

ORDINANCE NO. 1456

**AN ORDINANCE OF THE CITY OF WILLMAR, MINNESOTA AMENDING
WILLMAR ORDINANCE 1060, KNOWN AS THE WILLMAR ZONING ORDINANCE,
BY REQUIRING AFFORDABLE HOUSING PLANS FOR CERTAIN PROJECTS,
ESTABLISHING OPEN ZONING IN THE RENAISSANCE ZONE, AND ADDING A
NEW ARTICLE IV TO CITY CODE CHAPTER 14 ESTABLISHING A HERITAGE
DESIGNATION PROCESS**

The City Council of the City of Willmar hereby ordains as follows:

Section 1. AMENDMENT OF ORDINANCE 1060, SECTION 8. Ordinance 1060, Section 8 is hereby amended by adding a new Subsection I., as follows:

I. AFFORDABLE HOUSING.

1. Definitions. The following definitions shall apply in the interpretation and enforcement of this Subsection.

Affordable Housing Unit. A housing unit for which the rent is affordable, according to HUD standards, for a household making a maximum of eighty percent (80%) of AMI or for which the rent charged is a below fair market rents.

Area Median Income (AMI). The area medium income for Kandiyohi County, as defined and published by HUD's Office of Policy Development and Research; or, alternatively, as may otherwise be provided by the Kandiyohi County Housing and Redevelopment Authority (HRA).

Below Market Rent. A rental amount that is below the market value rental rate for a comparable unit as determined by an appraisal or market study provided by the property owner or developer.

Fair Market Rents (FMR). A payment standard estimated and published annually by HUD for Office of Management and Budget (OMB) for metropolitan areas and nonmetropolitan counties and used to determine rents for an array of affordable housing, including: Housing Choice Voucher program, project-based Section 8 contracts, Housing Assistance Payment (HAP), HOME Investment Partnerships program, Emergency Solution Grants program, Continuum of Care recipients, leases using Continuum of Care funds, and Public Housing. 42 USC 1437(f) requires FMRs be posted online at least thirty (30) days before they are effective, which is at the start of the federal fiscal year.

HUD. The United States Department of Housing and Urban Development.

2. Application. The provisions of this Subsection I shall apply only to projects that (a) will include, through new construction or renovation of an existing structure, four or more units of multifamily housing; (b) receive public financial assistance in the form of tax abatement or tax increment financing; and (c) is located within the area bounded by the following streets and geographic markers: To the North by Litchfield Ave SE between Ferring Street SE and Gay Street SE and the Burlington Northern and Santa Fe (BNSF) Railway between Gay Street SE and 11th Street SW; to the West by 11th Street SW between the BNSF Railway and Becker Avenue SW and 7th Street SW between Becker Avenue SW and Kandiyohi Avenue SW; to the South by Becker Avenue SW between 11th Street SW and 7th Street SW, Kandiyohi Avenue SW between 7th Street SW and 1st Street S, Augusta Ave SE between 1st Street S and 4th Street SE, Minnesota Avenue SE between 4th Street SE and Julii Street SE, and Becker Avenue SE between Julii Street SE and Ferring Street SE; and to the East by 4th Street SE between Augusta Avenue SE and Minnesota Avenue SE, Julii Street SE between Minnesota Avenue SE and Becker Avenue SE, Ferring Street SE between Becker Ave SE and Litchfield Avenue SE, and Gay Street SE between Litchfield Ave SE and the BNSF Railway.

3. Housing Plan Requirements. All projects to which this section applies, shall satisfy the following requirements:
 - a. At least five percent (5%) or one unit, whichever is greater, of the housing units shall be reserved for and affordable by households making a maximum of eighty percent (80%) of AMI, as determined at the time of initial occupancy, for a minimum period of fifteen (15) years from and after the date on which a certificate of occupancy is issued to allow occupancy of such unit(s). A restrictive covenant memorializing this requirement shall be recorded against the property on which such project is constructed.

 - b. No new construction or renovation that changes the prior occupancy or use of a building to multifamily housing of four units or more shall designate more than twenty-five percent (25%) of its units as affordable housing units.

 - c. Affordable and ADA-accessible units shall be scattered across a project and not concentrated together or segregated into a single floor, wing or other section of the building or a portion of a site.

 - d. Rents charged for designated affordable housing units as required under subparagraph a above are not based on a household's

income, but shall apply in designated units. A designated affordable housing unit shall therefore remain so for the duration of the required 15-year term, even if the resident household's income significantly changes during occupancy.

- e. Households making eighty percent (80%) of AMI or less shall qualify for designated Efficiency, 1BR and 2BR units whose rents are set at Fair Market Rent for Kandiyohi County, as defined and published by HUD's Office of Policy Development and Research
- f. Over the 15-year term of any applicable affordable housing designation, the property owner shall adjust rent annually pursuant to the Fair Market Rent for Kandiyohi County, as defined and published by HUD's Office of Policy Development and Research.
- g. For the duration of construction or renovation, intermediate transition housing shall be provided for current residents in existing below-market housing units, as determined by an owner-provided appraisal or market study, and for those households whose rents are subsidized on the site of the project;
- h. Current residents of below-market housing units on the site of the project shall have the right of first refusal to lease new units created by renovation or construction on the site; and
- i. In the event that the project will result in a reduction in the number of housing units or displace existing tenants making eighty percent (80%) or less of AMI, due to redevelopment or renovation activities, residents of such existing units who are unable to secure a lease in the new development shall be provided relocation assistance pursuant to Minn. Stat. § 117.52, as the same may be amended.
- j. Owners must comply with Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) as amended, which prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, because of race, color, religion, sex, familial status, national origin, and disability.

Section 2. AMENDMENT OF ORDINANCE 1060, SECTION 12. Ordinance 1060, Section 12 is hereby amended as follows (deleted material is crossed out; new material is underlined; sections and subsections not being amended are omitted):

SECTION 12. RENAISSANCE ZONE OVERLAY DISTRICT.

A. GENERAL PROVISIONS.

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5. Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall have their common meaning and to give this Ordinance its most reasonable application.

Local Heritage Designation. Buildings, sites, uses, structure, objects and districts that are recognized for their historical, architectural, archaeological, or cultural importance, as designated by the City of Willmar pursuant to the Local Heritage Designation Ordinance (City Code Chapter 14, Article IV).

Open Zoning. A process of individual project review through which a proposed use that is not allowed under the zoning requirements of the underlying zoning district, but which promotes and encourages adaptive reuse of heritage-designated and existing infrastructure; contextual use and creativity; density; mixed-income housing; entertainment uses; a healthy, equitable, and resilient community; and pedestrian-scaled streetscapes, may be granted a conditional use permit under this Section 12.

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B. ADMINISTRATION.

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2. Zoning Administrator. The Zoning Administrator shall accept all Renaissance Zone Applications, review for completeness, and act upon the application in accordance with the processes herein described.
3. Variances. Variances may be granted in accordance with Minnesota Statutes Chapter 462. The administrative procedures for variance applications contained in Section 9, Subsection D of the City of Willmar Zoning Ordinance shall be followed for variance applications within the Renaissance Zone.
4. Conditional Use Permits. The review of a conditional use permit application for a property within the Renaissance Zone shall follow the application procedure found in the City of Willmar Zoning Ordinance Section 12, if the proposed use is a conditional use pursuant to the applicable provisions of the City of Willmar Zoning Ordinance, Ordinance

No. 1060, for the underlying zone. Any requests for conditional uses not permitted by the applicable provisions of the City of Willmar Zoning Ordinance, Ordinance No. 1060, for the underlying zone may apply for a conditional use permit using the Open Zoning provisions found herein.

C. PERFORMANCE STANDARDS.

Projects issued a conditional use permit under Paragraph D below shall be exempted from the setback requirements and other performance standards established in the underlying zoning district. Such setback requirements or performance standards may be addressed in conditions of the conditional use permit customized to reflect the specific characteristics and impacts of the permitted project.

D. OPEN ZONING.

1. Eligibility: All projects within the Renaissance Zone not permitted by the underlying Zoning District, as defined in the City of Willmar Zoning Ordinance, Ordinance No. 1060, may apply for a Conditional Use Permit (CUP) under the Open Zoning process set forth in this Paragraph D.
2. Open Zoning Process: The open zoning process allows the consideration of a conditional use permit for any use within the Renaissance Zone that is evaluated pursuant to Subparagraph 4 herein to promote and encourage adaptive reuse of heritage-designated and existing infrastructure; contextual use and creativity; density; mixed-income housing; entertainment uses; a healthy, equitable, and resilient community; and pedestrian-scaled streetscapes, notwithstanding the underlying zoning district requirements.
3. Application: All projects wishing to apply for a conditional use permit under the open zoning process must submit a completed Renaissance Zone Application to the City Zoning Administrator, and provide all additional information requested by City staff, the Planning Commission, the Development Committee, and the City Council to support the application. When the Zoning Administrator determines the application is complete, the Zoning Administrator shall submit the application to the Planning Commission.
4. Local Heritage Designation: An Applicant may apply for Local Heritage Designation of any existing or proposed buildings, in accordance with the Willmar Local Heritage Designation program, Willmar City Code Chapter 14, Section 4, simultaneously with the open zoning application. If the project contains one or more Local Heritage Designated structures, structures on the list of potential heritage sites, or is in the Downtown

Commercial Heritage District, the applicant must simultaneously submit an alteration/renovation/demolition review request in accordance with Willmar City Code Chapter 14, Article IV.

5. Evaluations and approvals: The Planning Commission shall follow the procedure and criteria laid out in the conditional use process, Willmar Planning Code 9E2-9E9 for the evaluation and approval of a conditional use permit under the open zoning process. The Planning Commission shall additionally consider the objective evaluation of the project's viability and furtherance of the following Renaissance Zone objectives, according to a uniform scoring system to be approved by the City Council:

- a. Whether the project exhibits creativity in addressing contextual, spatial and architectural relationships;
- b. Whether and the extent to which the project will include mixed-income housing;
- c. Whether and the extent to which the project will include retail and/or office space;
- d. Whether and the extent to which the project will complement and/or enhance the vitality and character of the Renaissance Zone;
- e. Whether and the extent to which the project will enhance the pedestrian experience;
- f. Whether the project meets a demand and/or fills a market gap;
- g. Whether the project is financially feasible and viable; and
- h. Whether the project is shovel ready.

6. Ineligible Uses. The following uses are ineligible for a CUP under the open zoning process:

- a. Adult Uses.
- b. Agricultural product processing plants.
- c. Gas bulk plants.
- d. Manufacturing of explosive or toxic materials.
- e. Meat packing/rendering plants.

- f. Power plants.
- g. Solid waste collection and recycling facilities for metals, glass, paper, wood, etc. (not including household garbage).
- h. storage and/or sale of flammable liquids and gases, except as reasonably necessary in connection with the on-site retail sale thereof.
- i. Permanent concrete, bituminous, or gravel production businesses.

7. Appeals from decisions of the Zoning Administrator or Planning Commission regarding decisions made in accordance with this ordinance may be made to the Board of Zoning Appeals, as defined in Willmar Zoning Ordinance, Ordinance No. 1060, Section 9B, by following the process and standards found in Willmar Zoning Ordinance, Ordinance No. 1060, Section 9C.

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Section 3. AMENDMENT OF CITY CODE CHAPTER 14. City Code Chapter 14 is hereby amended to add a new Article IV as follows:

ARTICLE IV. - LOCAL HERITAGE DESIGNATION ORDINANCE

Sec. 14-251. - Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall have their common meaning and to give this ordinance its most reasonable application.

(a) *Architectural Integrity.* Degree of a building's or portion of a building's original components and aesthetics. Architectural Integrity degradation is measured according to the following terms and definitions:

(1) *Unaltered:* No alteration.

(2) *Slightly Altered:* Basic shape and window arrangement intact, roofline intact, and only mild alterations to storefront or upper façade. Simple covering of original siding with removable material or aluminum combination windows installation allowed.

(3) *Moderately Altered:* Basic shape and window arrangement intact, but two of the following have occurred: new siding, storefront or upper façade altered or enclosed, window openings or type changed, roofline changed, or unobtrusive rear or side addition.

(4) *Significantly Altered*: Basic shape and window arrangement changed and two or more of the following have occurred: new siding; storefront or upper street façade significantly altered, removed, or enclosed; major addition; original design elements removed or covered; or roofline altered.

The original state of the building shall be the date of the significant event, person, style, or work attached to the building or portion of the building.

(b) *Downtown Commercial Heritage District*. The area south of Pacific Avenue SW, east of 7th Street SW, north of Becker Avenue SW, and west of 2nd Street SW.

(c) *Local Heritage Designation*. A designation bestowed upon a parcel, building, or portion of a building by the City of Willmar Heritage Preservation Commission indicating the historical, architectural, archaeological, engineering, or cultural significance of the parcel or structure in accordance with this ordinance and any rules promulgated by the City of Willmar Heritage Preservation Commission.

(d) *Renaissance Zone*. The area designated as the Willmar Renaissance Zone Overlay District in the City of Willmar Zoning Ordinance, Ordinance No. 1060, Section 12.

Sec. 14-252. – Heritage Preservation Commission (HPC).

(a) *Created*. There is hereby established a heritage preservation commission in accordance with Minn. Stat. § 471.193, subd. 2, which shall be known as the City of Willmar Heritage Preservation Commission.

(b) *Members*. The membership of the City of Willmar Heritage Preservation Commission shall be the Chair of the Planning Commission, Chair of the Community Development Committee, Chair of the Zoning Board of Appeals, Chair of the Parks & Recreation Board, and the Chair of the Kandiyohi County Historical Society, if such person resides in the City of Willmar. The non-voting membership of the commission shall be the City Planner, the City Zoning Administrator, the City Administrator, the City Building Official, and the Chair of the Kandiyohi County Historical Society, if said person resides outside of the City of Willmar.

(c) *Powers and duties*. The City of Willmar Heritage Preservation Commission is assigned the following powers and duties, to be exercised in compliance with all applicable state laws, the City of Willmar City Charter, and all provisions of the City of Willmar Zoning Ordinance, Ordinance No. 1060, as amended:

(1) Survey, review, and designate districts, sites, buildings, structures, and objects of historical, architectural, archaeological, engineering, or cultural significance, in accordance with the provisions herein.

- (2) Create and maintain a list of potential properties, including sites, buildings, and structures, for local heritage designation.
 - (3) Enact rules governing the construction, alteration, demolition, and use of Local Heritage Designated buildings and the Downtown Commercial Heritage District, including criteria for the review of building permits and the prescription of measures for the preservation, protection, and perpetuation of designated properties and areas.
 - (4) Approve, deny, or prescribe additional measures for building permits connected to Local Heritage Designated buildings, including granting historical preservation, protection, or perpetuation related use variations to the City of Willmar Zoning Ordinance, Ordinance No. 1060, in accordance with the rules developed by the Heritage Preservation Commission.
 - (5) Provide historical preservation, protection, or perpetuation recommendations to the Planning Commission on Renaissance Zone projects or on any other property within the City, as requested by the Planning Commission.
 - (6) Submit proposed site designations and design guidelines to the state historic preservation officer, in accordance with Minn. Stat. §471.193, subd. 6.
 - (7) Act as a resource and in an advisory capacity to the owner of designated and potentially designated properties regarding preservation, restoration, and rehabilitation activities.
 - (8) At the discretion of the Heritage Preservation Commission, initiate public hearings to solicit public input regarding proposed activities on a heritage preservation site.
- (d) *Annual Report.* The Heritage Preservation Commission shall make an annual report, containing a statement of its activities and plans, to the state historic preservation office and the city council, in accordance with the requirements of Minn. Stat. § 471.193, subd. 6.

Sec. 14-253. – Criteria for Local Heritage Designation.

- (a) The following criteria shall be used by the City of Willmar Heritage Preservation Commission to evaluate whether a parcel, home, building, or portion of a building is eligible for Local Heritage Designation. Properties must meet at least one of the following criteria to be considered for designation:
- (1) The property is associated with significant events or uses that exemplify broad patterns of cultural, political, economic, or social history.
 - (2) The property is associated with the lives of significant persons or groups.

- (3) The property is within the Downtown Commercial Heritage District.
 - (4) The property embodies the distinctive characteristics of an architectural or engineering type, or style, or method of construction.
 - (5) The property exemplifies great works of builders, engineers, designers, artists, craftsmen, or architects.
- (b) Once a parcel, home, building, or portion of a building is designated as eligible for a Local Heritage Designation by the Heritage Preservation Commission the designation cannot be removed from the property for at least ten (10) years.

Sec. 14-254. – Application.

(a) *Application.* All home or building owners wishing to apply for the Local Heritage Designation must complete an application, on the form provided by the Zoning Administrator, submit a completed application to the Zoning Administrator, and provide all additional information requested by City staff and the Heritage Preservation Commission. When the Zoning Administrator determines the application is complete, the Zoning Administrator shall submit the application to the Heritage Preservation Commission.

(b) *Evaluations and approvals.* The Heritage Preservation Commission shall review the application, and within 60 days of the date the Zoning Administrator determines the application is complete, take one of the following actions: approve the application, deny the application, request more information, or approve the application subject to conditions that must be satisfied before the approval is effective.

Sec. 14-255. – Alteration/Renovation and Demolition Reviews.

(a) *Building Official Review.* All permit applications for alterations, renovation and demolition of any structure shall be reviewed by the Building Official and Zoning Administrator to determine whether the project in whole or part is participating in the Local Heritage Designation program or is on the list of potential heritage properties. If any portion of the project is participating in the Local Heritage Designation program or on the list of potential heritage designation properties, the Building Official shall administratively review the permit to determine whether the proposed alterations or renovation are major or minor.

- (1) *Major Alterations.* Major alterations are those changes that moderately or significantly alter the architectural integrity of the building(s) as it existed at the time of the Local Heritage Designation, as defined herein. Such alterations include, but are not limited to, new construction, additions, demolition, relocation, rehabilitation, or changes in material, roof line, basic shape, or

placement of windows. Projects containing major alterations must be reviewed and approved by the City of Willmar Heritage Preservation Commission before a building or demolition permit may be issued.

(2) *Minor Alterations.* Minor alterations are those changes that do not alter or only slightly alter the architectural integrity of the building(s) as it existed at the time of the Local Heritage Designation, as defined herein. The Building Official may administratively approve building permits for projects with no or minor alterations.

(b) *Renaissance Zone Open Zoning projects.* Any project plan submitted to the Zoning Administrator under the Renaissance Zone Open Zoning process that affects any property with a Local Heritage Designation, which is on the list of potential heritage properties, or is in the Downtown Commercial Heritage District shall be reviewed by the City of Willmar Heritage Preservation Commission. The commission must submit recommendations to the Planning Commission on how to best preserve, protect, and perpetuate the historical significance represented by the affected properties.

(c) *Temporary Interim Protection.* The Building Official may temporarily delay issuing permits for the destruction or major alteration of any site, building, or structure on the list of potential heritage properties or in the Downtown Commercial Heritage District for up to 90-days to consult with the Zoning Administrator, Planning Commission and Zoning Board prior to issuance of a demolition or building permit.

(d) *Demolition.* Demolition of a Local Heritage Designated property must be approved by the Heritage Preservation Commission, after a public hearing, and based on specific findings that (1) the property no longer fits the designation criteria based on professional historical, engineering, or architectural evaluations and studies; or (2) the property or the designated portion of the property has been destroyed by natural or other causes.

Sec. 14-256. – Appeals.

Appeals from decisions of the Building Official, Zoning Administrator, or the Heritage Preservation Commission regarding decisions made in accordance with this ordinance may be made to the Board of Zoning Appeals, as defined in the City of Willmar Zoning Ordinance, Ordinance No. 1060, Section 9B, by following the process and standards found in the City of Willmar Zoning Ordinance, Ordinance No. 1060, Section 9C.

Section 4. EFFECTIVE DATE. This ordinance shall be effective from and after its adoption and second publication.

Section 5. EXPIRATION DATE. Sections 2 and 3 of this ordinance shall expire on and be of no further force or effect after December 31, 2025, unless these sections, or any provision(s) thereof, are renewed or extended by separate ordinance.

Passed by the City Council of the City of Willmar this 7th day of December, 2020.

ATTEST:

s/s Judy Thompson
Judy Thompson, City Clerk

s/s Marv Calvin
Marvin Calvin, Mayor

VOTE: X ALVARADO X ASMUS X DAVIS X FAGERLIE
 X MUESKE X NELSEN X PLOWMAN X SCHWANTES

This Ordinance introduced by Council Member: Fagerlie

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