



**Norwood Young America Planning Commission**  
**Tuesday, October 18, 2016**  
**Norwood Young America City Council Chambers, 310 Elm St. W.**  
**7:00 p.m.**

**AGENDA**

1. Call to Order  
Pledge of Allegiance
2. Adoption of Agenda
3. Approve Minutes – September 20, 2016 meeting
4. Public Hearings
  - A. Conditional Use Permit – 127 Elm Street West
  - B. Conditional Use Permit – 117 Railroad Street West
5. Old Business
  - A. Rental Housing Code
  - B. Storage Pods
6. New Business
  - A. Conditional Use Permit – 127 Elm Street West
  - B. Conditional Use Permit – 117 Railroad Street West
7. September Building Permit Report
8. Commissioner's Reports
9. Adjourn

**Bill  
Grundahl**

**Cassandra  
Kemp**

**JR  
Hoernemann**

**Mark  
Lagergren**

**Charlie  
Storms**

**Craig  
Heher  
Council  
Liaison**

**UPCOMING MEETINGS**

- |                           |   |
|---------------------------|---|
| October 24 <sup>th</sup>  | 6:30 p.m. – City Council Meeting                    |
| November 14 <sup>th</sup> | 6:30 p.m. – City Council Meeting                    |
| November 2 <sup>nd</sup>  | 6:30 p.m. – Economic Development Commission Meeting |
| November 15 <sup>th</sup> | 5:30 p.m. – Parks & Recreation Commission Meeting   |
| November 15 <sup>th</sup> | 7:00 p.m. – Planning Commission Meeting             |



*Norwood Young America  
Planning Commission Minutes  
September 20, 2016*

**Present:** Commissioners Bill Grundahl, Craig Heher, Mark Lagergren, JR Hoernemann, and Charlie Storms.

**Absent:** Commissioner Cassandra Kemp.

**Staff:** City Administrator Steve Helget and Planning Consultant Cynthia Smith Strack.

**1. Call to Order**

The meeting was called to order by Heher at 7:00 pm. All present stood for the Pledge of Allegiance.

**2. Adoption of Agenda**

Chairperson Heher introduced the agenda.

*Motion* – Moved by Storms, seconded by Grundahl with all in favor to approve the agenda as presented. Motion approved 5-0.

**3. Approval of Minutes from the Regular Meeting August 16, 2016.**

Heher introduced the minutes from the August 16, 2016 meeting.

*Motion* – Storms to approve August 16, 2016 meeting minutes. Second by Hoernemann. With all in favor the minutes were approved 5-0.

**4. Public Hearing.**

None.

**5. Old Business.**

A. Ordinance: Solar Accessory Uses.

Heher introduced the business discussion.

Heher stated the City Council requested the Planning Commission provide clarification of certain sections of the proposed accessory solar ordinance.

Strack noted she had viewed the meeting video and was prepared to address issues as discussed by the Council.

Strack stated the Council requested clarification regarding requirements to have photovoltaic panels set back one foot from all building valleys, peaks, ridges, and edges and second standard a maximum of 80% of the roof could be covered by solar panels. The Council noted the potential duplicate purpose of the standards. Strack noted both standards were included in the draft ordinance so as to err on the side of caution with regard to limiting the size of solar arrays. She stated that for larger roofs the limiting factor could be 80% coverage and for smaller roofs the limiting factor could be one foot of setback, but both were applicable. Strack stated the City could opt for either or both standards.

Members of the Council also requested clarification from the PC regarding the rationale for capping the maximum size of an SES at 120% of energy used on site. Larger accessory arrays would require an interim use permit. Strack stated the standard is a further attempt to ensure SES accessory uses are truly accessory to principal uses of property. She noted electric utility providers often limit SES output under net metering interconnection agreements. The standard limitation is 120%. Net metering means the portion of the energy produced on the property is offset by the energy used. If excess energy is fed into the grid the solar producer is credited.

Strack stated the Council also requested a clearer definition of "utility scale" SES. She welcomed PC input as a standard industry definition does not exist. She noted the distinction between an accessory SES and a 'utility scale' the ordinance intended was one of scale. Accessory uses are incidental to what use is occurring on the property, 'utility scale' is on the order of Geronimo. Strack stated that for comparison sake, according to the federal government the average annual electricity consumption for a U.S. residential utility customer is about 11,000 kilowatt hours (kWh) or 11 MW annually equating to an average of 912 kWh per month. The average size residential SES is 5kW which in Minnesota produces about 8,000 kWh annually or 666 kWh per month. She suggested an alternative add on to the definition of 'utility scale' could be a not to exceed rating based on average residential use.

The final item the Council requested clarification on related to solar access easements. Strack noted the Council alluded to a concern solar easements could restrict future development. She stated the purpose of the easement is to protect property owner's investment in an SES and to a certain extent encourage investment in solar. Typically communities provide for the protection of solar resources through one of three mechanisms: (1) solar easement, (2) solar access permit, and (3) solar "fences." Solar easements are negotiated between private property owners and they protect access to the sunlight needed by a solar energy system. Solar easements are then recorded against the applicable properties. The solar easement is not a public easement. As an alternative some communities regulate access to solar through a permit process wherein the City prescribes SES access to sunlight by constraining future growth on neighboring properties. A final strategy is to require a solar 'fence' at the time of subdivision which functions essentially as a 'solar setback'. Governmental units are required to provide for any of the protection measures.

The Commission discussed the definition of 'utility scale' SES. The PC favors adding a size limitation to the definition. The size limitation is 120% of the annual energy used on the subject property or the maximum allowed for an accessory system under an interim use permit. Commissioner Heher noted the concept of net metering is important in understanding the intent of the definition.

The Commission next discussed standards requiring a one foot setback from roof an edge, peak, valley, ridge and a second standard limiting panel coverage to 80% of roof. The Commission specifically discussed whether or not both standards were needed.

The Commission agreed the standards were for aesthetic purposes. Grundahl noted if the one foot setback was not applicable the solar array could be shifted from one side to another further calling attention to the array.

The Commission after further discussion agreed the one foot setback better addressed aesthetic concerns than did a maximum percentage.

Helget requested a motion be made.

*Motion* – Motion by Lagergren, second by Grundahl to amend the draft ordinance by deleting a standard relating to maximum roof coverage and amending the definition of 'utility scale' SES. Motion carried 5-0.

#### B. Sign Ordinance Update.

Chairperson Heher introduced the agenda item.

Strack stated Kristin Nierengarten with the City Attorney's office redlined the existing sign code language based on items discussed at the July PC meeting. The PC reviewed the redlined version at the August meeting. While discussing the redlined version, the Commission addressed billboards. The Commission discussed disallowing billboards. At this time eight billboards exist adjacent to Hwy. 212 as identified in an inventory included in the PC packet.

Also at the August meeting the PC held discussion regarding how to regulate gateway entry signs.

The Commission requested input from the City Attorney's office regarding disallowing billboards and allowing gateway entry sign. Strack referenced two draft updates: one allowing billboards and one disallowing billboards included in the packet. She also noted the City Attorney's office noted entry/gateway signs would be allowed as the commercial content restriction for off-site signs (billboards) would not apply. Strack requested discussion from the PC.

Heher opined he doesn't favor billboards. Grundahl inquired as to how existing billboards would be regulated. Strack noted if billboards were no longer allowed those existing would become legal non-conforming – allowed to exist but not be

expanded/intensified.

Grundahl inquired as to whether or not entry signs would be allowed. Strack noted City Attorney's office noted they would be allowed whether in the form of billboards or monument signs.

Helget inquired as to extent of changes allowed under non-conforming status; for example, if signs didn't have sign faces would they become non-conforming. Strack opined the non-conforming status applied to the sign/frame and size and not content. If no content was displayed but the sign frame remained full non-conforming rights were retained. If the sign fell down or was removed and no building permit issued within 180 days the non-conforming rights would cease. She noted intensification of the use is a bit more difficult; for example, if a sign face was updated to digital one could potentially define that as an intensification.

Helget noted some ordinances contain distance standards limiting placement of signs. The PC discussed existing standards contained in the code. The PC also discussed current city limits and other locations where billboards could be established. The PC noted it appeared some existing billboards were nonconforming due a 2,650 linear foot required separation distance between billboards.

Lagergren inquired as to options for action. Strack opined if the Commission favored disallowing billboards it could expect a fair amount of discussion. She suggested a work session with Council if disallowing billboards was recommended. If no changes to the billboard language except the new term 'off site sign' versus 'advertising sign' was favored a work session was likely not needed.

Heher noted his preference regarding billboards but also opined if other Commissioners feel differently he was agreeable to continuing to allow billboards providing existing restrictions were retained.

The PC discussed additional areas where billboards could be sited, including areas within the orderly annexation area that could be annexed.

Storms noted he could support either allowing or disallowing. He noted he was comfortable with existing controls and the knowledge property owners could generate additional revenue.

PC reviewed each condition relating to billboards. Lagergren, Storms, Grundahl, and Hoernemann were satisfied with the existing language. Consensus of PC is to continue to allow billboards with existing language.

Grundahl inquired as to whether or not a dynamic sign would be allowed at City Hall. Strack noted the C3 district was not specifically defined as a district where dynamic signs could be allowed. She noted that under Code anything not allowed is specifically prohibited.

Lagergren inquired as to whether or not then the Commission should hold a work session to thoroughly review the sign code. Base ordinance or redlined.

Consensus is to hold a work session independent of a regular meeting.

Storms inquired as to whether or not signage hung on a baseball field fence was regulated. He also noted the limit on scoreboard signs was quite small. Strack is to bring sample language regarding signs at parks to the work session.

Motion Grundahl second Storms call for work session meet on November 1<sup>st</sup> at 6 p.m.  
Motion carried 5-0.

### C. Storage Pods - Discussion

Heher introduced the discussion item.

Strack stated that at the August meeting the PC discussed an inquiry received from a resident regarding a temporary storage pod. The resident had inquired as to whether or not a storage pod could be placed on property for up to one year while a shed was being remodeled.

Current standards relating to accessory structure require all structures on a lot are sympathetic in design to the principal structure. Under that rationale, one can infer storage pods are not allowed because they do not meeting the required architectural standards for accessory structures, if it is located on the lot for greater than 180 days (i.e. not a temporary structure).

Strack noted the PC asked staff to perform research regarding standards in other cities. There is seemingly no consistent approach or preferred approach to regulation. She reported:

1. City Administrator Helget requested input through the League of Minnesota Cities ListServ. Responses show:
  - a. City of New Ulm pods allowed on private property. If in the street or boulevard authorization is required and storage on public property is limited to 14 days.
  - b. The City of Breezy Point requires a permit and allows for a maximum of 60 days (language included in packet).
  - c. City of Crystal doesn't allow pods in residential areas. Commercial and industrial under CUP – treated as outdoor/outside storage.
2. The City of Waconia treats pods as accessory structures, requires consistency with the principal structure.
3. Cologne – accessory language and outside storage language similar to Waconia.

4. City of Deephaven and New Brighton regulate pods under their nuisance ordinances. New Brighton allows them for 14 days, Deephaven for 60 days.
5. Anoka, Aiken, and Arlington address pods under temporary structure language. Aiken allows for 14 days, Anoka for 30 days, and Arlington for 90 days.

The PC discussed storage pods.

Grundahl opined pods are unsightly and may be difficult to remove if they are allowed or put in place without City knowledge.

Lagergren noted language included in the packet from Breezy Point.

Grundahl inquired as to if or how storage in semi-trailers could be addressed. Storms described semi-trailer as something different than a storage pod.

Lagergren asked Helget how often question arise regarding pods. Helget note he has received some calls this year and the calls seem to be becoming more common. He noted inquiries regarding pods in commercial areas are more common than residential.

Storms noted the Breezy Point language requires a tracking permit and prescribes a timeline. Lagergren opined the 60 day limit in the Breezy Point language seemed a bit lengthy.

Grundahl inquired as to whether or not dumpsters or construction dumpsters should be regulated. Strack noted in her experience the length of time dumpsters are on site is usually limited by the owner of the dumpster. She noted if dumpsters are on site too long they could be addressed as a nuisance.

Heher stated he didn't care for pods but he understand some persons occasionally need them. He inquired as to how existing pods could be treated.

Lagergren inquired of Helget if he preferred a code standard or continuing to proceed as we are at this time. Helget would like to update the Code and provide a permitting process similar to that in Breezy Point.

Following additional discussion, the PC reached consensus to continue discussion at the October meeting.

## **6. New Business.**

### **A. Rental Ordinance - Discussion**

Heher introduced the discussion item.

Motion by Lagergren, second Hoernemann to postpone discussion on the rental ordinance to the October meeting. Motion carried unanimously.

## **7. Building Permit Report.**

The building permit report was acknowledged a total of twelve new home permits have been issued in 2016.

## **8. Commissioner's Reports**

Grundahl reported on the September 12<sup>th</sup> City Council meeting. Primary agenda item was the 2017 preliminary budget and levy.

Storms noted the EDC was planning an October 4<sup>th</sup> Manufacturing Week appreciation event; open houses were planned at Hydro Engineering and Storms welding. In addition a branding effort is underway.

Heher noted the Parks Commission reviewed specifications for restrooms and approved phase II dugouts at baseball field. Some discussion occurred at the meeting regarding a sidewalk plan and a dog park.

Grundahl noted Jaguar Communications is having an open house at the Pavilion both this Thursday and next Thursday regarding fiber.

## **9. Adjourn**

Motion – Grundahl, seconded by Storms with all in favor, the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

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*Steven Helget*  
Zoning Administrator





To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: October 20, 2016

Re: Public Hearing Conditional Use Permit: 127 Elm Street West

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### **BACKGROUND**

Daniel Andrs has applied for a conditional use permit to use 127 Elm Street West for storage of personal automobiles. The site has previously been used for retail automobile repair. The retail auto repair has nonconforming use rights at this time. The use of the property for storage of personal automobiles may be viewed as a decrease in the intensity of the non-conforming auto repair use. In addition, the use may be viewed as provided for under Section 1230.10, Subd. 4 as a conditional use. The lot is within the C-3 Downtown District. Section 1230.10, Subd. 4 allows for the auto sales, display, and storage as a conditional use. As such, a conditional use permit is in order to define and memorialize the proposed use. Attached please find an application for a CUP. The Applicant proposes no changes to the building footprint.

### **REVIEW OF REQUEST**

The Applicant requests the City consider issuance of a CUP for storage of personal automobiles at 127 Elm Street West.

As evident in the attached map, the site is nearly fully covered by existing structure. The Applicant proposes to use the building for storage of personal vehicles and for working on/repairing personal vehicles. The CUP at this time will be specific to storage and working on personal vehicles.

#### Hearing Requirements

A public hearing notice has been drafted, published, and distributed to property owners within 350 feet of the subject parcel.

#### Comments Received

As of the drafting of this memo no comments were received.

#### Examination of Code Requirements

NYA City Code requirements applicable to this Conditional Use Permit Request are itemized below; consulting staff comments are illustrated in **red bold, italic type face**.

#### General Criteria for Approval of Conditional Use Permits

The Planning Commission is to examine the request under Section 1210.06 Conditional Use Permits, Subd. 3(A). The City may, as it deems necessary to protect the health, safety, and general welfare of the public, require additional performance standards.

1. The use is consistent with goals, policies and objectives of the Comprehensive Plan.  
***DISCUSSION: The 2008 NYA Comprehensive Plan guides the subject area to continued commercial use.***

2. The use is consistent with the intent of this Ordinance. ***DISCUSSION: The intent of the C-3 District is to provide for uses within traditional downtown areas. No changes to building footprint and/or structure appearance is proposed. The proposed use will not be a residential use.***
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements. ***DISCUSSION: The proposed use shall occupy and existing structure which is currently served by a full array of urban services. The proposed use will not overly burden existing utilities in terms of volume used/capacity required or type of waste produced.***
4. The use does not have an undue adverse impact on the public health, safety or welfare. ***DISCUSSION: The proposed use will be operated within an existing structure.***
5. The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood. ***DISCUSSION: Adjacent uses are commercial/mixed use in nature. The less intensive auto use appears to blend in with the uses within the general locale.***
6. The use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district. ***DISCUSSION: The subject site lies within a fully developed part of the original townsite and appears to be consistent with adjacent uses.***
7. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided. ***DISCUSSION: The subject parcel is an existing, improved lot with a full complement of urban services provided.***
8. Adequate measures have been or will be taken to provide for vehicular and pedestrian safety and convenience to, from and within the site. ***DISCUSSION: No changes to the structure are proposed. Vehicular and pedestrian circulation patterns are already established.***
9. The use meets all of the performance criteria requirements as established in Section 1245.01 of this chapter. ***DISCUSSION: As a condition of approval, the proposed use shall meet the requirements of Section 1245.01 of the City Code relating to noise, vibration, smoke, particulate matter, odor, and connection to municipal utilities.***
10. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. ***DISCUSSION: The existing structure is lower than the maximum building height. Side and rear setbacks are existing legal non-conforming and the architectural standards and guidelines of Section 1245.03 are not applicable as new construction/expansion is not contemplated.***

### **Conditions of Approval**

All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein. The Council may impose conditions which are considered reasonably necessary to meet the standards of City Code and to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition of approval is a violation of the Code.

If approval of the conditional use permit is recommended to the City Council, the following conditions are recommended:

1. The "Use" is defined as personal auto storage at 127 Elm Street West. No other use, including providing services to the public shall be allowed under this Conditional Use Permit. The Use is subject to the following standards:

- A. Storage is limited to new and used passenger automobiles which are the licensed and personal possessions of the individual private person(s) owning the property. No retail sales/service shall be allowed.
  - B. Private service and repair of personal passenger automobiles owned by the fee owner of the property is allowed provided it is clearly secondary and subordinate to the use of the property for storage of personal autos.
  - C. Auto service and repair of personal vehicles shall be conducted indoors.
2. No outdoor storage of any kind, including but not limited to garbage, refuse, materials, equipment or machinery shall be permitted.
3. All loading/unloading at the site shall occur separate and independent from Elm Street right-of-way unless specifically authorized in writing by Carver County Public Works Department.
4. The use shall at all times meet the requirements of Section 1245.01 of the City Code relating to noise, vibration, smoke, particulate matter, odor, and connection to municipal utilities.
5. The Property Owner shall not discharge industrial waste into the sanitary sewer system.
6. This approval is applicable only to the property at 127 Elm Street West.
7. This approval shall expire one year after date of approval unless the Applicant has commenced operation of the Use on-site.
8. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.
9. The permit may be subject to annual inspection and audit by the City.
10. The City may revoke the CUP upon violation of the conditional use permit standards in the Zoning Ordinance or violation of the conditions of this resolution, subject to the requirements of Section 1210.06, Subd. 5 "Revocation of Conditional Use Permits" of the Zoning Ordinance.
11. The conditional use permitted under this Resolution shall be revoked if the Use ceases for more than 12 consecutive months.

**ACTION**

After the Planning Commission's review and discussion is complete, a motion to the Council to approve/deny the conditional use permit is in order.

# Planning and Zoning Application

City of Norwood Young America  
 310 Elm St. W, PO Box 59  
 Norwood Young America, MN 55368  
 Phone: (952) 467-1800 Fax: (952) 467-1818

Applicant's Name <b>Daniel Andrs</b>		Telephone Home <b>952-934-3074</b> Work/Cell <b>952-261-1217</b>																														
Address (Street, City, State, ZIP) <b>17512 Evener Way, EdenPrairie, MN 55346</b>																																
Property Owner's Name (If different from above) <b>Foley Bros.</b>		Telephone Home Work/Cell																														
Location of Project <b>127 Elm St W, Norwood Young America, MN 55368</b>																																
Legal Description <b>Old # 60.0500120 Twp 115, Rng 026, Sec 14</b> <span style="float: right; color: blue;"><i>City Lots of Norwood Lot 005 Block 002</i></span>																																
Description of Request (Attach separate sheet, if necessary) I would like to use this building for storage, repair, maintenance and construction of my own vehicles. I do not do spray painting and would take projects to a body shop for that. I have worked in property maintenance and know how to keep a property in good condition. I will comply with environmental rules and city codes. In the future, I may want to lease a part of the front space for office or retail use.																																
<p style="text-align: center;"><b>Proposed Action(s): Check all that apply</b></p> <table style="width: 100%; border: none;"> <tr> <td><input type="checkbox"/> Annexation \$300.00</td> <td><input type="checkbox"/> Comp Plan Amendment \$500.00 + Escrow</td> <td><input type="checkbox"/> Storm Water Plan \$250.00</td> </tr> <tr> <td><input type="checkbox"/> Application for Appeal \$150.00</td> <td><input type="checkbox"/> Sketch Plat \$200.00 + Escrow</td> <td><input type="checkbox"/> Rezoning \$350.00</td> </tr> <tr> <td><input type="checkbox"/> City Code Amendment \$250.00</td> <td><input type="checkbox"/> Site Plan \$300.00 + Escrow</td> <td><input type="checkbox"/> Street/Alley Vacation \$150.00</td> </tr> <tr> <td><input type="checkbox"/> Parking Reduction \$100.00</td> <td><input type="checkbox"/> PUD Sketch Plan \$200.00 + Escrow</td> <td><input type="checkbox"/> Zoning Text Amendment \$300.00</td> </tr> <tr> <td><input type="checkbox"/> CUP/IUP \$200.00 (Residential)</td> <td><input type="checkbox"/> PUD Plan Amendment \$300.00 + Escrow</td> <td><input type="checkbox"/> Recording Fee \$46.00</td> </tr> <tr> <td><input checked="" type="checkbox"/> CUP/IUP \$300.00 (Non Residential)</td> <td><input type="checkbox"/> PUD Final Plan \$300.00 + Escrow</td> <td><input type="checkbox"/> Other _____</td> </tr> <tr> <td><input type="checkbox"/> Variance \$150.00 (Residential)</td> <td><input type="checkbox"/> PUD General Concept Plan \$400.00 + Escrow</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Variance \$200.00 (Non Residential)</td> <td><input type="checkbox"/> Preliminary Plat \$350.00 + \$10.00/Lot + Escrow</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Lot Split \$200.00</td> <td><input type="checkbox"/> Final Plat \$250.00 + \$10.00/Lot + Escrow</td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Public Hearing Notice \$75.00</td> <td><input type="checkbox"/> Wetland Mitigation Plan \$100.00 + Escrow</td> <td></td> </tr> </table>			<input type="checkbox"/> Annexation \$300.00	<input type="checkbox"/> Comp Plan Amendment \$500.00 + Escrow	<input type="checkbox"/> Storm Water Plan \$250.00	<input type="checkbox"/> Application for Appeal \$150.00	<input type="checkbox"/> Sketch Plat \$200.00 + Escrow	<input type="checkbox"/> Rezoning \$350.00	<input type="checkbox"/> City Code Amendment \$250.00	<input type="checkbox"/> Site Plan \$300.00 + Escrow	<input type="checkbox"/> Street/Alley Vacation \$150.00	<input type="checkbox"/> Parking Reduction \$100.00	<input type="checkbox"/> PUD Sketch Plan \$200.00 + Escrow	<input type="checkbox"/> Zoning Text Amendment \$300.00	<input type="checkbox"/> CUP/IUP \$200.00 (Residential)	<input type="checkbox"/> PUD Plan Amendment \$300.00 + Escrow	<input type="checkbox"/> Recording Fee \$46.00	<input checked="" type="checkbox"/> CUP/IUP \$300.00 (Non Residential)	<input type="checkbox"/> PUD Final Plan \$300.00 + Escrow	<input type="checkbox"/> Other _____	<input type="checkbox"/> Variance \$150.00 (Residential)	<input type="checkbox"/> PUD General Concept Plan \$400.00 + Escrow		<input type="checkbox"/> Variance \$200.00 (Non Residential)	<input type="checkbox"/> Preliminary Plat \$350.00 + \$10.00/Lot + Escrow		<input type="checkbox"/> Lot Split \$200.00	<input type="checkbox"/> Final Plat \$250.00 + \$10.00/Lot + Escrow		<input checked="" type="checkbox"/> Public Hearing Notice \$75.00	<input type="checkbox"/> Wetland Mitigation Plan \$100.00 + Escrow	
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ALL ESCROW MUST BE PAID BY CERTIFIED CHECK Escrow Deposit \$2,000.00 Escrow Deposit - Site Plan Review: \$7,500 (Tacoma West Industrial Park), \$5,000.00 (All other site plan reviews) Escrow Deposit - Development Review (paid at Sketch Plan): \$10,000.00  ALL PLANNING & ZONING APPLICATION FEES ARE IN ADDITION TO LEGAL, ENGINEERING AND ASSOCIATED COSTS.  *APPLICATIONS WILL BE PROCESSED ONLY IF ALL REQUIRED ITEMS ARE SUBMITTED*																																
The undersigned certifies that they are familiar with application fees and other associated costs, and also with the procedural requirements of Chapter 11 and Chapter 12 of the City Code and other applicable ordinances.																																
Applicant's Signature: <i>Daniel Andrs</i>		Date <b>9/13/16</b>																														
Fee Owner's Signature: <input checked="" type="checkbox"/> <i>Constance Foley</i> <i>John Foley Jr Paul F. Foley</i>		Date <b>9/13/2016</b>																														
<b>For Office Use Only</b>																																
Accepted By:	Amount	Date																														



Brush St S

33



Carver County GIS, 2014. Photography [International]

This map was created using Carver County's Geographic Information Systems (GIS). It is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.

Map Date: 10/11/2016





To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: October 20, 2016

Re: Public Hearing Conditional Use Permit: 117 Railroad Street West

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**Applicant:** Scott Loomis, d.b.a. Loomis Homes

**Subject Property Address:** 117 Railroad Street West

**Legal Description:** P/O SW1/4 NW1/4 BOUNDED AS FOLLOWS: ON TH N BY TH S LINE OF RAILROAD ST-ON E BY THE W LINE OF FRANKLIN ST- ON THE W BY THE E LINE OF MORSE ST & ON S BY A LINE 50' NLY OF CENTERLINE OF RR OLD # 60.9990112

**Property ID:** 589990030

**Zoning Class:** C-3 Downtown District

**Request:** A conditional use permit to allow a contractor operation (home builder) at the subject site.

**Background**

A conditional use permit application, narrative description, and sketch have submitted for review by the City of Norwood Young America in conjunction with a proposed contractor shop at 117 Railroad Street West. The application materials and a map of the site are attached for consideration/information.

A conditional use permit is required under §1230.10, Subd. 4(A) of the City Code which provides for contractor operations in the C-3 District.

The Applicant proposes to operate a headquarters for their home building business and to use the subject site as a base of operations.

The Applicant represents:

- No outdoor storage is proposed.
- The facility will be a wood frame with engineered siding and asphalt shingles.
- The structure will be 1,944 square feet; 36' by 54'.
- A site plan illustrated on a certificate of survey is typically required prior to consideration of the CUP but is not currently available. The Applicant would like to proceed with construction prior to freeze-up. As such I have agreed to allow submittal of site plan prior to the meeting but after packet deadline.

### **Hearing Requirements**

A public hearing notice has been drafted, published, and distributed to property owners within 350 feet of the subject parcel.

### **Comments Received**

As of the drafting of this memo no comments were received.

### **Examination of Code Requirements**

NYA City Code requirements applicable to this Conditional Use Permit Request are itemized below; consulting staff comments are illustrated in ***red bold, italic type face***.

#### **1210.06 Conditional Use Permits, Subd. 3(B)(6) Requirements**

Contractor Operations. Contractor Operations in the C-3, Downtown District shall conform to the following standards:

- a. No outdoor storage of any kind, including but not limited to materials, equipment or machinery shall be permitted. ***This is a proposed condition of approval.***
- b. All business vehicles shall be accommodated by off-street parking. ***This is a proposed condition of approval, submittal of a site plan is pending.***
- c. The office area shall be maintained within the building. ***This is a proposed condition of approval.***

#### **General Criteria for Approval of Conditional Use Permits**

The aforementioned standards relate specifically to contractor operations in the C-3 District. In addition, the Planning Commission is required to examine the request under a series of general standards as set for under Section 1210.06 Conditional Use Permits, Subd. 3(A). The City Council may, as it deems necessary to protect the health, safety, and general welfare of the public, require additional performance standards. At a minimum the Planning Commission is required to examine the request as it applies to the following standards.

1. The use is consistent with goals, policies and objectives of the Comprehensive Plan. ***DISCUSSION: The 2008 NYA Comprehensive Plan guides the subject area to mixed uses, primarily commercial and typical of that found within downtowns. The contemplated operation is consistent with contractor operations.***
2. The use is consistent with the intent of this Ordinance. ***DISCUSSION: The intent of the C-3 District is to serve specialized service, retail, employment, and public business to the community. Specialized contractor services shall be available through the business location, therefore, the use appears to be consistent with the intent of the Code.***
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements. ***DISCUSSION: The proposed use will occur on an existing lot which is currently served by a full array of urban services. The infill development will not overly burden existing utilities in terms of volume used/capacity required or type of waste produced.***
4. The use does not have an undue adverse impact on the public health, safety or welfare. ***DISCUSSION: Infill development is proposed, the contractor operation will not produce an adverse impact on the public's health, safety, or welfare.***
5. The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood. ***DISCUSSION: Adjacent uses are a mix of residential and commercial uses. The use as provided for in the City Code appears to blend in with the uses within the general locale.***

6. The use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district. **DISCUSSION: The subject site is an interior lot within a nearly fully developed part of the original townsite. The vacant lot adjacent to the subject site is a 'buildable lot' under current zoning standards provided setbacks are met. Setback requirements allow buildings forward on lots with zero side yard setbacks when abutting other commercial uses. Setback review will occur upon site plan submittal.**
7. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided. **DISCUSSION: The subject parcel is an existing, improved lot with a full complement of urban services provided.**
8. Adequate measures have been or will be taken to provide for vehicular and pedestrian safety and convenience to, from and within the site. **DISCUSSION: access to the site will occur from Franklin Street.**
9. The use meets all of the performance criteria requirements as established in Section 1245.01 of this chapter. **DISCUSSION: As a condition of approval, the proposed use shall meet the requirements of Section 1245.01 of the City Code relating to noise, vibration, smoke, particulate matter, odor, and connection to municipal utilities.**
10. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. **DISCUSSION: Lot area and width minimums and lot coverage maximums do not apply to lots in the C-3 District. The existing structure is lower than the maximum building height. Setback requirements are as follows: front – zero, side – zero, rear – zero. The architectural standards and guidelines of Section 1245.03 are not applicable and appear to be met as proposed. Parking requirements for contractor operations are not specifically addressed in the Code. Perhaps the closest calculation is that for wholesale establishments which requires one space per employee or one space for each 2,000 square feet PLUS one space for each company vehicle operating from the premises. Section 1250.12 of the Code allows the City to decrease the number of parking spaces required for uses within the C, Civic District and the "CBD Central Business District". There is no "CBD Central Business District" within the existing zoning district, however, in every sense of the term the "Downtown District" is analogous to a central business district. To those ends it is presumed the reference to CBD should be a reference to the Downtown District but the reference was not updated when the code was updated in 2009 amounting to a typographical error. As such the ability of the City to decrease required parking spaces is presumed allowed. The Applicant proposes [redacted] parking spaces at this time.**

### **Conditions of Approval**

All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein. The Council may impose conditions which are considered reasonably necessary to meet the standards of City Code and to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition of approval is a violation of the Code.

If approval of the conditional use permit is recommended to the City Council, staff recommends the following conditions be included with the approval, these conditions may be subject to modification depending upon the outcome at the Planning Commission meeting:

1. The approval specifically authorizes a contractor operation (home builder contractor shop) at the subject property. No other use shall be allowed under this Conditional Use Permit.

2. This approval is applicable only to the property at 117 Railroad Street West.
3. Review and approval by the City Engineer.
4. Review and approval by the Carver County Watershed Management Organization.
5. No outdoor storage of any kind, including but not limited to garbage, refuse, materials, equipment or machinery shall be permitted.
6. All business vehicles stored at the site shall be accommodated by off-street parking.
7. An office area shall be maintained within the structure.
8. The use shall at all times meet the requirements of Section 1245.01 of the City Code relating to noise, vibration, smoke, particulate matter, odor, and connection to municipal utilities.
9. The City Council shall release the Property Owner from employee and customer parking requirements for this conditional use, except that any company vehicles (i.e. commercial vehicles, vehicles owned by the company, and/or vehicles advertising the company) shall be parked off the street.
10. The Property Owner shall not discharge industrial waste into the sanitary sewer system.
11. Any proposed signage will require the issuance of a sign/building permit.
12. This approval shall expire one year after date of approval unless the Applicant has commenced operation of the Use on-site.
13. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.
14. The permit shall be subject to annual inspection and audit by the City.
15. The City may revoke the CUP upon violation of the conditional use permit standards in the Zoning Ordinance or violation of the conditions of this resolution, subject to the requirements of Section 1210.06, Subd. 5 "Revocation of Conditional Use Permits" of the Zoning Ordinance, as may be amended.
16. The conditional use permitted under this Resolution shall be revoked if the Use ceases for more than 12 consecutive months.
17. The Use permitted under this Resolution may change to a permitted use in the C-3 District without further action by the City Council; however the Use may not change to another conditional use without a new application and approval by the City Council.

**Action**

After the Planning Commission's review and discussion is complete, a motion to the Council to approve/deny the conditional use permit is in order.

# Planning and Zoning Application

City of Norwood Young America  
 310 Elm St. W, PO Box 59  
 Norwood Young America, MN 55368  
 Phone: (952) 467-1800 Fax: (952) 467-1818

Applicant's Name <i>Loomis Homes</i>	Telephone Home <i>952-200-8838</i> Work/Cell			
Address (Street, City, State, ZIP) <i>510 N Chestnut St #204 Chaska MN 55318</i>				
Property Owner's Name (If different from above)	Telephone Home Work/Cell			
Location of Project <i>117 Railroad St W Norwood Young America</i>				
Legal Description <i>TWP 115, RNG 026, Sec 14</i> <i>PID 589440030</i>				
Description of Request (Attach separate sheet, if necessary) <i>Loomis Homes is proposing building of shop for contractor purpose</i> <i>All indoor storage</i>				
<p style="text-align: center;"><b>Proposed Action(s): Check all that apply</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Annexation \$300.00  <input type="checkbox"/> Application for Appeal \$150.00  <input type="checkbox"/> City Code Amendment \$250.00  <input type="checkbox"/> Parking Reduction \$100.00  <input type="checkbox"/> CUP/IUP \$200.00 (Residential)  <input checked="" type="checkbox"/> CUP/IUP \$300.00 (Non Residential)  <input type="checkbox"/> Variance \$150.00 (Residential)  <input type="checkbox"/> Variance \$200.00 (Non Residential)  <input type="checkbox"/> Lot Split \$200.00  <input checked="" type="checkbox"/> Public Hearing Notice \$75.00                 </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Comp Plan Amendment \$500.00 + Escrow  <input type="checkbox"/> Sketch Plat \$200.00 + Escrow  <input type="checkbox"/> Site Plan \$300.00 + Escrow  <input type="checkbox"/> PUD Sketch Plan \$200.00 + Escrow  <input type="checkbox"/> PUD Plan Amendment \$300.00 + Escrow  <input type="checkbox"/> PUD Final Plan \$300.00 + Escrow  <input type="checkbox"/> PUD General Concept Plan \$400.00 + Escrow  <input type="checkbox"/> Preliminary Plat \$350.00 + \$10.00/Lot + Escrow  <input type="checkbox"/> Final Plat \$250.00 + \$10.00/Lot + Escrow  <input type="checkbox"/> Wetland Mitigation Plan \$100.00 + Escrow                 </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Storm Water Plan \$250.00  <input type="checkbox"/> Rezoning \$350.00  <input type="checkbox"/> Street/Alley Vacation \$150.00  <input type="checkbox"/> Zoning Text Amendment \$300.00  <input checked="" type="checkbox"/> Recording Fee \$46.00  <input type="checkbox"/> Other _____                 </td> </tr> </table>		<input type="checkbox"/> Annexation \$300.00 <input type="checkbox"/> Application for Appeal \$150.00 <input type="checkbox"/> City Code Amendment \$250.00 <input type="checkbox"/> Parking Reduction \$100.00 <input type="checkbox"/> CUP/IUP \$200.00 (Residential) <input checked="" type="checkbox"/> CUP/IUP \$300.00 (Non Residential) <input type="checkbox"/> Variance \$150.00 (Residential) <input type="checkbox"/> Variance \$200.00 (Non Residential) <input type="checkbox"/> Lot Split \$200.00 <input checked="" type="checkbox"/> Public Hearing Notice \$75.00	<input type="checkbox"/> Comp Plan Amendment \$500.00 + Escrow <input type="checkbox"/> Sketch Plat \$200.00 + Escrow <input type="checkbox"/> Site Plan \$300.00 + Escrow <input type="checkbox"/> PUD Sketch Plan \$200.00 + Escrow <input type="checkbox"/> PUD Plan Amendment \$300.00 + Escrow <input type="checkbox"/> PUD Final Plan \$300.00 + Escrow <input type="checkbox"/> PUD General Concept Plan \$400.00 + Escrow <input type="checkbox"/> Preliminary Plat \$350.00 + \$10.00/Lot + Escrow <input type="checkbox"/> Final Plat \$250.00 + \$10.00/Lot + Escrow <input type="checkbox"/> Wetland Mitigation Plan \$100.00 + Escrow	<input type="checkbox"/> Storm Water Plan \$250.00 <input type="checkbox"/> Rezoning \$350.00 <input type="checkbox"/> Street/Alley Vacation \$150.00 <input type="checkbox"/> Zoning Text Amendment \$300.00 <input checked="" type="checkbox"/> Recording Fee \$46.00 <input type="checkbox"/> Other _____
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<p>ALL ESCROW MUST BE PAID BY CERTIFIED CHECK</p> <p>Escrow Deposit \$2,000.00</p> <p>Escrow Deposit - Site Plan Review: \$7,500 (Tacoma West Industrial Park), \$5,000.00 (All other site plan reviews)</p> <p>Escrow Deposit - Development Review (paid at Sketch Plan): \$10,000.00</p> <p style="text-align: center;">ALL PLANNING &amp; ZONING APPLICATION FEES ARE IN ADDITION TO LEGAL, ENGINEERING AND ASSOCIATED COSTS.</p> <p style="text-align: center;"><b>*APPLICATIONS WILL BE PROCESSED ONLY IF ALL REQUIRED ITEMS ARE SUBMITTED*</b></p>				
The undersigned certifies that they are familiar with application fees and other associated costs, and also with the procedural requirements of Chapter 11 and Chapter 12 of the City Code and other applicable ordinances.				
Applicant's Signature: <i>[Signature]</i>	Date <i>10/5/10</i>			
Fee Owner's Signature:	Date			
<b>For Office Use Only</b>				
Accepted By:	Amount			
	Date			



Loomis Homes LLC  
510 N Chestnut St #204  
Chaska, MN 55318  
Scott Loomis  
Chief Managing Officer  
[Scott@loomis-homes.com](mailto:Scott@loomis-homes.com)  
952-200-8838

RE: 117 Railroad St W, Norwood Young America

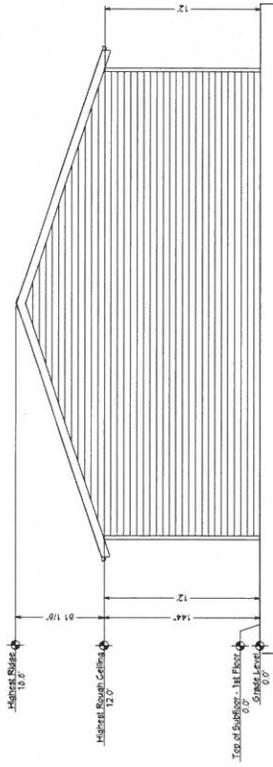
Loomis Homes is proposing building an indoor storage for contractor equipment. This proposed building shall be constructed of wood frame with Lp smart side engineered siding with Tamko asphalt 30 year architectural singles. This proposal is not for any outdoor storage of equipment or materials.

Scott Loomis (CMO)

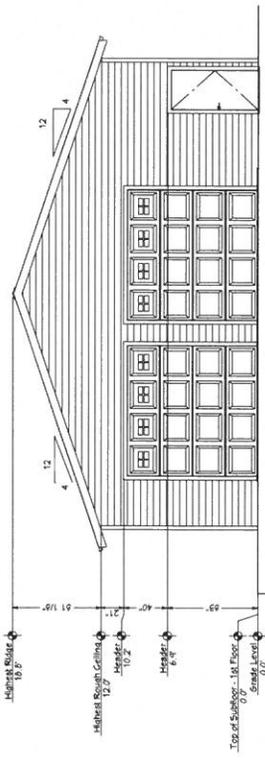
A handwritten signature in black ink that reads 'Scott Loomis'.

Loomis Homes LLC

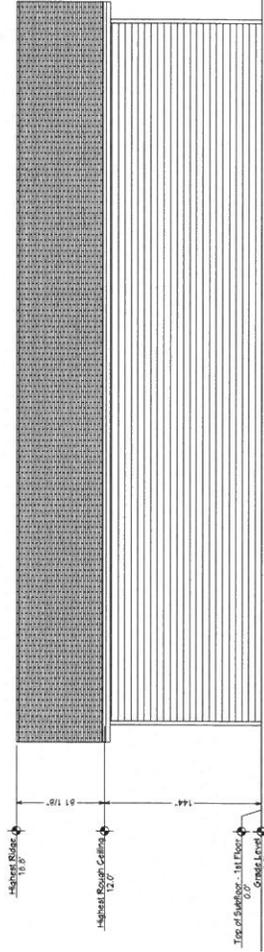
**Exterior Specifications**  
 Siding material: LP Smart side: Engineered wood siding  
 Roofing Material: Asphalt Tamko Heritage 30 Year Arch shingles



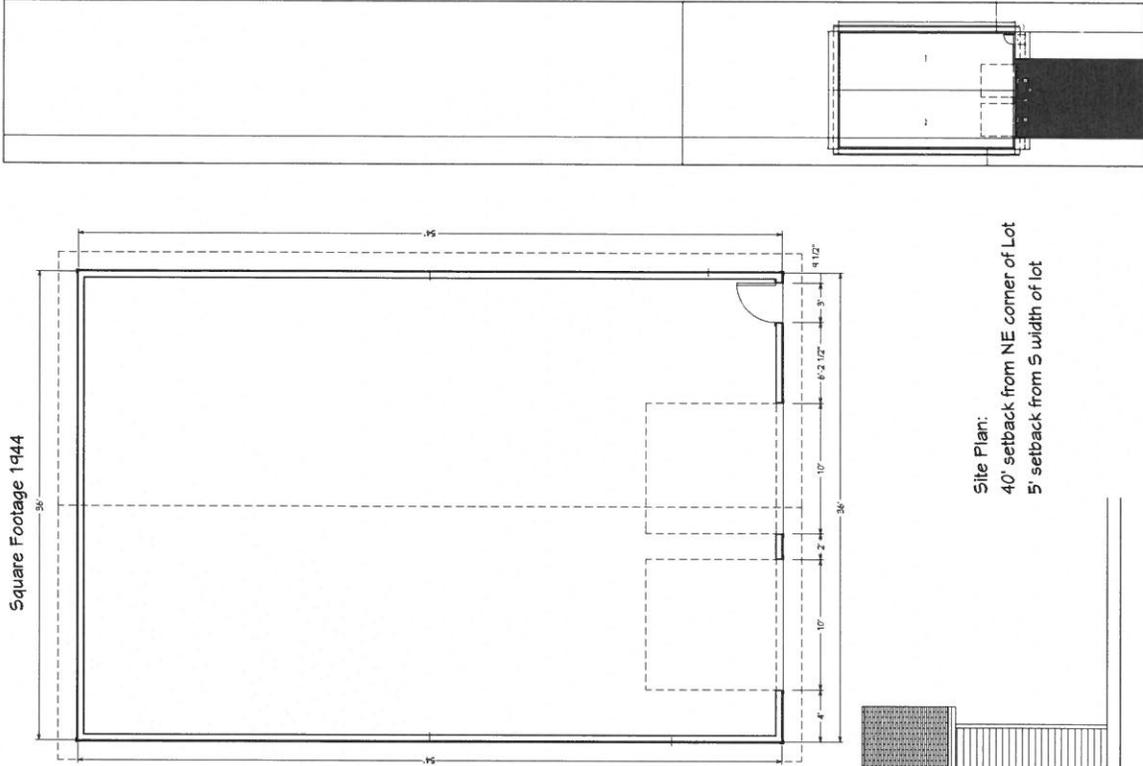
Exterior Elevation Right



Exterior Elevation Left



Exterior Elevation Front



Site Plan:  
 40' setback from NE corner of Lot  
 5' setback from S width of lot


 Loomis Homes  
 LPH # BCS3148  
 DRAWINGS PROVIDED BY:

DATE: 10/5/2016  
 SCALE:  
 SHEET: P-1



Carver County GIS, 2014. Photography International

This map was created using Carver County's Geographic Information Systems (GIS). It is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.

Map Date: 10/11/2016



To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: October 18, 2016

Re: Rental Housing Code

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**BACKGROUND**

At the request of the City Administrator the PC agreed to review the rental code.

Attached please find the current rental code, most recently updated in 2010. A few observations:

1. Scope – The Code exempts rental of units to “direct family” members. Staff finds this potentially problematic and troubling.
2. Definitions – “Nuisance” overcrowding a room with occupants. Staff finds this problematic. Fire code occupancy regulated under fire code only; no specific definition of overcrowding identified.
3. Definitions – “Occupant” Staff finds this definition problematic in that there appears to be no limit on the amount of related persons living which constitute a “family” but there is an occupancy limit on the number of unrelated persons.
4. Section 350.04, Subd. 8 – aisle width standard is suspect if regulated under Building Code.
5. 2010 update appears to have removed all other references to items that are regulated by under Building Code.
6. Does the City wish to require tenant identification by landlords? Make the landlord responsible for tenant behavior? Blend rental ordinance with a crime free housing initiative? Please see ordinance from City of Starbuck attached.

**ACTION**

Discussion is kindly requested.

## CHAPTER 95: HOUSING, RENTAL PROPERTY, MAINTENANCE & OCCUPANCY

The City Council of Starbuck, MN ordains...

### Section

- 95.01 Purpose
- 95.02 City not an Arbiter
- 95.03 Applicability
- 95.04 Owner and Occupant Responsibilities
- 95.05 Maintenance Standards
- 95.06 Fire Code
- 95.07 Rental Unit Licensing
- 95.08 Enforcement
- 95.09 Enforcement and Inspection Authority
- 95.10 Inspection Access
- 95.11 Unfit for Human Habitation
- 95.12 Severability

Section 95.01: **PURPOSE:** To protect the citizens' public health, safety, and general welfare. These general objectives include, among others, the following:

- a) To protect the character and stability of residential areas within the City;
- b) To correct and prevent housing conditions which adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well being of persons occupying dwellings within the City;
- c) To provide minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of building occupants;
- d) To provide minimum standards for light and ventilation, necessary to health and safety;
- e) To prevent overcrowding of dwellings by providing minimum space standards per occupant for each dwelling unit;
- f) To provide minimum standards for maintaining existing residential buildings, and to thus prevent slums and blight;
- g) To preserve the value of land and buildings throughout the City.

Section 95.02: **CITY NOT AN ARBITER.** With respect to rental disputes, and except as otherwise specifically provided in this Ordinance, the City Council does not intend to intrude upon the fair and accepted contractual relationship between tenant and owner. The City Council does not intend to intervene as an advocate of either party, or to act as an arbiter, or to receive complaints from tenant or owner which are not specifically and clearly relevant to this Ordinance's provisions. In the absence of such relevancy with regard to rental disputes, the contracting parties must exercise the legal sanctions available to them without the City's intervention. In enacting this Ordinance, the City Council does not intend to interfere or permit interference with legal rights to personal privacy.

Section 95.03: **APPLICABILITY.** Every building and its premises used in whole or in part as a home or residence, or as an accessory structure of them, for a single family or person, and every building used in whole or in part as a home or residence of two or more persons or families living in separate units shall conform to this ordinance, irrespective of when the building may have been constructed, altered, or repaired. This Ordinance establishes minimum standards for erected dwelling units, accessory structures and related premises.

Section 95.04: **OWNER AND OCCUPANT RESPONSIBILITIES.**

Subd. 1: **Sanitation.** No owners or other person shall occupy or let to another person any dwelling, dwelling unit or rooming unit unless it and the premises are clean, sanitary, fit for human occupancy, and complies with all applicable legal requirements of City and state law.

Subd. 2: **Shared or Public Areas.** Every owner of a dwelling containing 2 or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises.

Subd. 3: **Occupied Areas.** Every occupant of a dwelling, dwelling unit or rooming unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises which he or she occupies and controls.

Subd. 4: **Pest Extermination.** Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for extermination whenever his or her dwelling unit is the only one infested. Extermination shall be the owner's responsibility. If infestation is caused by the owner's failure to maintain a dwelling in a reasonable rodent proof or reasonable vermin proof condition. If infestation exists in 2 or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing 2 or more dwelling units, extermination shall be the owner's responsibility.

Subd. 5: **Rodent Harborages and Food.** No owner or occupant of a dwelling or dwelling unit shall accumulate boxes, lumber, scrap metal, or any other similar materials in such a manner which may provide a rodent harborage in or about any dwelling or dwelling unit. Stored

materials shall be stacked neatly in piles. No owner or occupant of a dwelling or dwelling unit shall store, place or allow the accumulation any materials which may serve as food for rodents in a site accessible to rodents.

Subd. 6: Snow and Ice Removal. The owner of a multiple family dwelling or dwellings shall be responsible for the removal of snow and ice from parking lots, driveways, steps and walkways on the premises pursuant to the City Code.

Subd. 7: Minimum Exterior Lighting. The owner of a multiple family dwelling or dwellings shall be responsible for providing and maintaining effective illumination in all exterior parking lots and walkways.

Subd. 8: Driving and Parking Areas. The owners of a multiple dwelling or dwellings shall be responsible for providing and maintaining in good condition parking areas and driveways for tenants consistent with the City Code.

Subd. 9: Yards. The owner of a multiple family dwelling or dwellings shall be responsible for providing and maintaining premises' yards consistent with the City zoning ordinance and City Code.

Section 95.05: **MAINTENANCE STANDARDS**.

Every rental unit shall be maintained in a safe, sanitary, and habitable condition and in compliance with any standards or requirements imposed by state or local statutes, codes, ordinances, or other laws applicable to rental housing. In addition, the Minimum Housing Quality Standards of the Department of Housing and Urban Development (hereinafter "HUD Housing Standards" shall be used as a guideline to govern use, occupancy, construction and maintenance of rental units. An alleged violation of the HUD Housing Standards shall create a rebuttable presumption of a violation of this section. This presumption may be rebutted by evidence and findings that the alleged violation does not relate to housing safety, sanitation, or habitability. In addition, for basement living units, or sleeping rooms below the ground floor, an egress window meeting the requirements of the Uniform Building Code, or another acceptable means of exit must be provided. A copy of the HUD Housing Standards checklist can be obtained on the City Website under Starbuck Rental Ordinance or at the City Offices.

Subd. 1: Windows, Doors and Screens. Every operable window or other device required by the Ordinance shall be supplied with standard mesh screens during the insect season.

Subd 2: Accessory Structures. Accessory structures supplied by the owner, agent or tenant occupant on the premises of a dwelling shall be structurally sound, and be maintained in good repair and appearance. The exterior of such structures shall be made weather resistance through the use of decay resistant materials such as paint or other preservatives.

Subd. 3: Yard Cover. Every yard of a premises on which a dwelling stands shall be provided with lawn or combined ground cover or vegetation, garden, hedges, shrubbery, and related

decorative materials. Such yard shall be maintained consistent with prevailing community standards.

Subd. 4: Discontinuance of Service or Facilities. No owner, operator, or occupant shall cause any service, facility, equipment or utility which is required under this ordinance, to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied by him or her, except for such temporary interruptions as may be necessary while actual repairs or alterations are in process, or during temporary emergencies.

Section 95.06: **FIRE CODE.** All buildings shall be subject to the State Fire Code, as amended.

Section 95.07: **RENTAL UNIT LICENSING.**

Subd. 1: Registration. No person shall operate rental property in the City of Starbuck without first filing an application for rental registration license with the City Clerk and securing a valid rental license from the City. Any person filing a registration statement consents to be bound to this ordinance and other City Ordinances that may relate to rental property. The registration statement shall be made and filed on forms furnished by the City and shall set forth the following information:

- a) Owner's name and residence, and if a corporation, the names of its officers and registered office. All owners must be listed.
- b) Rental property's name and address and the number of units to which the registration applies.
- c) Name and address of the caretaker or manager responsible for the rental unit's maintenance and care.
- d) The name and address of the owner's agent for receiving violation notices of this or other City Ordinances.
- e) Any other information the City may require.

Subd. 2: Registration Statement Execution. The registration shall be made by the owners if the owners are a natural person, by an officer if the owners are a corporation, by one of the partners if the owner is a partnership, and by the manager or managing officer if the owners are an unincorporated association.

Subd. 3: Tri-Annual Registration. Commencing in the year 2008 the 3 year registration of all rental dwellings previously registered shall be renewed not later than the first business day in May every three years. The City may initially require some registrations to be annual or biannual and prorate the fees so that approximately 1/3 of the registrations and inspections occur in any given year.

Subd. 4: Transfers. Every new rental property owner, (whether as fee owner, contract purchaser, lessee of the entire dwelling, or otherwise) shall register before taking possession.

Subd. 5: Registration License Fee. Beginning in the year 2008, a registration license fee shall be due not later than the first business day of May every three years in the amounts established in the given years' fee schedule.

Subd. 6: Delinquency Fee. The City shall charge a delinquency fee of 5% of the license fee for each day of operation without a valid license to rental dwelling operators. Once issued, a license is nontransferable and the licensee shall not be entitled to a refund on any license fee upon revocation or suspension. However, the licensee shall be entitled to a license fee refund prorated monthly, upon proof of transfer of legal control of ownership. In the case of new unlicensed dwellings, license fees shall be due upon the City's issuance of a certificate of occupancy. In the cases of licensing periods of less than one year, the City shall prorate license fees by month.

Subd. 7: Inspection Condition. The City shall not issue or renew an operating license unless the rental unit's owner agrees in the license application to permit inspections pursuant to this Ordinance.

Subd. 8: License Posting. Every licensee of a multiple dwelling shall cause to be conspicuously posted in the main entryway.

Subd.9: License Not Transferable. No operating license shall be transferable to another person or to another rental dwelling. Every person holding an operating license shall give notice in writing to the City within 72 hours after having legally transferred or otherwise disposed of the legal control of any licensed rental dwelling. The notice shall include the name and address of the person succeeding to the ownership or control of the rental dwelling or dwellings.

Subd. 10: Tenant Register. The licensee must, as a continuing obligation of its license, maintain a current register of tenants and other persons who have a lawful right to occupancy of apartments within the apartment house or rental home. In its application, the licensee must designate the person or persons who will have possession of the register; and must promptly notify the Police Chief of any change of the identity, address or telephone numbers of such persons. The register must be available for the inspection by the Police Chief at all times. Every complex with more than one dwelling unit must post a tenant register near the license in the entryway and include a tenant's the first initial of the occupant's name, last name, and unit number.

Subd. 11.1: Mandatory Training. The owner or property manager of a rental dwelling must complete Crime Free Multi Housing training offered by the Police Department or a similar program approved by the Police Department. This training must be completed before the license for a dwelling is renewed and thereafter every three years if the dwelling continues to be a rental dwelling. The requirements for mandatory training do not apply to a person who only owns or manages one rental dwelling unit in the City. If two or more violations of Code 95.07 Subd. 14 occur in a 365 day period at a single family rental dwelling owned by a person who is not required to have mandatory training, that person must complete the mandatory training before the dwelling license may be renewed.

Subd. 11.2: Mandatory Crime Free Multi Housing. CFMH training is required for all rental property owners or managers, except those who own or manage only one single rental unit. CFMH training is an 8-hour class, covering information important for owners and managers of rental property to know. The cost of a CFMH class is typically around \$35. Police departments around Minnesota host CFMH training on a regular basis. For owner who lives outside of Minnesota, CFMH training is a nationwide program and training is offered by police departments around the Country. If you are not sure whether a class will be accepted by the Starbuck Police Department, please call 320-239-2525.

Subd. 11.3: Property owners and managers will have ample time to complete CFMH training. Training must be complete prior to rental license renewal.

Subd. 11.4: The information can also be found on the Minnesota Crime Prevention Association website. Go to [www.mncpa.net](http://www.mncpa.net), click on the calendar on starred dates and look for CFMN Day One. You can also call 320-239-2525 for information on upcoming training dates and times.

Subd. 11.5: Upon completion of the CFMH class, you will receive a certificate. You will be required to submit a copy of your CFMH certificate upon license renewal. If you lose your certificate, you will have to contact the agency where you received your certificate and request a duplicate or you will need to re-take the CFMH class. The City of Starbuck will not track down lost certificates.

Subd. 11.6: CFMH refreshers will be required every 3 years. The time clock begins once a copy of the CFMH certificate is received. The Starbuck Police Department will offer refresher classes, but not all departments offer refreshers. You will receive a refresher certificate upon completion of the refresher class. You will be required to submit a copy of this refresher certificate when needed. If you are not sure whether a different training will be accepted by the Police Department as a refresher, please call 320-239-2525.

Subd. 12: License Renewal. Notwithstanding the application signature requirements of Subd. 3, renewals of the license as required tri-annually by this code may be made by filling out the required renewal form furnished by the City Clerk to the owner, operator or agent of a rental dwelling and mailing said form together with the required registration fee to the City Clerk.

Subd. 13: Notices. Whenever a notice is required to be sent to or served upon the licensee of a rental dwelling under this section, notice shall be deemed sufficient if sent certified mail to the owner or owner's designated agent at the address specified in the last license application filed with the City. If a notice sent to the address specified in the last license application is returned, and the owner or owner's agent cannot be found, then notice shall be sent to the person designated in the last license application as responsible for the maintenance and management of the premises, or any other know caretaker or manager, and a notice shall also be posted on the building.

Subd. 14: Rental Dwelling Licenses: Conduct on Licensed Premises. It shall be the responsibility of the rental license holder to take appropriate action, with the assistance of the City, to prevent

conduct by tenants or their guests on the licensed premises which is hereby deemed to be disorderly, in violation of any of the following statutes or ordinances:

- A. Minnesota Statutes, Sections 609.75 through 609.76, which prohibits gambling;
- B. Minnesota Statutes, Section 609.321 through 609.324, which prohibits prostitution and acts relating thereto;
- C. Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.072, Subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances;
- D. Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages;
- E. Section 90.18 of this Code, which prohibits noise and noisy assemblies;
- F. Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67 and 624.712 through 624.716, which prohibit the unlawful possession, transportation, sale, or use of a weapon; or
- G. Minnesota Statutes, Section 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation.
- H. Failure to comply with dangerous dog requirements in violation of Minnesota Statutes Chapter 347.
- I. Indecent exposure in violation of Minnesota Statutes Section 617.23.
- J. Assault, as defined by Minnesota Statutes Sections 609.221, 609.222, 609.223, 609.2231, and 609.224, excluding domestic assaults.
- K. Public nuisance, as defined by Minnesota Statutes sections 609.75 - .745.
- L. The unlawful sale, furnishing, use, or possession of intoxicating liquor or non intoxicating malt liquor in violation of Minnesota law.
- M. Criminal damage to property in violation of Minnesota Statutes 609.595.
- N. The unlawful sale or possession of small amounts of marijuana in violation of Minnesota Statutes 152.07 Subd. 4.
- O. The unlawful possession or use of drug paraphernalia in violation of Minnesota Statutes 152.092.
- P. Contributing to the delinquency or status as a juvenile.

Subd. 15.1: A determination that the licensed premises have been used in a disorderly manner as described in Subdivision 14 shall be made upon evidence to support such a determination. It shall not be necessary that criminal charges are brought to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such a criminal charge operate as a bar to adverse license actions under this section.

Subd. 15.2: Upon determination by the Compliance Official utilizing established procedures, that a licensed premises was used in a disorderly manner, as described in Subdivision 14, the City shall notify the licensee by certified mail of the violation and direct the licensee to take appropriate action with the assistance of the City to prevent further violations.

Subd. 15.3: If another instance of disorderly use of the licensed premises at the same dwelling or unit occurs within 365 days of an incident for which a notice in Subdivision 15.2 was given, the City shall notify the licensee by certified mail of the violation and shall also require the licensee to submit a written report of the actions taken, and proposed to be taken, by the licensee to prevent further disorderly use of the premises. This written report shall be submitted to the City within five (5) business days of receipt of the notice (excluding holidays) of disorderly use of the premises and shall detail all actions taken by the licensee in response to all notices of disorderly use of the premises within the preceding 365 days.

Subd. 15.4: If another instance of disorderly use of the licensed premises at the same dwelling or unit occurs within 365 days after the second of any two previous instances of disorderly use for which notices were sent to the licensee pursuant to this section, the rental dwelling license for the premises may be denied, revoked, suspended, placed on probation, or not renewed. An action to deny, revoke, suspend, place on probation, or not renew a license under this section shall be initiated by the City in the manner described in Section 95.08, and shall proceed according to the procedures established in Subd. 1 and Subd. 2.

Subd. 15.5: No adverse license action shall be imposed where the instance of disorderly use of the licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days after a notice is given by the licensee to a tenant to vacate the premises, where the disorderly use was related to conduct by that tenant or the tenant's guests. Eviction proceedings shall not be a bar to adverse license action, however, unless the licensee diligently pursues them. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the City within 10 days of receipt of the violation notice. Further, an action to deny, revoke, suspend, place on probation, or not renew a license based upon violations of this section may be postponed or discontinued by the Compliance Official at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly use.

#### Section 95.08: **ENFORCEMENT**

##### Subd. 1: Revocation, Suspension, or Probation.

Subdivision 1.1: Every license or permit issued under this ordinance is subject to the right, which is hereby expressly reserved, to suspend, revoke, or place on probation the same should the

license holder or their agents, employees, representatives or lessees directly or indirectly operate or maintain rental dwellings contrary to the provisions of this Ordinance or any other Ordinance of the City or any special permit issued by the City or the laws of the State of Minnesota.

Subdivision 1.2: The license may be suspended, revoked, or placed on a probation status by the Council after a written notice is sent to the license holder specifying the Ordinance or law violations with which they are charged. This notice shall also specify the date for hearing before the Council, which shall not be less than 10 business days from the date of the notice. At such hearing before the Council, the license holder or their attorneys may submit and present witnesses on their behalf.

Sub 2: Summary Action.

Subd. 2.1: When the condition of the rental dwelling of any license holder or their agent, representative, employee or lessee is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency. The Compliance Official shall have the authority to summarily condemn or close off such area of the rental dwelling.

Subd. 2.2: Any person aggrieved by a decision of the Compliance Official to cease business or revoke or suspend the license or permit shall be entitled to appeal to the Council immediately, by filing a Notice of Appeal. The City Clerk shall schedule a date for hearing before the Council and notify the aggrieved person of the date.

Subd. 2.3: The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action.

Subd. 2.4: The decision of the Compliance Official shall not be voided by the filing of such appeal. Only after the Council has held its hearing will the decision of the Compliance Official be affected.

Subd. 3: Applicable Laws. Licenses shall be subject to all of the ordinances of the City and the State of Minnesota relating to rental dwellings' and this ordinance shall not be construed or interpreted to supersede or limit any other such applicable ordinance or law.

Subd. 4: Vacation. When the City Council revokes or suspends a rental license, the property shall be vacated as of the effective date as established by the City Council and remain vacated until restoration of the license.

Subd. 5: Restoration. In the case of a suspension, restoration shall occur automatically at the end of the suspension period. In the case of revocation, restoration of the license shall occur only after the premises' owner has applied for a new license and paid a new application fee. The City Council may then issue a new license upon completion of the revocation period.

Subd.6: Issuance of Compliance Order. Whenever the Compliance Official determines that any dwelling, dwelling unit, rooming unit, or the premises surrounding any of these, fails to meet the

provisions set forth in this Ordinance, he or she may issue a Compliance Order setting forth the violations of the Ordinance and ordering the owner, occupant, operator or agent to correct the violations(s). This Compliance Order shall:

- a) Be in writing.
- b) Describe the location and nature of this Ordinance's violation(s).
- c) Establish a reasonable time for correction of the violation(s) and provide notification of appeal recourse.
- d) Be served upon the owner or his or her agent or the occupant, as the case may require. The notice shall be deemed to be properly served upon the owner or agent, or upon any occupant, if a copy of the order is:

Served upon him or her personally, or

Sent by certified mail to his or her last known address, or

Upon failure to affect notice as set out in this section, posted at a conspicuous place in or about the dwelling which is affected by the notice.

- e) Describe the penalties which will be imposed for failure to comply.

Subd. 7: Right to Appeal Hearing. The person subject to the Compliance Order may appeal the Compliance Order to the City Council sitting as a Board of Appeals. Appeals must be in writing, specify the grounds for the appeal, be accompanied by a filing fee established in the current years' fee schedule, paid in cash or cashier's check, and be filed with the City Clerk/Administrator within 5 business days after service of the Compliance Order. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless a stay would cause imminent peril to life, health or property. If request is not made, the right to an appeal hearing is deemed waived and the City Council may presume the truth and accuracy of the violations alleged and proceed to disposition at the earliest possible date following the expiration of the time for filing an appeal.

Subd. 8: Hearing. The appeal hearing shall be evidentiary in nature and conducted before the City Council sitting as a Board of Appeals, which shall determine whether an ordinance or statutory violation did occur and whether the violation warrants the rental license's revocation or suspension. The City Council may reverse, modify, or affirm, in whole or in part, the compliance order and may order return of all or part of the filing fee if the appeal is upheld. The City Council's determination shall be final and subject only to any rights of review or appeal to the state courts as provided by statute.

Subd. 9: Reinsertion. If no appeal is made, the Compliance Officer(s) shall reinspect the property to determine if the owner has complied with the Compliance Order. If compliance has not been completed upon reinspection, the owner shall be assessed a reinspection fee established in the current years' fee schedule for that reinspection and each subsequent reinspection for compliance. Failure to pay the reinspection fee shall constitute a failure to comply with the Compliance Order.

Subd. 10: Restrictions on Ownership Transfer. It shall be unlawful for the owner of any dwelling, dwelling unit, or rooming unit upon whom a pending Compliance Order has been issued to sell, transfer, mortgage, lease or otherwise dispose of the premises to another person until the provisions of the tag or Compliance Order have been complied with, unless the owners shall furnish to the grantee, lessee, or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment. Anyone securing an interest in the dwelling, dwelling unit, or rooming unit who has received notice of the existence of a violation tag or Compliance Order shall be bound by it without further service of notice and shall be liable to all penalties and procedure provided by this Ordinance.

Subd. 11: Disposition: If the City Council determines that an owner is in violation of this Ordinance, or has not complied with a Compliance Order within the specified time, after right of appeal has expired, the rental license may be revoked or suspended by the City Council. The Council may stay execution of the suspension or revocation on reasonable conditions established by the Council, including but not limited to, the payment of an administrative penalty not to exceed \$1,000.

Subd. 12: Criminal and Administrative Penalties. Any person violating any of this Ordinance's provisions by doing any act or omitting to do any act which constitutes a breach of any section of this Ordinance shall upon conviction by a lawful authority be guilty of a misdemeanor. Any person who fails to comply with a Compliance Order after right of appeal has expired, and any person who fails to comply with a modified Compliance Order within the time set in it shall be guilty of a misdemeanor. Each day that a violation continues shall be deemed a separate punishable offense. As an alternative to the misdemeanor offense, any person in violation of this Ordinance may be charged with an administrative penalty, set forth in the given years' fee schedule.

Subd. 13: Public Authority's Execution of Compliance Orders. Upon failure to comply with a Compliance order within the time set in it and no appeal having been taken, or upon failure to comply with a modified Compliance Order within the time set in it, the criminal penalty establish hereunder notwithstanding, the City Council may by resolution cause the cited deficiency to be remedied as set forth in the Compliance Order. The cost of such remedy shall be a lien against the subject real estate and may be provided by Minnesota Statutes, Chapter 429, but the assessment shall be payable in a single installment.

Subd. 14: No Official Liability. No provision of this ordinance designating the duties of any official or employee of the City shall be so construed as to make the official or employee liable for the penalty provided in this section because of failure to perform a duty, unless the City Council's intention to impose the penalty on the official or employee is specifically and clearly expressed in the section creating the duty.

Subd. 15: Alternative Sanctions. Notwithstanding the availability of the compliance procedures and the penalties in this Ordinance, whenever the Compliance Official(s) determines that any dwelling, dwelling unit, or rooming unit or the premises surrounding any of these fails to meet

the requirements of this Ordinance, the Compliance Official may issue a violation tag summoning the responsible person into court or request the issuance of a criminal complaint and arrest warrant.

Subd. 16: Variance. The City Council may grant a variance of any specific requirements in this Ordinance if the condition existed before this Ordinance's passage and complying with the requirement will pose an undue hardship upon the owner or be unreasonable under the circumstances, unless the condition threatens the safety and health of any citizen.

Subd. 17: Revocation and Suspension Period. Where the City Council determines that an Ordinance or statutory violation has occurred warranting suspension or revocation, the City Council shall suspend or revoke the rental license for a period of not less than 2 months or more than 12 months.

Subd. 18: Early Restoration Petition. Upon completion of one-half of the revocation or suspension period imposed by the City Council, the licensed owner may petition the City Council for early restoration of the rental license. Upon receiving the petition, the City Council shall hear the licensed owner's request at its next regular scheduled meeting (but at least 5 business days after receiving the request). At that time, the City Council may order restoration of the rental license if the licensed owner establishes by clear and convincing evidence that one of the following three circumstances exist:

- a) The property has been sold since the occurrence of the original violation to a party unrelated to the original owner. The sale must be for a fair consideration, negotiated at arm's length, and by Deed duly filed for record at the County Recorder's Office. A sham or "paper" transfer of title to the property to a related party or another party acting in cooperation with the owner to circumvent the license revocation shall not constitute a transfer under this Ordinance.
- b) The licensed owners demonstrates to the City Council that the owner has properly responded to the revocation or suspension, has taken measures to successfully correct the violation which originally resulted in suspension or revocation, and has taken additional steps to assure that similar violations do not occur in the future. Factors to be considered by the Council, may include: improvements and repairs to the premises, modification of the relevant lease provisions, selection of future tenants, response to citizen's complaints, provision for future supervision of the premises by the license owner, the licensed owner's compliance with the revocation/suspension, and any other criteria the Council considers relevant to each individual case.
- c) Where the licensed owner is able to establish by clear and convincing evidence grounds for restoration, the Council may stay the execution of the remainder of the suspension or revocation period for a period of up to 1 year and place reasonable terms and conditions upon the licensed owner to further insure compliance with the City's Ordinances and state law.

Section 95.09: **ENFORCEMENT AND INSPECTION AUTHORITY.** The City Clerk, the Starbuck Police Department, the City Building Inspector and their respective agents shall be the Compliance Officer(s) who shall administer and enforce this Ordinance and who are authorized to cause inspections on a scheduled basis for rental units, or otherwise when reason exists to believe that a violation of this Ordinance has been or is being committed. Inspections shall be conducted during reasonable daylight hours and the Compliance Officer(s) shall present evidence of official capacity to the occupant in charge of a respective dwelling unit. The City shall charge inspection and reinspection fees as establish in the given years' fee schedule for all inspections and reinspections occurring when reason exists to believe that a violation of this Ordinance has been or is being committed. It shall also be deemed a violation of this Ordinance for any person to make any false or unfounded complaints to the Compliance Officer(s). Among other remedies available for violation of this Ordinance, in the event the Compliance Officer(s) conducts an inspection based upon a false or unfounded complaint, the cost of the inspection may be charged to the party making the false or unfounded complaint. Pursuant to this section, the Compliance Officer shall make inspections to determine the condition of rental dwellings located within the City for the purpose of enforcing the rental licensing standards. The Compliance Officer or designated representative may enter, examine and survey at all reasonable times all rental dwellings and premises after obtaining consent from an occupant of the premises.

Section 95.10: **INSPECTION ACCESS.** Whenever any owner, occupant, or other person in charge of a dwelling or dwelling unit refuses to permit free access and entry to the structure or premises under his or her control for inspection pursuant to this Ordinance, the Compliance Official(s) may seek a court order authorizing the inspection. In the event that an occupant of the premises does not consent to entry by the Compliance Officer or designated representative, and if there is probable cause to believe that an inspection is warranted, then application may be made to the court for an administrative or other search warrant for the purpose of inspecting the premises.

Section 95.11: **UNFIT FOR HUMAN HABITATION.**

Subd. 1: **Building Vacation.** Any dwelling, dwelling unit, or rooming unit which is damaged, decayed, dilapidated, unsanitary, unsafe, vermin or rodent infested, or which lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any dwelling, dwelling unit, or rooming unit has been declared unfit for human habitation, the Compliance Official(s) shall order the premises vacated within a reasonable time and shall post a placard on the premises indicating that it is unfit for human habitation, and any operating license previously issued for the dwelling shall be revoked.

Subd. 2: **Reoccupation.** It shall be unlawful for any dwelling, dwelling unit, or rooming unit to be used for human habitation until the defective conditions have been corrected and the Compliance Officer(s) has issued written approval. It shall be unlawful for any person to deface or remove the declaration placard from any dwelling, dwelling unit or rooming unit.

Subd. 3: Secure Units and Vacated Dwellings. The owner of any dwelling, dwelling unit, or rooming unit which has been declared unfit for human habitation, or which is otherwise vacant for a period of 60 days or more, shall make the premises safe and secure so that it is not hazardous to the public's health, safety and welfare and does not constitute a public nuisance. Any vacant dwelling open at doors or windows, if unguarded, shall be deemed to be a hazard to the public's health, safety and welfare and a public nuisance within this Ordinance's meaning.

Subd. 4: Hazardous Building Declaration. If a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with state law.

Section 95.12: **SEVERABILITY**. Every section, provision, or part of this Ordinance is declared separable from every other section, provision, or part to the extent that if any section, provision or part of the Ordinance shall be held invalid or unconstitutional, it shall not invalidate any other section, provision or part of this Ordinance.

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Passed by the Starbuck Council this 29th day of December, 2015.

Published on the 5th day of January, 2016.

\_\_\_\_\_  
Gary Swenson, Mayor

\_\_\_\_\_  
Attest: Andrew Langholz, Clerk





To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: October 18, 2016

Re: Storage Pods: Continued Discussion

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## BACKGROUND

At the August and September meetings the PC discussed an inquiry received from a resident regarding a temporary storage pod. The resident had inquired as to whether or not a storage pod could be placed on property for up to one year while a shed was being remodeled.

Current standards relating to accessory structure require all structures on a lot are sympathetic in design to the principal structure. Under that rationale, one can infer storage pods are not allowed because they do not meeting the required architectural standards for accessory structures, if it is located on the lot for greater than 180 days (i.e. not a temporary structure).



For the September meeting the PC asked staff to perform research regarding standards in other cities. There is seemingly no consistent approach or preferred approach to regulation. Following is a summary of our research:

1. City Administrator Helget requested input through the League of Minnesota Cities ListServ.  
Response's show:
  - a. City of New Ulm pods allowed on private property. If in the street or boulevard authorization is required and storage on public property is limited to 14 days.
  - b. The City of Breezy Point requires a permit and allows for a maximum of 60 days (see attached language).
  - c. City of Crystal doesn't allow pods in residential areas. Commercial and industrial under CUP – treated as outdoor/outside storage.
2. The City of Waconia treats pods as accessory structures, requires consistency with the principal structure.
3. Cologne – accessory language and outside storage language similar to Waconia.
4. City of Deephaven and New Brighton regulate pods under their nuisance ordinances. New Brighton allows them for 14 days, Deephaven for 60 days.
5. Anoka, Aiken, and Arlington address pods under temporary structure language. Aiken allows for 14 days, Anoka for 30 days, and Arlington for 90 days.

## ACTION

Discussion and direction is kindly requested.

ORDINANCE 15-07  
AN ORDINANCE ADDING SECTION §153.103 DEALING WITH PORTABLE ON-DEMAND  
STORAGE (PODS) TO THE ZONING CODE

The Breezy Point City Council so Ordains:

Section 1. Section §153.103 shall be added to read as follows:

- (A) A **PORTABLE ON-DEMAND STORAGE (PODS)** or **PORTABLE STORAGE STRUCTURE** (structure) is any container, storage unit, shed-like container or other portable structure, other than an accessory building or shed complying with all building codes and land use requirements, that can or is used for storage of personal property of any kind and which is located for such purpose outside an enclosed building.
- (B) The use of PODS or a Portable Storage Structures are allowed under the following conditions:
- (1) There shall be no more than one (1) structure per property.
  - (2) The structure must not remain at the property in any zoning district in excess of sixty (60) consecutive days nor more than sixty (60) days in a calendar year.
  - (3) The structure must be set back a minimum of 10 feet from the side or rear property lines and 30 feet from the road right-of-way property line except a unit may be placed 10 feet from the right-of-way property line if placed on an impervious surface.
  - (4) A structure associated with construction or remodeling, where a building permit has been issued, is permitted for the duration of the construction and shall be removed from the site within 14 calendar days of the end of construction. No Certificate of Occupancy will be issued until said structure is removed.
  - (5) The added structure shall be included in the impervious surface calculations requirements of the applicable zoning district.
  - (6) The structure cannot be used as living quarters.
  - (7) The structure can be no greater than 20 feet in length.
  - (8) A zoning permit is required upon its establishment.

Section 2. Effective Date. This ordinance shall be effective upon its passage and publication.

Adopted by the City of Breezy Point City Council this 2<sup>nd</sup> day of November 2015.

Attest:

\_\_\_\_\_  
Mayor Tom Lillehei

\_\_\_\_\_  
Joe Rudberg, Administrator/Clerk