



AGENDA ITEM # 6.3

REPORT TO CITY COUNCIL

Report Prepared by: Dawn Bittner

Date: February 29, 2016

Subject: Ordinance Amendment

Report: The Planning Commission explored the addition of “Interim Use Permits” in the Ordinance. An Interim Use is similar to a Conditional Use, but would end on a particular date or a specified event. The Planning Commission is unanimously recommending the Council amend the Ordinance to include Interim Use, based on the following Findings of Fact:

1. An interim use permit is a permitting mechanism that allows the city to issue a permit which is valid for a pre-determined amount of time.
2. The City’s ordinance does not currently include “interim uses.”
3. Interim use permits may be issued for a use that is presently judged acceptable for an area until such time it will not be acceptable given anticipated growth patterns.

Council Action Requested:

1. Motion to include the definition of Interim Use, amend Section 17-5.15 Land Use Matrix to require Interim Use Permits for Extractive Use in the Forest Management and Agriculture zones, and to include Section 17-11.13 Interim Use Permits.
2. Motion for Summary Publication

**ORDINANCE NO. __, SECOND SERIES
 AN ORDINANCE AMENDING CHAPTER 17 OF THE CITY CODE
 RELATING TO INTERIM USES
 CITY OF PEQUOT LAKES
 COUNTY OF CROW WING
 STATE OF MINNESOTA**

THE CITY COUNCIL OF THE CITY OF PEQUOT LAKES DOES ORDAIN THAT(new material is underlined; deleted material is lined out; sections which are not proposed to be amended are omitted; sections which are only proposed to be re-numbered are only set forth below as to their number and title):

SECTION 1. Pequot Lakes City Code, Chapter 17 – Land Use (Zoning) and Subdivision Regulations; Article 3. Rules and Definitions; Section 17-3.2 Definitions; is hereby amended to add a new definition as follows and renumber the subsequent definitions accordingly:

128. **Interim Use.** A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

SECTION 2. Pequot Lakes City Code, Chapter 17 – Land Use (Zoning) and Subdivision Regulations; Article 5. Zoning Districts and District Provisions; Section 17-5.15 Land Use Matrix; Table 1; is hereby amended as follows (Table 1 otherwise remains unchanged):

Section 17-5.15 LAND USE MATRIX

A- allowed w/o a permit, P - permitted, C – conditional use, **I – interim use**, AC - accessory use, E – excluded

<u>USE</u>	<u>OS</u>	<u>FM</u>	<u>AG</u>	<u>WR</u>	<u>SR</u>	<u>TR</u>	<u>RR</u>	<u>DMU</u>	<u>C</u>	<u>SC</u>	<u>R</u>	<u>UR</u>	<u>LI</u>
<u>Bed and Breakfast</u>	E	EI	EI	E	EI	EI	EI	EI	E	P	EI	EI	E
<u>Extractive Use</u>	E	EI	EI	E	E	E	E	E	E	E	E	E	E
<u>Home Occupation, Type III</u>	E	EI	EI	E	EI	EI	EI	P	P	P	E	EI	E
<u>Home Occupation, Type IV</u>	E	EI	EI	E	EI	EI	EI	P	P	P	E	EI	E

SECTION 3. Pequot Lakes City Code, Chapter 17 – Land Use (Zoning) and Subdivision

Regulations; Article 11. Administration; is hereby amended to add a new Section 17-11.13

Interim Use Permits to read as follows:

Section 17-11.13 **INTERIM USE PERMITS**

1. Procedure. Uses defined as interim uses in Section 17-5.15 are allowed by the City pursuant to governing law contained in Minnesota Statutes, Section 462.3597 after appropriate review and approval in accordance with the criteria, standards and procedures for a Conditional Use Permit contained in Section 17-11.6 and the below requirements contained in this Section. An interim use will be reviewed in the same manner as a Conditional Use Permit except as otherwise provided in this Section. All submittal requirements in Section 17-11.6 shall be required for interim use permits.

A. Additional Standards. In addition to the forgoing, interim uses shall comply with all of the following standards:

- (1) The use is allowed in and conforms to the applicable zoning regulations for the respective zoning district, including applicable performance standards;
- (2) The date or event that will terminate the use is identified with certainty and is included in writing within the approved interim use permit;
- (3) The use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future;
- (4) There is adequate assurance that the property will be left in suitable condition after the interim use is terminated. The City Council may require a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit; and
- (5) The user agrees to any conditions deemed appropriate by the City Council for the permission of the interim use. Such conditions shall be included in writing in the issued interim use permit or alternatively in a written agreement with the user attached to the approved interim use permit

B. Termination. An interim use permit shall terminate on the happening of any of the following events, whichever occurs first:

- (1) The occurrence of the date stated in the interim use permit, which shall not be for a period greater than five (5) years;
- (2) The occurrence of the event stated in the interim use permit;
- (3) Upon violation of conditions under which the permit was issued; or
- (4) Upon change in the City's zoning regulations which renders the use nonconforming.

C. Lapse, Extension. Unless the City Council approves a different time in an approved permit, an interim use permit shall expire without further action by the Planning Commission or City Council, unless the user/applicant commences the authorized interim use within one year of the date the interim use permit issued; or, unless before the expiration of the one year period, the applicant shall apply for an extension to initiate such use. The request for an extension by a user/applicant shall be made to the zoning administrator and the user/applicant shall provide evidence as required by the zoning administrator sufficient to demonstrate the user/applicant's good faith effort to complete or utilize the use permitted in the interim use permit within the one year period. A request for an extension may be granted by the zoning administrator for an additional period up to one year. A denial of an extension by the zoning administrator may be appealed in writing by the user/applicant to the City Council within 10 days of the date of the zoning administrator's decision. The user/applicant's written appeal shall state the grounds for the appeal and be submitted to the City Administrator within the 10 day period. Failure to timely appeal shall constitute a waiver of the right to appeal and shall not be considered. A timely filed appeal will be heard by the City Council within 60 days of the date the appeal is received by the City Administrator.

SECTION 4: This Ordinance shall take effect following its passage and publication.

Passed by the Pequot Lakes City Council this ___ day of _____, 2016.

David Sjoblad, Mayor

ATTEST:

Nancy Malecha
City Administrator/Clerk

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THE CITY COUNCIL OF THE CITY OF PEQUOT LAKES DOES ORDAIN THAT:

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Section 17-5.15 LAND USE MATRIX

A- allowed w/o a permit, P - permitted, C – conditional use, I – interim use, AC - accessory use, E – excluded

<u>USE</u>	[REDACTED]	<u>FM</u>	[REDACTED]	<u>WR</u>	[REDACTED]	<u>TR</u>	[REDACTED]	<u>DMU</u>	[REDACTED]	<u>SC</u>	[REDACTED]	<u>UR</u>	[REDACTED]
<u>Extractive Use</u>	E	I	I	E	E	E	E	E	E	E	E	E	E

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 - A. Additional Standards. In addition to the forgoing, interim uses shall comply with all of the following standards:
 - (1) The use is allowed in and conforms to the applicable zoning regulations for the respective zoning district, including applicable performance standards;
 - (2) The date or event that will terminate the use is identified with certainty and is included in writing within the approved interim use permit;
 - (3) The use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future;
 - (4) There is adequate assurance that the property will be left in suitable condition after the interim use is terminated. The City Council may require a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit; and
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 - (2) The occurrence of the event stated in the interim use permit;
 - (3) Upon violation of conditions under which the permit was issued; or
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user/applicant's good faith effort to complete or utilize the use permitted in the interim use permit within the one year period. A request for an extension may be granted by the zoning administrator for an additional period up to one year. A denial of an extension by the zoning administrator may be appealed in writing by the user/applicant to the City Council within 10 days of the date of the zoning administrator's decision. The user/applicant's written appeal shall state the grounds for the appeal and be submitted to the City Administrator within the 10 day period. Failure to timely appeal shall constitute a waiver of the right to appeal and shall not be considered. A timely filed appeal will be heard by the City Council within 60 days of the date the appeal is received by the City Administrator.

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David Sjoblad, Mayor

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Nancy Malecha
City Administrator/Clerk

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The following is the official summary of Ordinance No. __, Second Series, approved by the City Council of the City of Pequot Lakes, on the 29th day of February, 2016.

The purpose and intent of this ordinance is to amend Chapter 17 of the City Code relating to Interim Uses.

A printed copy of the ordinance is available for inspection by any person at City Hall.

Passed and approved by a __/5th vote of the City Council this 29th day of February, 2016.

David Sjoblad, Mayor

ATTEST:

Nancy Malecha
City Administrator/Clerk