



PUBLIC HEARING – ORDINANCE AMENDMENT

Application: **Ordinance Amendment regarding Interim Uses**

Applicant: **City of Pequot Lakes**

Agenda Item: **3 (a)**

Background Information: Interim uses, as defined in Minnesota Statutes, Chapter 462.3597, are allowed by the City after appropriate review by the Planning Commission. An interim use is a use that for a brief period will be compatible with existing or anticipated uses, or a use that is presently judged acceptable for an area until such time it will not be acceptable given anticipated growth patterns. An interim use will be reviewed in the same manner as a Conditional Use permit. All submittal requirements in Section 17-11.6 shall be required for interim use permits.

A. In addition to the review criteria for Conditional Use Permits, the following criteria shall be used for Interim use permits. The Findings of Fact shall include that:

1. The use conforms to zoning regulations; and
2. The date or event that will terminate the use; and
3. The permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
4. That the user agrees to any conditions deemed appropriate by the City for the permission of the use.

B. Any interim use may be terminated by a change in the zoning classification.

Section 17-11.6 CONDITIONAL USE PERMITS

1. Conditional Use Permits shall be issued to the property for structures or other specified uses after a public hearing and approval by the Planning Commission. All applications for a Conditional Use Permit shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance

of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and omit by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.

2. Submissions for Conditional Use Permit. The applicant shall complete the Conditional Use Permit application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.

3. In permitting a new Conditional Use or alteration of an existing Conditional Use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to the following:

- A. Increasing the required lot size or yard dimension.
- B. Limiting the height, size or location of buildings.
- C. Controlling the location and number of vehicle access points.
- D. Increasing the street width.
- E. Increasing or decreasing the number of required off-street parking spaces.
- F. Limiting the number, size, location or lighting of signs.
- G. Requiring berming, fencing screening, landscaping or other facilities to protect adjacent or nearby property.
- H. Designating sites for open space.
- I. Stormwater runoff management.
- J. Reducing impervious surfaces.
- K. Increasing setbacks.
- L. Restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

4. The Planning and Zoning Commission shall decide the issue with consideration to the following:

A. The following must be met:

- (1) The use or development is an appropriate conditional use in the land use zone.
- (2) The use or development, with conditions, conforms to the comprehensive land use plan.
- (3) The use with conditions is compatible with the existing neighborhood.
- (4) The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
- (5) For Conventional Subdivisions, the property contains physical constraints which make it unable to be developed by the Conservation Subdivision method.

B. The following must be considered:

- (1) The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
- (2) The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- (3) The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (4) The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or an indifference with traffic on surrounding public thoroughfares.
- (5) Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.

- (6) Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
- (7) The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
- (8) The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

5. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.

6. Conditional Use Permits may be transferable where requested by an applicant and approved by the Planning Commission.

7. Violations of the conditions of a Conditional Use Permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall determine conditions for reinstating the permit or revocation, if applicable.

8. Failure by the owner to act on a Conditional Use Permit within 12 months, or failure to complete the work under a Conditional Use Permit within 2 years, unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any Conditional Use Permit outstanding at the time of the Ordinance adoption.

9. Appeals from the action of the City shall be filed with District Court within 30 days after City Council action.

10. The Conditional Use Permit shall be filed with the County Recorder within 45 days of approval.

Applicable Regulations: Staff has prepared an ordinance amendment that would include “interim use”. The underlined text is the proposed language to be added.

Section 17-3.2. DEFINITIONS

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 17-5.15 LAND USE MATRIX

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

<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	I	I	E	I	I	I	I	E	P	I	I	E
<u>Extractive Use</u>	E	I	I	E	E	E	E	E	E	E	E	E	E
<u>Home Occupation, Type I</u>	E	A	A	E	A	A	A	A	A	A	E	A	E
<u>Home Occupation, Type II</u>	E	A	A	E	A	A	A	A	A	A	E	A	E
<u>Home Occupation, Type III</u>	E	I	I	E	I	I	I	P	P	P	E	I	E
<u>Home Occupation, Type IV</u>	E	I	I	E	I	I	I	P	P	P	E	I	E

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.

Staff Findings: Staff provides the following Findings of Fact for consideration by the Planning Commission:

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.

Planning Commission Direction: The Planning Commission can recommend approval or denial of the ordinance amendment, or table the request if additional information is needed. If the motion is to recommend approval or denial, Findings of Fact should be cited.

Staff Recommendation: We recommend that the application be approved.
