

**CITY OF SCANDIA
ORDINANCE NO. 192**

**AN ORDINANCE AMENDING
ORDINANCE NO. 122, THE SCANDIA DEVELOPMENT CODE,
CHAPTER 1, SECTION 8, CONDITIONAL USE PERMITS**

The City Council of the City of Scandia, Washington County, Minnesota hereby ordains:

Section 1. Amendment. Ordinance No. 122, the City of Scandia Development Code (“Development Code”, or “Code”), Chapter One, Section 8, Conditional Use Permits, shall be amended to read as follows:

8.1 Purpose. The purpose and intent of a conditional use permit is to authorize and regulate uses which may be beneficial in a specific instance to the general welfare of the community, yet ensure that such uses are not detrimental to surrounding property, and are consistent with the stated purpose of the zoning district in which such uses are located regarding conditions of operation, location, arrangement, and construction.

8.2. Procedures. Pursuant to Minnesota Statutes 15.99, an application for a conditional use permit shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Pursuant to Minnesota Statutes 15.99, the City staff is hereby authorized to extend the 60 day time limit by a time period not to exceed 60 additional days, provided written notice of such extension is provided to the applicant before the end of the initial 60 day period. Extensions may also be requested by the applicant. Additional City options and requirements are as follows:

- (1) **Pre-Application Concept Review.** Prior to the official and complete submission of the request for a conditional use permit, applicants may present a conceptual plan to the Zoning Administrator for review. The concept plan shall include a general description of the proposed use, such as activities proposed for the site, hours of operation, and size of the use; and shall include a sketch plan of the site and location of proposed uses and structures, such as parking areas and access locations; proposed sewage treatment facilities, water service, and storm drainage; and other site elements. The concept plan may describe the proposed general schedule of development; and may include other information useful to understanding the proposed use and site plan.

The Zoning Administrator shall review the concept plan and provide informal comments to the applicant. The Zoning Administrator shall have the prerogative and authority to refer the concept plan to the Planning Commission and/or City Council for discussion, review, and informal comment. Any opinions or comments provided on the concept plan by the Zoning Administrator, Planning Commission, and/or City Council shall be considered advisory only and shall not constitute a binding decision.

- (2) **Official and Complete CUP Request Submission.** Requests for conditional use permits, as provided within this Chapter, shall be filed with the Zoning Administrator on an official application form. The applicant’s signature shall be provided on the application form.

Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by 1) a fee as set forth by City ordinance, 2) detailed written and graphic materials, in the number and size prescribed by the Zoning Administrator, fully explaining the proposed change, development, or use, and 3) a list of property owners located within 1,320 feet of the subject property in a format prescribed by the Zoning Administrator. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified information requirements.

- (3) Upon receipt of a complete application, as determined by staff review, and following preliminary staff analysis of the application and request, the Zoning Administrator, when appropriate, shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council.
- (4) Notice of said hearing shall consist of a legal property description and a description of the request, which shall be published in the official newspaper at least 10 days prior to the hearing and written notification of said hearing shall be mailed at least 10 days prior to the hearing to all owners of land within 1,320 feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.
- (5) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council.
- (6) The Planning Commission and City staff shall have the authority to request additional information from the applicant or to obtain expert testimony with the consent and at the expense of the applicant, if such additional information is necessary to establish performance conditions in relation to all pertinent sections of this Chapter.
- (7) The applicant or a representative thereof may appear before the Planning Commission in order to present information and answer questions concerning the proposed request.
- (8) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this Chapter.
- (9) The City Council shall not grant a conditional use permit until it has received a report and recommendation from the Planning Commission and the City staff, or until 60 days after the first regular Planning Commission meeting at which the request was considered.
- (10) Approval of a Conditional Use Permit shall require passage of a resolution by a majority vote of a quorum of the City Council.
- (11) Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for a conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least 6 months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the entire City Council.

8.3 Information Requirement. The information required for all conditional use permit applications shall be as specified in Section 11.0 of this Chapter.

8.4 General Criteria. As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but be not limited to, the following general criteria:

- (1) The conditional use will be in compliance with and shall not have a negative effect upon the Comprehensive Plan, including public facilities and capital improvement plans.
- (2) The establishment, maintenance or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
- (3) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values or scenic views.
- (4) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- (5) Adequate public facilities and services are available or can be reasonably provided to accommodate the use which is proposed.
- (6) The conditional use shall conform to the applicable regulations of the district in which it is located and all other applicable standards of this Chapter.
- (7) The conditional use complies with the general and specific performance standards as specified by this Section and this Chapter.

8.5 Performance Standards. As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but be not limited to, all applicable performance standards provided by Chapter 2 of this Development Code, and the following general standards applicable to all conditional uses:

- (1) The use and site in question shall be capable of supporting the wastewater disposal needs of the proposed use, and shall meet all applicable standards and regulations necessary to protect public health and to protect surface and groundwater resources.
- (2) Adequate parking shall be provided, and the site design for access, circulation, parking and loading areas shall minimize internal and external traffic conflicts.
- (3) An adequate pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.
- (4) All landscaping, screening, woodland and tree preservation requirements shall be met.
- (5) All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring property and be in compliance with all city lighting requirements.
- (6) Potential exterior noise generated by the use shall be identified and mitigation measures as may be necessary shall be provided to insure compliance with the city's noise ordinance.

- (7) The site drainage system shall meet all applicable standards for management of water quantity and water quality.
- (8) The architectural appearance and functional design of non-residential buildings and sites shall be in harmony with the Scandia Architectural Design Guidelines and with the character of the surrounding buildings and sites.
- (9) All signs and informational or visual communication devices shall be in compliance with applicable regulations.
- (10) The use and site shall be in compliance with any federal or state laws or regulations which are applicable and any other required permits are obtained and documented to the City.
- (11) Any applicable business licenses that may be mandated by City ordinance are approved and obtained.
- (12) The hours of operation may be restricted when there is potential negative impact upon the surrounding area or neighboring uses.
- (13) Any costs that may be incurred by the city to monitor compliance with the conditions of the Conditional Use Permit shall be paid by the applicant and/or owner of the property.

8.6. Revocation. The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this Chapter, City Ordinances, or other applicable regulations. The City Council or Planning Commission shall initiate an action and the Zoning Administrator shall notify the responsible person to whom the permit was issued and owner of the property, that the person or property owner has an opportunity to show cause why the permit should not be revoked. A hearing shall be held pursuant to Section 8.2 of this Chapter. The Zoning Administrator shall provide the responsible person to whom the permit was issued and the owner of the property a copy of the proceedings and findings of the Planning Commission and City Council determining whether the conditional use permit shall be revoked.

8.7 Amendment. Holders of a conditional use permit may propose amendments to the permit at any time, following the procedures for a new permit as set forth in this Section. No significant changes in the circumstances or scope of the permitted use shall be undertaken without approval of those amendments by the City. The Zoning Administrator shall determine what constitutes significant change. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, different and/or additional signage, and operational modifications resulting in increased external activities and traffic, and the like. The Planning Commission may recommend, following the procedures for hearing and review set forth in this Section and the City Council may approve significant changes and modifications to conditional use permits, including the application of additional or revised conditions.

8.8 Expiration. Unless the City Council specifically approves a different time when action is officially taken on the request, permits which have been issued under the provisions of this section shall expire without further action by the Planning Commission or the City Council, unless the applicant commences the authorized use within 1 year of the date the conditional use permit is issued; or, unless before the expiration of the 1 year period the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as set forth by City

Ordinance. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. A request for an extension not exceeding 1 year shall be subject to the review and approval of the Zoning Administrator. Should a second extension of time or any extension of time longer than 1 year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

8.9 Financial Guarantee. Following the approval of a conditional use permit as required by this Section and prior to the issuing of any building permits or the commencing of any work, the applicant may be required to guarantee to the City the completion of landscaping and any other private exterior amenities or improvements as shown on the approved site plan and as required by the conditional use permit approval. The guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in Section 11.0 of this Chapter.

8.10 Certification of Taxes Paid. Prior to approving an application for a conditional use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the conditional use permit application relates.

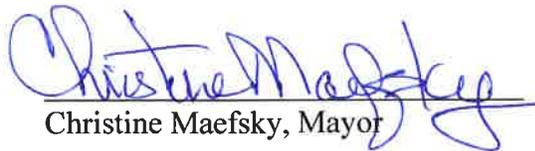
Section 2. Effective Date. This ordinance shall be in full force and effect upon its adoption and publication according to law.

Passed and adopted by the City Council of the City of Scandia this 16th day of January, 2018.

ATTEST:



Neil Soltis, Administrator/Clerk



Christine Maefsky, Mayor