**CITY OF ONAMIA**
**MILLE LACS COUNTY**
**STATE OF MINNESOTA**

**ORDINANCE NO. 2024-03**

**AN ORDINANCE AMENDING THE CITY CODE RELATING TO INTERIM USE PERMITS**

The City Council of Onamia does ordain as follows:

**SECTION 1: AMENDMENTS TO SECTION 151.04.** Section 151.04, Definition of Terms, of the Onamia City Code is hereby amended to add the following definitions:

> Interim Use Permits: A use which requires an interim use permit. Interim Use Permits are reviewed by the Planning Commission and granted by the City Council for a specific period of time in accordance with procedures specified in this Ordinance.

**SECTION 2: AMENDMENTS TO SECTION 151.25.** Section 151.25, C-1 Central Business District, of the Onamia City Code is hereby amended to add the following:

(K) *Interim use permit standards for the C-1 Central Business District.*

*(1)* Purpose. The purpose and intent of allowing interim uses is:

*(a)* To allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in C-1 Central Business District.

*(b)* To allow a use that is presently acceptable, but not permitted within the C-1 Central Business District and, with anticipated development, may not be acceptable in the future.

*(2)* Procedure. The application, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in division (J), of this section.

*(3)* Standards. The Planning Commission shall recommend an interim use permit, and the Council shall issue such interim use permits only if it finds that such use at the proposed location:

*(a)* Meets the standards of a conditional use permit set forth in division (J), of this section.

*(b)* Conforms to the zoning regulations, performance standards and other requirements of this Ordinance.

*(c)* Will terminate upon a tangible date or event specified in the resolution approving said interim use permit.

*(d)* Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.

*(e)* Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

*(4)* Termination. An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:

*(a)* The date specified in the permit;

*(b)* A violation of the conditions under which the permit was issued; or

*(c)* A change in the City's zoning regulations.

**SECTION 3: AMENDMENTS TO SECTION 151.26.** Section 151.26, C-2 Commercial Business District, of the Onamia City Code is hereby amended to add the following:

(K) *Interim use permit standards for the C-2 Commercial District.*

(1) Purpose. The purpose and intent of allowing interim uses is:

(a) To allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in C-2 Commercial District.

(b) To allow a use that is presently acceptable, but not permitted within the C-2 Commercial District and, with anticipated development, may not be acceptable in the future.

(2) Procedure. The application, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in division (J), of this section.

(3) Standards. The Planning Commission shall recommend an interim use permit, and the Council shall issue such interim use permits only if it finds that such use at the proposed location:

(a) Meets the standards of a conditional use permit set forth in division (J), of this section.

(b) Conforms to the zoning regulations, performance standards and other requirements of this Ordinance.

(c) Will terminate upon a tangible date or event specified in the resolution approving said interim use permit.

(d) Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.

(e) Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

(4) Termination. An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:

(a) The date specified in the permit;

(b) A violation of the conditions under which the permit was issued; or

(c) A change in the City's zoning regulations.

**SECTION 4: AMENDMENTS TO SECTION 151.27.** Section 151.27, I Industrial District, of the Onamia City Code is hereby amended to add the following:

(H) *Interim use permit standards for the I Industrial District.*

(1) Purpose. The purpose and intent of allowing interim uses is:

(a) To allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in I Industrial District.

(b) To allow a use that is presently acceptable, but not permitted within the I Industrial District and, with anticipated development, may not be acceptable in the future.

(2) Procedure. The application, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in division (G), of this section.

(3) Standards. The Planning Commission shall recommend an interim use permit, and the Council shall issue such interim use permits only if it finds that such use at the proposed location:

(a) Meets the standards of a conditional use permit set forth in division (G), of this section.

(b) Conforms to the zoning regulations, performance standards and other requirements of this Ordinance.

(c) Will terminate upon a tangible date or event specified in the resolution approving said interim use permit.

(d) Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.

(e) Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

(4) Termination. An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:

(a) The date specified in the permit;

(b) A violation of the conditions under which the permit was issued; or

(c) A change in the City's zoning regulations.

**SECTION 5: AMENDMENTS TO SECTION 151.28.** Section 151.28, Rural Residential and Agricultural District, of the Onamia City Code is hereby amended to add the following:

(K) *Interim use permit standards for the Rural Residential and Agricultural District.*

(1) Purpose. The purpose and intent of allowing interim uses is:

(a) To allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in Rural Residential and Agricultural District.

(b) To allow a use that is presently acceptable, but not permitted within the Rural Residential and Agricultural District and, with anticipated development, may not

be acceptable in the future.

(2) Procedure. The application, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in division (J), of this section.

(3) Standards. The Planning Commission shall recommend an interim use permit, and the Council shall issue such interim use permits only if it finds that such use at the proposed location:

(a) Meets the standards of a conditional use permit set forth in division (J), of this section.

(b) Conforms to the zoning regulations, performance standards and other requirements of this Ordinance.

(c) Will terminate upon a tangible date or event specified in the resolution approving said interim use permit.

(d) Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.

(e) Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

(4) Termination. An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:

(a) The date specified in the permit;

(b) A violation of the conditions under which the permit was issued; or

(c) A change in the City's zoning regulations.

**SECTION 6: AMENDMENTS TO SECTION 151.50.** Section 151.50 Applications, of the Onamia City Code is hereby amended to add the following:

**151.50 APPLICATIONS.**

(A) Notwithstanding anything to the contrary in this chapter, all applications for any site plan, conditional use permit, interim use permit, land use permit, variance, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the

city, if the city has a form, to the City Clerk or other person appointed by the City Council to administer this chapter. The Zoning Administrator is authorized to reject in writing any incomplete application within 15 business days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought.

Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

(B) As authorized by M.S. ' 462.353, as it may be amended from time to time, if a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M.S. ' 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.

**SECTION 7: AMENDMENTS TO SECTION 151.51.** Section 151.51 Public Notice and Hearings, of the Onamia City Code is hereby amended to add the following:

**' 151.51 PUBLIC NOTICE AND HEARINGS.**

As required by M.S. ' 462.357 and M.S. ' 462.3595 a public hearing shall be held by the City Council or the Planning Commission, if a Planning Commission exists in the city, before any conditional use permit, interim use permits, variance, or zoning amendment may be granted. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the city at least ten days prior to the day of the hearing. In the case of an amendment to the zoning code which involves changes in district boundaries affecting an area of five acres or less, and in the case of an application for a conditional use permit, interim use permit, or a variance, 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 350 feet of the property to which the zoning code amendment, conditional use, interim use, or variance relates. The applicant shall provide a list of the owners of affected property and property situated wholly or partly within 350 feet of the property to which the hearing relates. The Clerk or other person appointed by the City Council to administer this chapter 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 Clerk or other person appointed by the City Council to administer this chapter 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 the mailed notice requirements has been made.

**SECTION 8: AMENDMENTS TO SECTION 151.52.** Section 151.52 Final Actions, of the Onamia City Code is hereby amended to add the following:

**151.52 FINAL ACTIONS.**

As required by M.S. ' 15.99 as it may be amended from time to time, commonly called the 60-day rule, all approvals and denials of applications for a zoning amendment, site plan, conditional use permit, interim use permit, land use permit, variance or any other application which requires a city approval under this chapter must be made within the timeline and following the process of M.S. ' 15.99. Failure to follow the requirements of the statute may result in automatic approval of applications.

**SECTION 9: AMENDMENTS TO SECTION 151.53.** Section 151.53 Notice of Decision, of the Onamia City Code is hereby amended to add the following:

**' 151.53 NOTICE OF DECISION.**

As required by M.S. ' 15.99, as it may be amended from time to time, commonly called the 60-day rule, notice of approvals and denials of applications for a zoning amendment, site plan, conditional use permit, interim use permit, land use permit, variance or any other application which requires a city approval under this chapter must be provided within the timeline and following the process of M.S. ' 15.99. Failure to follow the requirements of the statute may result in automatic approval of applications.

**SECTION 10: AMENDMENTS TO SECTION 151.54.** Section 151.54 Land Use Permit Required, of the Onamia City Code is hereby amended to add the following:

**' 151.54 LAND USE PERMIT REQUIRED.**

No structure or fence subject to ' 151.46 shall be constructed until a land use permit has been obtained from the City Clerk or other person appointed by the City Council to administer this chapter. The application shall contain a plan showing the location on the structure or fence on the property that demonstrates that all requirements of this code will be met. The application shall also contain the plans for the structure to be built that demonstrates that the structure will meet all of the standards established by this zoning code. If an application requires a zoning amendment, conditional use permit, interim use permit, or variance, no land use permit shall be issued by the Clerk or other person appointed by the City Council to administer this chapter until any application for a zoning amendment, conditional use permit, interim use permit, or variance has been acted upon by the City Council. A decision by the Clerk or other person appointed by the City Council to administer this chapter not to issue a land use permit may be appealed to the Board of Appeals and Adjustments as provided for in ' 151.60. No residential contractor who is required to be licensed by the state, and no person employing a residential contractor who is required to be licensed, shall be issued a land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license, but who does not have a state license, shall be reported to the State Commissioner of Commerce.

**SECTION 11: AMENDMENTS TO SECTION 151.56.** Section 151.56 Interim Use Permits, of the Onamia City Code is hereby amended to add the following:

**151.56 INTERIM USE PERMITS**

Pursuant to M.S. ' 462.3597, as it may be amended from time to time, interim uses may be approved by

the City Council by a showing by the applicant that the standards and criteria stated in this zoning code, and any conditions imposed by the City Council, will be satisfied. A public hearing on the granting of an interim use permit shall be held in the manner provided in ' 151.51. An interim use permit shall remain in effect as long as the conditions agreed upon are observed, but the Council may enact or amend the zoning code to change the status of interim uses. An interim use permit shall not become effective until a certified copy is filed by the applicant with the County Recorder, which shall include the legal description of the property included.

**SECTION 12: AMENDMENTS TO SECTION 151.57.** The following sections of 151.57 VARIANCES, of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**'151.57 BOARD OF APPEALS AND ADJUSTMENTS.**

The City Council shall be the Board of Appeals and Adjustments for this city, and have the powers granted under M.S. ' 462.357, Subd. 6 and 462.359, Subd. 4, as they may be amended from time to time.

**SECTION 13: AMENDMENTS TO SECTION 151.58.** The following sections of 151.58 NONCONFORMING USES. of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**151.58 VARIANCES**

Pursuant to M.S. ' 462.357, Subd. 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property. A variance from the literal provisions of this zoning code may be granted by the Board of Appeals and Adjustments only when the variance is in harmony with the general purposes and intent of the zoning code and the variance is consistent with the comprehensive plan, if the city has adopted one. A variance may be granted when the applicant for the variance establishes that there are ***PRACTICAL DIFFICULTIES*** in complying with the zoning ordinance. ***PRACTICAL DIFFICULTIES*** as used in connection with granting a variance, means the property owner proposes to use the property in a reasonable manner not permitted by the zoning code; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Variances shall be granted for earth sheltered construction as defined in M.S. ' 216C.06, Subd. 14, as it may be amended from time to time, when in harmony with this zoning code. The Board of Appeals and Adjustments may not permit as a variance any use that is not allowed under this zoning code for property in the zone where the affected person's land is located. The Board of Appeals and Adjustments may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The Board of Appeals and Adjustments may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties. A condition must be directly related to and must bear rough proportionality to the impact created by the variance. The variance shall not become effective until a certified copy is filed by the applicant with the County Recorder, which shall include the legal description of the property included.

**SECTION 14: AMENDMENTS TO SECTION 151.59.** The following sections of 151.59 AMENDMENTS, of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**151.59 NONCONFORMING USES.**

(A) As required by M.S. ' 462.357, as it may be amended from time to time, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of these zoning regulations, may be continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, and no building permit has been applied for within 180

days of when the property is damaged. In this case, the City Council may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. A subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(B) Notwithstanding division (A), the city may regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction of flood flows in the floodway.

(C) Nonconforming shoreland lots of record are subject to the provisions of M.S. ' 462.357, as it may be amended from time to time.

**SECTION 15: AMENDMENTS TO SECTION 151.60.** The following sections of 151.60 APPEALS, of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**' 151.60 AMENDMENTS.**

(A) The clerk, or other person appointed by the City Council, may inspect any property that is the subject of any application under this chapter, with either the permission of the owner, resident or other person in control of the property, or after first obtaining an administrative search warrant as provided for under ' 10.20.

(B) An amendment to this zoning code may be initiated by the City Council or by petition of affected property owners. The requirements for public notice and hearing contained in ' 151.51 shall be followed. The zoning code may be amended by a majority vote of all of the members of the City Council. The adoption of an amendment which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all members of the City Council.

**SECTION 16: AMENDMENTS TO SECTION 151.61.** The following sections of 151.61 RECORD

OF DECISIONS, of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**' 151.61 APPEALS.**

Appeals to the City Council acting as the Board of Appeals and Adjustments may be taken by any affected person where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer of the city in the enforcement of the zoning code. No mailed or published notice of the hearing on the appeal is required, but a public hearing shall be held on each appeal.

**SECTION 17: AMENDMENTS TO SECTION 151.62.** The following sections of 151.62 PLANNING COMMISSSION, of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**' 151.62 RECORD OF DECISIONS.**

The Council may provide that a record be made of its proceedings concerning its actions on any application for a permit, zoning ordinance amendment, or appeal. This record may include the minutes of the meeting, the findings of the Council and the action taken.

**SECTION 18: AMENDMENTS TO SECTION 151.63.** The following sections of 151.63 FEES, of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**' 151.63 PLANNING COMMISSION.**

The provisions of Minnesota Basic Code of Ordinances '31.45 to 31.48 are inoperable until the Council appoints a Planning Commission. Nothing in those provisions requires the Council to appoint a Planning Commission.

**SECTION 19: AMENDMENTS TO SECTION 151.64.** The following sections of 151.64 CERTIFICATION OF TAXES PAID, of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**' 151.64 FEES.**

As provided by M.S. ' 462.353, Subd. 4, as it may be amended from time to time, fees may be established as follows:

(A) The Council may in a separate ordinance, or in the Ordinance Establishing Fees and Charges, prescribe fees sufficient to defray the costs incurred in reviewing, investigating, and administering applications for an amendment to the provisions of this chapter and to all official maps, and applications for a permit, a variance or for some other approval required under this chapter.

(B) These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The city shall adopt management and accounting procedures to ensure that fees are

maintained and used only for the purpose for which they are collected.

(C) If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. ' 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

**SECTION 20: AMENDMENTS TO SECTION 151.65.** The following sections of 151.64 CERTIFICATION OF TAXES PAID, of the City's Zoning and Subdivision Ordinance shall be amended as follows:

**' 151.65 CERTIFICATION OF TAXES PAID.**

Prior to approving an application for any city land use permit, the applicant shall provide certification to the city that there are no delinquent property taxes, special assessments, unpaid utility charges certified for payment as taxes, interest, or city utility fees due upon the parcel of land to which the land use permit relates.

**SECTION 21: EFFECTIVE DATE.** The City Clerk shall cause the provisions of this Ordinance Amendment to be incorporated into the City of Onamia's City Code.

**SECTION 22: EFFECTIVE DATE.** This Ordinance becomes effective on the date of its publication or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

**SECTION 23: REPEALER.** All prior ordinances to the extent that they are inconsistent with the terms and provisions of this Ordinance, shall be deemed repealed after the effective date of this Ordinance with regard to those inconsistent terms and provisions.

Passed by the City Council of Onamia this _____ day of _____, 2024.

Approved:

_____
Marge Agnew, Mayor

Attested:

_____
Michelle Peterson, City Clerk