



Norwood Young America Planning Commission
Tuesday, September 20, 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 – August 16, 2016 meeting
 - 4. Public Hearings - None
 - 5. Old Business
 - A. Ordinance allowing Accessory Solar Energy Systems
 - B. Sign Ordinance Review
 - C. Storage Pods
 - 6. New Business
 - A. Rental Code Review
 - 7. August Building Permit Report
 - 8. Commissioner's Reports
 - 9. Adjourn
- Bill Grundahl**
Cassandra Kemp
JR Hoernemann
Mark Lagergren
Charlie Storms
Craig Heher
Council
Liaison

UPCOMING EVENTS

- September 26th 6:30 p.m. – City Council Meeting
- October 10th 6:30 p.m. – City Council Meeting
- October 12th 6:30 p.m. – Economic Development Commission Meeting
- October 18th 5:30 p.m. – Parks & Recreation Commission Meeting
- October 18th 7:00 p.m. – Planning Commission Meeting

*Norwood Young America
Planning Commission Minutes
August 16, 2016*

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

Absent: None.

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.

Lagergren requested the addition of item 6B to New Business to discuss nuisance enforcement.

Motion – Moved by Storms, seconded by Kemp with all in favor to approve the agenda with the addition requested. Motion approved 6-0.

3. Approval of Minutes from the Regular Meeting July 19, 2016.

Heher introduced the minutes from the July 19, 2016 meeting.

Motion – Storms to approve July 19, 2016 meeting minutes. Second by Grundahl. With all in favor the minutes were approved 6-0.

4. Public Hearing.

A. Ordinance: Solar Accessory Uses.

Chairperson Heher opened the public hearing at 7:03 p.m. Strack provided an overview of the proposed Ordinance, noting the proposed language contemplates allowing rooftop and building integrated solar energy systems as accessory uses within all zoning classifications, subject to the following:

- The solar energy system meets the definition of “Solar Energy System, Rooftop” and/or “Solar Energy System, Building Integrated as defined in the proposed ordinance.
- A maximum of one (1) solar energy system is allowed per lot.

- Rooftop solar energy system components:
 - Cannot exceed the maximum height allowed in the applicable zoning district.
 - Cannot cover no more than eighty (80) percent of each side of the roof to which they are affixed.
 - Must be setback at least one (1) foot from every roof edge, peak, ridge, and valley.

- SES components must be placed to limit visibility from public rights-of-way provided that minimizing visibility shall still allow the owner to reasonably capture solar energy.

- SES components that may visually impact buildings with local historic significance or character are discouraged.

- Glare from solar energy systems to adjacent or nearby properties shall be minimized.

- SES annual power output (kWh) shall be no more than one hundred twenty (120) percent of the total energy used by the lot or parcel over the previous year. The City, at its discretion, may allow an array designed to produce more than 120% of the energy used provided an interim use permit is issued.

- Building and electrical permits will be required.

- The proposed ordinance specifically prohibits wall mounted and ground mounted solar.

- The proposed ordinance provides for solar easements.

Strack noted the public hearing was posted and published and no oral or written comments had been received for or against the Ordinance. The business owner who initiated the request had been notified of the hearing and given a copy of the proposed standards.

Motion – Grundahl motioned with a second by Storms to close the public hearing. Motion carried 6-0. Hearing closed at 7:12 p.m.

5. Old Business.

A. Ordinance: Solar Accessory Uses.

Heher introduced the business discussion.

Heher noted presence of the draft ordinance in the packet. He stated the PC reviewed several sample ordinances in drafting the proposed language. He opined the brevity and plain language included in the code amendment was a result of prudent review by the Planning Commission.

Lagergren asked the Commission whether or not they felt the language relating to SES and historic structures was sufficient. Strack noted the City hasn't established an Historic Preservation Commission. Some of the sample SES language reviewed included language specific to HPC's. The proposed language included in the NYA ordinance was not restrictive but, rather, a statement of preference.

Storms noted the draft ordinance limited SES roof coverage to eighty percent. In addition, the draft language required a one-foot setback from all roof ridges, valleys, peaks, and edges. Storms noted more than 80% of a roof could be covered if only one foot of setback is required. Heher noted both standards applied to each application. Heher then asked Administrator Helget to comment as to his approach to evaluating a request. Helget stated he would review the proposal for compliance with the one-foot setback and then determine compliance with the 80% rule. Both requirements would need to be met for approval.

Heher invited Helget to comment on the draft ordinance. Helget stated the language was straight-forward and the PC had a great deal of discussion regarding the language. Helget supported approval.

Grundahl referenced a standard prohibiting 'utility scale solar', he inquired as to whether or not a definition should be included in the ordinance. Staff will add an appropriate definition for clarity.

Motion – Motion by Lagergren, second by Kemp to recommend the City Council approve the Ordinance amendment. Motion carried 6-0.

B. Sign Ordinance Update.

Chairperson Heher introduced the agenda item.

Strack stated the Planning Commission's goals for the year included reviewing the sign ordinance. The Commission began sign ordinance review in July by discussing the following:

- The sign code doesn't include a commercial/non-commercial speech substitution clause and definitions thereof. Failure to incorporate a substitution clause is problematic.
- The sign code identifies specific groups and/or organizations – churches, non-profits, festivals, etc. and specific standards. This approach has been deemed unlawful.

- In general, signage standards are generous and not subject to debate/variance.
- The number of directional signs and signs per building wall in the C-2 District have proved limiting in the past.
- The manufacturer's certificate required for illuminated signs is often difficult to secure for simple, internally lit signs.

Kristin Nierengarten with the City Attorney's office has redlined the existing language based on items discussed at the July meeting. The redlined language was included in the packet. As per an email from Nierengarten, the bulk of the revisions are meant to eliminate content-based regulations of signs as addressed in a recent U.S. Supreme Court decision, Reed vs. Town of Gilbert. In that case the court determined any sort of content based regulation of signs is unconstitutional unless there is a specific and compelling government interest in content regulation.

The PC reviewed the redlined ordinance page by page, highlighting changes proposed.

While discussing intensity of internally lit signs, the Commission noted potential for difficulty in distinguishing a stop sign from red sign lights near Highway 5 and CSAH 33. Motion Lagergren, second Storms to recommend City Council direct staff to send a letter to Carver County to request consideration of highlighting the stop sign with flashing perimeter light. Motion carried 6-0.

The Commission discussed billboards. Consensus of PC is to continue to disallow billboards. Staff and City Attorney's Office to review proposed language to ensure the billboard prohibition continues.

A motion to call for a public hearing intentionally failed in light of the uncertainty regarding billboard language clarification.

Additional discussion regarding gateway entry signs occurred. Allowance for some type of entry signs will also be addressed by staff and the attorney's office.

6. New Business.

A. Storage Pods - Discussion

Heher introduced the discussion item.

Strack stated the City received an inquiry from a resident regarding moving a storage pod onto property for a 'temporary' period of time. The property owner envisions having the storage pod at a lot adjacent to Elm Street for approximately one year.

At this time storage pods are not allowed under code as they do not meet required

architectural standards for accessory structures. In addition, the storage pod is to be located on site for more than 180 days so it doesn't meet the definition of a temporary structure under the building code. At this time the zoning code doesn't include language relating to temporary structures. A potential path to allowing temporary placement of storage pods is through a code amendment allowing temporary structures under an administrative permit. Input and discussion was requested.

Grundahl noted two storage pods were placed at Railroad and Elm recently. He inquired as to whether or not a letter was sent to the property owner. Administrator Helget indicated the situation was under review due to the existence of a non-conforming use. Helget stated semi-trailers were removed prior to bringing the pods to the site. The issue at hand is whether or not the non-conforming use was changed.

Grundahl suggested postponing discussion pending resolution of the Railroad Street issue.

Kemp opined the Railroad Street issue was different from the question before the PC in that it was based on an existing non-conformity. The residential nature of the request was a separate and distinct issue.

Storms inquired as to whether or not a storage trailer was any different than a storage pod. Lagergren noted semi-trailers with items stored within them could be found throughout town. Storms inquired as to whether or not semi-trailers should require display of a current license. Helget stated they should display current licenses.

Kemp suggested researching where pods were currently located and how long they have been in place. She suggested bringing the issue back for discussion at a future meeting. Lagergren agreed.

Storms suggested allowing pods for 180 days, consist with temporary structure exemption under building code.

Strack and Helget to research how other communities are addressing pods.

B. Nuisances - Discussion

Heher introduced the discussion item. Lagergren noted nuisance conditions he has observed throughout the City. Other PC members identified nuisance conditions as well. The purpose of the discussion was to confirm process for remedying nuisances.

Helget noted staff has been more proactive this year than in years past regarding nuisances. He suggested if a concerted effort was envisioned a dedicated program may likely be a most effective means of delivering results.

Additional discussion regarding various properties occurred.

Helget noted several nuisance issues relate to rental property. He noted the current rental code could possibly be updated to require more accountability by landlords for tenant related nuisances. The PC agreed to review the rental code.

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

Hoernemann noted local television stations have been covering cities opting out of the temporary health care dwelling law.

Grundahl reported on the August 8th City Council meeting.

Storms noted the EDC had a branding website meeting and was planning event for manufacturer's week in October.

Heher noted the Council approved a change to the scheduled meeting time for the second meeting of the month. The Council meeting will now start at 7 p.m. with a workshop at 6 p.m.

9. Adjourn

Motion – Grundahl, seconded by Kemp with all in favor, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Steve Helget
Zoning Administrator



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: September 20, 2016

Re: Council Questions: Accessory Solar Energy Systems Ordinance

BACKGROUND

The City Council when reviewing the draft accessory solar ordinance raised several questions. Staff has watched the meeting video and will plan on attending the second meeting in September to provide clarification.

The Council discussed:

- The logic behind requiring a one foot setback from all building valleys, peaks, ridges, and edges and also requiring a maximum of 80% of the roof can be covered by solar panels. (Rationale is erring on the side of caution in limiting systems size/impact).
- The rationale behind allowing a maximum benefit of 120% of energy used on site. Rationale is to limit size. Many utilities limit output as well.
- The Council requested a clearer definition of “utility scale” SES. PC input is very much welcomed. There is no common definition of ‘utility scale’. Intent is to not allow SES as principal use of property – utility scale is on the order of Geronimo.
- Solar access easement. Concern about how such easements could restrict future development. The purpose of the easement is to protect property owner’s investment in an SES.

Please find the proposed Ordinance attached.

ACTION

Discussion is kindly requested.

**CITY OF NORWOOD YOUNG AMERICA
ORDINANCE NO. █**

**AN ORDINANCE ESTABLISHING SECTION 1245.10 OF THE CITY CODE
RELATING TO ENERGY SYSTEMS.**

- I. THE CITY COUNCIL OF THE CITY OF NORWOOD YOUNG AMERICA, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS CHAPTER 12, OF THE CITY CODE SHALL BE AMENDED BY ADDING SECTION 1245.10 RELATING TO ENERGY SYSTEMS AS FOLLOWS:**

1245.10 Energy Systems.

Subd. 1 Findings. The City finds accessory solar energy systems, subject to certain standards, promote the public safety, health, and welfare by:

- A. Investing in abundant, clean, and renewable energy resources, and
- B. Reducing greenhouse gas emissions, and
- C. Promoting utility cost savings, and
- D. Creating access to community-based solar energy.

Subd. 2 Purpose. The purpose of this Subdivision is to allow for rooftop and building integrated solar energy systems as accessory uses in all zoning classifications.

Subd. 3 Solar Energy Systems As Accessory Uses. Rooftop and building integrated solar energy systems are allowed in all zoning classifications, subject to the following:

- A. The solar energy system meets the definition of “Solar Energy System, Rooftop” and/or “Solar Energy System, Building Integrated as defined in Section 1245.10, Subd. 6.
- B. A maximum of one (1) solar energy system is allowed per lot.
- C. Rooftop solar energy system components:
 - 1. Shall not exceed the maximum height allowed in the applicable zoning district.
 - 2. Shall cover no more than eighty (80) percent of each side of the roof to which they are affixed.
 - 3. Shall be setback at least one (1) foot from every roof edge, peak, ridge, and valley.

- D. Solar energy system components shall be placed to limit visibility from public rights-of-way provided that minimizing visibility shall still allow the owner to reasonably capture solar energy.
- E. Solar energy system components which visually impact buildings with local historic significance or character are discouraged.
- F. Glare from solar energy systems to adjacent or nearby properties shall be minimized. In the event there is a dispute regarding glare, the City may require the owner of the solar energy system produce a glare study. The Solar Glare Hazard Analysis Tool (SGHAT) or equivalent method may be used for the glare study.
- G. Solar energy system annual power output (kWh) shall be no more than one hundred twenty (120) percent of the total energy used by the lot or parcel over the previous year. The City, at its discretion, may allow an array designed to produce more than 120% of the energy used provided an interim use permit is issued.
- H. A building permit is required.
- I. An electrical permit is required.

Subd. 4 Prohibited Solar Energy Systems. The following solar energy systems are prohibited:

- A. Ground mounted solar energy systems.
- B. Wall mounted solar energy systems.
- C. Solar energy systems which are not accessory to the use of the property. Accessory means they are clearly subordinate and incidental to the principal use of the subject property.
- D. Utility scale solar energy systems.

Subd. 5 Solar Access Easements Allowed. The City elects to allow solar easements to be filed consistent with Minnesota Statutes, Chapter 500.30, as may be amended from time to time. Owners of land or solar skyspace are responsible for negotiating, drafting, and executing solar easements. Solar easements shall be filed with the City and the Carver County Recorder's Office.

Subd. 6 Definitions. For the purpose of this Section, certain terms and words are defined as follows:

- A. Solar Easement means an easement that limits the height or location or both of permissible development on land on which the easement is placed in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to sunlight as defined in Minnesota Statutes Section 500.30, Subdivision 3 as may be amended.

- B. Solar Energy System means a device, combination of devices, or structural design feature, of which a substantial purpose is to provide for the collection, storage, use, and distribution of solar energy for electricity generation, space heating or cooling, or water heating.
- C. Solar Energy System, Building Integrated means an active solar energy system that is designed and fabricated as an integral part of a structure or structural component rather than a separate mechanical or mounted device.
- D. Solar Energy System, Ground Mounted means an solar energy system structurally mounted to the ground which is not roof mounted.
- E. Solar Energy System, Rooftop means an active solar energy system that is structurally mounted to a code-compliant roof of an existing building or structure.
- F. Solar Energy System, Wall-Mounted means an active solar energy system that is structurally mounted to a code-compliant wall of an existing building or structure.
- G. Solar Energy System, Utility Scale means a solar energy system designed primarily for the purpose of feeding energy directly into the grid for use by a utility. A non-utility scale SES is primarily designed to produce/convert energy for private use on the site where the SES is located.

II. EFFECTIVE DATE: THIS ORDINANCE IS EFFECTIVE UPON ITS ADOPTION AND PUBLICATION AS PRESCRIBED BY LAW.

Adopted by the City of Norwood Young America on the ___ day of _____, 2016.

Attest:

Tina Diedrick, Mayor

Steven Helget, City Administrator

Adopted:
Published:



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: September 20, 2016

Re: Sign Standard Update

BACKGROUND

The Planning Commission's goals for the year included reviewing the sign ordinance.

Kristin Nierengarten with the City Attorney's office redlined the existing 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 (see attached inventory).

In addition discussion regarding how to regulate gateway entry signs occurred.

The Commission requested input from the City Attorney's office regarding disallowing billboards and allowing gateway entry sign.

Attached please find two draft updates: one allowing billboards and one disallowing billboards.

ACTION

This item is for your information and discussion.

ATTACHMENTS:

1. Inventory of billboards.
2. Draft language with billboards allowed.
3. Draft language with billboards disallowed.

NYA INVENTORY OF BILLBOARDS:

East Bound Hwy 212

1. Vacant industrial lot between Lano Equipment and Southwest Paving, standard billboard size, lighted, double sided, single (Waconia Ford)
2. Southwest Paving, standard billboard size, lighted, double sided, single (Party Foul Public Info)
3. City Sign and Stiftungsfest & Yesters, standard billboard size, lighted, double sided & double side by side
4. Church property? Next to watertower, vacant currently, perhaps slightly less than standard size, lighted, double sided.
5. East of The Haven, west of Heritage Shopping Center, Buffalo Creek BMX, standard billboard size, lighted, double sided, single
6. East of Heritage Shopping Center, Gillette, standard billboard size, lighted, double sided, single



West Bound Hwy 212

1. City Sign, Stiftungsfest – standard size
2. Hydro Property, Cologne Academy, standard billboard size, lighted, double sided, stacked double.



Section 1260 – Signs

1260.01 Purpose and Intent. The purpose of the sign ordinance is to establish regulations that govern the use, approval, construction, change, replacement, location and design of signs and related informational tools within the city. The sign ordinance is not intended to and does not restrict, limit, or control the content or message of signs. The sign ordinance has a number of specific purposes:

1. To encourage the effective use of signs as a means of communication.
2. ~~To promote health, safety, and welfare by limiting hazardous or distracting signage.~~
3. ~~To ensure and improve pedestrian and traffic safety.~~
- 4.2. To protect, conserve, and enhance property values.
- 5.3. To enhance the attractiveness and economic well being of Norwood Young America as a place to live and conduct business.
- 6.4. To encourage creative and well-designed signs that contribute in a positive way to the city's visual environment, express local character, and help develop a distinctive pedestrian image in the city.
- 7.5. To recognize that signs are a necessary form of communication and provide flexibility within the sign review and approval process to allow for unique circumstances.
- 8.6. To create a framework for a comprehensive and balanced system for sign regulation, to facilitate an easy and pleasant communication between people and their environment, and to avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and overall community appearance.
- 9.7. To encourage and, to the maximum extent feasible, require that all signs within the city be brought into compliance with the terms of the sign ordinance.

1260.02 Definitions

Abandoned Sign: A sign (including any structure whose primary function is to support such Sign) ~~whose:~~ —a) ~~whose~~ display surface remains blank for a period exceeding sixty (60) days; b) which pertains to a time, building, event or purpose that passed or ceased to apply more than sixty (60) days prior to the then applicable date; or c) that has remained for more than sixty (60) days after demolition of the building that it served.

Address Sign: A sign including postal identification numbers, whether written or in number form, and, optionally, the name of a building occupant.

~~**Advertising Sign:** Also known as a “billboard”, a sign, including the supporting sign structure, advertising a business, commodity, or service which is not located or performed on the premises on which the sign is located.~~

~~**Area Identification Sign:** A freestanding sign, on the identified premises, which identifies the name of a neighborhood, residential subdivision, multiple residential complex, shopping center, industrial area, office complex, park or any combination of the above.~~

Commented [KC1]: This provision could be problematic because it is specific to the content of the signs. There is a fairly good argument that this regulation is justified by safety issues because it allows traffic and pedestrians to more easily identify establishments, reducing the risk of accidents, and/or might aid emergency personnel in identifying businesses in need of assistance during times of emergency, but this might not be enough to warrant this specific content regulation. If the City is worried about this, one option is to simply allow one sign, not exceeding a certain size, to be displayed on each building or dwelling, without reference to the content. The City could require that it be affixed to the building or meet certain other content-neutral standards that would help address the intent of this regulation.

Awning Sign: A Sign permanently affixed to an awning providing a shelter or cover over the approach to any building entrance or shading a window area.

Banner: A Temporary Sign made out of flexible paper, cloth or plastic-like material identifying: 1) a special, unique or limited event, service or product, 2) a sale of limited duration; or 3) a grand opening.

Commented [KC2]: The Supreme Court states that signs promoting a one-time event may be subject to specific regulations, but those regulations should not specify the content of the sign. We modified the language in the Temporary Signs section below to address restrictions on banners without specifying content.

Building Face: That portion of any exterior elevation of a building or other structure extending from grade to the top of a wall and the entire width of that particular building or structure elevation.

Campaign Sign: A Temporary Sign promoting the candidacy of a person running for a government office, or promoting an issue to be voted on at a governmental election.

Canopy and Marquee: A roof-like structure projecting over the entrance to a building.

Commercial Speech: Speech advertising a business, profession, commodity, service, or entertainment.

Commented [KC3]: The Supreme Court has signaled that commercial and non-commercial speech may be subject to different standards as long as commercial speech is not given priority.

Development: A commercial use of three or more principal structures with common characteristics, as determined by the City, or a platted residential use of twenty (20) or more lots with common characteristics, as determined by the City. Common characteristics may include shared access, similar architecture, single ownership or history or site plan review approval.

Directional Sign: A Sign erected on a property by the owner of such property solely for the purpose of guiding vehicular and pedestrian traffic, which does not contain any advertising commercial speech.

Commented [KC4]: This is a content-based regulation, but it may be justified by concerns of safety and traffic flow.

Dynamic Sign: A Sign or portion thereof that appears to have movement or that appears to change using any method other than a person physically removing and replacing the Sign or its components. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

Freestanding Sign: A Sign which is placed in the ground and not affixed to any part of any structure.

Government Sign: A Sign which is erected or maintained by a governmental unit.

Illuminated Sign: A Sign or portion thereof that: 1) incorporates an artificial light source as part of the Sign including, but not limited to, a Sign with LED lights, neon lights or an interior light; or 2) a Sign that has an artificial light source directed upon it.

Institutional Sign: A Sign or bulletin board, which identified the name and other characteristics of a public or private institution (i.e. church or school) on the site where the sign is located.

Marquee Sign: A Sign that is permanently attached to a marquee.

Monument Sign: Any one-sided or two-sided free-standing Sign with its entire Sign Area mounted on the ground or mounted on a base at least eighty percent (80%) as wide as the Sign Area.

Mural: A work of graphic art painted or applied to a wall of a building or other structure which contains no advertising or logos commercial speech.

Non-Commercial Speech: Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

Nonconforming Sign: A Sign lawfully existing prior to the adoption of this ordinance but that does not conform to the newly enacted requirements of the ordinance.

Off-Site Sign: A sign, including the supporting sign structure, advertising a business, commodity, or service which is not located or performed on the premises on which the sign is located; commonly known as a "billboard."

Commented [KC5]: The City does not have to use this terminology, but this term is a bit more intuitive to the reader than "Advertising Sign." The Supreme Court has indicated that different regulations for on-premises and off-premises signs are permitted.

Portable Sign: A Sign designed to move from one location to another, not permanently attached to the ground or any other surface.

Promotional Devices: ~~Promotional devices, including air inflated devices, Banners exceeding forty (40) square feet in area, non-mechanical whirling devices, spotlights, or any Sign resembling the same.~~

Commented [KC6]: "Promotional" carries a connotation of content. Because this term is only used in one section, you may be able to eliminate it, as proposed in these revisions (also see the Temporary Signs section below). Alternatively, the City could rename this to something without a content implication.

Pylon Sign: Any free-standing sign supported by a column-like structure, posts or poles set firmly in or below the ground surface.

Real Estate Sign: Any sign pertaining to the sale, lease or rental of land or buildings.

Roof Sign: A Sign erected or painted upon or above a roof or parapet of a building.

Scoreboard: A sign ~~associated with~~ displayed at an athletic field ~~that includes information and/or statistics pertinent to an on-site game or activity and also includes any sponsor or identification panels~~ and in conjunction with the activities occurring at the athletic field.

Shielded Light Source: Shall have the meaning associated with the nature of the light source, as follows: 1) For an artificial light source directing light upon a Sign, Shield Light Source shall mean a light source diffused or directed so as to eliminate glare and housed to prevent damage or danger. 2) For light source located within a Sign, Shielded Light Source shall mean

a light source shielded with a translucent material of sufficient opacity to prevent the visibility of the light source. 3) For a light source designed to directly display a message (e.g. LED and neon lighting), Shielded Light Source means a light source specifically designed by its manufacturer for outdoor use.

Sidewalk Sign: A temporary, freestanding, Portable Sign placed at ground level, with no moving parts or flashing lights, displayed on a public or private sidewalk adjacent to and directly in front of a business ~~to advertise the business hours of operation, an event, or a promotion.~~

Sign: Any letter, symbol, device, poster, picture, statuary, reading matter or representation in the nature of any advertisement, announcement, message, or visual communication, whether painted, pasted, printed, affixed or constructed, which is displayed outdoors for informational or communicative purposes.

Sign Area: The entire area within a continuous perimeter enclosing the extreme limits of the Sign message and background. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part of the Sign. The area of a Sign within a continuous perimeter shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building façade against which it is placed.

Special Events Sign: ~~—A Temporary Sign erected by a civic or other non-profit organization to promote or identify a fund-raiser, festival, tournament, or other non-commercial one-time or annual event; examples of which are Stiftungsfest, Music in the Park, Relay for Life, and the Carver County Fair displayed before or during a one-time, special, or annual event or a holiday.~~

Temporary Sign: A Sign ~~placed displayed for a specific purpose that is of concurrent with a specific event or occurrence for a limited time duration, after which the Sign is to be removed, which does not necessarily meet the structural requirements for a permanent sign.~~

Wall Sign: Any Sign which is affixed to the wall of any building or structure.

1260.03 Jurisdiction. No sign permit shall be issued for any lot, tenant, or development after the effective date of and which is not in substantial conformity with the provisions of these regulations. Nor shall any sign, except as hereinafter specified, be erected, substantially improved, converted, enlarged, moved, or structurally altered without conforming with the provisions of these regulations. The lawful use of a sign existing at the time of the enactment of this chapter may be continued although such use may not conform to the regulations herein. For those signs permitted before the adoption of these regulations, such signs shall be classified and governed as "permitted nonconforming" structures under this Chapter.

Commented [KC7]: This changes the definition pretty dramatically, broadening who may display these signs and when they may be displayed. As written, though, this definition was too specific about who could display signs and for what purposes, arguably regulating the content of the speech by controlling the speaker and subject, and also by requiring these signs to identify or promote the event. As revised, there is a risk that someone will display this type of sign, during an event, that has nothing to do with the event. If the City is concerned about this, we can work to tailor this language further.

1260.04 Permit Required. Except as herein exempted, no person firm or corporation shall maintain, install, erect, relocate or modify any sign in the City without first obtaining a permit therefore. The fee for the permit shall be based on the ~~state~~ chart of fees as adopted by the City Council ~~by Ordinance~~ from time to time, and shall be determined by the Building Inspector.

The permit ~~application~~ shall include ~~the following information:~~

~~Two~~ sets of plans drawn to scale that show in sufficient detail the following:

- A. The proposed location and its relationship to the other principal buildings on the lot and on adjacent properties.
- B. The size and height of the sign.
- C. The elevation of the centerline of the roadway upon which the sign is oriented, when applicable.
- D. Material of the sign and supporting pole.
- E. Drawing of any landscaping or other base upon which the sign will be placed. Including the height or increase in elevation resulting from the base or landscaping.
- F. Any other information required by the Building Inspector to accurately review the application for conformance to the code. Including but not limited to a certified land survey.

1260.05 Registration Required. Those signs permitted within this section, not requiring a permit which must be registered with the City, shall include the following information.

- A. Name of the person or company responsible for the sign.
- B. Address of the responsible party.
- C. Number of signs and their location(s).
- D. Dates signs will be posted.
- E. Description of the sign including the size, height and copy of any text or graphics shown on the sign.

1260.06 Variance. A variance may be sought from this regulation in accordance with the variance procedure outline in Section 1210.04 of this Chapter.

1260.07 Maintenance and Continuation. All signs shall be constructed in such manner and of such material as to be safe and substantial. The exposed backs of all signs and sign structures shall be painted a neutral color. Signs determined by the Zoning Administrator to be in a state of disrepair shall be considered a nuisance pursuant to Chapter 6 of the City Code. Any Abandoned Sign or Sign ~~sign hereafter existing which~~ that no longer advertises or identifies a bona fide business conducted in operation, ~~or~~ a service rendered, or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use and/or control of the buildings or structure upon which the sign may be found. Any sign found to be in violation of this Section shall be enforced in the same manner as described in Chapter 6, Section 610- General Abatement Procedures.

Commented [KC98]: This is a content-based regulation, which could arguably be justified by safety issues surrounding elimination of confusion by drivers and emergency personnel, or potentially aesthetic considerations. This same issue arises in the definition of "Abandoned Sign." The City should consider whether there's a different and feasible way to achieve the same result, such as by annual permitting or by imposing annual maintenance requirements, under the assumption that someone with an outdated sign would not take those steps.

1260.08 General Provisions Applicable to All Districts.

Subd. 1. Prohibited Signs. The following signs are prohibited in all districts:

- A. Signs in, upon, or projecting into any public right-of-way or easement, excepting Government Signs.
- B. Signs containing statements, words, or pictures of an obscene, indecent, or immoral character, or such as would offend public morals or decency~~containing any indecent or offensive material.~~
- C. Any type of sign painted, attached, or in any manner affixed to trees, rocks, or similar natural surfaces.
- D. Roof Signs.
- E. Signs which interfere with the ability of vehicle operators or pedestrians to see traffic signs or signals, or which impedes the vision of traffic by vehicle operators or pedestrians.
- F. Signs that contain or are an imitation of an official traffic sign or signal or include the terms “stop”, “look”, “caution”, “danger”, “warning” or similar words, phrases, symbols, or characters in such a manner as to interfere with, mislead or confuse motorists.
- G. Signs which obstruct any window, door, fire escape or opening intended to provide ingress or egress to any structure or building.
- H. Portable Signs, except for sidewalk signs expressly permitted within.
- I. Any Sign not in conformance with these regulations, other than a Non-Conforming Sign.
- J. Any other Sign not expressly permitted by the provisions of these regulations.

Commented [KCN9]: This provision and section F contain content-based regulations, though they arguably be justified by interests of health, safety, and welfare.

Subd. 2. Illuminated Signs. ~~The following standards apply to Illuminated Signs:~~

Each Illuminated Sign shall:

- A. Have a Shielded Light Source;
- ~~B.~~ Not exceed a maximum light intensity of 5000 nits (candelas per square meter) during daylight hours and a maximum light intensity of 500 nits between dusk to dawn as measured from the sign's face at maximum brightness. ~~5 foot-candles at each property line;~~
- ~~B.C.~~ Not cause beams or rays of light to be directed at any portion of the road or of such intensity or brilliance as to cause glare or impair vision of a driver of any motor vehicle; and
- ~~C.D.~~ Be equipped with (i) an automatic dimmer control to produce the illumination change required by Section 1260.08, Subd. 2, A, 2, above and (ii) a means to immediately turn off the display or lighting if the Illuminated Sign malfunctions.
- ~~D.~~ Prior to the issuance of a sign permit, the applicant shall provide a written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed the levels specified in Section 1260.08, Subd. 2, A, 2 above.

Commented [KCN10]: The City should ensure that it has some way to measure this to make sure it is actually enforceable.

~~**Subd. 3 Promotional Devices.** Promotional Devices are prohibited except when used in conjunction with a grand opening (the initial commencement of business). For a grand opening, Promotional Devices shall be allowed for a period of one week.~~

~~Subd. 4 Campaign Signs. Campaign Signs shall be regulated by the laws of the State of Minnesota, as amended from time to time. All Campaign Signs must be removed within seven (7) days following the date of the election. In the event the signs are not removed within seven (7) days, the city may remove the signs at the expense of the sign or property owner. No permit or registration is required for this type of sign.~~

Subd. 53. Address Signs. To aid emergency personnel, postal delivery, and the navigation of traffic. One address sign shall be required per residential and commercial building in all districts. No permit or registration is required.

Subd. 64. Scoreboards. One scoreboard up to 450 square feet per playing field, located in a public or private park, shall be permitted.

Subd. 75. Temporary Signs. The following regulations apply to Temporary Signs within the City. If they are not removed by the date specified, the signs may be taken down by the City and the cost of removal charged to the sign's owner or registrant.

A. Signs Containing Non-Commercial Speech. Subject to Minnesota Statute Section 211B.045, as it may be amended from time to time, and notwithstanding the other provisions contained in this Section 1260, Signs containing Non-Commercial Speech may be posted beginning forty six (46) days before a primary election in a general election year until ten (10) days following the general election. No permit or registration is required for this type of sign.

A.B. Banners. Banners may be ~~permitted~~ displayed for one-time or special events for up to forty-five (45) days. Banners may be up to forty (40) square feet in area. They must be registered with the City under the guidelines established in this chapter and removed within five (5) business days of the closing date listed on the registration permit.

C. Grand Openings. Air inflated devices, Banners exceeding forty (40) square feet in area, non-mechanical whirling devices, spotlights, or any Sign resembling the same may be permitted for a period of one (1) week in conjunction with a grand opening, meaning the initial commencement of a business. Such signs are prohibited at all other times.

B.D. Special Events Signs. Special Event Signs may be permitted with the following conditions:

1. Non-residential property: Such Special Event Signs may be erected and maintained on non-residential property for a period not to exceed thirty (30) days prior to the date of the event and shall be removed within five (5) business days following the event.
2. The City of Norwood Young America may place Special Event Signs within the public right-of-way, subject to the same restrictions as set forth above. Residential property: Special Event Signs, not exceeding four (4) square feet, may be erected on residential property for a period not to exceed five (5) days and shall be removed within one (1) day following the event.

C.E. Real Estate Signs Property for Sale or Lease. A Temporary Real Estate Sign Sign may be placed upon property in any District for the purpose of advertising the lease or sale of the property upon which it is placed while it is for sale or for lease. Only one (1) Sign shall be permitted per street frontage with the following conditions:

Commented [KCN11]: See comment 1 on definition of Address Sign above. Including the rationale for this requirement, may bolster the City's argument in favor of controlling content under these limited circumstances.

Commented [KCN12]: This section is tricky. The Supreme Court allows the City to impose time restrictions on one-time or special events signs as long as the signs do not discriminate based on topic or subject. The City can't state what is allowed to be contained on the sign, but limits on when the sign can be posted are subject to a lower standard of review by the court. That said, there are a couple of risks with this subdivision, even as revised: (1) the courts could consider these regulations to be arbitrary (meaning without a valid reason based on the health, safety, or general welfare of the community) or backhanded attempts to regulate content because they relate to very specific events and (2) the City would not be able to prevent signs with content completely unrelated to the special event, construction, or sale from being displayed within these parameters, since regulations must be content-neutral. If the City is worried about these risks, it could simply allow one sign of a certain size or type (which could vary based on zoning district or other parameters) to be displayed for a period that would likely address its goals and/or it could require a permit for all temporary signs, which is a hoop that people inclined to abuse these provisions might not be willing to jump through. If the City would prefer to go this route, we can propose language. Note that the language specific to non-commercial signs during the election season should be included in this ordinance either way.

Commented [KCN13]: This provision basically suspends the City's sign ordinance when it comes to non-commercial signs during an election year. Under state law, non-commercial signs of any size and number may be posted during this window around an election (though certain location restrictions may still be applied, like the prohibition on posting such signs in the public right-of-way). Ten days after the election, the City may begin enforcing its sign ordinance with respect to these signs again, but people will still be allowed to post signs with non-commercial speech at all times, as long as they meet the requirements of this ordinance.

Commented [KCN14]: Because this provision states "in conjunction with," it arguably is not regulating the content of any of these signs. Keep in mind that the City cannot require that these devices promote the business or prohibit them from promoting something other than the new business

Commented [KCN15]: This provision is risky because it gives the City discretion to pick and choose which special events it is willing to promote and the City will have to consider the content of the sign before agreeing to display it. We would suggest eliminating this language, but if the City would like to keep this option available, we would recommend further tailoring of the language.

Commented [KCN16]: This provision is in lieu of the Garage Sale Signs section, which seems to be too specific to not be considered a content-based regulation. Consider whether this is enough time for display of the sign to fit the City's other purposes of allowing people to promote events for civic/non-profit groups.

1. Each such Sign shall be removed within seven (7) days following the date of leasing or sale.
2. The maximum Sign Area for each such Sign is as follows:
 - a. R-1, R-2, R-3, T-A Districts- nine (9) square feet
 - b. R-4, RC-1 Districts- eighteen (18) square feet
 - c. Commercial and Industrial Districts- thirty-two (32) square feet
3. No such Sign shall exceed eight (8) feet in height.
4. Subdivision developments which have more than two (2) sites remaining available may ~~advertise the development with~~ place one Sign at each entry point. Such signs shall not be greater than ~~thirty two (32)~~ square feet and not to exceed eight (8) feet in height.

~~D.F. Identification Signs Construction. One Temporary identification sign setting forth the name of a construction project, project architects, contractors and financing agencies Sign may be installed at a construction site in any district for the period of the construction only with~~ subject to the following conditions:

1. The Sign must be registered with the City under the guidelines established in this chapter.
2. The Sign shall be removed within five (5) days of the closing listed on the registration permit or end of construction period, whichever is sooner.
3. No such Sign shall exceed twenty-four (24) square feet or eight (8) feet in height.

~~E. Garage Sale Signs. Garage Sale Signs shall be removed within one (1) day after the end of the sale and shall have a Sign Area of four (4) square feet or less. The City shall have the right to remove and destroy Signs not conforming to the provisions of this Chapter.~~

Subd. 7.6. Advertising Sign Off-Site Signs. ~~Advertising Sign Off-Site Signs~~ are permitted in the C-2, B-1 and I-1 Districts, on properties with frontage on Highway 212 or Highway 5 only. ~~Advertising Off-Site Signs Signs~~ must conform to the following standards:

- A. ~~Advertising Off-Site Signs signs~~ which face the same general direction shall be 2640 feet apart measured down the centerline of the road from which the signs are to be seen. ~~Advertising Off-Site Signs signs~~ with ~~advertising the sign face~~ facing the same direction, but on either side of the road, shall be 2640 feet apart measured down the centerline of the road.
- B. Only one ~~advertising Off-Site Sign sign~~ per lot shall be permitted.
- C. No ~~outdoor advertising Off-Site Sign sign~~ shall be closer than 100 feet from any other ~~free standing~~ Freestanding Sign on the same side of the street.
- D. Back to ~~Back-back~~ signs are permissible. A back to back sign shall constitute one ~~advertising Off-Site Signs~~ sign.
- E. V-type construction is not permitted.
- F. The maximum area for any one sign facing shall be 300 square feet inclusive of border and trim but excluding the base or apron, supports and other structural members.
- G. The maximum size limitations shall apply to each facing of a sign structure with one display to each facing not exceeding the maximum sign area.

- H. No ~~outdoor advertising sign~~ Off-Site Sign shall be established closer than 15 feet from the right-of-way line. No portion of any ~~outdoor advertising sign~~ Off-Site Sign may be placed on, or extend over the right-of-way line of any street or highway.
- I. No ~~outdoor advertising sign~~ Off-Site Sign or part thereof shall be located on any property without the written consent of the owner, holder, lessee, agent or trustees.
- J. No ~~outdoor advertising sign~~ Off-Site Sign shall exceed 30 feet in overall height above the ground level. Ground level shall be regarded as the average elevation of the natural ground on which the sign is located.
- K. All ~~outdoor advertising sign~~ Off-Site Signs must be equipped with a steel monopole, be painted in an earth tone color and have appropriate landscaping. *—(Amended by Ord. 140, 2-26-2001)*

Subd. 8.7. Dynamic Signs. Dynamic Signs may be permitted with the following conditions:

- A. Dynamic displays are permitted as follows:
 1. R-1, R-2, R-3 and R-4 Districts—: only on monument signs for conditionally permitted uses. Dynamic displays may occupy no more than 35 percent of the Monument Sign Area.
 2. C-2 District:— on monument and pylon signs for any permitted or conditionally permitted use, occupying up to 35 percent of the Sign Area, and on permitted Advertising Sign Off-Site Signs, occupying up to 100 percent of the Sign Area.
 3. B-1 and I-1 Districts:— only on monument and pylon signs for any permitted or conditionally permitted use, occupying up to 35 percent of the Sign Area, and on permitted Advertising Sign Off-Site Signs, occupying up to 100 percent of the Sign Area.
- B. Dynamic displays may not change or move more often than the following, except one for which changes are necessary to correct hour-and minute, date, or temperature information:

Speed Limit	Maximum number of changes
25-34	Once every two (2) minutes
35-54	Once every five (5) minutes
55 and over	Once every ten (10) minutes

- C. Time, date, or temperature information is considered one dynamic display and may not be included as a component of any other dynamic display.
- D. A display of time, date, or temperature must remain for at least the minimal allowable display time for the district in which it is located before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three (3) seconds.
- E. The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.
- ~~F.G.~~ The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.
- ~~G.H.~~ Every line of copy and graphics in a dynamic display must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road

Commented [KCN17]: Regulations specific to time, date, and temperature displays in sections B, C, and D are content-based regulations. The City may be able to justify subjecting them to different standards because (1) they will be less distracting to driver and (2) they provide important public information, but the City may want to consider eliminating these distinctions unless it is confident in its justification for treating this content differently.

with a speed limit of 35 to 44 miles per hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour and 15 inches on a road with a speed limit of 55 miles per hour or more.

~~H.I.~~ Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the City that it is not complying with the standards of this ordinance.

~~I.J.~~ Dynamic displays must comply with the brightness standards contained in [Subd. 2 of this Section 1260.08, Subd. 2.](#)

Subd. 98. Interior Building Signs. Unless specifically named in this ordinance, signs which are located ~~on~~ in the interior of a building shall be exempt from the provisions of this ordinance.

Subd. 10. Public Signs. ~~The City may exempt a public sign from the permitting and size standards of this ordinance.~~ (Amended by Ord. 114, 7-27-1998)

Commented [KCN18]: What constitutes a "public sign"? The City may want to either define this term or eliminate this provision, since it appears to give the City discretion to change the rules for certain signs based on their content. This may be justifiable if the City intends this provision to be specific to signs necessary for health, safety, traffic flow, or something similar, but without more detail, this provision appears problematic.

1260.09 District Regulations. Signs herein designated shall be permitted in each specified District and shall conform as to size, location, and character according to the requirements herein set forth.

Subd. 1 Residential District (R-1, R-2 and R-3) Regulations. The following signs are permitted within the residential districts.

A. **Address Sign:** One sign not to exceed two (2) square feet in area for each dwelling unit.

~~B.~~ **Monument Signs:** One Monument Sign per street frontage, not to exceed two (2) Monument Signs, shall be permitted for a church, public institution, day care center, nursing home, apartment building or recreational facility for each lot and development entrance located on a collector or arterial roadway. Such Sign shall not exceed forty-eight (48) square feet in area and shall not exceed twelve (12) feet in width and six (6) feet in height. No Sign shall be placed closer than five (5) feet to any public right-of-way.

Commented [KCN19]: Allowing only certain types of businesses/property uses to have these signs could be viewed as a way of regulating the content of speech. At the same time, allowing all properties on such roads to have monument signs, as is the case with this proposed language, could result in a clutter of signs. If the City is concerned about this, it could also impose a requirement based on street frontage. This sort of provision could also be used if the City is worried about certain properties in these districts not being allowed monument signs because they are not located on these types of roads.

~~C.B.~~ **Area Identification Signs:** ~~A residential subdivision of twenty (20) or more acres shall be permitted a maximum of two (2) Monument Signs. All other residential subdivisions shall be permitted one (1) Monument Sign. The Sign Area of each such Sign shall not exceed forty eight (48) square feet. The dimensions of each such Sign shall not exceed twelve (12) feet in width and six (6) feet in height. Such Signs shall be located near the main entrances of the subdivision and shall be limited to one (1) Sign per intersection.~~

Commented [KCN20]: We removed this section because section B likely addresses these signs. If not and the City want to provide for signs at the entrance of subdivisions, consider renaming this section to remove reference to "Area Identification Sign," which implies the content of the sign.

~~D.C.~~ **Directional Signs:** Directional Signs for non-single-family uses are allowed up to three (3) per lot. The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

Subd. 2 Multiple Family Residential District (R-4) Regulations. The following signs are permitted within the Multiple Family Residential District:

- A. Address Sign: One sign not to exceed four (4) square feet in area for each building.
- B. Monument and Wall Signs: ~~Each lot and development located on a collector or arterial roadway shall be permitted one Monument Sign per street frontage, not to exceed two (2) Monument Signs, shall be permitted for a church, public institution, daycare center, nursing home, apartment building or recreational facility. Each lot located on a local roadway shall be permitted one Monument Sign.~~ Such Sign shall not exceed forty-eight (48) square feet in area and shall not exceed twelve (12) feet in width and six (6) feet in height. No Sign shall be placed closer than five (5) feet to any public right-of-way. In addition to any Monument Sign, one Wall Sign shall be permitted on each Building Face, not to exceed two Wall Signs per Building. The Sign Area of each such Wall Sign shall not exceed 5% of the Building Face on which it is located. *(Amended by Ord. 216; 8-24-2009)*

Area Identification Signs: A residential subdivision of twenty (20) or more acres shall be permitted a maximum of two (2) Monument Signs. All other permitted and conditional uses shall be permitted one (1) Monument Sign, except for those listed in Subd. 2.B. above. The Sign Area of each such Sign shall not exceed forty-eight (48) square feet. The dimensions of each such Sign shall not exceed twelve (12) feet in width and six (6) feet in height. Such Signs shall be located near the main entrances of the development and shall be limited to one (1) Sign per intersection. In addition to any Monument Sign, one Wall Sign shall be permitted on each Building Face, not to exceed two Wall Signs per Building. The Sign Area of each such Wall Sign shall not exceed 5% of the Building Face on which it is located.

Commented [KCN21]: Added language to Section B, above, about all uses on other roadways being allowed one Monument Sign to address this allowance. Please confirm that Section B as revised covers the full intent of this section.

- C. Directional Signs: Directional Signs are allowed up to three (3) per lot. The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

Subd. 3 Downtown Districts (C-3) Regulations. The following signs are permitted within the Downtown Districts.

- A. Address Sign: One sign not to exceed four (4) square feet in area for each building.
- B. Monument Signs: Where a building does not cover the full area of the property, one Monument Sign is allowed per lot. The Sign Area of any such Monument Sign shall not exceed thirty-two (32) square feet and shall not exceed ten (10) feet in width or six (6) feet in height.
- C. Wall Signs: One Wall Sign shall be permitted per Building Face, not to exceed two Wall Signs per building. For multi-tenant buildings, one Wall Sign per tenant is allowed provided that the Building Face coverage limitation set forth below is met.
 1. A maximum of 10% of the Building Face may be used for a Wall Sign.
 2. Signs shall not project above the roof level.
- D. Sidewalk Signs: Sidewalk Signs shall be permitted on the premises of a business, provided the following provisions are followed:
 1. Only one sidewalk sign per business is allowed.
 2. Signs shall be displayed during business hours only.
 3. Maximum allowable sign size, including the frame and support structure, shall not exceed 6-square feet. Two sides of the sign may contain graphics and/or text. The maximum depth or spread of the sign shall not exceed 2 feet.
 4. Quality of said signs shall be of professional craftsmanship only.

5. Signs shall not create any hazards or interfere with pedestrian or vehicular traffic.
 6. Signs shall be placed only on the business property or on sidewalks directly abutting the business property. —(Amended by Ord. 172; 11/28/2005)
- E. **Awning Signs:** One Awning Sign is allowed per lot, provided the Sign Area does not exceed eight (8) square feet. The Sign Area of any Awning Sign shall reduce, square foot for square foot, the Sign Area of any permitted Wall Signs on the same building face. Awnings shall have a minimum clearance of eight (8) feet above a public sidewalk or right-of-way and be an integral part of the awning, not projecting above or below the vertical awning face.

Subd. 4 C-2, B-1 and I-1 Regulations. The following uses are permitted within the C-2, B-1 and I-1 Districts.

- A. **Address Sign:** One sign not to exceed four (4) square feet in area for each building.
- B. **Monument Signs:** One Monument Sign facing each street frontage may be permitted per lot and development entrance. The Sign Area of any such Monument Sign shall not exceed sixty (60) square feet and shall not exceed twelve (12) feet in width or six (6) feet in height, except when adjacent to a major arterial. The total area of any such Monument Sign facing a major arterial shall not exceed eighty (80) square feet and shall not exceed fifteen (15) feet in width and eight (8) feet in height. No Monument Sign shall be placed closer than five (5) feet to any public right-of-way line. For multi-tenant buildings, one Monument Sign per lot is allowed. The Sign Area of each such Monument Sign shall not exceed eighty (80) square feet, with a maximum Sign Area of forty (40) square feet per tenant, except when adjacent to a major arterial. The total area of any such multi-tenant Sign facing a major arterial shall not exceed one hundred (100) square feet, with a maximum Sign Area of fifty (50) square feet per tenant.
- C. **Wall Signs:** One Wall Sign shall be permitted per Building Face, not to exceed two Wall Signs per building. For multi-tenant buildings, one Wall Sign per tenant is allowed provided that the Building Face coverage limitation set forth below is met.
 1. A maximum of 10% of the Building Face may be used for a Wall Sign.
 2. Signs shall not project above the roof level.
- ~~D. **Area Identification Signs:** One Area Identification Sign per development entrance is allowed. The Sign Area of each such Sign shall not exceed sixty (60) square feet and shall not exceed fifteen (15) feet in width and six (6) feet in height. No Area Identification Sign shall be placed closer than five (5) feet to any public right-of-way line. The Area Identification Sign shall only identify the name of the business or industrial park.~~
- ~~E.D. **Pylon Signs:** One Pylon Sign facing each street frontage may be permitted per lot. The Sign Area of any such Sign shall not exceed forty-eight (48) square feet and shall not exceed twelve (12) feet in width or six (6) feet in height, except when adjacent to a major arterial. The total area of any such Pylon Sign facing a major arterial shall not exceed sixty (60) square feet and shall not exceed fifteen (15) feet in width and eight (8) feet in height. No Pylon Sign shall be placed closer than five (5) feet to any public right-of-way line. For multi-tenant buildings, one Pylon Sign per lot is allowed. The Sign Area of each such Sign shall not exceed sixty (60) square feet, with a maximum Sign Area of thirty (30) square feet per tenant, except when adjacent to a major arterial.~~

The total area of any such multi-tenant Sign facing a major arterial shall not exceed eighty (80) square feet, with a maximum Sign Area of forty (40) square feet per tenant. The height of any Pylon Sign shall not exceed thirty (30) as measured from the elevation of the centerline of the roadway upon which the sign is orientated. The maximum actual sign height shall be no more than forty (40) feet. The sign shall not be raised up by use of a natural or manmade material so as to create a base for the placement of the sign resulting in a height greater than thirty (30) feet as measured from the elevation of the centerline of the roadway.

F.E. Directional Signs: ~~Each lot is permitted up to four (4) Directional Signs per driveway or vehicle entrance onto the property lot are permitted.~~ The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

1260.10 Substitution Clause. The owner of any Sign that is otherwise allowed under this Section may substitute Non-Commercial Speech for any other Commercial or Non-Commercial Speech without any additional approval or permitting, notwithstanding any provision to the contrary.

1260.11 Severability. If any part, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

Commented [KCN22]: Because directional signs are meant specifically to aid the flow of traffic, it might make sense to allow for more directional signs based on how traffic accesses a property. Using this as a multiplier for the number of signs does not require that the signs be placed at the entrance and may help address issues that have arisen in the past where certain properties would benefit more signage.

Commented [KCN23]: In general, there is nothing in this ordinance that would inherently favor commercial or non-commercial speech, since most provisions are content-neutral and any content-based regulations tend to allow for non-commercial speech, but this provision makes clear that the copy of a sign can be changed outside the permitting process as long as it is non-commercial.

Section 1260 – Signs

1260.01 Purpose and Intent. The purpose of the sign ordinance is to establish regulations that govern the use, approval, construction, change, replacement, location and design of signs and related informational tools within the city. The sign ordinance is not intended to and does not restrict, limit, or control the content or message of signs. The sign ordinance has a number of specific purposes:

1. To encourage the effective use of signs as a means of communication.
2. To promote health, safety, and welfare by limiting hazardous or distracting signage.
3. To ensure and improve pedestrian and traffic safety.
4. To protect, conserve, and enhance property values.
5. To enhance the attractiveness and economic well being of Norwood Young America as a place to live and conduct business.
6. To encourage creative and well-designed signs that contribute in a positive way to the city's visual environment, express local character, and help develop a distinctive pedestrian image in the city.
7. To recognize that signs are a necessary form of communication and provide flexibility within the sign review and approval process to allow for unique circumstances.
8. To create a framework for a comprehensive and balanced system for sign regulation, to facilitate an easy and pleasant communication between people and their environment, and to avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and overall community appearance.
9. To encourage and, to the maximum extent feasible, require that all signs within the city be brought into compliance with the terms of the sign ordinance.

1260.02 Definitions

Abandoned Sign: A sign (including any structure whose primary function is to support such Sign): a) whose display surface remains blank for a period exceeding sixty (60) days; b) which pertains to a time, building, event or purpose that passed or ceased to apply more than sixty (60) days prior to the then applicable date; or c) that has remained for more than sixty (60) days after demolition of the building that it served.

Address Sign: A sign including postal identification numbers, whether written or in number form, and, optionally, the name of a building occupant.

Awning Sign: A Sign permanently affixed to an awning providing a shelter or cover over the approach to any building entrance or shading a window area.

Banner: A Temporary Sign made out of flexible paper, cloth or plastic-like material.

Building Face: That portion of any exterior elevation of a building or other structure extending from grade to the top of a wall and the entire width of that particular building or structure elevation.

Canopy and Marquee: A roof-like structure projecting over the entrance to a building.

Commercial Speech: Speech advertising a business, profession, commodity, service, or entertainment.

Development: A commercial use of three or more principal structures with common characteristics, as determined by the City, or a platted residential use of twenty (20) or more lots with common characteristics, as determined by the City. Common characteristics may include shared access, similar architecture, single ownership or history or site plan review approval.

Directional Sign: A Sign erected on a property by the owner of such property solely for the purpose of guiding vehicular and pedestrian traffic, which does not contain any commercial speech.

Dynamic Sign: A Sign or portion thereof that appears to have movement or that appears to change using any method other than a person physically removing and replacing the Sign or its components. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

Freestanding Sign: A Sign which is placed in the ground and not affixed to any part of any structure.

Government Sign: A Sign which is erected or maintained by a governmental unit.

Illuminated Sign: A Sign or portion thereof that: 1) incorporates an artificial light source as part of the Sign including, but not limited to, a Sign with LED lights, neon lights or an interior light; or 2) a Sign that has an artificial light source directed upon it.

Marquee Sign: A Sign that is permanently attached to a marquee.

Monument Sign: Any one-sided or two-sided free-standing Sign with its entire Sign Area mounted on the ground or mounted on a base at least eighty percent (80%) as wide as the Sign Area.

Mural: A work of graphic art painted or applied to a wall of a building or other structure which contains no commercial speech.

Non-Commercial Speech: Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

Nonconforming Sign: A Sign lawfully existing prior to the adoption of this ordinance but that does not conform to the newly enacted requirements of the ordinance.

Off-Site Sign: A sign, including the supporting sign structure, that contains commercial speech and advertising advertises a business, commodity, or service which is not located or performed on the premises on which the sign is located; commonly known as a “billboard.”

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Portable Sign: A Sign designed to move from one location to another, not permanently attached to the ground or any other surface.

Pylon Sign: Any free-standing sign supported by a column-like structure, posts or poles set firmly in or below the ground surface.

Roof Sign: A Sign erected or painted upon or above a roof or parapet of a building.

Scoreboard: A sign displayed at an athletic field and in conjunction with the activities occurring at the athletic field.

Shielded Light Source: Shall have the meaning associated with the nature of the light source, as follows: 1) For an artificial light source directing light upon a Sign, Shield Light Source shall mean a light source diffused or directed so as to eliminate glare and housed to prevent damage or danger. 2) For light source located within a Sign, Shielded Light Source shall mean a light source shielded with a translucent material of sufficient opacity to prevent the visibility of the light source. 3) For a light source designed to directly display a message (e.g. LED and neon lighting), Shielded Light Source means a light source specifically designed by its manufacturer for outdoor use.

Sidewalk Sign: A temporary, freestanding, Portable Sign placed at ground level, with no moving parts or flashing lights, displayed on a public or private sidewalk adjacent to and directly in front of a business.

Sign: Any letter, symbol, device, poster, picture, statuary, reading matter or representation in the nature of any advertisement, announcement, message, or visual communication, whether painted, pasted, printed, affixed or constructed, which is displayed outdoors for informational or communicative purposes.

Sign Area: The entire area within a continuous perimeter enclosing the extreme limits of the Sign message and background. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part of the Sign. The area of a Sign within a continuous perimeter shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building façade against which it is placed.

Special Events Sign: A Temporary Sign displayed before or during a one-time, special, or annual event or a holiday.

Temporary Sign: A Sign displayed concurrent with a specific event or occurrence for a limited duration, after which the Sign is to be removed, which does not necessarily meet the structural requirements for a permanent sign.

Wall Sign: Any Sign which is affixed to the wall of any building or structure.

1260.03 Jurisdiction. No sign permit shall be issued for any lot, tenant, or development after the effective date of and which is not in substantial conformity with the provisions of these regulations. Nor shall any sign, except as hereinafter specified, be erected, substantially improved, converted, enlarged, moved, or structurally altered without conforming with the provisions of these regulations. The lawful use of a sign existing at the time of the enactment of this chapter may be continued although such use may not conform to the regulations herein. For those signs permitted before the adoption of these regulations, such signs shall be classified and governed as nonconforming structures under this Chapter.

1260.04 Permit Required. Except as herein exempted, no person firm or corporation shall maintain, install, erect, relocate or modify any sign in the City without first obtaining a permit therefore. The fee for the permit shall be based on the chart of fees as adopted by the City Council from time to time, and shall be determined by the Building Inspector.

The permit application shall include two sets of plans drawn to scale that show in sufficient detail the following:

- A. The proposed location and its relationship to the other principal buildings on the lot and on adjacent properties.
- B. The size and height of the sign.
- C. The elevation of the centerline of the roadway upon which the sign is oriented, when applicable.
- D. Material of the sign and supporting pole.
- E. Drawing of any landscaping or other base upon which the sign will be placed. Including the height or increase in elevation resulting from the base or landscaping.
- F. Any other information required by the Building Inspector to accurately review the application for conformance to the code. Including but not limited to a certified land survey.

1260.05 Registration Required. Those signs permitted within this section, not requiring a permit which must be registered with the City, shall include the following information.

- A. Name of the person or company responsible for the sign.
- B. Address of the responsible party.
- C. Number of signs and their location(s).
- D. Dates signs will be posted.
- E. Description of the sign including the size, height and copy of any text or graphics shown on the sign.

1260.06 Variance. A variance may be sought from this regulation in accordance with the variance procedure outline in Section 1210.04 of this Chapter.

1260.07 Maintenance and Continuation. All signs shall be constructed in such manner and of such material as to be safe and substantial. The exposed backs of all signs and sign structures shall be painted a neutral color. Signs determined by the Zoning Administrator to be in a state of disrepair shall be considered a nuisance pursuant to Chapter 6 of the City Code. Any Abandoned Sign or Sign that no longer advertises or identifies a business in operation, a service rendered, or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use and/or control of the buildings or structure upon which the sign may be found. Any sign found to be in violation of this Section shall be enforced in the same manner as described in Chapter 6, Section 610- General Abatement Procedures.

1260.08 General Provisions Applicable to All Districts.

Subd. 1. Prohibited Signs. The following signs are prohibited in all districts:

- A. Signs in, upon, or projecting into any public right-of-way or easement, excepting Government Signs.
- B. Signs containing statements, words, or pictures of an obscene, indecent, or immoral character, or such as would offend public morals or decency.
- C. Any type of sign painted, attached, or in any manner affixed to trees, rocks, or similar natural surfaces.
- D. Roof Signs.
- E. Signs which interfere with the ability of vehicle operators or pedestrians to see traffic signs or signals, or which impedes the vision of traffic by vehicle operators or pedestrians.
- F. Signs that contain or are an imitation of an official traffic sign or signal or include the terms “stop”, “look”, “caution”, “danger”, “warning” or similar words, phrases, symbols, or characters in such a manner as to interfere with, mislead or confuse motorists.
- G. Signs which obstruct any window, door, fire escape or opening intended to provide ingress or egress to any structure or building.
- H. Portable Signs, except for sidewalk signs expressly permitted within.
- H.I. Off-Site Signs.**
- J. Any Sign not in conformance with these regulations, other than a Non-Conforming Sign.
- K. Any other Sign not expressly permitted by the provisions of these regulations.

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Subd. 2. Illuminated Signs. Each Illuminated Sign shall:

- A. Have a Shielded Light Source;
- B. Not exceed a maximum light intensity of .5 foot-candles at each property line;
- C. Not cause beams or rays of light to be directed at any portion of the road or of such intensity or brilliance as to cause glare or impair vision of a driver of any motor vehicle; and

- D. Be equipped with (i) an automatic dimmer control to produce the illumination change required by Section 1260.08, Subd. 2.A.2. above and (ii) a means to immediately turn off the display or lighting if the Illuminated Sign malfunctions.

Subd. 3. Address Signs. To aid emergency personnel, postal delivery, and the navigation of traffic, one address sign shall be required per residential and commercial building in all districts. No permit or registration is required.

Subd. 4. Scoreboards. One scoreboard up to 450 square feet per playing field, located in a public or private park, shall be permitted.

Subd. 5. Temporary Signs. The following regulations apply to Temporary Signs within the City. If they are not removed by the date specified, the signs may be taken down by the City and the cost of removal charged to the sign's owner or registrant.

- A. *Signs Containing Non-Commercial Speech.* Subject to Minnesota Statute Section 211B.045, as it may be amended from time to time, and notwithstanding the other provisions contained in this Section 1260, Signs containing Non-Commercial Speech may be posted beginning forty six (46) days before a primary election in a general election year until ten (10) days following the general election. No permit or registration is required for this type of sign.
- B. *Banners.* Banners may be displayed for one-time or special events for up to forty-five (45) days. Banners may be up to forty (40) square feet in area. They must be registered with the City under the guidelines established in this chapter and removed within five (5) business days of the closing date listed on the registration permit.
- C. *Grand Openings.* Air inflated devices, Banners exceeding forty (40) square feet in area, non-mechanical whirling devices, spotlights, or any Sign resembling the same may be permitted for a period of one (1) week in conjunction with a grand opening, meaning the initial commencement of a business. Such signs are prohibited at all other times.
- D. *Special Events.* Special Event Signs may be permitted with the following conditions:
 - 1. Non-residential property: Special Event Signs may be erected and maintained on non-residential property for a period not to exceed thirty (30) days prior to the date of the event and shall be removed within five (5) business days following the event.
 - 2. Residential property: Special Event Signs, not exceeding four (4) square feet, may be erected on residential property for a period not to exceed five (5) days and shall be removed within one (1) day following the event.
- E. *Property for Sale or Lease.* A Sign may be placed upon property in any District while it is for sale or for lease. Only one (1) Sign shall be permitted per street frontage with the following conditions:
 - 1. Each such Sign shall be removed within seven (7) days following the date of leasing or sale.
 - 2. The maximum Sign Area for each such Sign is as follows:
 - a. R-1, R-2, R-3, T-A Districts- nine (9) square feet
 - b. R-4, RC-1 Districts- eighteen (18) square feet
 - c. Commercial and Industrial Districts- thirty-two (32) square feet
 - 3. No such Sign shall exceed eight (8) feet in height.

4. Subdivision developments which have more than two (2) sites remaining available may place one Sign at each entry point. Such signs shall not be greater than thirty two (32) square feet and not to exceed eight (8) feet in height.
- F. *Construction.* One Sign may be installed at a construction site in any district for the period of the construction subject to the following conditions:
 1. The Sign must be registered with the City under the guidelines established in this chapter.
 2. The Sign shall be removed within five (5) days of the closing listed on the registration permit or end of construction period, whichever is sooner.
 3. No such Sign shall exceed twenty-four (24) square feet or eight (8) feet in height.

Subd. 6. Off-Site Signs. ~~Off-Site Signs are not allowed in any district, except that an Off-Site Sign lawfully existing prior to [DATE OF AMENDMENT ENACTMENT] shall be considered a Nonconforming Sign, subject to Section 1215 of the Zoning Code, permitted in the C-2, B-1 and I-1 Districts, on properties with frontage on Highway 212 or Highway 5 only. Off-Site Signs must conform to the following standards:~~

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~~A. Off Site Signs which face the same general direction shall be 2640 feet apart measured down the centerline of the road from which the signs are to be seen. Off Site Signs with the sign face facing the same direction, but on either side of the road, shall be 2640 feet apart measured down the centerline of the road.~~

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~~B. Only one Off Site Sign per lot shall be permitted.~~

~~C. No Off Site Sign shall be closer than 100 feet from any other Freestanding Sign on the same side of the street.~~

~~D. Back to back signs are permissible. A back to back sign shall constitute one Off Site Sign.~~

~~E. V type construction is not permitted.~~

~~F. The maximum area for any one sign facing shall be 300 square feet inclusive of border and trim but excluding the base or apron, supports and other structural members.~~

~~G. The maximum size limitations shall apply to each facing of a sign structure with one display to each facing not exceeding the maximum sign area.~~

~~H. No Off Site Sign shall be established closer than 15 feet from the right of way line. No portion of any Off Site Sign may be placed on, or extend over the right of way line of any street or highway.~~

~~I. No Off Site Sign or part thereof shall be located on any property without the written consent of the owner, holder, lessee, agent or trustees.~~

~~J. No Off Site Sign shall exceed 30 feet in overall height above the ground level. Ground level shall be regarded as the average elevation of the natural ground on which the sign is located.~~

~~K. All Off Site Signs must be equipped with a steel monopole, be painted in an earth tone color and have appropriate landscaping. (Amended by Ord. 140, 2-26-2001)~~

Subd. 7. Dynamic Signs. Dynamic Signs may be permitted with the following conditions:

- A. Dynamic displays are permitted as follows:

1. R-1, R-2, R-3 and R-4 Districts: only on monument signs for conditionally permitted uses. Dynamic displays may occupy no more than 35 percent of the Monument Sign Area.
 2. C-2 District: on monument and pylon signs for any permitted or conditionally permitted use, occupying up to 35 percent of the Sign Area, ~~and on permitted Off-Site Signs, occupying up to 100 percent of the Sign Area.~~
 3. B-1 and I-1 Districts: only on monument and pylon signs for any permitted or conditionally permitted use, occupying up to 35 percent of the Sign Area, ~~and on permitted Off-Site Signs, occupying up to 100 percent of the Sign Area.~~
- B. Dynamic displays may not change or move more often than the following, except one for which changes are necessary to correct hour-and minute, date, or temperature information:

Speed Limit	Maximum number of changes
25-34	Once every two (2) minutes
35-54	Once every five (5) minutes
55 and over	Once every ten (10) minutes

- C. Time, date, or temperature information is considered one dynamic display and may not be included as a component of any other dynamic display.
- D. A display of time, date, or temperature must remain for at least the minimal allowable display time for the district in which it is located before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three (3) seconds.
- E. The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.
- G. The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.
- H. Every line of copy and graphics in a dynamic display must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road with a speed limit of 35 to 44 miles per hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour and 15 inches on a road with a speed limit of 55 miles per hour or more.
- I. Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the City that it is not complying with the standards of this ordinance.
- J. Dynamic displays must comply with the brightness standards contained in Section 1260.08, Subd. 2.

Subd. 8. Interior Building Signs. Unless specifically named in this ordinance, signs which are located in the interior of a building shall be exempt from the provisions of this ordinance.

(Amended by Ord. 114, 7-27-1998)

1260.09 District Regulations. Signs herein designated shall be permitted in each specified District and shall conform as to size, location, and character according to the requirements herein set forth.

Subd. 1 Residential District (R-1, R-2 and R-3) Regulations. The following signs are permitted within the residential districts.

- A. Address Sign: One sign not to exceed two (2) square feet in area for each dwelling unit.
- B. Monument Signs: One Monument Sign per street frontage, not to exceed two (2) Monument Signs, shall be permitted for each lot and development entrance located on a collector or arterial roadway. Such Sign shall not exceed forty-eight (48) square feet in area and shall not exceed twelve (12) feet in width and six (6) feet in height. No Sign shall be placed closer than five (5) feet to any public right-of-way.
- C. Directional Signs: Directional Signs for non-single-family uses are allowed up to three (3) per lot. The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

Subd. 2 Multiple Family Residential District (R-4) Regulations. The following signs are permitted within the Multiple Family Residential District:

- A. Address Sign: One sign not to exceed four (4) square feet in area for each building.
- B. Monument and Wall Signs: Each lot and development entrance located on a collector or arterial roadway shall be permitted one Monument Sign per street frontage, not to exceed two (2) Monument Signs. Each lot located on a local roadway shall be permitted one Monument Sign. Such Sign shall not exceed forty-eight (48) square feet in area and shall not exceed twelve (12) feet in width and six (6) feet in height. No Sign shall be placed closer than five (5) feet to any public right-of-way. In addition to any Monument Sign, one Wall Sign shall be permitted on each Building Face, not to exceed two Wall Signs per Building. The Sign Area of each such Wall Sign shall not exceed 5% of the Building Face on which it is located. (*Amended by Ord. 216; 8-24-2009*)
- C. Directional Signs: Directional Signs are allowed up to three (3) per lot. The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

Subd. 3 Downtown Districts (C-3) Regulations. The following signs are permitted within the Downtown Districts.

- A. Address Sign: One sign not to exceed four (4) square feet in area for each building.
- B. Monument Signs: Where a building does not cover the full area of the property, one Monument Sign is allowed per lot. The Sign Area of any such Monument Sign shall not exceed thirty-two (32) square feet and shall not exceed ten (10) feet in width or six (6) feet in height.
- C. Wall Signs: One Wall Sign shall be permitted per Building Face, not to exceed two Wall Signs per building. For multi-tenant buildings, one Wall Sign per tenant is allowed provided that the Building Face coverage limitation set forth below is met.
 - 1. A maximum of 10% of the Building Face may be used for a Wall Sign.
 - 2. Signs shall not project above the roof level.

- D. Sidewalk Signs: Sidewalk Signs shall be permitted on the premises of a business, provided the following provisions are followed:
1. Only one sidewalk sign per business is allowed.
 2. Signs shall be displayed during business hours only.
 3. Maximum allowable sign size, including the frame and support structure, shall not exceed 6-square feet. Two sides of the sign may contain graphics and/or text. The maximum depth or spread of the sign shall not exceed 2 feet.
 4. Quality of said signs shall be of professional craftsmanship only.
 5. Signs shall not create any hazards or interfere with pedestrian or vehicular traffic.
 6. Signs shall be placed only on the business property or on sidewalks directly abutting the business property. (*Amended by Ord. 172; 11/28/2005*)
- E. Awning Signs: One Awning Sign is allowed per lot, provided the Sign Area does not exceed eight (8) square feet. The Sign Area of any Awning Sign shall reduce, square foot for square foot, the Sign Area of any permitted Wall Signs on the same building face. Awnings shall have a minimum clearance of eight (8) feet above a public sidewalk or right-of-way and be an integral part of the awning, not projecting above or below the vertical awning face.

Subd. 4 C-2, B-1 and I-1 Regulations. The following uses are permitted within the C-2, B-1 and I-1 Districts.

- A. Address Sign: One sign not to exceed four (4) square feet in area for each building.
- B. Monument Signs: One Monument Sign facing each street frontage may be permitted per lot and development entrance. The Sign Area of any such Monument Sign shall not exceed sixty (60) square feet and shall not exceed twelve (12) feet in width or six (6) feet in height, except when adjacent to a major arterial. The total area of any such Monument Sign facing a major arterial shall not exceed eighty (80) square feet and shall not exceed fifteen (15) feet in width and eight (8) feet in height. No Monument Sign shall be placed closer than five (5) feet to any public right-of-way line. For multi-tenant buildings, one Monument Sign per lot is allowed. The Sign Area of each such Monument Sign shall not exceed eighty (80) square feet, with a maximum Sign Area of forty (40) square feet per tenant, except when adjacent to a major arterial. The total area of any such multi-tenant Sign facing a major arterial shall not exceed one hundred (100) square feet, with a maximum Sign Area of fifty (50) square feet per tenant.
- C. Wall Signs: One Wall Sign shall be permitted per Building Face, not to exceed two Wall Signs per building. For multi-tenant buildings, one Wall Sign per tenant is allowed provided that the Building Face coverage limitation set forth below is met.
1. A maximum of 10% of the Building Face may be used for a Wall Sign.
 2. Signs shall not project above the roof level.
- D. Pylon Signs: One Pylon Sign facing each street frontage may be permitted per lot. The Sign Area of any such Sign shall not exceed forty-eight (48) square feet and shall not exceed twelve (12) feet in width or six (6) feet in height, except when adjacent to a major arterial. The total area of any such Pylon Sign facing a major arterial shall not exceed sixty (60) square feet and shall not exceed fifteen (15) feet in width and eight (8) feet in height. No Pylon Sign shall be placed closer than five (5) feet to any public right-of-way line. For multi-tenant buildings, one Pylon Sign per lot is allowed. The

Sign Area of each such Sign shall not exceed sixty (60) square feet, with a maximum Sign Area of thirty (30) square feet per tenant, except when adjacent to a major arterial. The total area of any such multi-tenant Sign facing a major arterial shall not exceed eighty (80) square feet, with a maximum Sign Area of forty (40) square feet per tenant. The height of any Pylon Sign shall not exceed thirty (30) as measured from the elevation of the centerline of the roadway upon which the sign is orientated. The maximum actual sign height shall be no more than forty (40) feet. The sign shall not be raised up by use of a natural or manmade material so as to create a base for the placement of the sign resulting in a height greater than thirty (30) feet as measured from the elevation of the centerline of the roadway.

- E. Directional Signs: Each lot is permitted up to four (4) Directional Signs per driveway or vehicle entrance onto the property. The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

1260.10 Substitution Clause. The owner of any Sign that is otherwise allowed under this Section may substitute Non-Commercial Speech for any other Commercial or Non-Commercial Speech without any additional approval or permitting, notwithstanding any provision to the contrary.

1260.11 Severability. If any part, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

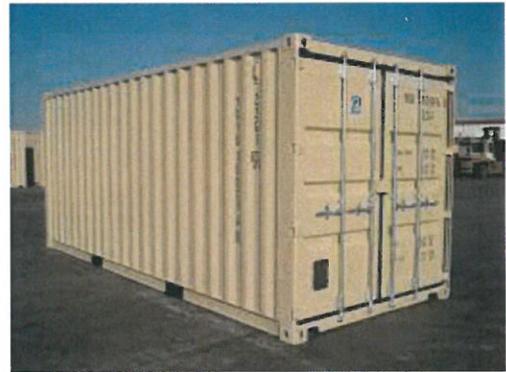
Date: September 20, 2016

Re: Storage Pods

BACKGROUND

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).



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.
Responces 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 2nd day of November 2015.

Attest:

Mayor Tom Lillehei

Joe Rudberg, Administrator/Clerk



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: September 20, 2016

Re: Rental Housing Code

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.

Section 350 – Rental Housing Licensing

350.01 Purpose and Scope.

Subd. 1 Purpose. The purpose of this ordinance is to provide minimum standards to safeguard life or limb, health, and public welfare by regulating and controlling the use and occupancy, maintenance and repair of all buildings and structures within the City used for the purpose of rental housing. The purpose of this ordinance is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. *(Amended by Ord.161, 9/27/04)*

Subd. 2 Scope. The provisions of this ordinance shall apply to all buildings or portions thereof used, or designed or intended to be rented, leased, or let for human habitation. All provisions of this ordinance shall apply to dwellings in existence at the time of adoption of this ordinance. Rest homes, convalescent homes, nursing homes, hotels, motels, and units rented, let or leased to direct family members of the property owner are exempt from the provisions of this ordinance. *(Amended by Ord.184, 7/10/2006)*

Subd. 3 Application to Existing Buildings. Additions, alterations or repairs, shall be done in compliance with the Building, Fire, Plumbing and Mechanical Codes. Applicable permits shall apply as required by these Codes.

All properties, whether pre-existing as Rental Property at the time of adoption of this ordinance or afterward becoming Rental Property shall comply with all terms of this ordinance. *(Amended by Ord. 222, 8/16/10)*

350.02 Definitions. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinary accepted meanings. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. *(Amended by Ord.161, 9/27/04)*

Apartment Building. A building or portion of a building that contains three or more dwelling units.

Board of Appeals. The Board of Appeals shall be a three-member board consisting of a City Council representative, the Fire Chief, and a Planning Commission representative. *(Amended by Ord. 222, 8/16/10)*

Building Code. "Building Code" is the Minnesota State Building Code.

Code Official. "Code Official" is the official who is charged with the administration and enforcement of this ordinance, or any duly authorized representative.

Condemn. "Condemn" shall mean to adjudge unfit for occupancy.

Direct Family Member. "Direct Family Member" is a parent, child, sibling, grandparent, grandchild, stepparent, step-child, step-grandparent, or step-grandchild of the property owner. *(Amended by Ord. 222, 8/16/10)*

Dwelling. "Dwelling" is a building wholly or partly used or intended to be used for living, sleeping, cooking or eating purposes by human occupants; but not including hotels and motels.

Dwelling Unit. "Dwelling Unit" is a room or a group of rooms located within a dwelling forming a single habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking and eating purposes.

Egress. "Egress" is an arrangement of exit facilities to assure a safe means of exit from a building.

Electrical Code. "Electrical Code" is the Minnesota State Electrical Code.

Extermination. "Extermination" is the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination method approved by the code official; and to remove all signs of extermination thereafter.

Fire Code. "Fire Code" is the Minnesota State Fire Code.

Health Officer. "Health Officer" is the legally designated health officer or official of the State, County and/or City.

Infestation. "Infestation" is the presence of insects, rodents, or other pests within or around the dwelling on the premises.

Kitchen. "Kitchen" is a room or an area equipped for preparing and cooking food.

Lease, Leased, or Let. "Lease, Leased, or Let" is to give the use of a dwelling, dwelling unit or rooming unit by an owner or manager to a tenant in return for rent.

License Period, Year One. The first year of the three-year rental license period, starting in 2013 and occurring every three years thereafter. *(Amended by Ord. 222, 8/16/10)*

License Period, Year Three. The third year of the three-year rental license period. *(Amended by Ord. 222, 8/16/10)*

Manager. "Manager" is a person or firm who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

Mechanical Code. "Mechanical Code" is the Minnesota State Mechanical Code.

Nuisance. The following shall be defined as nuisances:

- A. Any public nuisance as defined in Chapter 6 of the City Code.
- B. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
- C. Whatever is dangerous to human life or is detrimental to health, as determined by the code official or health officer.
- D. **Overcrowding a room with occupants.**
- E. Insufficient ventilation or illumination.
- F. Inadequate or unsanitary sewage or plumbing facilities.
- G. Un-cleanliness, as determined by the health officer.
- H. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

Occupancy. "Occupancy" is the purpose for which a building or portion thereof is utilized or occupied.

Occupant. "Occupant" is a person living alone, or two or more persons all related by blood, marriage or adoption, including foster children, occupying and maintaining a common household in a single dwelling unit, or a group of not more than 5 persons, any 2 of whom are not related by blood, marriage or adoption, including foster children, occupying and maintaining a common household in a single dwelling unit.

Owner. "Owner" is a person, firm or corporation who, alone, jointly or severally with others, owns or has an ownership interest in a dwelling, dwelling unit or rooming unit within the city.

Plumbing Code. "Plumbing Code" is the State of Minnesota Plumbing Code.

Premises. "Premises" are the dwelling and its land and all buildings thereon and areas thereof.

Refuse. "Refuse" is all putrescible and non-putrescible waste solids including garbage and rubbish. Refuse is liable to undergo bacterial decomposition when in contact with air and moisture at normal temperatures.

Rent. "Rent" is a stated return or payment for the temporary possession of a dwelling, dwelling unit or rooming unit. The return or payment may be money or service or property.

Safety. "Safety" is the condition of being reasonably free from danger and hazards, which may cause injury or illness.

Substandard Building. "Substandard Building" means any rental dwelling or portion thereof that is not safe due to inadequate maintenance, dilapidation, physical damage, unsanitary condition, abandonment or any other reason.

Substandard Property Condition Citation. "Substandard Property Condition Citation" shall be issued in the event of a 'Substandard Building' and shall, upon posting of the citation, prohibit the occupancy of the building or unit until such time as corrections are made and verified by inspection. *(Amended by Ord. 184, 7/10/2006)*

Tenant. "Tenant" can be a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Variance. "Variance" is a difference between that which is required or specified and that, which is permitted. (Amended by Ord. 161, 9/27/04)

350.03 Rental Housing License.

Subd. 1 License Required. No person may operate, let, or cause to be let, a rental dwelling unit without first having obtained a rental housing license from the City as hereinafter provided. Further, no owner or manager shall allow the occupancy of a rental dwelling unit by a tenant after the expiration of the rental housing license for the rental dwelling in which the rental dwelling unit is located unless the license has been properly renewed. (Amended by Ord. 222, 8/16/10)

- A. **Temporary License.** The code official may issue a temporary rental housing license not exceeding 3 months in duration in order to bring the unit into compliance with this ordinance. (Amended by Ord. 161, 9/27/04)
- B. **Licensing Period.** The licensing period shall encompass three calendar years. (Amended by Ord. 222, 8/16/10)

Subd. 2 Application contents. Owners of one or more rental dwelling units who have not yet received a license are responsible for applying to the City for a license. With the application the owner must supply the following information:

- A. Name, address, and telephone number of dwelling owner, owning partners if a partnership, or corporate officers if a corporation;
- B. Name, address, and telephone number of designated resident agent, if applicable;
- C. Legal address of the dwelling;
- D. Number of dwelling units with the dwelling;
- E. At least one emergency telephone number;
- F. The names, telephone numbers and addresses of principal tenants (Amended by Ord. 222, 8/16/10)

Subd. 3 Fees.

- A. **Inspection Fee.** A Rental Housing License-inspection fee shall be established by the City Council. (Amended by Ord. 161, 9/27/04)
- B. **Additional Fees.** The City shall have the right, and just cause, to bill or to assess owner for additional costs associated with:
 - 1. Required additional follow up Rental Inspections, beyond the prescribed number allowed, for a single Rental Inspection cycle.
 - 2. Failure of the responsible party to appear for a scheduled inspection without prior notification of the inspector.
 - 3. After hours, weekend or holiday inspections. (Amended by Ord. 184, 7/10/2006)
 - 4. Complaint Inspections (Amended by Ord. 222, 8/16/10)

Subd. 4 Rental Dwelling Inspections. No license may be issued or renewed unless the City determines, following an inspection conducted pursuant to this section, that rental dwelling unit(s) conform to the provisions of this Section 350. As more specifically provided below, the code official and his or her agents may cause inspections, follow-up inspections, and reinspections on rental dwelling units within the city on a scheduled basis, and on rental dwelling units when reason exists to believe that a violation of an applicable subdivision of this Section 350 exists, has been, or is being committed. (Amended by Ord. 222, 8/16/10)

- A. **Consent.** The code official and his or her agents are authorized to contact owners, tenants and/or managers of rental dwellings to schedule inspections of rental dwellings at reasonable times. If the City is unsuccessful in securing consent for an inspection pursuant to this Section 350, the City shall seek permission, from a judicial officer through an administrative warrant, for its enforcement officer or his or her agents to conduct an inspection. Nothing in this Section shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant. (Amended by Ord. 222, 8/16/10)

B. Inspections Not Required. Inspection for the issuance or renewal of a license may be waived by the City if the owner of a dwelling unit:

1. Proves that within the previous 12 months the dwelling unit(s) passed an inspection required by the County, State, or Federal regulations that is at least as stringent as the inspection required under this Section 350.
2. Has, within the 12 months preceding the licensing period deadline as defined in Subd. 6 below, applied for and received a rental dwelling license from the city. *(Amended by Ord. 222, 8/16/10)*

Subd. 5 Issuance. The code official shall issue a rental housing license for each dwelling, dwelling unit or rooming unit, when upon inspection finds such unit meets or exceeds the minimum requirements set forth by this ordinance; also a rental housing license shall be issued for each dwelling, dwelling unit or rooming unit, when a variance has been granted by the Board of Appeals, pursuant to Section 350.06 of this Chapter; provided, however, it is found that no condition exists, in a shared or public area of the building or in any other part of the unit, which could endanger the health or safety of the occupants of such unit or of the public. Such license shall show the number of occupants for which the dwelling, dwelling unit or rooming unit is approved for and once issued shall remain valid until it expires or such time as the code official or housing inspector determines that the dwelling, dwelling unit or rooming unit does not meet the minimum requirements set by this ordinance. *(Amended by Ord. 161, 9/27/04)*

Subd. 6 Licensing period Deadline. The licensing period deadline shall be January 1 of the Year-One License Period. All properties required to be licensed by this Ordinance shall have applied for licensing with the City Office, shall have paid the required fee or fees, and shall have satisfactorily completed the required Rental Housing Inspection by the deadline date. Failure to comply with this section may result in fines and/or denial of a Rental Housing License for the property in violation. *(Amended by Ord. 184, 7/10/2006)*

Subd. 7 Renewals. A rental housing license shall expire December 31 of the Year-Three License Period. Reinspection of all dwellings, dwelling units or rooming units shall be required prior to issuance of a new certificate, pursuant to Subd. 4 above. In order to allow sufficient time to complete the renewal process, applications for licenses shall be made in writing on forms provided by the City and accompanied by the required fee at least sixty (60) days prior to the licensing period deadline. *(Amended by Ord. 222, 8/16/10)*

Subd. 8 License and Inspection Report Posting. Every registrant of a rental dwelling shall post the license issued by the City. The license shall be conspicuously posted (in a frame with a glass covering) by the registrant, in a public corridor, hallway, or lobby of the rental dwelling for which they are issued. In addition to posting the license, the owner shall post the inspection report completed for the license renewal or any complaint inspection next to the posting of the rental license for a period of 30-days after receipt of the license.

Subd. 9 Transfer of Rental Property. A license is not transferable to another person or to another rental dwelling. Every person holding a license must give notice in writing to the city within 72 hours after having legally transferred or otherwise disposed of the legal control of any rental dwelling. The notice must include the name and address of the person(s) succeeding to the ownership or control of such rental dwelling(s). The person succeeding to the ownership or control of the rental dwelling(s) must obtain a temporary permit or operating license in order to continue operating the rental dwelling(s). An inspection is not required to obtain this temporary permit or license unless the rental dwelling(s) have not been inspected within two years of the transfer of ownership or control. *(Amended by Ord. 222, 8/16/10)*

Subd. 10 Revocation. A Rental Housing License may be suspended or revoked as prescribed in this ordinance.

- A. A rental housing license may be suspended or revoked by the City Council if the City Council finds that the provisions of this ordinance have been violated in regard to the rental dwelling for which the license was issued. Before any suspension or revocation occurs, the City shall send written notice to the license holder specifying the ordinance violations alleged. This notice shall also specify the date for a hearing before the Board of Appeals, which shall not be less than ten (10) days from the date of the notice.
- B. At such hearing before the Board of Appeals, the license holder or their attorneys may submit and present witnesses on their behalf.
- C. After a hearing, the City Council shall act upon the Board of Appeals recommendation at the next available meeting and may suspend or revoke the license if the Council deems it necessary to protect public health, safety or general welfare. *(Amended by Ord. 222, 8/16/10)*

350.04 Requirements.

Subd. 1. Substandard Buildings. No substandard buildings are allowed.

Subd. 2. Condition. No owner or manager shall allow infestation if extermination is not the tenant's responsibility by law.

Subd. 3. Improper Occupancy. No rental dwelling shall be used in manner inconsistent with its design or construction.

Subd. 4. Smoke Detectors. No smoke detector installed in a rental dwelling shall be allowed to remain disabled or nonfunctional. The tenant of a rental dwelling shall notify the owner or manager within 24 hours of discovering that a detector is disabled or not functioning. The owner or manager shall take immediate action to render the smoke detector operational or replace it.

Subd. 5. Carbon Monoxide Alarms. Each rental dwelling shall have an approved and operational carbon monoxide alarm installed with ten feet of each room used for sleeping purposes as required by Minnesota Statutes §§ 299F.50 and 51, as amended, unless an exception listed in Section 299F.51, Subd. 5, applies.

Subd. 6. Refuse. Each rental dwelling shall have an adequate number of refuse containers to hold the amount of refuse produced by the occupants of the rental dwelling or as required elsewhere by the Waconia Code. Containers shall be rodent and animal proof plastic, fiberglass or rust resistant metal with a tight fitting cover. Tenants shall properly dispose of their recyclables, rubbish, garbage and other organic waste.

Subd. 7. Nuisance. No rental dwelling premise shall be kept in any state which creates a nuisance.

Subd. 8. Storage of Items. Large amounts of combustible items and materials shall not be stored in attics, basements, common areas, or any other underutilized areas of a rental dwelling. Storage shall be maintained two (2) feet or more below ceilings and floor joists. Combustible materials and items shall not be stored within one (1) foot of any fuel burning appliances. Storage of items shall be orderly and shall not block or obstruct exits. **A minimum three (3) foot wide aisle shall be maintained to all exits, furnaces, water heaters, water meters, gas meters or other equipment serving the rental dwelling.**

Subd. 9. Fuel Storage. LP tanks shall only be stored outdoors.

Subd. 10. Fueled Equipment. Fueled equipment including, but not limited to, motorcycles, mopeds, lawncare equipment and portable cooking equipment shall only be stored outdoors or in the garage of a rental dwelling.

Subd. 11. Barbecues and Open Flames. No person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, on any roof, or on any ground floor patio within 15 feet of any structure. Further, no person shall store or use any fuel, barbecue, torch, or similar heating or lighting chemicals or device in such locations.

Subd. 12. Sidewalks and Driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas on a premises shall be kept in a proper state of repair and maintained free from hazardous conditions.

Subd. 13. Defacement of Property. If a rental dwelling is defaced by graffiti, it shall promptly be removed.

350.05 Enforcement.

Subd. 1 Authority. The building official is hereby authorized and directed to enforce or cause the enforcement of all of the provisions of this ordinance. For such purposes, the building official or his/her designated representative shall have the powers of a code official. The code official shall have the power to render interpretations of this ordinance. Such interpretations shall be in conformity with the intent and purpose of this ordinance. *(Amended by Ord. 161, 9/27/04)*

Subd. 2 Responsibilities Defined. Property owners remain liable for violations of duties imposed by this ordinance even if the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this ordinance. *(Amended by Ord. 222, 8/16/10)*

- A. Buildings and structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be re-inspected.
- B. Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean,

sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.

- C. Owners shall, when required by this ordinance, health laws or the health officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and when infestation has taken place, shall be responsible for any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling. *(Amended by Ord 161, 9/27/04)*

Subd. 3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this ordinance, or when the code official has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation of this ordinance, the code official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this ordinance, provided that if such building or premises are occupied that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry, pursuant to Section 350.04, Subd. 4.A. of this Chapter. *(Amended by Ord.161, 9/27/04)*

Subd. 4 Complaint Inspections. When the code official or a health officer has reasonable cause to believe that a condition exists in regards to a rental dwelling or premises that violates this ordinance including, but not limited to, a written tenant complaint made in good faith, the code official or health officer may enter the rental dwelling to inspect, re-inspect, or otherwise perform the duties imposed by this ordinance. No such entry shall be made, however, until: i) the owner, manager or tenant permits entry; ii) the code official or health officer secures an administrative warrant from a court with jurisdiction; or iii) an emergency exists.

Subd. 5 Compliance Order. Upon completion of a complaint inspection and finding of a violation(s), the code official shall prepare a compliance order, listing all violations and the date or dates when such violations shall be corrected. The property owner shall have the responsibility to correct such alleged violations and have them re-inspected and verified by the Code Official for compliance with this Ordinance within the time period as set forth:

- A. Smoke Detector Violations. Corrections must be completed immediately and re-inspected within three (3) working days.
- B. All Other Violations. Preparations for the actual work for correcting the alleged violations shall be commenced immediately and work re-inspected within twenty-five (25) working days OR within the time period as specified by the Code Official.
- C. Follow-Up Inspection. Upon completion of the second follow up inspection:
1. If the infraction(s) have been satisfactorily addressed or corrected the City will, at its discretion, levy a reinspection fee to cover the cost of the second follow up inspection. The fee will be set by the City Council.
 2. If the infractions remain, the following penalties shall be imposed upon the property owner(s) if the alleged violations are not corrected and verified by the Code Official within the time period allowed by this Ordinance:
 - a. A \$50.00 fine.
 - b. The assessment of \$5.00 per day, each and every day thereafter until a satisfactory follow up inspection is conducted.
 3. The \$50.00 fine and subsequent \$5.00 per day assessment must be paid in full to the city within 14 days of the satisfactory follow up inspection or, pursuant to Section 350.04 Subd 10, the City of Norwood Young America shall have the right and just cause to revoke or deny licensing the property as Rental Housing Property.
 4. The property owner or agent shall be notified in writing of Section 350.06, indicating his or her right of appeal. *(Amended by Ord.184, 7/10/2006)*
- D. Extensions. Extensions may be granted by the Code Official. The request shall be made in writing and justifiable cause must be demonstrated for the requested extension. All requests shall be made and delivered to the Code Official prior to the expiration date of the violation or violations.

Subd. 6 Substandard Property Condition.

- A. When, during the course of a Rental Housing Inspection or complaint investigation, the code official encounters or observes a condition or conditions that are considered dangerous to life, safety, health, or the welfare of the occupants, the inspector shall, if the situation warrants, issue a Substandard Property Condition Citation.
- B. Prior to, or immediately after, the issuance of the Substandard Property Condition Citation, the code official will be required to notify the City of the posting and the reason for the posting.
- C. The code official shall have the authority to require immediate evacuation of the premises in the event of immediate danger to life or safety.
- D. The removal or defacing of, or tampering with, a Substandard Property Condition Citation posting shall be punishable as a criminal offense and subject to the provisions of State Statutes regulating misdemeanors and as outlined in this ordinance.
- E. The Property shall remain unoccupied until such time as the condition is, or conditions are, corrected and satisfactorily reinspected. *(Amended by Ord. 184, 7/10/2006)*

Subd. 7 Substandard Buildings. Buildings or portions thereof that are determined to be substandard as defined in this ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal, pursuant to Chapter 6, Nuisances, of the Norwood Young America City Code.

Subd. 8 Notice to Vacate. The code official shall have the authority to issue a NOTICE TO VACATE order on any building that is, in the opinion of the code official and as defined in this ordinance, deemed substandard. *(Amended by Ord. 161, 9/27/04)*

350.06 Appeals.

Subd. 1 Appeal. Any person may appeal from any notice and order or any action of the code official under this ordinance by filing an appeal to the City Administrator. A written appeal to the City a brief statement in ordinary and concise language of that specific order or action protested, together with any material facts claimed to support the contentions of the appellant. *(Amended by Ord. 161, 9/27/04)*

Subd. 2 Time Allotted for Appeal. The appeal shall be filed within 10 days or within the time of correction as allowed by the code official, whichever is shorter, from the date of the service of such order or action of the code official. *(Amended by Ord. 161, 9/27/04)*

Subd. 3 Scheduling and Noticing Appeal for Hearing. In the event that an appeal is filed with the City Administrator, the Board of Appeals shall fix a date for a hearing, which shall be held within ten (10) business days from the date the appeal is filed. *(Amended by Ord. 222, 8/16/10)*

Subd. 4 Notice. The City Administrator shall mail a notice of the date, time, place and subject of the hearing to the owner, occupant(s) and any other known responsible parties. *(Amended by Ord. 222, 8/16/10)*

Subd. 5 Orders after an Appeal. Following a hearing, any order of the Board of Appeals made pursuant to this ordinance shall be forwarded to the City Council who shall act upon the Board of Appeals recommendation at its next available meeting. The City Council shall issue a decision in writing to the appealing party within 10 days of the hearing. Any fines or penalties imposed must be paid no later than 30 days of the date of the order. The decision of the City Council is final and may only be appealed to the Minnesota Court of Appeals by petitioning for a writ of certiorari pursuant to Minnesota Statute Section 606.01.

350.07 Violation and Penalties.

Subd. 1 Administrative Charge. Failure to obtain a license pursuant to this Section 350 will subject the owner of a dwelling unit to an administrative service charge up to \$250 per unit, plus \$10 per unit per day each and every day thereafter until a license is obtained. *(Amended by Ord. 222, 8/16/10)*

Subd. 2 Violation. Any person that maintains a rental dwelling unit without having either a valid temporary permit or a valid license, or permits new occupancy in violation of this Section 350, is guilty of a misdemeanor, and upon conviction is subject to a fine and imprisonment as prescribed by state law. In addition to, or in lieu of, charging a misdemeanor, the City may impose an administrative fee in an amount set in the City Fee Schedule. An administrative fee may be appealed pursuant to Subsection 350.06 of this Section. Upon the failure to appeal an administrative fee within the period established in Subsection 350.06 of this Section, the City may post the dwelling unit as illegal for habitation. Thereafter, all persons must vacate the premise and the dwelling unit may not be

occupied by anyone other than the primary homestead owner and that person's immediate family until (a) the administrative fee has been paid and (b) a rental license is obtained or the City is satisfied that the dwelling unit will not be used as a rental dwelling unit. Each day of each violation constitutes a separate offense. *(Amended by Ord. 222, 8/16/10)*

Subd. 3 Assessment of Unpaid Fees. Any fees imposed under the authorization of Section 350 shall be paid in full. In the event of non-payment, the City Clerk may certify the entire unpaid amount and any penalty to the County Auditor to levy the charges in the same manner as special assessments against the real estate involved, or the real estate of the person or entity responsible for the fee. *(Amended by Ord. 222, 8/16/10)*

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, 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 compliant, 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.

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