

Applicant

Blue Earth County
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Request

Request for review and approval of an amendment to the Blue Earth County Code of Ordinances Chapter 24 to add Sec. 24.12 Interim Uses which clarifies interim uses and interim use permits. The amendment also eliminates a standard that a change in ownership invalidates an interim use permit.

Background and Statement of General Need

Minn. Stat. § 394.303 was amended in 2008 to create a category of uses called interim uses. The statute defines an interim use as a “temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.”

In 2020, Blue Earth County created interim uses and standards for interim uses. Land uses that have been permitted as interim uses include home occupations, mineral extraction, large solar energy systems, short-term rental units, and grading and filling.

The County interim use standards that were created in 2020 included a provision that a change in property ownership would invalidate an interim use permit. Several of the interim use permits that have been processed since 2020 have included a condition that the County be notified of a change in ownership or of the operator but have not required a new interim use permit be issued.

Staff’s assessment is that a change in ownership of a property with an Interim Use Permit is an opportunity to review compliance with an interim use permit. However, it is not always necessary for a new interim use permit to be issued. With land uses, which include leases like solar energy systems or mines, changes in property ownership could occur and have no impact to the land use or the permitted interim use. A blanket requirement to require the issuance of a new interim use permit when there is change in land ownership does not seem like the most efficient way to protect the health, safety, and general welfare of the public. There may be uses like a home occupation where a change in ownership would warrant a new interim use permit, but those situations could be addressed with the conditions of an individual permit.

The only performance standard for an interim use related to ownership is for reception - banquet - meeting halls - retreat centers or facilities. That standard requires “a review by the planning agency of the interim use permit requirements will be mandatory within 30 days of any ownership change of property or lease agreement.”

The 2020 County Code amendment or interim uses also created several new definitions and standards but it did not identify how the itemized lists of land uses are processed like the existing conditional uses section of the County Code does in [Section 24-11](#). The proposed amendment follows that same format and purpose of the Conditional Use section and clarifies that specific interim uses are only allowed when they are included on the list of interim uses in a particular zoning district.

Proposed Interim Use Standards Amendments

Attachment 1 contains the proposed amendments to the interim use standards.

The first amendment is to Section 24-10. Permitted Use, (b) Exceptions. This amendment adds interim uses to the exceptions for permitted uses.

The second amendment is to add Section 24-12. Interim Uses. This section identifies the list of interim uses for each district and connects those uses to interim use permits. This section matches the corresponding section for conditional uses.

The third amendment is to remove the provision from Section 24-47 Planning Commission, (8) Permit validity, item b 2. This item identifies a change in ownership as an occurrence which would invalidate an interim use permit. With this proposed amendment, an ownership change could still be an event which would cause a permit to be reviewed or invalidated if it is a specific condition in an interim use permit.

Minn. Stat. § 394.303 – Interim Uses

The standards for interim uses in Minn. Stat. § 394.303 are:

“Subdivision 1. Definition. An "interim use" is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Subd. 2. Authority. Zoning regulations may permit the governing body to allow interim uses. The regulations may set conditions on interim uses. The governing body may grant permission for an interim use of property if:

- (1) the use conforms to the zoning regulations;
- (2) the date or event that will terminate the use can be identified with certainty;
- (3) 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) the user agrees to any conditions that the governing body deems appropriate for permission of the use.

Any interim use may be terminated by a change in zoning regulations.

Subd. 3. Public hearings. Public hearings on the granting of interim use permits shall be held in the manner provided in section 394.26.”

Land Use Plan

Land Use Objective

“Maintain ordinances that appropriately respond to the residential, agricultural, industrial and commercial trends of Blue Earth County”

Land Use Implementation Action

“The County will assess all permitted and conditional uses in all zoning districts. When necessary, amendments to the Ordinance shall be made.

Development Implementation Action

“Regularly review and amend the zoning ordinance and land division regulations to ensure standards correlate with current development trends.”

Required Notices

The required public hearing notice was published in the Free Press on August 26, 2023. It was also mailed to all cities and townships in the County on August 25, 2023.

Findings

Staff has developed the following findings regarding proposed amendments to Chapter 24 of the Blue Earth County Code of Ordinances for interim uses as shown in Attachment A:

1. Minn. Stat. § 394.21 grants counties the authority to regulate land development by adopting and amending official controls.
2. Minn. Stat. § 394.303 – Interim Uses allows counties to regulate uses that are temporary in nature.
3. That when an ownership change occurs, this review can be better managed with conditions on individual interim use permits than with a blanket requirement to invalidate the permit.
4. The proposed ordinance amendment is consistent with the County Land Use Plan which has an action item to: “Maintain ordinances that appropriately respond to the residential, agricultural, industrial and commercial trends of Blue Earth County.”

Recommendation

Staff recommends approval of the proposed amendments to Chapter 24 of the Blue Earth County Code of Ordinances for interim uses as shown in Attachment 1.

Attachments

Attachment 1 - Interim Use Amended Standards

Attachment 1

Sec. 24-10. Permitted uses.

- (a) *Generally.* Permitted uses of land or buildings as listed in this chapter shall be permitted in the districts indicated under the conditions specified. No building or land shall be devoted to any use other than a use permitted in this chapter in the land use district in which such building, structure or land shall be located, except for the exceptions in subsection (b) of this section.
- (b) *Exceptions.*
 - (1) Uses lawfully established prior to June 8, 1996, in accordance with sections 24-307 and 24-308.
 - (2) Conditional uses established in accordance with section 24-11.
 - (3) Essential services erected, constructed, altered or maintained by public and private utilities or by governmental departments or commissions, subject to permit requirements of this chapter.
 - (4) Interim uses established in accordance with section 24-12.

Sec. 24-11. Conditional uses.

Conditional uses of land or buildings, as listed in this chapter, may be allowed in the districts indicated, subject to the issuance of conditional use permits, in accordance with the provisions of article II of this chapter. Whenever a conditional use is named as a major category, it shall be deemed to include all and only those itemized uses listed. See article II, section 24-47 planning commission, for additional information.

Sec. 24-12. Interim uses.

Interim uses of land or buildings, as listed in this chapter, may be allowed in the districts indicated, subject to the issuance of interim use permits, in accordance with the provisions of article II of this chapter. Whenever an interim use is named as a major category, it shall be deemed to include all and only those itemized uses listed. See article II, section 24-47 planning commission, for additional information.

Sec. 24-47. Planning commission.

- (8) *Permit validity.*
 - a. A conditional use permit shall be valid as long as the conditions attached are met. If the planning agency finds that specific conditions of the permit are not being met or if site conditions or activities have changed, the permit shall be brought back for review by the planning commission and the board of commissioners.
 - b. An interim use permit shall be valid until any of the following occur:
 - 1. The conditions attached to the permit are no longer met.
 - 2. There is a change in ownership of the property on which the interim use permit was approved.
 - 3. The interim use permit is inactive for one year or longer.
 - 4. The expiration date specified in the interim use permit is met.
 - 5. An event specified in the interim use permit is met.
 - 6. There is a change in zoning regulations as described in Minn. Stats. § 394.303, interim uses.
 - c. The planning commission shall review the conditional use permit or interim use permit application and forward a recommendation to the board of commissioners for final action.