

# CITY OF ORONO

## VARIANCE APPLICATION



Street Address:  
2750 Kelley Parkway  
Orono, MN 55356

Main: 952-249-4600  
fax: 952-249-4616  
Mailing Address:  
P.O. Box 66  
Crystal Bay, MN 55323-0066

Application # 16-3852  
Date Received: 7-18-16

Staff : \_\_\_\_\_  
Fee: \$700  
Renewal: \$350  
After-the-fact: \$1,400 Double Fee  
Escrow Fee: \$700 / \$2,500

This application form must be completed in full. Applicant will be notified within 15 days as to the status of the application. Incomplete applications will not be placed on Planning Commission Agendas.

### PROPERTY INFORMATION:

Site Address: 1380 Rest Point Road Orono MN 55364  
Property Identification Number (PIN): 07-117-23-33-0007  
Date Property Acquired (month/year): 8/04 ☐ Yes, I own the adjacent parcels.  
Zoning District: \_\_\_\_\_

### APPLICANT INFORMATION: (Complete legal names and marital status required for each interested party)

Name: \_\_\_\_\_  
Phone: \_\_\_\_\_ Alternate Phone: \_\_\_\_\_  
Complete Address: \_\_\_\_\_  
City, State & ZIP: \_\_\_\_\_  
Email: \_\_\_\_\_ Fax: \_\_\_\_\_

### OWNER INFORMATION: (Complete legal names and marital status required for each interested party)

Name: Peter Lanpher & Penny Rogers (married)  
Phone: 612-382-6932 & 612-708-2245 Alternate Phone: \_\_\_\_\_  
Complete Address: 1380 Rest Point Road  
City, State & ZIP: Orono MN 55364  
Email: peter@pmlanpher.com Fax: \_\_\_\_\_

### DESCRIPTION OF REQUEST:

Describe the request in detail (attach additional sheets if necessary): SEE ATTACHED

**REQUIRED SUBMITTALS:**

All of the following information must be submitted by the application deadline date in order for your application to be processed.

Enclosed	Not Applicable	
<input type="checkbox"/>	<input type="checkbox"/>	Variance Application Fee
<input type="checkbox"/>	<input type="checkbox"/>	Escrow Agreement, signed and Fee
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Pre-Application Form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Variance Application Form ✓
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Practical Difficulties Form ✓
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certified Property Owners List
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Survey (meeting ALL requirements)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed Plans ✓
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Hardcover Calculations
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Septic System Site Evaluation Report
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Minnehaha Creek Watershed District (MCWD) Permit or Documentation from MCWD stating no permit is required
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Adjacent Property Owners Acknowledgement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Data Privacy Advisory Form

**APPLICANT AND/OR OWNER:**

- Agree to provide all information required or requested by the Planning Department,
- Agree to pay additional fees (staff time not covered in the original fee payment) and/or consultant expenses incurred in review of this application, and
- Certify that the information supplied is true and correct to the best of his/her knowledge. **The applicant and owner recognize that they are solely responsible for submitting a complete application being aware that upon failure to do so, the staff has no alternative but to reject it until it is complete or to recommend the request for denial of the request regardless of its potential merit.**
- Acknowledge the Escrow Agreement is completed and signed.
- The Owner hereby acknowledges and agrees to this application and further authorizes reasonable entry onto the property by City Staff, consultants, agents, Commission and Council Members for purposes of investigation and verification of this request.
- **Applicant and/or Owner acknowledge they must be present at all scheduled review meetings of the Planning Commission and Council.** If an applicant and/or owner is unable to attend a scheduled meeting, please make arrangements to have an authorized representative attend in place of the applicant/owner and advise the City Planner assigned to your project.

Applicant's Signature:

Date:

Applicant's Signature:

Date:

Owner's Signature:

Date:

Owner's Signature:

Date:

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CITY OF ORONO

# 3852

# Encroachment Exhibit

PREPARED FOR:

Mr. Peter Lanpher

Rest Point Road

1386 Rest Point Rd  
Nygard Property

1380 Rest Point Rd  
Lanpher/Rogers Property

turbine/  
wind generator

shed

boundary line

boathouse

Lake Minnetonka

## PROPERTY DESCRIPTION:

Lot 6 and the westerly 40.00 feet of Lot 7, Subdivision  
of Lot 14, REST POINT PARK, Hennepin County, Minnesota

DEMARS-GABRIEL  
LAND SURVEYORS, INC.  
6875 Washington Ave. So.  
Suite 209  
Edina, MN 55439  
Phone: (952) 767-0487  
Fax: (952) 767-0490

I hereby certify that this survey, plan or report was prepared by me  
or under my direct supervision and that I am a duly Registered Land  
Surveyor under the Laws of the State of Minnesota.

David E. Crook  
Date: 10/14/11

Minn. Reg. No. 22414

13949

Book-Page

Scales  
1"=20'

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# 3852

## ADJACENT PROPERTY OWNERS' ACKNOWLEDGEMENT FORM

I/WE HAVE REVIEWED THE TWO PAGE ATTACHED ADDENDUM FOR THE PROPOSED IMPROVMENT OR PROPOSED USE OF THE PROPERTY LOCATED AT 1388 REST POINT ROAD

I/WE UNDERSTAND THAT IN EXECUTING THIS ACKNOWLEDGEMENT, I/WE AM (ARE) NOT ASKED TO DECLARE APPROVAL OR DISAPPROVAL OF THE PROPERTY OR USE BUT HERELY TO CONFIRM FOR THE CITY COUNCIL THA I (WE) AM (ARE) AWARE OF THE IMPROVEMENT PLANS AND THAT THE PROPOSED NEIGHBOR'S PROJECT OF USE REQUIRES COUNCIL APPROVAL.

1) PRINT NAMES DAVID RAHN DATE 6-24-16  
 ADDRESS 1385 Rest Point Rd ORONO  
 SIGNATURES [Signature]  
 2) PRINT NAMES Jodi Rahn DATE 6-24-16  
 ADDRESS 1385 Rest Point Rd orono  
 SIGNATURES Jodi Rahn  
 3) PRINT NAMES PATRICK WALSH DATE 6-24-16  
 ADDRESS 1390 REST PT Rd.  
 SIGNATURES Patrick J. Walsh  
 4) PRINT NAMES Nancy Walsh DATE 6-24-16  
 ADDRESS 1390 Rest Point Rd.  
 SIGNATURES Nancy J. Walsh

NOTE: IF I/WE HAVE ANY INFORMATIONS THAT MAY ASSIST THE CITY IN THE REVIEW OF THIS LAND USE APPLICATION, I/WE MAY SUBMIT COMMENTS TO THE BUILDING & ZONING OFFICE AT LEAST 10 DAYS PRIOR TO THE SCHEDULED MEETING DATE.

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1) PRINT NAMES Kathryn + Gary Gangstee DATE 7-6-16  
 ADDRESS 1374 Rest Point Rd, Mound, Mn 55364  
 SIGNATURES Kathryn Gangstee Gary D. Gangstee

2) PRINT NAMES LYNNE GERLICKER DATE 7/8/16  
 ADDRESS 1375 Rest Point Rd  
 SIGNATURES Lynne Gerlicker

3) PRINT NAMES JANET BREDESON FOHR DATE 7/11/2016  
 ADDRESS 1410 REST POINT ROAD  
 SIGNATURES Janet Bredson Fohr

4) PRINT NAMES \_\_\_\_\_ DATE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 SIGNATURES \_\_\_\_\_

NOTE: IF I/WE HAVE ANY INFORMATION THAT MAY ASSIST THE CITY IN THE REVIEW OF THIS LAND USE APPLICATION, I/WE MAY SUBMIT COMMENTS TO THE BUILDING & ZONING OFFICE AT LEAST 10 DAYS PRIOR TO THE SCHEDULED MEETING DATE.

## Practical Difficulties Documentation

### Form (responses)

1. Yes. We are planning to use the property in a reasonable manner. Our request for a height variance is to afford us better privacy than that of what we currently have and what is desperately needed.

2. Unique circumstances:

Most lots down in the area are unique in such that Rest Point Road is a narrow one lane road. Lots have small narrow side yards and street setbacks. Our neighbors house in which we are asking for side fence height variance for the first 30 feet is only 8 feet from the property line. The picket fence along the street is only 23 to 30 inches from the street.

3. The variances being asked for will not alter the essential character of the locality. There are other non conforming fences on our road of the same nature and size that already exist. What is being proposed is generally consistent with those existing fences that in part reflect the current character of the area and will not impact other neighbors.

- Our neighbor directly across the street has similar lap fence.
- Our direct uphill neighbor just replaced their cedar lap fence with a new one.

- Neighbor at end of Rest Point Road has same style of fence as well.

4. N/A

5. N/A

6. N/A

7. N/A

8. Yes. Special conditions are peculiar to this property. Narrow lots and

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need of additional height proves necessary for greater privacy.

9. Like conditions have applied in the past and a variance was granted for our neighbor directly across the street. (1996 Copy of Variance)

10. Yes. This additional height for the fences is necessary for the preservation and right for privacy and personal enjoyment of our property.

11. This variance will not in any way impair health, safety, comfort, morals or in any other respect be contrary to the intent of the zoning code. There is an existing 10 to 12 foot arborvitae hedge directly behind both existing fences on the property. Current fence regulations generally apply to preserve openness and visibility in R areas. Our requests will not impede those goals.

12. In this matter we are not circumventing the City's authority, but working with them to alleviate the unique circumstances surrounding these two nonconforming fences.

My wife and I purchased our home in August 2004 and moved in in March 2005. We were never told that these two fences were nonconforming at time of purchase or at any time after until I inquired to the City in the Fall of 2012. Melanie Curtis then informed me that they were both non-conforming and that a complaint had recently been filed.

We did not install these two fences on OUR property. Originally installed by a previous owners in 1999 and another owner redid the street side fence in 2002.

We will provide pictures and history of our unique circumstances in another attachment named Practical Difficulties Statement.

## Practical Difficulties Statement

In June of 2011 our neighbors, with out permission, painted the side of OUR all natural cedar fence that they viewed. During the same time period they also did the same to our other neighbors fence. For my wife and I this was the start of 4 lawsuits and 5 appeals coming our way. We have spent tens of thousands of dollars of personal monies and hundreds of hours defending our property rights in dealing with the many disturbances that our neighbors have caused us. Much much more money has been spent by our insurance company in defending our rights in two of those suits brought against us by our neighbors. Our property has been trespassed upon and damaged. The Courts have granted us favorable verdicts in every one of these lawsuits. There has been restitution paid for the damage(s) caused. In regards specifically to the fence painting law suit we have been given authority by the Court to repair our fence as well as access to neighbors property in the repair of the fence. Law enforcement is authorized to assist in enforcing that order if necessary.

But, to this very day OUR property is still being trespassed upon. Our neighbor continues to swear at us while we are on our property and has given both my wife and I the finger whenever feeling the need. A detrimental nuisance has been created and we seek the cities understanding and help in this matter.

Our asking for variances only apply to the height of the two fences.

FENCE 1 – Side property fence between the properties we are asking that for the first 30 feet from the street where 42" is the guideline that we be allowed to START the 'new' fence build at the street to start at its current existing 46" wood slat height for the first (approx) 8ft section. The second 8ft section then to be stepped up to 54". Third section to 62" and the fourth section to continue for the rest of its length at 72" up to the 75' lake shore set back. This wood slat transition from 46 to 54 to 62 and finally 72 would visually offer a comfortable viewing path.

This new fence will NOT have any visual impairment impact and will NOT alter the essential character of the locality as it sits right in front of our



existing 10–11 foot arborvitae hedge.

If possible we would ask that we could be granted permission to extend the fence further down the property line and into the 0–75 foot lake shore set back area about 3 to 4 additional feet. This will then end approximately close to our neighbors illegal shed which is located 15 inches from the property line. That would put the end of the fence at about the 71 foot mark of the lake shore set back.

FENCE 2 – Road Side Picket Fence: 95% of these wood slats are 52" in height. Our ask for a variance here is to only keep this fence as it currently is and have be a matter of record as such. It does not have any visual impairment impact to anyone and does not alter the essential character of the locality. It also sits in front of a 10–12 foot arborvitae hedge. This picket fence is 23" to 30" from Rest Point Road and helps supply additional privacy that we require.

We also ask that due to the unique circumstances surrounding this matter that any fees be waived for these variances.

FENCE 1

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72"

62"

54"

46"

# 3852

Sections Approx at 8 feet each

## Pictures for Variance

- 1) 1077.jpg Picture of OUR natural cedar fence painted white by our neighbor. Across the street is what our fence a similar style of fence in its natural state.
- 2) 1079.jpg Closer view of neighbor across the streets fence. Granted a variance for their 6 foot fence this is 1996.
- 3) 0958.jpg First coating of unauthorized painting and trespass to our fence.
- 4) 1049.jpg Directly across the street from our driveway our neighbors fence that was granted a variance.
- 5) 1047.jpg Direct uphill neighbor fence. Owners of three homes used the same fence installing company.
- 6) 0986.jpg Direct uphill neighbor's new replacement fence just completed. Same style of fence that we would like to use.
- 7) 1051.jpg Our white picket fence that we would leave as is.
- 8) 1594.jpg Property line marker showing past trespassing and back of neighbors illegal shed. 8 foot setback of neighbors home.
- 9) 1598.jpg Property line marker showing front of shed that is 15 inches from the property line.
- 10) 1678.jpg Shows end of existing fence and posted no trespass keep out sign.
- 11) 1019.jpg Is side view of our direct neighbors fence across the street. Part of his fence is in the 0-75 ft lake shore set back area.
- 12) 1020.jpg Is side view of fence at last property at end of Rest Point Road. Part of this fence is in the 0-75 ft lake shore set back area.

13) 1023.jpg STYLE (LOOK) OF FENCE (LAP) that we will construct.

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CITY OF MONROVIA







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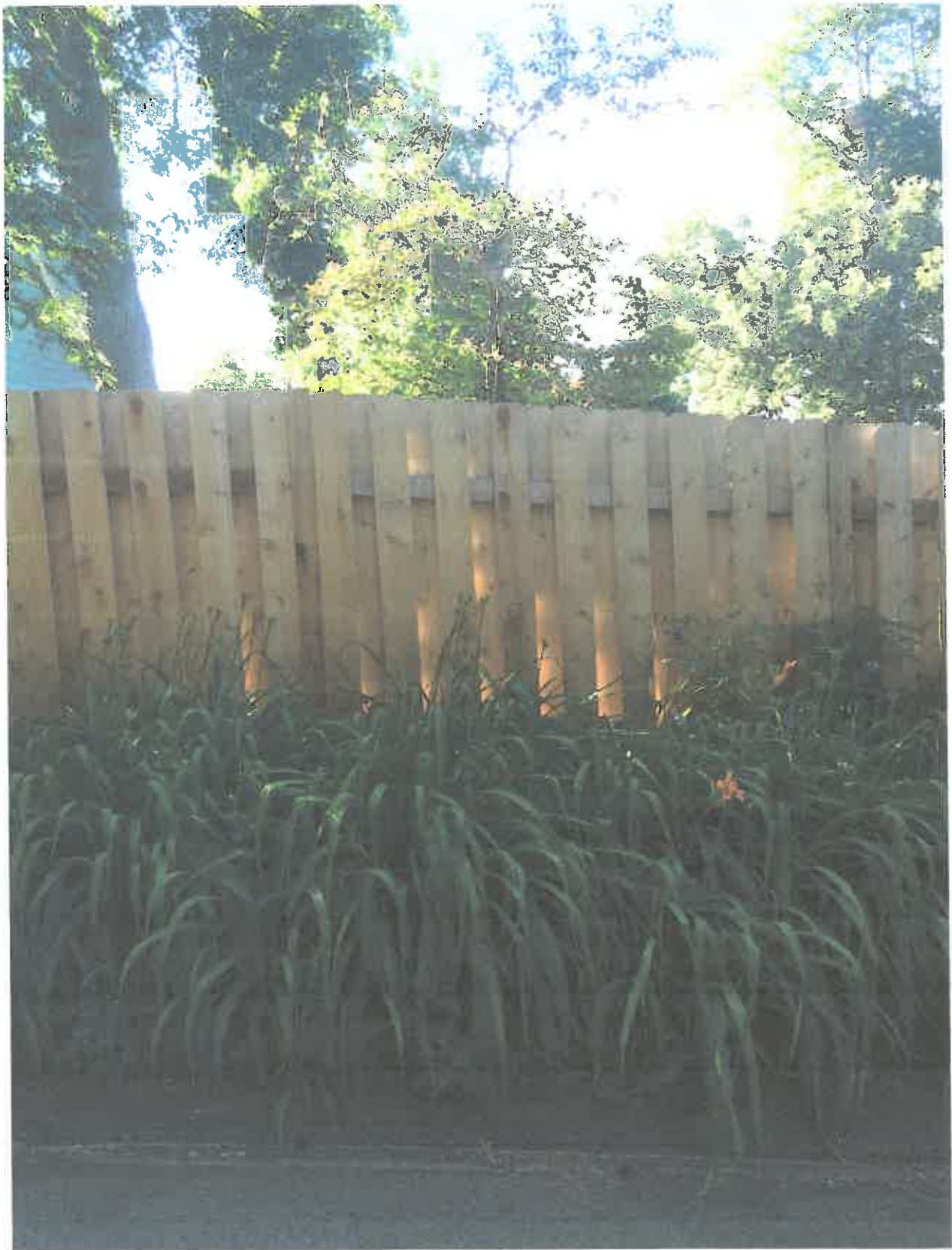
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IMG\_8079.jpg

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2.1 MB  
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# City of Orono

## Pre-Application Meeting Form

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(This form is to be completed by a City Planner during your pre-application meeting.)

**For Office Use Only:**

City Planner:

Jeremy Barnhart

Meeting Date/Time:

Assume July 20 9p

PC Date:

Met with:

Peter Canpher

**What is the purpose of a pre-application meeting?**

Pre-application meetings aid the applicant in preparing a complete proposal, inform them of the procedures and requirements of the city code, and identify policies or regulations that create opportunities or problems for the proposal.

**PROPERTY INFORMATION:**

Site Address:

1380 Rest Point Road

Property Identification Number (PIN):

Zoning District:

Size of Property:

**DESCRIPTION OF REQUEST:**

☐ Average Setback

☐ Side Yard Setback

☐ Rear Yard Setback

☐ Lake/Front Yard Setback

☐ Hardcover (Tier \_\_)

☐ Lot Coverage

☐ Lot Area

☐ Lot Width

☒ Other:

Fence Height Adjustment

- 1) Between our property and that of 1386 Rest Point Road
- 2) Road Side Picket Fence

Applicant's  
Initials:

JB

Owner's  
Initials:

PC

**PRACTICAL DIFFICULTIES:** Owner and/or Applicant has received the Practical Difficulties Documentation Form, understands it as it has been explained to them, and is aware that it must be completed and submitted in conjunction with their formal variance application.

Applicant's  
Initials:

JB

Owner's  
Initials:

PC

**BILLS AND ESCROW:** Owner and/or Applicant shall pay for consultant expenses incurred in review of this application and/or additional staff time not covered in initial application fee, as well as provide an escrow in the amount of \$ \_\_\_\_\_ to guarantee payment of the above.

**OTHER INFORMATION:**

We are ask to have all expenses for these  
variances waived. See Practical Difficulties Statement

**\*Please note:** Your variance application will NOT be accepted without a pre-application meeting during which this form will be completed by City staff.

Applicant Signature:

[Signature]

Date:

7.15.16

Owner Signature:

[Signature]

Date:

7.15.16

## LAND USE APPLICATION ESCROW AGREEMENT

Application # \_\_\_\_\_ - \_\_\_\_\_

**AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **CITY OF ORONO**, a Minnesota municipal corporation ("City") and \_\_\_\_\_  
[a corporation – optional] ("Owners").

### Recitals

1. Owners have filed Zoning Application # \_\_\_\_\_ - \_\_\_\_\_ formally requesting the City to review plans for a \_\_\_\_\_ located at the property addressed: \_\_\_\_\_ (the "Subject Property") legally described as \_\_\_\_\_

2. Owners request the City to review said plans which requires City approval and may require consulting legal and/or engineering review.

3. The City is willing to commence its review of the application and incur costs associated with said review only if the Owners establish an escrow to ensure reimbursement to the City of its costs.

### **NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

1. **DEPOSIT OF ESCROW FUNDS.** Contemporaneously with the execution of this Escrow Agreement, the Owners shall deposit \$\_\_\_\_\_ with the City. All accrued interest, if any, shall be paid to the City to reimburse the City for its cost in administering the escrow account.

2. **PURPOSE OF ESCROW.** The purpose of the escrow is to guarantee reimbursement to the City for all out-of-pocket costs the City has incurred (including planning, engineering, or legal consultant review) or will incur in meeting with the Owners, reviewing the plans, and preparing agenda packet material for City Council review of application # \_\_\_\_\_ - \_\_\_\_\_. Eligible expenses shall be consistent with expenses the Owners would be responsible for under a land use application.

3. **MONTHLY BILLING.** As the City receives consultant bills for incurred costs, the City will in turn send a bill to the Owners. Owners shall be responsible for payment to the City within 30 days of the Owners' receipt of bill.

4. **DISBURSEMENT FROM ESCROW ACCOUNT.** In the event that the Owners do not make payment to the City within the timeframe outlined in #3 above, shall cease all reviews until the Owners pay all expenses invoiced pursuant to #3. The City may draw from the escrow account without further approval of the Owners to reimburse the City for eligible expenses the City has incurred.

5. **CLOSING ESCROW.** The Balance on deposit in the escrow, if any, shall be returned to the Owners when all requirements related to the project are complete. City Staff shall review the terms of this escrow agreement two times per year to determine whether the requirements of the project have been successfully completed and whether it is appropriate to return the funds. Owner may also request the release of the funds, and such funds shall be released upon City Staff receiving the appropriate verification that all requirements of the project have been successfully completed.

6. **CERTIFY UNPAID CHARGES.** If the project is abandoned by Owners, or if the eligible expenses incurred by the City exceed the amount in escrow, the City shall have the right to certify the unpaid balance to the subject property pursuant to Minn. Stat. §§ 415.01 and 366.012.

**CITY: CITY OF ORONO**

**OWNERS:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Internal Use Only:	<input type="checkbox"/> Original to Finance Department	<input type="checkbox"/> Copy to Zoning File	<input type="checkbox"/> Copy to Street File
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