

**DULUTH TOWNSHIP BOARD OF SUPERVISORS
RESOLUTION NUMBER 20181011**

RESOLUTION AMENDING DULUTH ZONING ORDINANCE NUMBER 5

WHEREAS the Duluth Town Board of Supervisors has the authority to amend zoning ordinances of the Town,

WHEREAS the Duluth Township Planning Commission has provided, to the Town Board, recommended amendments to the Town of Duluth Zoning Ordinance Number 5,

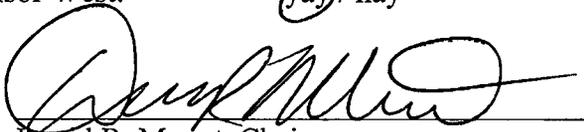
WHEREAS the Duluth Township Planning Commission has held public hearings to receive public comment on the proposed amendments,

WHEREAS the Duluth Town Board of Supervisors has considered this public comment and incorporated changes where they deemed appropriate,

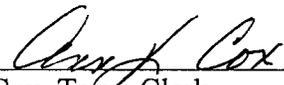
BE IT THEREFORE RESOLVED, that the Duluth Town Board of Supervisors formally adopts amendments of Town of Duluth Zoning Ordinance Number 5 as detailed in the attached document 20181011A and all attachments thereof. These amendments are effective as of October 12, 2018.

The motion to this resolution was passed by the Duluth Town Board according to the following vote:

| | |
|---------------------|-------------------|
| Supervisor Carlson: | <u>Y</u> ay / nay |
| Supervisor Crow: | <u>Y</u> ay / nay |
| Supervisor Morton: | <u>Y</u> ay / nay |
| Supervisor Mount: | <u>Y</u> ay / nay |
| Supervisor West: | <u>Y</u> ay / nay |

Signed:  Date: 10/11/18
David R. Mount, Chair

I hereby attest that this ordinance was duly enacted by the Board of Supervisors for the Town of Duluth on October 11, 2018.

Attest:  Date: 10-11-18
Ann Cox, Town Clerk

Amendments to Town of Duluth Zoning Ordinance Number 5 - ~~August 12, 2005~~ December 31, 2015
Amendments adopted by the Duluth Township Board of Supervisors

October 11, 2018

The Board of Supervisors of the Town of Duluth ordains that the Town of Duluth Zoning Ordinance Number 5 – December 31, 2015 (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.

Amendment #1: Driveways

Article III, Section 8 - Placement and Design of Roads and Driveways is repealed in its entirety and replaced with the following:

Section 8 - Placement and Design of Roads and Driveways

- A. ***Public Access Required.*** *Each lot where a dwelling is to be erected, altered in its exterior dimensions, or moved, shall have frontage on or access to an improved public road.*
- B. ***Public Access Requirements.*** *Construction of a dwelling on a lot without frontage on an improved public road must meet all of the following criteria.*
1. ***Proof of permanent access required.*** *The lot owner shall present to the Planning Director proof of permanent access to the property from an improved public road.*
 2. ***Requirements of lot owner.*** *The lot owner shall sign before a notary public and record with the County Recorder's Office, an affidavit, agreeing to the following:*
 - a. *The lot owner shall agree to maintain a private access to the lot, within the easement, at his or her own expense, that allows the reasonable access of emergency vehicles.*
 - b. *The lot owner will not demand public road maintenance*
 - c. *School bus service shall be provided solely at the discretion of the local school district.*
 3. ***Must comply with all other provisions.*** *The lot owner will comply with all other County and Township official controls including subdivision, zoning, sanitary, and rural addressing ordinance.*
 4. *Subdivision of property must comply with St. Louis County Subdivision Ordinance 60 or subsequent revision requirements.*
- C. ***Screening Encouraged.*** *Visual screening is encouraged along public or private roads, driveways, and parking areas. Screening should be designed to take advantage of natural vegetation to achieve maximum screening.*

D. **Line of Sight Screening.** Visual screening is also encouraged by slight bending of roads and driveways.

E. **Minimize Width.** Driveway and road widths shall be minimized, consistent with safety and engineering road design standards.

F. **Driveway Locations.** In land use districts MUNS-4, FAM-1, FAM-2, and FAM-3, new driveways off of public roads, when feasible, shall not be located closer than 300 feet to another driveway. If practicable, they should be shared with existing driveways to meet this standard.

G. **Driveways per Parcel.** For each lot served by a public road, there will be only one (1) driveway entrance unless permission is given by the appropriate road authority. Private access to agricultural land by culverting a ditch solely for the purpose of agricultural access to the property shall not constitute a driveway.

H. **Driveway Entrances Onto Public Roads**

a. In no case shall a driveway entrance be permitted to be within one-hundred (100) feet of the right-of-way line of any intersecting road.

b. The road authority shall approve all entrances, with consideration of safety and road maintenance.

c. The applicant shall, if possible, make use of common access points to any road.

I. **Minimize Stormwater Runoff.** Private roads and driveways will be designed and constructed to minimize erosion and runoff and will meet the following guidelines wherever possible.

a) Private roads and driveways will be located above the highwater mark of streams, lakes, wetlands, and seasonal ponds.

b) Private roads and driveways will not be located on unstable slopes (slopes subject to creep or slumping).

c) Private roads and driveways will not be constructed on slopes greater than ten percent (10%). On highly erodible soils, maximum grades of five percent (5%) will not be exceeded.

d. Down-road flow and ponding will be minimized by using a slight grade of one (1%) to two percent (2%) and with ditches or swales where practical.

J. **Private Road and Driveway Construction Standards.**

a. Install drainage structures as construction proceeds.

b. Provide adequate drainage for road grades during construction to minimize erosion of unconsolidated materials.

c. Provide temporary cross-drainage structures (such as water bars) during construction.

d. Construction All driveways shall meet the requirements of the Town's Stormwater, Erosion, and Sediment Control Ordinance Number 1 and amendments thereto.

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

L. **Wetland Impact:**

- a. Wetland impacts for private roads, driveways and parking areas shall be avoided.
- b. Approval to impact wetlands shall be obtained from St. Louis County prior to construction of any private roads, driveways or parking area where wetlands cannot be avoided.

Amendment #2: Amendments

“Article XI – Amendments” is repealed in its entirety and replaced with the following:

Article XI – Amendments

Section 1: General

This Ordinance and the Zoning Map may be amended, supplemented, or appealed whenever the public health, safety, and general welfare would best be served by such action, in accord with the Town’s Comprehensive Land Use Plan by the procedures set forth in this article.

Section 2: Initiation

- A. **Zoning Ordinance Text.** Amendments may be initiated by a land owner, the Planning Commission, or the Town Board. All amendments shall be referred to the Planning Commission for study and public hearing.
- B. **Zoning Ordinance Map**
 - a. Amendments may be initiated by the Town Board, the Planning Commission, or by the property owner of record or authorized representative.
 - b. Map amendments initiated by the property owner will require a Community Participation Report.

Section 3. Public Hearings

- A. **General.** Public hearings will be held prior to any Zoning Ordinance text amendment and prior to any Zoning Ordinance Map amendment. These public hearings may be continued from time to time and additional hearings may be held.

Section 4. Zoning Ordinance Text Amendments

A. Notice

- a. Written notice providing the same information will be sent to property owners of record within at least one quarter (¼) mile of the affected property or an area to be determined by the Planning Commission, whichever is greater.

b. *Written notice need not be sent to property owners of record in the following instances.*

- *Revisions of the Township Comprehensive Land Use Plan*
- *Proposed Amendments of the Zoning Ordinance*
- *Zoning Ordinance updates proposed by the Planning Commission.*

B. Findings from Public Hearing

- a. *The Planning Commission's report to the Town Board will contain a statement of evidence, the factual determinations made from the evidence, and the criteria used in reaching its recommendation.*
- b. *After conducting a public hearing on an ordinance text amendment, the Planning Commission will report in writing to the Town Board within sixty (60) days of the close of the hearing.*

C. Action By Town Board

Upon filing of a report by the Planning Commission, the Town Board, in the manner prescribed by Minnesota Statutes may, amend the ordinance as it deems advisable.

Section 5 Zoning Ordinance Map Amendments

A. **Notice.** *The Planning Commission will conduct at least one public hearing on all proposed zoning map amendments and report to the Town Board in writing within sixty (60) days of the close of the hearing (s).*

- a. *For map amendments initiated by petition of the property owner, notice of the time, place, and purpose of the public hearing will be published at least ten (10) days prior to the hearing, in the official newspaper of the Town of Duluth. Written notice providing the same information will be sent to property owners of record one-quarter (1/4) mile of the affected property or an area to be determined by the Planning Commission, whichever is greater.*
- b. *For Map amendment initiated by the Town Board or the Planning Commission, notice will be given in the manner prescribed in 5.A.a, above, except that in instances of a completion of a Township wide amendment resulting from the recent completion of a comprehensive plan or plan amendment, written notice need not be sent to property owners of record.*

B. Required Conditions for Requesting a Change

- a. *Rezoning, or amendment to the official land use district map, may be requested by the Town Board, the Planning Commission, or land owner. The Planning Commission may recommend approval of the request under any of the following situations:*

- i. *A mistake has been made in the original zoning that was inconsistent with the Comprehensive Plan, which should now be corrected along with the zoning.*
- ii. *A substantial change has occurred in the community since the adoption of the Comprehensive Plan, which should result in the Plan and the zoning being amended.*
- iii. *A public need being evident, there shall be a showing that the public interest would be best served by rezoning the property in question, rather than other property in the community.*
- iv. *One or more property owners who own one-hundred-sixty (160) or more contiguous acres may change their property from a higher or more intensive use to a lower or less intensive use by petition of those landowners to the Town.*

C. Criteria for Approval of Zoning Map Amendments

- a. **Required Conditions for Approval.** *Rezoning or amendment to the official land use district map shall be recommended for approval only upon the finding by the Planning Commission that all of the following conditions exist:*
 - i. *The proposed zoning shall be consistent with the Comprehensive Plan.*
 - ii. *A clear public need or benefit to be met by the requested zoning change shall exist, which is beyond any benefit or convenience to the landowner*
 - iii. *In the case of changing a zone district from a higher density or more intensive use to a less dense or less intense use, the proposed zoning shall allow the property owner(s) a reasonable use of their property under the terms of this Ordinance, as well as serve the public interest.*
 - iv. *No application for change in the boundary line of zones or districts initiated by a land owner may be granted unless at least fifty percent (50%) of the owners of the lands proposed to be changed file a petition for the change.*

D. Findings

- a. *The Planning Commission's report to the Town Board will contain a statement of evidence, the factual determinations made from the evidence, and the criteria used in reaching its recommendation.*
- b. *After conducting a public hearing on an ordinance text amendment, the Planning Commission will report in writing to the Town Board within sixty (60) days of the close of the hearing(s).*

E. Action By Town Board

- a. *Upon the filing of the report by the Planning Commission or upon expiration of the sixty (60) day period, the Town Board may by*

resolution, not adopt or adopt the amendment or any portion thereof as it deems advisable

- b. Once an amendment has been acted upon by the Town Board, the matter will not be reconsidered, nor will any additional amendments involving the same parcel of property be heard or considered by the Planning Commission or the Town for at least twelve (12) months.*

Section 6 Interim Zoning Regulations

Nothing above is intended to abridge the Town Board's authority to proceed in adopting interim zoning regulations.

Amendment #3: Public Hearing Notice Requirements for Variances

Article X, Section 3, Item D, addressing Public Hearing Notice Requirements is repealed and replaced with the following:

Section 3. Variances

D. Public Hearing Notice Requirements

- 1. All notices will be sent to recipients at least ten (10) days prior to the date of the hearing.*
- 2. Notice of Public Hearing will be published in the official newspaper of the Town of Duluth.*
- 3. At a minimum, owners of record within five hundred (500) feet of the affected property will be notified.*

Amendment #4: Requirements for Residential Solar Energy Systems

In Article III – General Provisions, the following is added to the end of the Article as Section 9:

Section 9. Residential Solar Energy System Requirements

A. Scope

- a. Solar energy systems are considered residential if their scale is consistent with the general energy needs of the residence present on the same lot, or lots contiguous with the residential lot.*
- b. Though the primary purpose is to provide the energy needs of the residence, excess energy produced may be sold to power companies.*

B. Roof and Wall Mounted Systems

- a. No land use permit is required for roof or wall mounted systems.*
- b. **Height limit:** Any structure or roof-mounted solar energy system shall not exceed the maximum principal structure height allowed in any zone district.*

C. Ground Mounted Solar Energy Systems

- a. *The foot print of a ground mounted system is the area of the panels, accessory components, and any foundation or compacted soil as viewed from above and shall be considered impervious surface.*
- b. **Screening:** *Solar energy systems shall not be required to be screened.*
- c. **Considered accessory structures:** *Ground mounted solar energy systems are considered accessory structures and are subject to the accessory structure standards for the district in which it is located, including but not limited to, setback, height, and impervious surface coverage limits.*
- d. *All requirements of the Town of Duluth Stormwater, Erosion and Sediment Control Ordinance Number 1 and amendments thereto must be met.*
- e. *Ground mounted solar energy systems with a footprint of 360 square feet or greater require a land use permit; systems less than 360 square feet do not require a land use permit, but must still meet other requirements.*
- f. *Setback requirements may be waived by the Director if it is verified that the proposed location is the only suitable area on the property for solar access.*

Amendment #5: Definition of Commercial Use

In Article II – Definitions, the following definition is added in its appropriate alphabetical position:

Commercial Use – *The principal use of land or buildings is for the sale, lease, rental, or trade of products, goods, and services, the nature of which is not covered by more specific definitions (e.g. highway commercial).*

Amendment #6: Commercial Use in Zoning District Land Use Matrix

In Article V – Land Use Zone Districts, the following line shall be inserted into Table 5.3 – Zoning District Land Use Matrix in its appropriate alphabetical position:

| <i>Land Use</i> | <i>FAM-1</i> | <i>FAM-2</i> | <i>FAM-3</i> | <i>MUNS-4</i> | <i>SMU-6</i> | <i>SMU-6A</i> | <i>SMU-8</i> | <i>SCO-8A</i> | <i>SCO-8B</i> | <i>COM-3</i> | <i>LIU-3A</i> |
|-----------------------|--------------|--------------|--------------|---------------|--------------|---------------|--------------|---------------|---------------|--------------|---------------|
| <i>Commercial Use</i> | ∅ | ∅ | ∅ | C | C | C | ∅ | PS | ∅ | PS | PS |

Amendment #7: Special Requirements and Conditions for Commercial Uses

In Article IX – Conditional Uses, add Section 23 as follows:

Section 23. Special Requirements and Conditions for Commercial Uses

In addition to the general criteria and requirements listed in Section 7 of this Article, and the zoning requirements of the zone district in which it is to be located (as described elsewhere in this Zoning Ordinance). The Town of Duluth requires the following conditions for Commercial Uses:

A. Road Access: *The parcel where the proposed commercial use is located must lie along and have direct access to any of the following roads:*

- 1. Homestead Road from the junction of the Shilhon Road south to Scenic Highway 61*
- 2. Ryan Road from the junction of the Lismore Road south to Scenic Highway 61*
- 3. McQuade Road from the junction of the Lismore Road south to the junction of Scenic Highway 61*
- 4. Lismore Road from the junction with the Ryan Road west to the McQuade Road*
- 5. Bergquist Road from the junction of the Lismore Road south to the junction of Highway 61 Expressway.*

B. Minimum Acreage Required: *The minimum acreage required for the commercial use is two (2) times the minimum lot requirement for the Zone Districts MUNS-4, SMU-6 and SMU6A.*

C. Minimum Lot Width: *the minimum lot widths are as follows:*

- 1. in MUNS 4 the lot width must be 1.5 times the minimum lot width required for the zone district.*
- 2. in SMU-6 and SMU-6A, the minimum lot width is that required for the zone district.*

D. Setbacks: *All structures must be set back two (2) times the minimum required setbacks for the zone district for side yards and rear yards.*

E. Maximum Aggregate Square Footage: *The aggregate sum of all structures for the commercial use shall not exceed 10,000 square feet.*

F. Loading. *Space for off-street loading and unloading of vehicles shall be provided for every building used or designed for commercial purposes. At least one (1) such space shall be provided and such spaces shall be a minimum of ten (10) feet in width, and thirty-five (35) feet in length.*

G. 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.*
- 4. All parking must be accommodated on site.*
 - a. Parking areas, whether public or private, shall be effectively screened from residential uses.*
 - b. All public or private parking areas shall be separated from the right-of-way of any road by means of a vegetative strip not less than 25 feet in width.*
 - c. All parking areas shall meet the minimum side and rear yard setbacks as required for non-commercial use structures in the zone district. These setbacks need not be doubled as is required for structures for Commercial Use.*

H. Screening

- 1. Screening and/or buffering shall be provided including the use of fences, vegetation, berms, or other methods that reduce visual impact of a structure or use upon adjacent structures or uses. Permanent vegetation with shrubs, small trees and large trees are preferred.*

I. 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.*

J. Lighting and Signage

- 1. All lighting and signage shall meet the general requirements of this Ordinance*
- 2. Signage shall not be lit past hours of operation of the business.*

Amendment #8: Performance Standards for Commercial Uses

In Article VIII – Performance Standards, change the title of Section 10 to:

**Section 10 Commercial Districts (COM-3, SCO 8A) and Commercial Uses SCO-8A,
COM-3 and LIU-3A**

Amendment #9: Fee table

- a. In Article XVI – Fees, Table 16.1 – Permit and Administrative Fees is repealed in its entirety and replaced with the following:

(Add new Fee Table)