



**Norwood Young America Planning Commission**  
**Tuesday, June 21, 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 – May 17, 2016 meeting
- 4. Public Hearing
  - A. Text Amendment – Definitions: Light and Heavy Industrial
  - B. Hydro Engineering/Waconia Dodge Zoning Ordinance Text Amendment – C-3, Downtown District - Auto repair/service
  - C. Waconia Dodge Zoning Conditional Use Permit
- 5. New Business
  - A. Hydro Engineering/Waconia Dodge Zoning Ordinance Text Amendment – C-3, Downtown District - Auto repair/service
  - B. Waconia Dodge Zoning Conditional Use Permit
  - C. Temporary Health Care Dwellings
- 6. Old Business
  - A. Text Amendment – Definitions: Light and Heavy Industrial
- 7. May Building Permit Report
- 8. Commissioner's Reports
- 9. Adjourn

**UPCOMING EVENTS**

- June 27<sup>th</sup> 6:30 p.m. – City Council Meeting
- July 11<sup>th</sup> 6:30 p.m. – City Council Meeting
- July 19<sup>th</sup> 7:00 p.m. – Planning Commission Regular Meeting
- July 19<sup>th</sup> 5:30 p.m. – Parks & Recreation Commission Meeting

***Norwood Young America  
Planning Commission Minutes  
May 17, 2016***

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

**Absent:** Mark Lagergren.

**Public:** Patrick Wier and James Strommen TruNorth Solar and Brian Corlett Central School District Superintendent.

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

**1. Call to Order**

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

**2. Adoption of Agenda**

Chairperson Heher introduced the agenda.

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

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

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

*Motion* – Storms to approve April 19, 2016 meeting minutes. Second by Hoernemann. With all in favor the minutes were approved 5-0.

**4. Public Hearings.**

A. Central School District – Lot Width Variance.

Chairperson Heher opened the public hearing at 7:03 p.m. Strack provided an overview of the request.

Central School District proposes a variance to the required lot width within the C-2 General Commercial District. The required width is 200' the proposed width in 121.31 feet.

Strack referenced the certificate of survey included in the packet and noted if granted the variance would allow the District to split off the subject parcel from the remainder of the school property.

The Commission clarified the exact intended boundary for the split. Strack's reference map on page one of the memo was not precise and the exact dimensions were noted on the survey.

Central Schools Superintendent Brian Corlett presented additional information.

Heher requested public input. Heher confirmed no input oral or written had been received by either Administrator Helget or Consultant Strack.

Motion – Grundahl, second Storms to close the public hearing. Motion carried 5-0.

## **5. New Business.**

### **A. Central School District – Lot Width Variance.**

Heher requested Strack describe sample findings for and against the request. Strack noted the following in favor of the request:

1. The proposed development is consistent with the Comprehensive Plan in terms of future land use and policies relating to commercial development.
2. The existing dwelling is a legal non-conforming use that has been an established property for several decades.
3. The variance is not for the use of the property.
4. The subject property is not an essential component of Central School District service delivery.
5. The lot width variance will allow a lot split and sale of the subject property returning the dwelling to private ownership and thus generating additional tax revenue

Strack noted the following potential findings for denying the variance:

1. The Applicant has created the problem by proposing to split the parcel. A practical difficulty can't exist when the owner of the property creates the difficulty.
2. The required lot width could be achieved if the northern lot line was moved and the existing ballfield relocated.

Heher referenced and reviewed a 'variance checklist' approved for use by the Commission when considering variance issuance.

Heher and the Commission found the proposed resulting lot was in keeping with the nature and character of adjacent local, specifically comparing the lot width of adjacent

parcels with the proposed lot width. The Commission also found it impractical to move the ballfield and/or track to accommodate the required lot width. Furthermore, the Commission noted other lot performance standards were achieved.

Motion – Motion by Grundahl, second by Storms to recommend the City Council approve the lot width variance. Motion carried 5-0.

## **6. Old Business.**

### **A. Accessory Solar Energy Systems.**

Heher introduced the agenda item and asked Strack for an overview.

Strack stated the Commission had been discussing accessory solar systems pursuant to a request from a member of the community and in acknowledgement of previous inquiries.

Strack noted the Commission had achieved consensus on allowing solar as accessory uses in most zoning classifications provided it was limited to roof-top or building integrated systems.

The Commission also discussed potential to curtail placement of solar panels on historic structures and general parameters for solar operations

The Commission specifically requested representatives from a rooftop solar installation company attend a meeting to provide insight and answer questions. Strack introduced Pat Wier and James Strommen from TruNorth Solar.

The TruNorth Solar Representatives presented information on elements of a roof top solar array from photovoltaic panel to DC/AC converter, mounting brackets, and attachment devices. The guests described how typical solar systems function, what ‘net metering’ is, typical residential array size, costs, glare, permit requirements, and projects they’ve worked on locally.

Commissioners asked a wide range of questions and provided comments and insight.

Following the presentation the Commission discussed several criteria for background when preparing ordinance language.

The Commission reached consensus that accessory solar would be limited to roof-top and building integrated systems only. Ground mounted and wall panels would not be allowed.

Solar energy systems could be allowed as permitted accessory uses within all zoning classifications

Building and electrical permits would be required, but a conditional or interim use permit would not be required.

All rooftop panels should be setback one (1) foot from any roof edge, peak, ridgeline, or valley.

Accessory solar energy systems should only be allowed on principal structures, unless orientation of the principal structure or roof dormers render placement of rooftop array on principal structure impractical.

Accessory solar energy systems are limited to one system per lot.

The Commission directed Strack to draft an ordinance for review at the June meeting.

B. Light/Heavy Manufacturing Definitions.

Chairperson Heher introduced the agenda item. Strack stated the Planning Commission held a work session in March to discuss potential uses of an existing industrial/commercial structure. At the previous meeting sample definitions and purpose statements for light and heavy industrial from other communities were reviewed. Strack was directed to draft recommended definitions.

Strack referenced the information included in the packet. She noted the basis of the definitions held 'light industrial' contained potential negative impacts such as noise, glare, odor, visual clutter, and vibration to the parcel on which they were contained, whereas 'heavy' industrial uses had the potential to impact areas beyond where they were located. She noted a list of examples of such uses were included with each definition to add context. In addition she stated the definitions would likely only be consulted after comparing a proposed use to permitted and conditional uses allowed under specific zones.

The Commission viewed the proposed definitions favorably and requested Strack prepare an ordinance amendment for public hearing at the June meeting.

C. Accessory Dwelling Unit Survey Results.

Chairperson Heher introduced the agenda item.

*Motion* – Motion Heher, second Kemp to postpone discussion to a future meeting when the current legislative session was complete.

## **7. Commissioner's Reports**

Hoernemann stated the Haven open house was a tremendous success.

BG thanked staff for preparing the building permit report and asked for information regarding lot boundary line adjustments.

Kemp stated she attended a focus group meeting with SRF Consultants regarding Highway 212. She noted participants discussed safe crossings for pedestrians and bicyclists, traffic lights at Faxon and Reform, and the potential closing of the median at Morse. Helget noted similar discussion with two other focus groups with one having additional discussion regarding Tacoma and 212.

Storms didn't attend the EDC meeting, rather he attended a meeting regarding hosting of state baseball tourney.

Heher noted the Council approved agreement and easements for Vickerman, welcomed Storms Welding into the Dueber's building and finalized an agreement with a new telecommunications provider.

## **8. Adjourn**

Motion – Kemp, seconded by Storms all in favor, the meeting was adjourned at 8:56 p.m.

Respectfully submitted,

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*Steve Helget*  
Zoning Administrator



To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: June 21, 2016

Re: Public Hearing: Text Amendment – Definitions: Light and Heavy Industrial

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**BACKGROUND**

The Planning Commission has created definitions to light industrial and heavy industrial which are proposed to be added to Section 1200.04 of the City Code. The PC is to hold the public hearing and make a recommendation to the City Council regarding the attached Ordinance.

**ACTION**

Public hearing and recommendation.

**CITY OF NORWOOD YOUNG AMERICA  
ORDINANCE NO. [REDACTED]**

**AN ORDINANCE AMENDING SECTION 1200.04 OF THE CITY CODE  
RELATING TO DEFINITIONS OF TERMS**

**I. THE CITY COUNCIL OF THE CITY OF NORWOOD YOUNG AMERICA, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS CHAPTER 12, SECTION 1200.04 OF THE CITY CODE SHALL AMENDED BY ADDING THE FOLLOWING DEFINITIONS:**

Industrial, Light. All uses which include the compounding, processing, packaging, treatment or assembly of products and materials, provided such use will not generate offensive odors, glare, smoke, dust, noise, vibration or other objectionable influences that extend beyond the lot on which the use is located. Uses such as on-site administrative offices, company headquarters, incidental retail sales, wholesale trade, warehousing, mini-storage, assembly, contractor yards, contractor shops, repair services, goods production, truck terminals, distribution facilities, greenhouses/nurseries, data centers, and material processing generally qualify as light industrial.

Industrial, Heavy. The manufacture, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Uses such as bulk storage, outdoor storage of large amounts of raw materials or finished product, agricultural processing, manufacture or fabrication of large, bulky items, and potentially hazardous or explosive product manufacture, production, or distribution generally qualify as heavy industrial.

**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: June 21, 2016

Re: Public Hearing: Text Amendment – Definitions: Light and Heavy Industrial

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### **BACKGROUND**

Hydro Real Estate, LLC and Waconia Dodge have applied for a text amendment to the C-3 Downtown District. The Applicant's request the City consider amending Chapter 1230.10, Subd.(4) by adding subsection (E) allowing auto sales, auto storage, and auto display with or without ancillary auto repair and service. If approved the amendment would allow Waconia Dodge to pursue a conditional use permit to operate an auto storage, sale, and repair facility at 115 Main Street East. The Application and a map of the subject property is attached for your information.

The C-3 Downtown District is located in both the north and south downtowns as illustrated on the attached maps. The C-3 District is intended to serve as the specialized service, retail, employment, and public business district for the community. Auto dealer sales and service are not uncommon in original city downtowns in rural Minnesota. As proposed auto dealer sales, display, and storage would need to be the primary use of the property/structure with subordinate repair and service allowed.

A draft Ordinance is attached. Please note to limit visual intrusion and the nature of the use the following conditions are proposed for contemplated uses:

- i. Sales, display, and storage are limited to new and used passenger automobiles.
- ii. A valid dealership license is maintained.
- iii. Office space devoted to perform transactions in conjunction with the business is provided on site.
- iv. Service and repair, if provided, are clearly secondary and subordinate to the use of the property for auto dealer sales, display, and storage.
- v. Auto service and repair, if provided, shall be conducted indoors and all automobiles undergoing service or repair shall be stored off-street.
- vi. Auto repair shall not include vehicle painting or auto body work.

A public notice has been drafted, published, and posted. The Planning Commission is to hold the public hearing and discuss the proposed amendment. A recommendation to the Council is kindly requested.

### **ACTION**

Public hearing and recommendation.





**CITY OF NORWOOD YOUNG AMERICA  
ORDINANCE NO. [REDACTED]**

**AN ORDINANCE AMENDING SECTION 1230.10 OF THE CITY CODE  
RELATING TO CONDITIONAL USES IN THE  
C-3 DOWNTOWN DISTRICT**

**I. THE CITY COUNCIL OF THE CITY OF NORWOOD YOUNG AMERICA, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH, AND WELFARE, HEREBY ORDAINS CHAPTER 12, SECTION 1230.10 OF THE CITY CODE SHALL AMENDED BY ADDING THE FOLLOWING TO SUBD. 1230.10, SUBD. 4, CONDITIONAL USES IN THE C-3 DOWNTOWN DISTRICT:**

- E. Auto Dealership Sales, Storage, and Display with or without ancillary minor auto repair and service, provided:
  - i. Sales, display, and storage are limited to new and used passenger automobiles.**
  - ii. A valid dealership license is maintained.**
  - iii. Office space devoted to perform transactions in conjunction with the business is provided on site.**
  - iv. Service and repair, if provided, are clearly secondary and subordinate to the use of the property for auto dealer sales, display, and storage.**
  - v. Auto service and repair, if provided, shall be conducted indoors and all automobiles undergoing service or repair shall be stored off-street.**
  - vi. Auto repair shall not include vehicle painting or auto body work.****

**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: June 21, 2016

Re: Public Hearing Conditional Use Permit: 115 Main Street East & 15 2<sup>nd</sup> Ave SE (Waconia Dodge)

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### **BACKGROUND**

Hydro Real Estate, LLC (Property Owner) and Waconia Dodge (Applicant) have applied for a conditional use permit concurrent with filing of a text amendment to the C-3 Downtown District.

If the text amendment is reviewed favorably, the Applicant requests the City consider issuance of a CUP for auto dealer sales, display, and storage with subordinate auto repair and service at 115 East Main Street and 15 2<sup>nd</sup> Ave SE.

As evident in the attached map, the site is nearly fully covered by an existing structure. The Applicant proposes to use the building initially primarily for storage initially with the potential for auto sales in the future. Limited auto repair and service is contemplated as a subordinate use.

### Hearing Requirements

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

### Comments Received

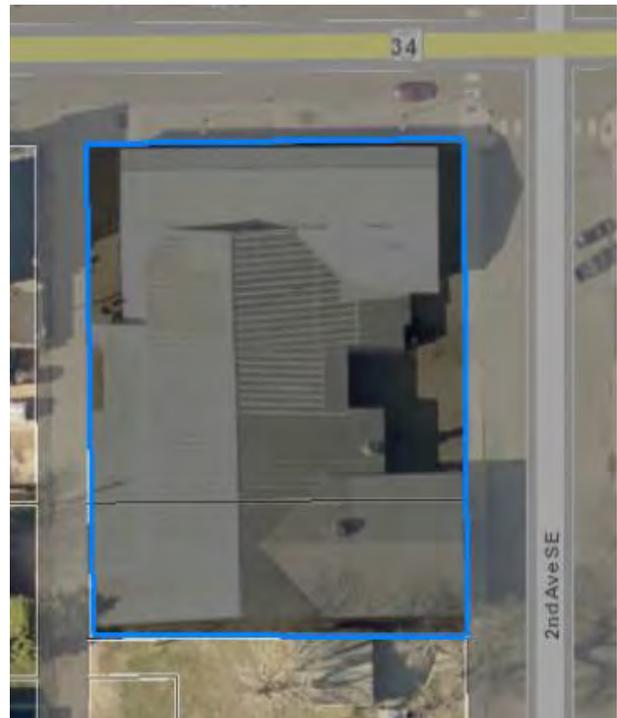
As of the drafting of this memo no comments were received.

### Examination of Code Requirements

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

### General Criteria for Approval of Conditional Use Permits

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



1. The use is consistent with goals, policies and objectives of the Comprehensive Plan. ***DISCUSSION: The 2008 NYA Comprehensive Plan guides the subject area to continued commercial use.***
2. The use is consistent with the intent of this Ordinance. ***DISCUSSION: The intent of the C-3 District is to serve specialized service, retail, employment, and public business to the community. The district is intended to be the focal point for specialty services and receipt of goods. As regulated under Section 1210.06, Subd. 3(B)(6) the use appears to be consistent with the intent of the Code. In the event a concurrent request for text amendment is acted on favorably, any/all standards required for auto sales, display, and storage are hereby incorporated by reference.***
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements. ***DISCUSSION: The proposed use shall occupy and existing structure which is currently served by a full array of urban services. The proposed use will not overly burden existing utilities in terms of volume used/capacity required or type of waste produced.***
4. The use does not have an undue adverse impact on the public health, safety or welfare. ***DISCUSSION: The proposed use will be operated within an existing structure.***
5. The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood. ***DISCUSSION: Adjacent uses are commercial/mixed use in nature. The use as provided for in the City Code appears to blend in with the uses within the general locale.***
6. The use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district. ***DISCUSSION: The subject site lies within a fully developed part of the original townsite and appears to be consistent with adjacent uses.***
7. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided. ***DISCUSSION: The subject parcel is an existing, improved lot with a full complement of urban services provided.***
8. Adequate measures have been or will be taken to provide for vehicular and pedestrian safety and convenience to, from and within the site. ***DISCUSSION: No changes to the structure are proposed. Vehicular and pedestrian circulation patterns are already established.***
9. The use meets all of the performance criteria requirements as established in Section 1245.01 of this chapter. ***DISCUSSION: As a condition of approval, the proposed use shall meet the requirements of Section 1245.01 of the City Code relating to noise, vibration, smoke, particulate matter, odor, and connection to municipal utilities.***
10. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. ***DISCUSSION: Lot area and width minimums and lot coverage maximums do not apply to lots in the C-3 District. The existing structure is lower than the maximum building height. Side and rear setbacks are existing legal non-conforming and the architectural standards and guidelines of Section 1245.03 are not applicable as new construction/expansion is not contemplated. Section 1250.12 of the Code allows the City to decrease the number of parking spaces required for uses within the C, Civic District and the "CBD Central Business District". There is no "CBD Central Business District"***

***within the existing zoning district, however, in every sense of the term the “Downtown District” is analogous to a central business district. To those ends it is presumed the reference to CBD should be a reference to the Downtown District but the reference was not updated when the code was updated in 2009 amounting to a typographical error. As such the ability of the City to decrease required parking spaces is presumed allowed. The Applicant proposes no parking spaces at this time.***

### **Conditions of Approval**

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

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

1. The “Use” is defined as auto sales, display, and storage with ancillary minor repair and service at the subject property. No other use shall be allowed under this Conditional Use Permit. The Use is subject to the following standards:
  - A. Sales, display, and storage are limited to new and used passenger automobiles.
  - B. A valid dealership license is maintained.
  - C. Office space devoted to perform transactions in conjunction with the business is provided on site.
  - D. Service and repair, if provided, are clearly secondary and subordinate to the use of the property for auto dealer sales, display, and storage.
  - E. Auto service and repair, if provided, shall be conducted indoors and all automobiles undergoing service or repair shall be stored off-street.
  - F. Auto repair shall not include vehicle painting or auto body work.
2. No outdoor storage of any kind, including but not limited to garbage, refuse, materials, equipment or machinery shall be permitted.
3. All business vehicles stored at the site shall be accommodated by off-street parking.
4. An office area shall be maintained at the front (street-facing) side of the building to the greatest extent possible.
5. All loading/unloading at the subject site shall occur separate and independent from CSAH 34 right-of-way unless specifically authorized in writing by Carver County Public Works Department.
6. The use shall at all times meet the requirements of Section 1245.01 of the City Code relating to noise, vibration, smoke, particulate matter, odor, and connection to municipal utilities.
7. The Property Owner shall not discharge industrial waste into the sanitary sewer system.
8. Any proposed signage will require the issuance of a sign/building permit.
9. This approval is applicable only to the property at 115 Main Street East and 15 2<sup>nd</sup> Ave SE.
10. This approval shall expire one year after date of approval unless the Applicant has commenced operation of the Use on-site.

11. This permit is subject to all applicable codes, regulations and ordinances, and violation thereof shall be grounds for revocation.
12. The permit shall be subject to annual inspection and audit by the City.
13. The City may revoke the CUP upon violation of the conditional use permit standards in the Zoning Ordinance or violation of the conditions of this resolution, subject to the requirements of Section 1210.06, Subd. 5 "Revocation of Conditional Use Permits" of the Zoning Ordinance.
14. The conditional use permitted under this Resolution shall be revoked if the Use ceases for more than 12 consecutive months.

**ACTION**

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



To: Chairperson Heher  
Members of the Planning Commission  
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: June 21, 2016

Re: Discussion: Temporary Health Care Dwellings

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### **BACKGROUND**

In May Governor Dayton signed into law a bill regarding temporary family health care dwellings. The law is attached to this memo and becomes effective September 1, 2016 unless the City approves an Ordinance opting out of the law. If an Ordinance opting out is approved prior to September 1<sup>st</sup> the law will not apply to NYA. Opting out of the law doesn't preclude the City from approving an ordinance allowing accessory dwelling units.

Under the law, RV's, manufactured homes, tiny houses, converted detached garages, etc. would meet the definition of a 'temporary family health care dwelling'. Under the law such dwellings must be allowed provided certain measures are attained. Among them, (1) be no more than 300 s.f.in area; (2) **not** be attached to a permanent foundation; and (3) provide for sanitary provisions (water, sewer, electric) under which porta-pottys are allowed.

The language, as drafted, is concerning. Specific concerns with law include: (1) lack of opportunity for adjacent property owners to comment on the ADU, (2) potential for 'temporary' to morph into semi-permanent with separate individual family members succumbing to illness/injury and/or chronic and reoccurring instances of illness/injury, (3) constitutionality of the limited definition of 'relative' included in the law, (4) aesthetic concerns, (5) life safety concerns of dwelling unit occupants during adverse weather conditions, (6) adequacy of sanitation services, (7) oversight and staff time required to comply with, document, and follow up on temporary ADU, and (8) limited time allowance for review (i.e. 15 days).

Discussion of the law and potential to opt out is kindly requested. Also attached please find information from the League of Minnesota Cities, including a sample Ordinance opting out of the new law.

### **ACTION**

Discussion is kindly requested.

# Temporary Dwelling Legislation Becomes Law

**Cities may opt out of permitting temporary family dwellings, but they must pass an ordinance to do so.**  
(Published May 16, 2016)

A bill creating a new process for local governments to permit certain types of recreational vehicles as temporary family dwellings was signed into law by Gov. Dayton on May 12. Chapter 111 (*Link to: <https://www.revisor.mn.gov/laws/?year=2016&type=0&doctype=Chapter&id=111>*) (SF 2555, Sen. John Hoffman (*Link to: [http://www.senate.mn/members/member\\_bio.php?mem\\_id=1205](http://www.senate.mn/members/member_bio.php?mem_id=1205)*), DFL-Champlain, and Rep. Roz Peterson (*Link to: <http://www.house.leg.state.mn.us/members/members.asp?id=15442>*), R-Burnsville) previously passed the House floor on a vote of 113-17.

## **Purpose of the law**

The main stated motivation behind the new law is to provide transitional housing for seniors. For example, if a family wanted to keep a close eye on grandma while she recuperates from surgery, they could have grandma stay in a temporary family health care dwelling in the yard or driveway.

The law has a broader effect than that, however, with anyone who needs assistance with two or more “instrumental activities of daily life” for mental or physical reasons eligible to be housed in this manner.

## **Summary of changes**

The League worked extensively with the authors and proponents and with other local government organizations throughout the legislative process to craft a law that is manageable for cities and counties.

Local governments may opt out of this program if they determine that this type of expedited land use permitting for temporary dwellings is not well-suited to their community. Many communities have communicated that property owners in their jurisdiction have adequate access to a permit for this type of use through existing local land use controls and permitting authority.

## **Cities must pass ordinance to opt out**

To be clear, unless a city chooses not to participate in this program by passing an ordinance specifically opting out, the law will require the city to issue permits to qualified applicants starting on Sept. 1, 2016. A permit can be denied for appropriate cause. The law lists the information required and the requirements that may be considered in that decision.

The final act has the following key components:

Creates a new type of permit referred to as a temporary dwelling permit that has a six-month duration, with an option to extend the permit for six months.

Requires that the permit be for a property where the caregiver or relative resides.

Allows modular and manufactured housing (instead of just recreational vehicles) to use this permit process as long as the unit meets all of the listed criteria.

Lists the criteria for the structure and the information required in the permit application.

Addresses sewer safety issues with required backflow valves and advance verification of septic service contracts.

Requires the inclusion of site maps showing where the unit will be placed and notification of adjacent neighbors prior to application.

Requires applications to specify the individual authorized to live in the unit.

Applies the permit approval process found in Minnesota Statutes, section 15.99 (*Link to: <https://www.revisor.mn.gov/statutes/?id=15.99>*), but allows the local government unit only 15 days to make a decision on granting the permit (no extension). It waives the public hearing requirement and allows the clock to be restarted if an application is deemed incomplete, as long as the applicant is notified of how the application is incomplete within

five days. A 30-day decision is allowed if the regular council meeting occurs only once a month.

Requires unit placement to meet existing stormwater, shoreland, setback, and easement requirements. A permit exempts the units only from accessory unit ordinances and recreational vehicle parking and storage ordinances.

Sets a default permit fee level that may be replaced by a local ordinance.

Allows cities to pass an ordinance opting out of using this new permitting system.

A complete review of the provisions of the new law will be included in the League's *2016 Law Summaries* in June.

Read the current issue of the Cities Bulletin (*Link to: <http://www.lmc.org/page/1/cities-bulletin-newsletter.jsp>*)

\* By posting you are agreeing to the LMC Comment Policy (*Link to: <http://www.lmc.org/page/1/comment-policy.jsp>*) .

4 Comments

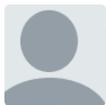
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**Marshall** · 14 days ago

Does the League have an ordinance drafted that Cities could adopt to opt out of this legislation?

^ | ▾ · Reply · Share >



**LMC\_Staff\_LZ** Mod → Marshall · 14 days ago

Thanks for your question. The Governor just signed the bill into law on May 12, so we are still working on crafting our guidance for cities on this new statute. A model ordinance to adopt the opt-out is part of the package we are considering. We hope to have information ready soon, since every city in the state will need to decide what to do related to this new land use option by Sept. 1, 2016. Please keep an eye on the Cities Bulletin and the League website for updates and feel free to contact me directly if you have specific questions—my contact info is in the "Your LMC Resource" box on this web page. – Craig Johnson, IGR (League staff)

^ | ▾ · Reply · Share >



**Lisa Bode** · 2 months ago

The summary of the posted revision should note that the bill previously allowed local governments to opt out of allowing these units, but now indicates that a temporary family health care unit cannot be prohibited by local ordinance regulating accessory uses or recreational vehicle parking or storage or any other ordinance. This could mean that the unit, if it met setback requirements, could be on a driveway or a front yard (to be accessible to a septic service management) in a single family home for a year regardless of neighborhood objection or public safety concerns. Who certifies that the physically or mentally impaired person can safely live independently (and in isolation) in this unit?

^ | ▾ · Reply · Share >



**LMC\_Staff\_DC** Mod [Lisa Bode](#) · 2 months ago

I can cover your questions and comments, Lisa.

1 - The opt-out

option continues to be in the bill in Section 2, Subd. 9 and Section 3, Subd. 9 in both the House and Senate versions of the legislation. You may have looked at the bill as it was introduced, which did not allow that.

2 - Your comment about that these units could be placed in a driveway or front lawn if all setback and other safety requirements are met is accurate.

3 - The person is not presumed to be living independently, but to be receiving assistance. They must have a health care provider, primary care network, and caregiver identified in the permit. A doctor, physician's assistant, or nurse practitioner must verify the need for that assistance for a permit application to be complete.

Thanks for posting your thoughts – Craig Johnson, IGR (League staff)

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## Your LMC Resource

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### Contact Craig Johnson

IGR Representative

(651) 281-1259 or (800) 925-1122

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