

**TOWN OF NEW SCANDIA
ORDINANCE NO. 79**

**AN ORDINANCE AMENDING ORDINANCE NO. 74 AND PERTAINING TO THE
DEVELOPMENT CODE OF THE TOWN**

The Town Board of New Scandia Township, Washington County, Minnesota hereby ordains that the Development Code of the Town consisting of its zoning and subdivision regulations is hereby amended as follows:

Section 1.

Section 2.1 of Chapter One is amended by adding the following new definitions or amendments to definitions:

- (15.5) Architectural Review Board: An appointed advisory board of the Township used for review of landscaping, building design, and aesthetics as part of the proposals for commercial development and redevelopment in the "RB" Retail Business and "GB" General Business Districts.
- (28) Building Height: The vertical distance between the highest adjoining ground level within five (5) feet of the building or ten (10) feet above the lowest ground level within five (5) feet of the building, whichever is lower and the highest point of a flat or mansard roof or the average height of the highest gable of a pitched or hipped roof. No structure shall exceed the maximum height permitted for the zoning district in which it is located, except for church spires, chimneys, agricultural silos, wind energy conversion systems, wireless communication antennas and towers and flag poles up to 45 feet in height.
- (45) Community Residence: A facility licensed by the State of Minnesota that provides residential and habilitative services to persons with disabilities. One density unit is attributed to this residence when calculating density.
- (67.5) Drainageway: A channel that provides for the drainage of stormwater runoff from a watershed area.
- (92.5) Flood Fringe: That portion of the floodplain outside the floodway. Flood Fringe is used in the Flood Insurance Study for Washington County and identified on the Flood Boundary and Floodway maps as floodway fringe.
- (92.7) Floodway: The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry the regional flood discharge.
- (130) Livestock: Domestic farm animals including, but not limited to, cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food and fiber production purposes.

- (136.5) Lot Averaging: Allows the property owner to create parcels smaller than those of a conventional subdivision plan provided the density of the development does not exceed the maximum density permitted for the zoning district and the density that can be achieved with a yield plan.
- (137) Lot, Buildable: A lot that meets or exceeds all requirements of the New Scandia Township Development Code without the necessity of variances. See Chapter Two, Section 9.1(11).
- (182.5) Park and Recreation Board: An appointed advisory board of the Township used to address matters relating to parks, recreation facilities and programs within the Township. This Board also makes recommendations for dedication of land or fees for subdivisions within the Township.
- (224.5) Rural Landscape Preservation Committee: An advisory committee appointed by the Township Board for the purpose of reviewing and making recommendations to the Township Board on matters related to rural area development and preservation.
- (283.5) Watershed District: An entity established under Minnesota Statutes, Chapter 103D within a specific drainage area and having the purposes described in Minnesota Statutes 103D.201.

Section 2.

Section 2.1(25) of Chapter One is hereby amended as follows:

- (25) Buildable Land: Land above the 100 year flood plain with a slope less than 25 percent, and situated outside of any required setbacks, except that on a natural environment lake where a 200-foot structure setback is required, the buildable area calculation shall be measured from the 150-foot setback rather than the 200-foot setback; and land situated outside of any floodway, drainageway, or drainage easement.

Section 3.

Section 12.4(2) of Chapter One is amended as follows:

- (2) Any separate lot or parcel with at least one (1) contiguous buildable acre existing on July 1, 1980 having a minimum of 5 acres and at least 300 feet of road frontage may be used for the legal use for which it is zoned and is exempt from (3) and (4) below.

Section 4.

Section 13.2 of Chapter One is amended as follows:

- 13.2 No amendment to the Development Code or the Comprehensive Plan shall be adopted until a public hearing has been held thereon by the Planning Commission. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the Town at

least ten days prior to the date of the hearing. When an amendment involves changes in district boundaries, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within one-quarter mile of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made.

Section 5.

Section 2. Density of Chapter Two is amended by adding in the margin adjacent to **open space design** the following:

See Section 12. Open Space Development

Section 6.

Section 3.2(2) of Chapter Two is amended as follows:

- (2) Uses with a Certificate of Compliance. The following uses are permitted in the “AP” and “AG” districts after the issuance of a Certificate of Compliance:
 - (A) Accessory Apartments
 - (B) Agricultural Business - Seasonal
 - (C) Community Residence (serving 1 to 6 persons)
 - (D) Essential Services - Government Uses, Buildings and Storage
 - (E) Home Occupation
 - (F) Horse Training Facility, Commercial (10 or fewer horses)
 - (G) Horse Training Facility, Private (over 10 horses)
 - (H) Livestock and Livestock Operations (11 to 49 animal units)
 - (I) Plant Nursery
 - (J) Temporary Dwelling Unit - Construction
 - (K) Temporary Farm Dwelling

Section 7.

Section 3.2(3)(E) of Chapter Two is amended as follows:

- (E) Community Residence (serving 7 to 16 persons)

Section 8.

Section 3.3(1)(B) of Chapter Two is amended as follows:

- (B) In the Agricultural (AG) District, unless the parcel is part of an approved open space development, lots must be 2.00 to 4.00 acres in size, or 20.00 acres or greater, except for parcels of record between 18 and 23 acres existing before April 13, 1999 which may be developed into two residential lots, of any size, provided they meet the minimum of 2 acres in size.

Section 9.

Section 3.3(2)(B) of Chapter Two is amended as follows:

- (B) Greater than 3 acres and less than 4 acres ----- 240 feet
Greater than 4 acres ----- 300 feet

Section 10.

Section 3.3(4) is amended as follows:

- (4) Minimum Building Setbacks.

- (A) Front ----- 40 feet *
- (B) Side ----- 20 feet **
- (C) Rear ----- 50 feet

* See numbers (6) and (7) below.

** 10-foot sideyard setbacks allowed for existing parcels 1.0 acre or less in size.

Section 11.

Section 4.2(2) of Chapter Two is amended as follows:

- (2) Uses with a Certificate of Compliance. The following uses are permitted in the "SR" District after the issuance of a Certificate of Compliance:

- (A) Accessory Apartment
- (B) Agricultural Business - Seasonal
- (C) Community Residence (serving 1 to 6 persons)
- (D) Essential Services - Government Uses, Building and Storage
- (E) Home Occupation
- (F) Plant Nursery
- (G) Temporary Dwelling Unit - Construction
- (H) Temporary Farm Dwelling

Section 12.

Section 4.2(3) E is amended as follows:

- (E) Community Residence (serving 7 to 16 persons)

Section 13.

Section 4.3(4) of Chapter Two is amended as follows:

- (A) Front ----- 40 feet *
- (B) Side ----- 20 feet *
- (C) Rear ----- 50 feet

* See numbers (6) and (7) below.

Section 14.

Section 5.2(2) is amended as follows:

- (2) Uses with a Certificate of Compliance. The following uses are permitted in the "SFE" District after the issuance of a Certificate of Compliance:

- (A) Accessory Apartment
- (B) Agricultural Business - Seasonal
- (C) Community Residence (serving 1 to 6 persons)
- (D) Essential Services - Government Uses, Building and Storage
- (E) Home Occupation
- (F) Place of Worship
- (G) Plant Nursery
- (H) Temporary Dwelling Unit - Construction
- (I) Temporary Farm Dwelling

Section 15.

Section 5.2(3)(B) is amended as follows:

- (B) Community Residence (serving 7 to 16 persons)

Section 16.

Section 5.3(2)(A) is amended as follows:

- (A) Minimum Lot Size ----- 2 acres

Section 17.

Section 5.3(4) of Chapter Two is amended as follows:

- (A) Front ----- 40 feet *
- (B) Side ----- 20 feet *
- (C) Rear ----- 50 feet

* See numbers (6) and (7) below.

Section 18.

Section 6.3(4) of Chapter Two is amended as follows:

- (A) Front ----- 40 feet *
- (B) Side ----- 20 feet *
- (C) Rear ----- 50 feet

* See numbers (6) and (7) below.

Section 19.

Section 7.2(3)F of Chapter Two is hereby deleted.

Section 20.

Section 7.3(4) of Chapter Two is amended as follows:

- (A) Front ----- 40 feet *
- (B) Side ----- 20 feet *
- (C) Rear ----- 50 feet

* See numbers (6) and (7) below.

Section 21.

Section 8.2(3) of Chapter Two is amended as follows:

- (3) Sidewalks. Five-foot wide concrete sidewalks must be provided on at least one side of every street in commercial, industrial and residential developments (location shall be decided based on the location of existing sidewalks, topography and other considerations as determined by the Town Board).

Section 22.

Section 8.2(4) of Chapter Two is amended as follows:

- (4) Lighting. Parking lot and street lighting is required and must match the style, quality and appearance of light fixtures in the historic Village Center.

Section 23.

Section 9.1(11) of Chapter Two is amended as follows:

- (11) Buildable Land. All new parcels created, which are not served by public sanitary sewer, must have at least one (1) contiguous acre of accessible buildable land. Buildable land is defined as:
 - (A) land with a slope less than 25 percent, and
 - (B) situated outside of any required setbacks, except that on a natural environment lake where a 200 foot structure setback is required, the buildable area calculation shall be measured from the 150 foot setback rather than the 200 foot setback; and
 - (C) situated outside every floodplain, drainageway, or drainage easement.

All new lots created which are served by public sewer must contain at least 3,200 square feet of buildable area as defined above. Property situated within Shorelands or the Saint Croix River District is also subject to the requirements in those Chapters.

Section 24.

Section 9.2(2)(C) of Chapter Two is amended as follows:

- (C) No detached accessory structure, including storage sheds, shall be located closer to the road right-of-way than the principal building on a lot without a variance unless all of the following conditions are met:
 - 1. The accessory structure is at least 200 feet from the road right-of-way on lots of five (5) acres or more; and
 - 2. All setbacks are met.

Section 25.

Section 9.2(3)(B) of Chapter Two is amended as follows:

- (B) The permitted total square footage of all accessory structures is as follows:

Lot Size	Total Square Footage
Parcels less than 1 acre	720 sq. ft.
1 acre to 3.00 acres	1,000 sq. ft.
More than 3.00 acres to 5.00 acres	2,000 sq. ft.
More than 5.00 acres	2,500 sq. ft.
agricultural buildings on parcels 20.00 acres or greater	unlimited

Section 9.2(3)(B) is amended by adding in the margin adjacent to said section the following:

Agricultural Building: A structure on agricultural land designed, constructed, and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.

Section 26.

The following new Section 9.2.5 is added to Chapter Two as follows:

2.5 No accessory building shall exceed 35 feet in height.

Section 27.

Section 9.13(1) of Chapter Two is amended as follows:

- (1) No building exterior shall be constructed of steel, iron, sheet aluminum, corrugated aluminum or plain, flat, unpainted concrete block (walls or roofs), except on parcels greater than 5 acres. Buildings on parcels less than 20.0 acres in size must provide a minimum one-foot overhang on all sides of the building with finished soffits, and be of similar color to the residential home.

Section 28.

Section 10.7(1) of Chapter Two is amended as follows:

- (1) **Required Permits.** A community residence serving 1 to 6 persons and appropriate staff shall be allowed in the "SFE" Single Family Estate, "SR" Semi-Rural and "AG" Agricultural Districts with a Certificate of Compliance. A community residence serving 7 to 16 persons and appropriate staff shall be allowed in the "SFE" Single Family Estate, "SR" Semi-Rural and "AG" Agricultural Districts with a Conditional Use Permit.

Section 29.

Section 10.16(1) of Chapter Two is amended as follows:

- (1) Required Permits. A conditional use permit is required by the Town for a private kennel in all districts. The Town Board shall take into consideration the kind and number of animals kept or to be kept on the premises, the facilities being maintained for the care and keeping of the animals, the effect of the animals on neighboring properties and the general health and welfare of the Town.

Section 30.

Section 10.18(1)(B) of Chapter Two is amended as follows:

- (B) Any person owning or conducting a livestock operation containing eleven (11) or more animal units in the AP or AG districts shall obtain a certificate of compliance.

Section 31.

Section 10.22(1) of Chapter Two is amended as follows:

- (1) Required Permits. A conditional use permit is required for places of worship in the Agricultural (AG), Semi-Rural (SR), Single Family Estate (SFE), Retail Business (RB) and General Business (GB) Districts. The conditional use permit application must include a site plan of all structures and a detailed listing of all uses to be conducted on the property.

Section 32.

Chapter Two is amended by adding a new Section 10.35.5 as follows:

10.35.5 Wind Energy Conversion Systems (WECS)

- (1) Required Permit. A wind energy conversion system is defined as one (1) tower with rotors and motors with one conversion generator. A wind energy conversion system is permitted in the "AG" Agricultural and "SR" Semi-Rural Districts with a Conditional Use Permit.
- (2) Other Requirements. Wind energy conversion systems shall comply with all rules and regulations of Federal, State, County, and local agencies.
- (3) Performance Standards. Wind energy conversion systems must comply with the following standards:
 - (A) The parcel on which a wind energy conversion system is proposed to be located must be at least ten acres in size.
 - (B) One wind energy conversion system is permitted on a parcel.

- (C) The maximum height of a wind energy conversion system shall be 100 feet. The system height shall be measured from the base of the tower to the highest possible extension of the rotor.
- (D) No lights, flashers, reflectors, or any other illuminated devices shall be affixed to the wind energy conversion system.
- (E) The wind energy conversion system shall be located so as to have the least impact on adjoining parcels.
- (F) No wind energy conversion system shall be located within any required setback and shall have a minimum setback from any property line a distance equal to the height of the system.
- (G) Rotors shall not exceed 26 feet in diameter and shall have a clearance of 30 feet over any tree or structure. Each wind energy conversion system shall be equipped with both a manual and automatic breaking device capable of stopping the wind energy conversion system in high winds (40 MPH or greater).
- (H) All State, County, and local noise standards must be met. Applicable electrical permits/inspections must be obtained.
- (I) To prevent unauthorized climbing, wind energy conversion system towers must comply with one of the following provisions:
 1. Tower climbing apparatus shall not be located within 12 feet of the ground.
 2. A locked anti-climb device shall be installed on the tower.
 3. A protective fence at least 6 feet in height.
- (J) The color of the structure shall be either gray or off-white.
- (K) In the event of permit revocation or if the wind energy conversion system is no longer used, the wind energy conversion system must be removed and the site restored to its original condition within 120 days.

Section 33.

Section 12.1 of Chapter Two is amended by adding new Sections 12.1(8) and 12.1(9) as follows:

- (8) Since an Open Space Development requires certain unique characteristics and features, not every parcel of available land is suitable for such development. Size, location, topography, natural features and resources, etc. are unique to each potential

open space development so that development approval depends in part on the evaluation of suitable characteristics. Further, due to such uniqueness, approval of an open space development cannot be inferred as approval for other parcels.

- (9) Economic conditions, i.e. potential development profit, shall not constitute a hardship or reasonable criteria for approval of an open space development if other methods for subdivision of the property exist under the provisions of the Development Code.

Section 34.

Section 12.5(2)(B) is amended as follows:

- (B) The following uses are allowed in the designated open space with an additional conditional use permit:
 - 1. Golf Course
 - 2. Motorized Trails
 - 3. Recreational uses available to the public including:
 - (a) ball fields
 - (b) playgrounds
 - (c) courts (tennis, basketball, etc.)
 - (d) swimming pools or beaches.

Section 35.

Section 12.10(2)(A) is amended as follows:

- (2) Residential Lot Requirements.
 - (A) Minimum Lot Size

- 1. AG and SR ----- 1.5 acres
- 2. SFE ----- 1.5 acres
- 3. Buildable ----- 1.0 acre

Section 36.

Section 12.10(4)(A) is amended as follows:

- (A) Open space shall be designated as part of the development. The minimum required open space is based on a percentage of the gross acreage:
 - 1. AG ----- 55%
 - 2. SR ----- 55%
 - 3. SFE ----- 40%

Section 37.

Section 12.10(3)(H) of Chapter Two is amended as follows:

- (H) Neighborhoods shall be separated from adjacent residential property by a clear boundary, comprised of two or more of the following elements: street pattern, marked topographical changes, landscape screening, drainageways, ponds, wetlands, streams, greenways and woodlands.

Section 38.

Section 12.10(4)(A) margin example is amended as follows:

An example of a 100 acre tract in an Agricultural "AG" zone, open space requirements are as follows:

Maximum residential lots and streets----- 45 acres

Minimum total open space ----- 55 acres

*Minimum open space accessible
to and owned by residents ----- 13.75 acres*

*Minimum accessible open space
suitable for recreation ----- 3.45 acres*

Section 39.

Section 4.5 of Chapter Three is amended as follows:

- 4.5 The platting and subdivision of open space design subdivisions shall be coordinated with the requirements contained in the Development Code, Chapter Two, Section 12. Open Space Design.

Section 40.

Section 6.1(2) of Chapter Three is amended as follows:

- (2) At least eleven (11) days prior to the regularly scheduled meeting of the Planning Commission, the owner shall prepare and submit the required number of copies of a concept plan containing the following information:
 - (A) Tract boundaries and approximate dimensions.
 - (B) Resource Inventory that includes:

1. Hydrologic characteristics, including surface water bodies, floodplains, wetlands, natural swales and drainageways.
 2. Context: general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch; 200 feet.
- (C) Proposed general street and lot layout with lot sizes of individual parcels designated.
- (D) General location of proposed public and private open space areas.
- (E) Current zoning of the property.
- (F) An explanation of the proposed subdivision and its purpose.
- (3) The Planning Commission shall review the sketch plan with the subdivider and provide comments on the concept plan. The Planning Commission will take no formal or informal action at this stage of review and discussion that occurs at this meeting cannot be construed as approval or denial of the proposed plat.
- (4) Applicant shall also obtain concept approval from the Washington County Department of Land Management prior to submission of the preliminary plat.

Section 41.

Section 6.2 of Chapter Three is amended by adding a new subsection 6.2(4.5) as follows:

- (4.5) The preliminary plat shall be submitted to the Washington County Plat Commission for its approval.

Section 42.

Section 6.2(5) of Chapter Three is amended as follows:

- (5) Upon receipt of a complete preliminary application, the Planning Commission shall schedule a public hearing for the preliminary plat. Such hearing shall be scheduled no later than forty-five (45) days from the date of the filing of the complete application.

Section 43.

Section 6.3(3) of Chapter Three is amended as follows:

- (3) The Planning Commission shall consider the final plat no later than forty-five (45) days from the date that the complete final plat is received. The Planning Commission's recommendations shall be forwarded to the Town Board. The Town Board's decision on the final plat shall be recorded in the proceedings and transmitted to the applicant.

Section 44.

The Development Code and Zoning Map are amended to rezone the following described property as "RB" Retail Business:

All those parcels having Village Center and Village Center + designations in the Town Comprehensive Plan lying South of Scandia Trail North presently zoned "GB" General Business except the parcels designated "GB" General Business in the Plat of Hawkinson Business Park.

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

Adopted by the Town Board of New Scandia Township this 6th day of April, 2004.


Dennis D. Seefeldt, Chairman

Attest:

Dolores Peterson, Clerk