

NEW SCANDIA TOWNSHIP

SHORELAND MANAGEMENT ORDINANCE

ORDINANCE NO. ~~46~~ (48)

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NEW SCANDIA TOWNSHIP

SHORELAND MANAGEMENT ORDINANCE

AN ORDINANCE FOR MANAGING SHORELAND IN NEW SCANDIA TOWNSHIP FOR THE PURPOSE OF PROMOTING HEALTH, SAFETY, ORDER, CONVENIENCE AND GENERAL WELFARE, AND TO PRESERVE AND ENHANCE THE QUALITY OF SURFACE WATER, PRESERVE THE ECONOMIC AND NATURAL ENVIRONMENTAL VALUES OF SHORELAND, AND PROVIDE FOR THE WISE UTILIZATION OF WATER AND RELATED LAND RESOURCES.

THE TOWN BOARD OF NEW SCANDIA TOWNSHIP DOES ORDAIN:

SECTION 1. TITLE

101. Short Title.

This Ordinance shall be known, cited and referred to as the New Scandia Township Shoreland Management Ordinance; except as referred to herein, where it shall be known as, "This Ordinance".

SECTION 2. INTENT AND PURPOSE

201. Purpose. This Ordinance is adopted for the purpose of:

- (1) Designating suitable land use districts for each body of public water.
- (2) Regulating the placement of sanitary and waste treatment facilities on lots.
- (3) Regulating the area of a lot and the length of water frontage suitable for building sites.
- (4) Regulating the alteration of shorelands of public waters.
- (5) Regulating alterations of the natural vegetation and the natural topography along shorelands.
- (6) Conserving and developing natural resources and maintaining a high standard of environmental quality.

SECTION 3. DEFINITIONS

301. Rules.

301.01. In the event of conflicting provisions in the text of this Ordinance, the more restrictive provision shall apply. The Town Board shall rule on what is more "restrictive" and appeals from said decisions may be made in the manner provided herein.

301.02. Words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the word "shall" is mandatory and the word "may" is permissive.

302. Definitions.

302.01. For the purpose of this Ordinance, certain terms and words are hereby defined as follows:

- (1) Ordinary High Water Mark. A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
- (2) Public Water. A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purpose of this Ordinance, any body of water which has a potential of supporting any type of recreational pursuit or water supply purpose. All lakes, ponds, flowages and wetlands ten (10) or more acres in size and all rivers and streams having a total drainage area of two (2) or more square miles shall be subject to this Ordinance.
- (3) Shoreland. Land that meets all of the following criteria:
 - (a) A portion of the lot must be located within one thousand (1,000) feet of the ordinary high water mark of any public body of water or within three hundred (300) feet of the landward extent of a floodplain designated by the Washington County Floodplain Ordinance.
 - (b) A portion of the lot must fall within a shoreland zoning district as delineated on the Washington County zoning map.
 - (c) The lot must have lake frontage or be in the next tier of lots landward that has primary access from the same township road that serves the lake lots.
- (4) Unclassified Body of Water. Any lake, pond, backwater, swamp, marsh, wetland, stream, drainageway, flowage, river, flood plain or other water oriented topographical features not designated as being LS-1, LS-2 or LS-3 on the zoning map.
- (5) Basic Zoning Districts. The Zoning Use District underlying the lakeshore zoning district on the zoning map and described in Section 601.01 of the Township Zoning Ordinance and regulated by the Township Zoning Ordinance.

SECTION 4. DISTRICT PROVISIONS

401. Designations of Types of Land Use.

401.01. In order to guide the wise development and utilization of shorelands of public waters for the preservation

of water quality, natural characteristics, economic values and the general health, safety and welfare, all public waters in the unincorporated areas of Washington County, Minnesota, have been given a waters classification, and uses of shorelands in these classes are hereby designated by land use districts, based on the compatibility of the designated type of land use with the public waters classification and planned land use as outlined in the County Comprehensive Plan.

402. Public Waters Classification System.

402.01. The public waters of Washington County, Minnesota have been classified in accordance with the guidelines set forth by the Department of Natural Resources. The lakes and streams in New Scandia Township that are subject to the regulations of this Ordinance are listed as follows:

KEY: Natural Environment = LS-1
 Recreational Development = LS-2
 General Development = LS-3

Lake No.	Classification	Name
1	LS-1	St. Croix River
52	LS-2	Big Marine Lake
53	LS-1	Sea Lake
54	LS-2	Bone Lake
55	LS-1	Nielsen Lake
56	LS-1	German Lake
59	LS-1	Goose Lake
63	LS-1	
64	LS-1	Fish Lake
65	LS-1	Hay
67	LS-1	Sand
68	LS-1	Long
69	LS-1	
71	LS-1	
72	LS-1	White Rock
78	LS-1	
80	LS-2	Sylvan

All other rivers and streams in New Scandia Township having a total drainage area of greater than two (2) square miles are assigned a public waters classification of Natural Environment.

403. Zoning Districts.

403.01. The land use zoning districts have been established in accordance with their compatibility with the public waters classification and to assist in carrying out the intent and purposes of the New Scandia Township Comprehensive Plan. The zoning districts are based upon the Comprehensive Plan which has a purpose of protecting the public health, safety, convenience and general welfare of the residents of the township.

District Symbol

LS-1

Intent and Primary Use

Protect the ecological and scenic values of natural, undeveloped water bodies from the harmful effects of development.

- LS-2 Protect the recreational value of a water body while allowing residential development along the shoreline
- LS-3 Encourage development on those water bodies currently being developed for residential and recreational uses.

403.02. The lakeshore districts are overlay districts. The regulations of this Ordinance are in lieu of the regulations of the Zoning and Subdivision Ordinances of New Scandia Township.

404. Zoning District Map.

404.01. The boundaries of the lakeshore zoning districts are delineated on the map designated as the Washington County Zoning Map which is made a part of this Ordinance and is on file with the Township Clerk.

405. Minimum Requirements.

405.01. The following standards shall apply to all shorelands of all public waters within the jurisdiction of this Ordinance:

	LS-1	LS-2	LS-3
1) Lot area above ordinary high water mark (acres)	2.5	2.5	2.5
2) Frontage on improved public street (feet)	160	160	160
3) Lot width at building setback line (feet)	200	160	160
4) Lot width at ordinary high water mark of abutting water body (feet)	200	150	125
5) Building setback from ordinary high water mark, subject to 405.08 (feet)	200	100	75
6) Building setback from right of way of intermediate or minor arterial street (feet)	75	75	75
7) Building setback from all other streets (feet)	40	40	40
8) Maximum lot coverage by impervious surface	30%	30%	30%
9) Building sideyard setback:			
a) from street if corner lot as per 405.01 (6) and 405.01(7)			
b) from interior lot line (feet)	25	25	25
c) from interior lot line on existing improved residential lots of one acre or less (feet)	10	10	10

10) Sewage system setback from ordinary high water mark (feet)	150	75	75
11) Maximum building height (feet)	35	35	35
12) Storage or Tool Shed			
a) maximum area size (square feet)	160	160	160
b) maximum roof height (feet)	12	12	12
c) maximum door opening (square feet)	28	28	28
d) maximum number of stories	1	1	1
e) number permitted	1	1	1
13) Detached Residential Garage			
a) maximum area size (square feet)	1,000	1,000	1,000
b) maximum number of stories	1	1	1
14) Boat House			
a) maximum area size (square feet)	240	240	240
b) maximum number of stories	1	1	1

405.02. Lots with frontage on or containing an unclassified body of water shall be subject to the setback requirements only from the ordinary high water mark for an LS-3 water body. All other lot requirements shall be subject to the regulations of the Zoning Ordinance for the basic zoning district in which the lot is located.

405.03. Setback requirements from the ordinary high water mark shall not apply to boat houses, piers and docks. Boat houses as defined in Section 405.01 of this Ordinance may be permitted to be located up to the ordinary high water mark subject to the issuance of a certificate of compliance by the Zoning Administrator provided they shall not be used for habitation and they shall not contain sanitary facilities.

405.04. No structure, except boat houses, piers and docks shall be placed at an elevation such that the lowest floor, including a basement, is less than three (3) feet above the highest known water level.

405.05. Detached accessory structures on lots with frontage on a water body shall not be located between the principal structure and the water body except as provided in section 405.03 of this Ordinance.

405.06. All detached accessory structures shall meet the setback requirements as regulated by sections 405.01 and 405.03 of this Ordinance.

405.07. Determination of Ordinary High Water Mark. When the elevation of the ordinary high water mark for a body of water has been determined on individual lots, it shall be located and

mapped by a registered engineer or land surveyor. When the elevation of the ordinary high water mark for a body of water has not been determined, the Zoning Administrator shall determine it as provided for in section 302.01 (1) of this Ordinance

405.08. On vacant shoreland lots that have two (2) adjacent lots with existing principal dwelling structures on both such adjacent lots, any new structure on the vacant lot may be set back the average setback of said adjacent structures from the ordinary high water mark or forty-five (45) feet whichever is greater.

SECTION 5. GENERAL PROVISIONS

501. Substandard Lots.

501.01. For the purpose of this Ordinance, the term "existing lot" shall mean: A lot or parcel of land which was of record as a separate lot or parcel in the Office of the Washington County Recorder or Registrar of Titles, on or before the date of adoption of this Ordinance.

501.02. Any such lot or parcel of land which is in a residential or agricultural district may be used for single family detached dwelling purposes provided the area and width thereof are within sixty percent (60%) of the minimum requirements of this Ordinance, provided all setback requirements of this Ordinance can be maintained; and provided it can be demonstrated that two (2) safe and adequate sewage treatment systems can be installed to serve such permanent dwelling. However, in no instance shall a lot be less than fifty (50) feet in width at the building line.

501.03. If in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width or area requirements of this Ordinance, such individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination of lots or parcels will equal one or more parcels of land each meeting the full lot width and area requirements of this ordinance.

502. NonConforming Uses and Substandard Structures.

502.01. Nonconforming uses and substandard structures shall be regulated by Section 402, NonConforming Uses, Buildings and Structures, of the Zoning Ordinance.

502.02. Exceptions to the building setback from the ordinary high water mark for substandard structures that are setback a minimum of forty-five (45) feet from the ordinary high water mark:

- (1) An extension, enlargement or alteration of an existing substandard structure may be permitted on the side of the structure facing away from the water body provided the improved structure is in compliance with all other requirements of this ordinance.

- (2) An extension, enlargement or alteration of an existing substandard structure may be allowed to extend laterally (parallel to the shoreline) when the improvement is in compliance with all other requirements of this Ordinance.

502.03. Exceptions to the building setback from the sideyard and street right of way.

- (1) An extension, enlargement or alteration of an existing substandard structure may be permitted on the side of the structure facing away from the sideyard or street provided the encroachment into the side or front yard is not increased and the improved structure is in compliance with all other requirements of this Ordinance.

503. Sewage Treatment.

503.01. Any premises intended for human occupancy must be provided with an adequate method of sewage treatment. All on-site individual sewage treatment systems shall conform to the minimum standards as set forth in Chapter Four, Sanitary Sewer Disposal Ordinance, of the Washington County Development Code.

503.02. A septic tank/drainfield system shall be the only acceptable system for installation unless it can be demonstrated that this system is not feasible on the particular lot in question and it can be demonstrated that the system being proposed as an alternate will not cause a pollution problem.

503.03. Prior to issuance of a septic system permit or a building permit, the applicant must demonstrate through approved soil testing there is an area of soils suitable for the installation of two (2) onsite sewage treatment systems.

503.04. Placement of soil absorption systems in areas where soil conditions are adequate shall be subject to the setback requirements in Section 405.01 (10).

503.05. All onsite sewage treatment systems shall be maintained in conformity with the regulations of Chapter Four, Sanitary Sewer Disposal Ordinance, of the WASHINGTON COUNTY Development Code. Where there is evidence of the system failing to function properly, failing to adequately treat sewage, septic tank effluent percolating from the ground or where there is evidence a failing system is posing a hazard to the public health, the system must be corrected and conform to these standards within ninety (90) days upon written notification from the Building Official.

503.06. Existing onsite sewage treatment systems shall be evaluated to determine location, condition and function, and if found deficient, shall be brought into conformance with this Ordinance and Chapter Four, Sanitary Sewer Disposal Ordinance, of the Washington County Development Code when:

- (1) An application for a building permit for construction of an addition onto the principal structure or a structural alteration of the principal structure is submitted to and approved by the Zoning Administrator;
- (2) The use of a structure or property changes;

- (3) The Building Official deems it necessary to upgrade the existing system, based upon evidence of the system failing to function properly, failing to adequately treat sewage, or otherwise posing a hazard to the public health.

503.07. When an existing nonconforming septic system is required to be upgraded according to Section 503.06 of this Ordinance, the new onsite sewage treatment system must be installed prior to issuance of a building permit or a financial guarantee equal to one hundred twenty-five percent (125%) of the cost of installing such a system as determined by the Zoning Administrator that is valid for one (1) year must be issued to the Zoning Administrator.

503.08. No person, firm or corporation shall install, alter, repair or extend any individual sewage treatment system without first obtaining a permit therefor from the Zoning Administrator for the specific installation, alteration, repair or extension.

504. High Water Elevation.

504.01. For any body of water, no structure, except boat houses, piers and docks, shall be placed at an elevation such that the bottom of the lowest floor, including basement floors, is less than three (3) feet above the highest known water level. In those instances where sufficient data on known high water levels are not available, the elevation of the line of permanent shoreland vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the Zoning Administrator.

504.02. Placement of structures shall also be regulated by the Floodplain Ordinance, Chapter Three of the Washington County Development Code.

505. Shoreland Alterations.

505.01. The removal of natural vegetation shall be restricted to prevent erosion into public waters, to consume nutrients in the soil and to preserve shoreland aesthetics. Removal of natural vegetation within the required setback area from the ordinary high water mark shall be subject to the following conditions:

- (1) Selective removal of natural vegetation shall be allowed, provided sufficient vegetative cover remains to screen cars, dwellings and other structures, except boat houses, piers, docks and marinas, when viewed from the water.

- (2) No cutting or removal of trees over six (6) inches in diameter measured at a point two (2) feet above ground level shall be permitted until a certificate of compliance has been issued by the Zoning Administrator.

- (3) Clear cutting of natural vegetation shall be prohibited.

- (4) Natural vegetation shall be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion.

(5) The provisions of this section shall not apply to allowed uses which normally require the removal of natural vegetation.

505.02. Grading and filling in shoreland areas or any alterations of the natural topography shall require a certificate of compliance issued by the Zoning Administrator prior to the commencement of any work. The certificate of compliance may be granted subject to the following conditions:

(1) The smallest amount of bare ground is exposed for as short a time as feasible.

(2) Methods to prevent erosion and trap sediment are utilized and placed around the limits of construction.

(3) All disturbed areas and filled areas shall be finish graded, seeded, fertilized and mulched according to the recommendations of the Zoning Administrator within thirty (30) days of completion of grading or filling.

(4) The maximum allowable slope for any graded area or any fill shall be 3:1, defined as three (3) feet horizontal run to one (1) foot vertical rise.

(5) Fill shall be stabilized to accepted engineering standards.

(6) Alterations of the shoreline, body of water, floodplain or wetland by excavation or filling shall require a permit from the Commissioner of Natural Resources and the United States Army Corps of Engineers.

SECTION 6. SUBDIVISION

601. Compliance.

601.01. All subdivision shall comply with the applicable provisions of the New Scandia Township Subdivision Ordinance and the Washington County Floodplain Ordinance, Chapter Three of the Washington County Development Code. Any proposed plat for shoreland areas which is inconsistent with the provisions of this Ordinance shall first be approved by the Commissioner of Natural Resources.

SECTION 7. ADMINISTRATION

701. Administrative Procedures.

701.01. The administrative procedures as set forth in Section 5 of Chapter One, Zoning Ordinance of the Township shall apply and all provisions thereof shall be applicable to this Ordinance.

701.02. Preliminary plans for cluster and planned unit developments shall be reviewed and approved by the Commissioner of Natural Resources prior to any final action or approval by the Governing Body.

701.03. Notices of public hearings to consider variances, amendments, conditional uses and subdivisions shall be forwarded

to the Commissioner of Natural Resources at least ten (10) days prior to such hearing.

701.04. All amendments and final decisions granting variances, conditional uses or subdivisions shall be forwarded to the Commissioner of Natural Resources within ten (10) days of final action or amendment.

701.05. All permit applications shall be forwarded to the regulating watershed district for review and approval. Review costs for the watershed district shall be paid by the applicant.

SECTION 8. ENFORCEMENT

801. Violations and Penalties.

801.01. Violations. The violation of any provision of this Ordinance or the violation of the conditions or provisions of any permit issued pursuant to this Ordinance shall be a misdemeanor, and upon conviction thereof, the violator shall be subject to a fine, imprisonment or both; plus in either case, the cost of prosecution.

801.02. Penalties. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues, constitutes a separate offense.

801.03. Application to Township Personnel. The failure of any officer or employee of the township to perform any official duty imposed by this Ordinance shall not subject the officer or employee to a penalty imposed for violation unless a penalty is specifically provided for such failure.

801.04. Equitable Release. In the event of a violation or the threatened violation of any provision of this Ordinance or any provision or condition of a permit issued pursuant to this Ordinance, the township, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violation.

SECTION 9. EFFECTUATION

901. Separability, Supremacy and Effective Date.

901.01. Separability. Every section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision or part thereof.

901.02. Supremacy. When any condition imposed by any provision of this Ordinance on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other township ordinance or regulation, the more restrictive conditions shall prevail.

This Ordinance is not intended to abrogate any easements, restrictions or covenants relating to the use of land or imposed on lands within the township by private declaration or agreement, but where the provisions of this Ordinance are more restrictive than any such easement, restriction or covenant or provision of any private agreement, the provisions of this Ordinance shall prevail. This Ordinance does not supersede the authority of other regulating agencies.

901.03. Effective Date. This Ordinance shall be in full force and effect from and after the date of its passage and publication according to law.



Charles I. Nordin
Town Board Chairman

ATTEST:



Dolores Peterson
Town Clerk