail business establishments shall have 5.5 parking spaces for each one-thousand (1000) square feet of total floor area, and one (1) parking space for each employee.
 - f. Office buildings shall have one (1) parking space for each two hundred (200) square feet of office floor area.
 - g. Industrial, manufacturing or wholesale establishments shall have one (1) parking space for each three (3) workers, based on peak employment in any one shift.
 - h. Four (4) seats, based on maximum seating capacity, and one (1) parking space for each employee.
 - i. Off-street parking areas, whether public or private, for more than five (5) vehicles, shall be effectively screened from residential uses. All public or private parking areas shall be separated from the right-of-way of any road by means of a sod strip not less than three (3) feet in width or other barrier that clearly delineates the parking lot from the road.

E. Commission Review of Commercial Proposals. The Planning Commission will consider, at a minimum, the following objectives when reviewing commercial proposals:

1. General objectives.

- a. Maintain and strengthen the character that is unique to the cultural and historical context of Duluth Township and the North Shore.
- b. Emphasize compact and connected structures that maximize green space and maximize the commercial opportunities in the Township.
- c. Respect the scale and character of residential neighborhoods adjoining the commercial uses and encourage a human scale of commercial development.
- d. Promote building designs and practices that are environmentally efficient and adaptable to multiple uses thereby extending building lifecycles.
- e. Minimize the negative impacts of commercial development on adjacent neighborhoods.
- f. Balance the economic requirements of the development with aesthetic concerns of the community as well as protecting the natural resources of the area.

2. Objectives for the proposal's response to site characteristics.

- a. Development proposals will be reviewed with respect to their response to the physical characteristics of the site, that is, taking into consideration natural vegetation, drainage areas, viewshed opportunities, and the site's response to climatic opportunities such as solar gain, protection from storms, wind etc.
- b. Proposals should be responsive to desirable local development patterns.
- c. Landscape design should contribute to the overall appearance of the site while protecting the functions of the natural systems of the site as well as provide screening.
- d. Native species of grasses, shrubs, and trees are preferred to facilitate the new structure's ability to blend in with the existing site as well as the site's natural systems.

3. Objectives for a commercial proposal's response to architectural elements.

- a. Preferred consideration of context.
 - (i) Building design should take into consideration the unique qualities of the site, historical context of the Township, and the dominant character of the surrounding area, in particular, the North Shore.
 - (ii) Building designs used to identify corporate or franchise design recognition are less desirable than those which respond directly to the context of the area.
 - (iii) Parking areas should fit into the context of the site. The commercial sites in Duluth Township and particularly in the North Shore Management Area are exemplified by their natural context and parking areas should be subordinate to these. That is, the parking areas should not be the dominant feature of the site. Site designs that locate parking to the rear or side of the site are preferred. Sites with parking areas to the side are encouraged to use landscaping to blend in with the natural features of the site.
- b. Scale. New development should respect the predominant scale of the surrounding area by designing with elements of a similar scale.
- c. Massing. The building should respect the massing of the adjacent community. Perceived height can be achieved by dividing the building mass into smaller scale components.
- d. Architectural Details. The building should meet the following detail guidelines.
 - (i) Building colors should emphasize tones associated with the vegetation, rock and water of Duluth Township and in particular, the North Shore.
 - (ii) Materials reflecting the character of the North Shore such as stone, wood, and other natural materials help to situate the building in context and are preferred.

4. Response to climatic elements. The proposal should meet the following climatic guidelines.

- a. Building elements that speak to the climate of the North Shore are encouraged. Examples of such building elements include enclosed entries vs. open entries; elements that provide protection from weather off the lake; and sheltered parking.
- b. Buildings should respond to solar heat gain, reflectivity and glare through building orientation.

Section 11 Shoreland Commercial B District (SCO-8B)

- A. Compatible with surrounding residential area.** This district supports a light level of commercial development intensity. Development intensities and use should be compatible with the surrounding residential scale and density abutting the commercial district. Permitted uses and standards associated with the use will reflect the surrounding intensity and scale of the neighborhood.
- B. Hours of operation.** Hours of operation will be consistent with residential neighborhoods, generally limited to the hours between 7:00 AM and 9:00 PM. Hours of operation will be based on but not limited to the following factors and be limited accordingly.
 - 1. Amount of noise associated with the operation of the business.
 - 2. Intensity and amount of light associated with operation of the business after sunset.
 - 3. Amount of increased traffic on residential and non-arterial roads, including business traffic to the establishment as well as the shipping and receiving of goods and services.

C. Lighting and signage.

1. All lighting and signage shall meet the general requirements of this ordinance.
2. In addition, signage shall not be lit past hours of operation of the business.

D. Increase in traffic. The intensity, amount, and scale of use permitted with the commercial development will be directly related to the amount of increased traffic as a result of the commercial use. The proposed use should not result in a significant increase in traffic on non-arterial roads in the surrounding neighborhoods.

E. Screening and buffering of commercial uses. Screening and buffering will be provided between the commercial use and the surrounding neighborhoods. (see **Article III, Section 5, Page 42**)

F. PUD Lot size. The minimum PUD lot size is two (2) acres.

Section 12 Home Occupation

A. Parking. The applicant shall provide sufficient parking areas to accommodate occasional visitors.

B. Screening and buffering. Screening and buffering shall be provided between incompatible land uses.

Section 13 Home Stay

A. Parking site plan. A site plan establishing parking areas and controlled access shall be provided by the applicant. The Planning Commission may determine that additional parking spaces are required during seasonal peaks.

B. Screening and buffering. Screening and buffering shall be provided between incompatible land uses.

Section 14 Recycling Centers (Public Collection Site)

A. Activities. Centers are not considered a long-term work site.

B. Size. The structure shall not exceed four-hundred-fifty (450) square feet in area.

C. Parking. Site must provide a minimum of four (4) parking spaces and a turnaround.

D. Road agreements. If the site is on a private road, there must be a written agreement with the owners of the road to use such a road.

E. Permits. All appropriate government permits and authorizations must be followed.

Section 15 Duplex Dwellings

Duplex dwellings shall be located on a lot that is at least one-and-one-half (1½) times the minimum lot area and at least one and one-half (1½) times the minimum lot width required for a single-family dwelling.

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Section 16 SMU-6A District

- A. Parking plan.** A site plan establishing parking areas and controlled access shall be provided by the applicant. The Planning Commission may determine that additional parking spaces are required during seasonal peaks.
- B. Screening and buffering.** Screening and buffering shall be provided between incompatible land uses.

Section 17 Limited Industrial District (LIU-3A)

In order to reduce the impact of uses within this zone upon the surrounding areas, the following standards shall apply:

- A. Permitted uses with Performance Standards.**
 - 1. Manufacturing and light industrial uses consistent with the purpose of this district. (For district purpose, see **Article V, Section 2-K, page 50**)
 - 2. Warehousing, storage, and wholesaling attendant to the principal industrial use.
 - 3. Accessory uses and structures, including occasional retailing.
 - 4. Signs, not exceeding fifty (50) square feet to a side, limited to two per industrial site (directional signs not included).
- B. Parking.** Off street parking shall be provided for employees and business related traffic.
- C. Access.** Access to the site shall be from principal and major arterials or major and minor collectors, except where safety considerations determine otherwise.
- D. Environmental standards.** Current Minnesota Pollution Control Agency (MPCA) standards on air, water, noise, solid and hazardous wastes, as adopted or amended in Minnesota Statutes, shall apply.
- E. Hours of operation.** Any light industrial use occurring after 8:00pm and before 7:00am shall be conducted within the confines of a structure; exceptions may be allowed on an emergency basis.
- F. Lighting.** Lighting shall not be directed upon nearby or adjacent properties.
- G. Screening and buffering.** Screening and/or buffering shall be provided between potentially incompatible land uses, the nature and extent of which shall be determined by the Planning Commission.

Section 18 Mineral Exploration and Evaluation

This activity is permitted through a land use permit if the following standards are met. A conditional use application is required for all exploration and evaluation that cannot meet these standards.

- a. Activity is outside the shore land area.
- b. Operations are a minimum of one-quarter mile from a residence.
- c. Access to the site is obtained.
- d. The surface owner has authorized the activity.
- e. All state regulations are followed, including reclamation.
- f. Any damage to roads and other facilities shall be repaired.