



## CITY COUNCIL AGENDA

September 28, 2015

6:30 PM

City of Norwood Young America,  
310 West Elm Street, PO Box 59, NYA MN 55368  
(952) 467-1800

### 1. Call Meeting of Economic Development Authority to Order

1.1 Pledge of Allegiance

### 2. Oath of Office

### 3. Approve Agenda

3.1 Approve minutes of September 14, 2015 meeting

### 4. Adjournment

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### 1. Call Meeting of City Council to Order

### 2. Approve Agenda

3. Introductions, Presentations, Proclamations, Awards, and Public Comment (Individuals may address the City Council about any non-agenda item of concern. Speakers must state their name, address, and limit their remarks to three minutes. The City Council will not take official action on these items, but may refer the matter to staff for a future report or direct that the matter be scheduled for a future meeting agenda.)

2016 Prosecution Contract - Mark Metz, Carver County Attorney

4. Consent Agenda (NOTE TO THE PUBLIC: All those items listed as part of the Consent Agenda will be approved by a single motion, unless a request to discuss one of those items is made prior to that time. Anyone present at the meeting may request an item to be removed from the consent agenda. Please inform the Council when they approve the agenda for this meeting.)

4.1 Approve minutes of September 14, 2015 meetings

4.2 Approve payment of claims

4.3 Approve temporary intoxicating on-sale liquor license for NYA West Carver Lions Club

4.4 Cancel regular December 28, 2015 EDA and City Council meetings

4.5 2016 Prosecution Contract

### 5. Old Business

5.1 Ordinance No. 264, Nuisances

### 6. New Business

6.1 Ordinance No. 266, CenterPoint Energy Franchise Agreement

6.2 Biermann: Vacation of portion of Progress Street

6.3 Abdo Eick & Meyers Service Agreement

6.4 City Clerk-Treasurer Hiring Recommendation

6.5 Schedule 2016 Budget Workshop Meetings

**7. Council Member Reports**

**8. Mayor's Report**

**9. Adjournment**

**\*The following informational items have been included in the Council packet for informational purposes, council review and discussion. No action is required by the City Council:**

**UPCOMING EVENTS**

<b>October 8</b>	<b>Senior Advisory Committee</b>
<b>October 12</b>	<b>City Council – 6:30 p.m.</b>
<b>October 20</b>	<b>Park and Rec Commission – 5:30 p.m.; Planning Commission – 7:00 p.m.</b>
<b>October 26</b>	<b>EDA and City Council – 6:30 p.m.</b>

Norwood Young America Economic Development Authority Meeting Minutes  
September 14, 2015

**Council Present:** Tina Diedrick, Mike McPadden, Dick Stolz, Carol Lagergren.

**Council Absent:** None.

**City Staff Present:** Executive Director Steve Helget, and Cynthia Smith-Strack of Municipal Development Group.

**Also Present:** Bill Grundahl - Planning Commission representative, Craig Heher, Charlie Storms, Karen Hallquist, and Philip Rogosienski.

President Tina Diedrick called the meeting to order at 6:30 p.m.

All in attendance stood for the Pledge of Allegiance.

**Approve Agenda:**

**Motion:** MM/CL, all in favor to approve the agenda.

**Approve minutes of August 24, 2015**

**Motion:** DS/CL all in favor to approve the minutes from the EDA meeting on August 24, 2015.

**Resolution 1503, Special Benefit Tax Levy**

SH stated that in 2006 the EDA authorized the sale of bonds to finance the development of the industrial park. The financing was structured such that EDA could exercise its statutory right to levy property taxes to assist with the annual bond payments. The EDA is authorized to set a special benefit tax in the amount of 0.0185% of the taxable market value in the city. Based on the estimated taxable market value for payable 2016, the EDA could levy up to \$43,753.

**Motion:** DS/CL, all in favor to approve Resolution 1503.

**Adjournment**

**Motion:** CL/MM all in favor to adjourn at 6:33 p.m.

Respectfully Submitted,

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Steve Helget, Executive Director

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President



TO: Honorable Mayor Diedrick and City Council Members

FROM: Steve Helget, City Administrator

DATE: September 28, 2014

SUBJECT: 2016 Prosecution Contract

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Mark Metz, Carver County Attorney, will be present to review the proposed 2016 Prosecution Contract.

## 2016 PROSECUTION CONTRACT

**THIS JOINT POWERS AGREEMENT** is made and entered into between the Carver County Attorney, the Carver County Board of Commissioners, a political subdivision of the State of Minnesota, and the City of Norwood Young America, a municipal corporation organized under the laws of the State of Minnesota, to provide for prosecution of statutory gross misdemeanor, misdemeanor and petty misdemeanor violations, including liquor law violations directly involving establishments, organizations or individuals with liquor licenses or permits issued by the City of Norwood Young America and also to provide for prosecution of municipal traffic and parking ordinance violations.

**WHEREAS**, Minnesota Statutes Section 471.59 authorizes governmental units in the State of Minnesota to enter into agreements by resolution with any other governmental unit to perform on behalf of that unit any service or function which that unit would be authorized to provide for itself; and

**WHEREAS**, Minnesota Statutes Section 484.87, Subdivision 3, provides that statutory gross misdemeanor, misdemeanor, petty misdemeanor violations and municipal ordinance violations in the counties of Anoka, Carver, Dakota, Scott and Washington shall be prosecuted by the attorney of the municipality where the violation is alleged to have occurred and further provides that municipalities may enter into three party agreements with the County Board and the County Attorney to provide for prosecution services for criminal offenses; and

**WHEREAS**, each of the parties hereto desires to enter into this Joint Powers Agreement and has, through the actions of its respective governing bodies, been duly authorized to enter into this Joint Powers Agreement for the purposes hereinafter stated;

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, it is hereby agreed by and between the County of Carver, through the Board of Commissioners, the Carver County Attorney, and the City of Norwood Young America, through its Council, that:

### **1. Enabling Authority.**

Minnesota Statutes Section 471.59 authorizes two or more governmental units to jointly exercise any power common to the contracting parties. Minnesota Statutes Section 484.87, Subdivision 3 authorizes the City of Norwood Young America to enter into an agreement with the County of Carver and the Office of the Carver County Attorney to provide for prosecution services for criminal offenses.

### **2. Purpose**

Provide for prosecution of statutory gross misdemeanor, misdemeanor and petty misdemeanor violations, including liquor law violations directly involving establishments,

organizations or individuals with liquor licenses or permits issued by the City of Norwood Young America and also to provide for prosecution of municipal traffic and parking ordinance violations.

**3. Services.**

The Carver County Attorney's Office shall prosecute statutory gross misdemeanor, misdemeanor, petty misdemeanor violations and any other criminal municipal ordinance violation. The Carver County Attorney shall also prosecute all municipal traffic and parking ordinance violations allegedly occurring within the jurisdiction of the municipality and within Carver County.

**4. Term.**

Prosecution services shall be rendered by the Carver County Attorney's Office commencing January 1, 2016, and extending through December 31, 2016.

**5. Payment for Services.**

In consideration for prosecution services being rendered, the County shall collect one-half (1/2) of all funds allocated pursuant to Minnesota Statute Section 484.90, Subdivision 6(a)(1) (fines that the court administers allocates 100% to the fines to the city or town in which the offense was committed) and one-third (1/3) allocated pursuant to Minnesota Statute Section 484.90, Subdivision 6(a)(2) (fines that the court administers allocates two-thirds to the fines to the city or town in which the offense was committed). An additional surcharge calculated on the percentage of cases and fine revenue in the amount of \$5,166.75 is to be paid by the City of Norwood Young America to the Carver County Attorney's Office in four equal installments by April 15, 2016, July 15, 2016, October 15, 2016 and January 15, 2017.

**6. Ordinances.**

The City shall forward current traffic ordinances to the Carver County Attorney's Office and immediately inform the County Attorney of any changes made during the contract period.

**7. Data.**

All data collected, created, received, maintained or disseminated in any form for any purposes by the activities of this Agreement is governed by the Minnesota Data Practices Act, Minnesota Statute Section 13, or the appropriate Rules of Court and shall only be shared pursuant to laws governing that particular data.

**8. Audit.**

Pursuant to Minnesota Statute Section 16C.05, Subdivision 5, the parties agree that the

State Auditor or any duly authorized representative at that time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc. which are pertinent to the accounting practices and procedures related to this Agreement. All such records shall be maintained for a period of six (6) years from the date of termination of this Agreement.

#### **9. Indemnification.**

Each party shall be liable for its own acts to the extent provided by law and hereby agrees to indemnify, hold harmless and defend the other, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the other, its officers and employee may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the party, its agents, servants or employees, in the execution or performance or failure to adequately perform its obligations pursuant to this Agreement.

It is understood and agreed that liability shall be limited by the provisions of Minnesota Statutes Chapter 466. This Agreement to indemnify and hold harmless does not constitute a waiver by any participant of limitations on liability provided under Minnesota Statutes Section 466.04.

It is further understood that Minnesota 471.59, Subd. 1a applies to this Agreement. To the full extent permitted by law, actions by the parties pursuant to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the parties that they shall be deemed a "single governmental unit" for the purposes of liability, all as set forth in Minnesota Statutes Section 471.59, Subd. 1a(a); provided further that for purposes of that statute, each party to this Agreement expressly declines responsibility for the acts or omissions of the other party.

Each party agrees to promptly notify the other party if it knows or becomes aware of any facts or allegations reasonably giving rise to actual or potential liability, claims, causes of action, judgments, damages, losses, costs or expenses, including attorney's fees, involving or reasonably likely to involve the other party, and arising out of acts or omissions related to this Agreement.

#### **10. Nonwaiver, Severability and Applicable Laws.**

Nothing in this Agreement shall constitute a waiver by the parties of any statute of limitation or exceptions on liability.

If any part of this Agreement is deemed invalid such shall not affect the remainder unless it shall substantially impair the value of the Agreement with respect to either party. The parties agree to substitute for the invalid provision a valid one that most closely approximates the intent of the Agreement.

The laws of the State of Minnesota apply to this Agreement.

**11. Termination.**

This Agreement shall terminate of its own accord without further action taken or notice given by either party at midnight, December 31, 2016.

**12. Merger and Modification.**

It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement and signed by the parties hereto.

**Space Intentionally Left Blank**

**IN WITNESS WHEREOF**, each of the parties has caused this Agreement to be executed by its appropriate officers and with the consent and approval of its appropriate governing bodies.

**CITY OF NORWOOD YOUNG AMERICA**

**IN PRESENCE OF:**

BY: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Administrator

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**COUNTY ATTORNEY**

\_\_\_\_\_  
Mark Metz  
Carver County Attorney

Date: \_\_\_\_\_

**IN PRESENCE OF:**

**COUNTY OF CARVER**

BY: \_\_\_\_\_  
County Administrator

Date: \_\_\_\_\_

# 2016 Prosecution Contract

Carver County Attorney's Office



# Who We Serve

Carver  
Chaska  
Cologne  
Hamburg  
Mayer  
New Germany  
Norwood  
Young  
America  
Victoria  
Waconia  
Watertown



The value and services that cities receive through the prosecution contract with the County Attorney's Office

- We prosecute all cases for the city (felonies, gross misdemeanors, misdemeanors, petty misdemeanors, ordinances violations and juvenile delinquencies)
- Our attorneys are full-time prosecutors specializing exclusively in criminal cases
- We have an experienced on-call attorney available 24 hours a day
- We appear at all bail hearings to advocate for conditions of release, public safety and victim safety

- We provide focused and attentive victim – witness services through our experienced full-time coordinator during the entire court process
- At every hearing our prosecutors are available to meet with offenders or their attorneys who desire to speak about their cases; our mission is to administer justice with thoughtful, individualized and professional attention
- We are centrally located in the courthouse allowing us to maintain close coordination with our law enforcement partners and agencies (social services, probation, jail, administration, etc.)
- We train law enforcement each year on legal issues and best practices

# Determination of Contract Fees

County Attorney Staff Costs	\$202,928
<i>Less Total Fine Revenue paid to Carver County</i>	
<i>Attorney's office in 2014</i>	<i>-116,134</i>
<i>Contract Cost Allocation</i>	<i>- 8,094</i>
Equals Total Surcharge to be paid in 2016	\$ 78,700

Participating cities pay surcharge quarterly per their three year case load average (see chart later in presentation)

## Cases Listed: Adult (PM/MD/GM/GM-DWI)

City	2012	2013	2014	3 Yr Avg	3 Yr Avg %
Carver	84	165	177	142	9.14%
Chaska	820	784	720	775	49.86%
Cologne	23	27	26	25	1.63%
Hamburg	8	8	8	8	0.51%
Mayer	18	25	15	19	1.24%
New Germany	19	8	10	12	0.79%
Norwood Young America	107	103	96	102	6.57%
Victoria	152	127	135	138	8.88%
Waconia	195	241	241	226	14.52%
Watertown	112	89	118	106	6.84%
<b>Totals:</b>	<b>1,538</b>	<b>1,577</b>	<b>1,546</b>	<b>1,554</b>	<b>100.00%</b>

Excludes Charges Pending, Declined Prosecution and Pending Further Investigation Cases

# Contract Rates and Caseload %

	2015 Rate	2016 Rate	3 Yr. Caseload %
Carver	\$ 5,337.00	\$ 7,192.92	9.14%
Chaska	\$41,969.73	\$39,240.25	49.86%
Cologne	\$ 1,486.25	\$ 1,283.24	1.63%
Hamburg	\$ 320.90	\$ 405.23	0.51%
Mayer	\$ 912.02	\$ 979.32	1.24%
New Germany	\$ 692.46	\$ 624.74	0.79%
Norwood Young America	\$ 4,948.54	\$ 5,166.75	6.57%
Victoria	\$ 8,005.49	\$ 6,990.30	8.88%
Waconia	\$10,201.09	\$11,431.00	14.52%
Watertown	\$ 4,762.76	\$ 5,386.25	6.84%
<b>Totals:</b>	<b>\$78,636.24</b>	<b>\$78,700.00</b>	<b>100%</b>

# City of Norwood Young America 2016 Contract Fees

- Fine Revenue portion plus
- Portion of Annual Contract (determined by city case load)  
(billed quarterly)

			Change	Caseload 3 Year Average	Caseload 3 Year Average	Change
City	2015	2016	Prev.Yr.	Previous	Current	%
Norwood Young America	\$4,958.54	\$5,166.75	\$208.21	6.29%	6.57%	0.28%

# Our Office Serving Carver County

Mark Metz, County  
Attorney

Peter Ivy, Chief Deputy

Rhonda Betcher,  
Executive Assistant

15 Assistant County  
Attorneys

3 Paralegals

2 Law Clerks

John Rekow, Law Office  
Manager

7 Legal Administrative  
Assistants

1 Administrative  
Assistant

1 Victim/Witness  
Coordinator



**Norwood Young America  
City Council Minutes  
Special Meeting  
September 14, 2015**

**City Council Members Present:** Tina Diedrick, Dick Stolz, Carol Lagergren, and Mike McPadden.

**City Council Members Absent:** None.

**City Staff Present:** Steve Helget, City Administrator.

**Others Present:** Karen Hallquist, Craig Heher, Charlie Storms, and Bill Grundahl.

Mayor Tina Diedrick called the special meeting to order at 5:45 p.m.

**Approve Agenda**

**Motion:** DS/CL; all in favor to approve the agenda as presented.

**Introductions, Presentations, Proclamations, Awards, and Public Comment:**

None

**Consent Agenda**

None

**Old Business**

**City Council Vacancy**

The Council interviewed Charlie Storms, Karen Hallquist, and Craig Heher for the vacant City Council seat. Following the interviews the Council took a silent ballot vote and the votes tallied as:

Craig Heher	2
Charlie Storms	1
Karen Hallquist	1

**New Business**

None

**Council Member Reports**

None

**Adjournment**

**Motion:** MM/DS; all in favor to adjourn the meeting at 6:13 p.m.

Respectfully Submitted,

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Steve Helget, City Administrator

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Tina Diedrick, Mayor

## Norwood Young America City Council Minutes

September 14, 2015

**Council Present:** Tina Diedrick, Carol Lagergren, Dick Stolz, and Mike McPadden,.

**Council Absent:** None.

**City Staff Present:** City Administrator Steve Helget, and Cynthia Smith-Strack of Municipal Development Group.

**Also Present:** Bill Grundahl - Planning Commission representative, Craig Heher, Charlie Storms, Karen Hallquist, Philip Rogosienski, Dr. Kevin Sipprell, Mr. and Mrs. Alan Kelzer, and many representatives of the NYA Fire Department.

Mayor Tina Diedrick called the meeting to order at 6:30 p.m.

### **Approve Agenda**

**Motion:** MM/DS; all in favor to approve the agenda.

### **Introductions, Presentations, Proclamations, Awards, and Public Comment:**

Steve Zumberge, Fire Chief, introduced Dr. Kevin Sipprell of Ridgeview Medical Center. Dr. Sipprell reported on a lifesaving incident that members of the NYA Fire Department were involved in earlier this year. Dr. Sipprell expressed his appreciation of the professionalism exhibited by the NYA Fire Department and City's continued support of the Department. Brad Droege, NYA Fire Fighter, reviewed the events that lead to the saving of Mr. Alan Kelzer's life. Mr. and Mrs. Kelzer addressed the Council and audience expressing their sincerest gratitude to the Fire Department.

### **Consent Agenda**

**Motion:** DS/CL; all in favor to approve the consent agenda which consisted of:

Approving minutes of August 24, September 1, and 10, 2015 meetings

Approving payment of claims

Accept Jolene Barthell Resignation

Authorize Hiring Temporary Public Utilities Worker

St. John's Lutheran Church Temporary Street Closing Request

### **Public Hearing**

None

### **Old Business**

#### **Richard Stolz Variance Request**

Cynthia Smith-Strack of Municipal Development Group stated that Richard Stolz of 308 First Street N.E. has applied for a variance to allow three detached accessory structures with a combined square footage of greater than 1,600 sq. ft. The application was reviewed and it was reported the Planning Commission held a public hearing on the application at their August 18<sup>th</sup> meeting and unanimously recommends approval.

**Motion:** CL/MM; all in favor with Stolz abstaining to approve Resolution No. 2015-18, a resolution approving a variance related to the number and aggregate square footage of accessory structures at 308 First Street N.E.

## New Business

### CUP Accessory Auto Sales/Display

Charles Dueber and Nick Rogosienski have applied for a conditional use permit for the property located at 300 Industrial Boulevard for the purpose of allowing outdoor used auto sales and display as an accessory use. Fifteen parking stalls would be utilized for used auto sales/display and an additional four stalls for employee and customer parking. The proposed accessory use will not occupy any space within the existing principle building except 1,800 sq. ft. of existing office space.

The Planning Commission held a public hearing on the proposed conditional use permit at their August 25<sup>th</sup> special meeting and unanimously recommends approval.

**Motion:** MM/DS; all in favor to approve Resolution No. 2015-19, a resolution approving a conditional use permit to accessory auto sales/display at 300 Industrial Boulevard.

### Resolution 2015-21 - approving 2016 Preliminary Budget; Resolution 2015-20 - approving 2015 Preliminary Property Tax Levy; Schedule Truth In Taxation Public Hearing

SH presented the 2016 Preliminary Budget and proposed Preliminary Property Tax Levy for payable 2016.

**Motion:** DS/CL; all in favor to approve Resolution 2015-20, a resolution adopting a year 2015 preliminary property tax levy for the City of Norwood Young America for collection in 2016.

**Motion:** CL/MM; all in favor to approve Resolution 2015-21, a resolution adopting the 2016 Preliminary General Fund Operating Budget for the City of Norwood Young America.

**Motion:** CL/DS; all in favor to schedule a public hearing for 6:30 p.m. December 14, 2015 for the purpose of considering the Final 2016 General Fund Operating Budget and Final Property Tax Levy for collection in 2016.

### Resolution 2105-22, Special Benefit Levy

**Motion:** DS/CL; all in favor to approve Resolution 2015-22, approving the levy of a Special Benefit Levy pursuant to Minnesota Statutes, Section 469.033, Subdivision 6 by the Norwood Young America Economic Development Authority.

### City Council Vacancy

Mayor Diedrick stated the Council held a special meeting prior to the regular meeting this evening and interviewed three candidates for the vacant City Council seat. The candidates are Charlie Storms, Karen Hallquist, and Craig Heher. An election for this seat will be held at the next general election in November 2016. The individual appointed at this time will serve until December 31, 2016.

**Motion:** CL/MM; all in favor to appoint Craig Heher to the City Council.

**Motion:** CL/DS; all in favor to appoint Craig Heher as the City Council representative on the Parks & Recreation Commission and Planning Commission.

Discussion was held on filling the vacancy on the Planning Commission now created with Craig Heher's appointment to the Council. This is an at-large seat. Mayor Diedrick asked Charlie Storms if he'd be interested in serving on the Commission. Mr. Storms stated he would.

**Motion:** MM/CL; all in favor to appoint Charlie Storms to the Planning Commission.

### Commercial Market Study

The NYA Economic Development Commission has identified the completion of a commercial market study as one of its 2015 goals. Proposals were received from two firms with presentations made by both companies to the EDC. The proposals received are as follows:

Keith Wicks & Associates	\$8,750, plus expenses
Maxfield Research	\$8,000

Possible grant monies were researched and consulting service would qualify for AgStar's Rural Feasibility grant program.

The EDC at their September 9<sup>th</sup> regular meeting unanimously recommended the City Council engage the services of Keith Wicks & Associates for a commercial market study. The EDC felt KWA would provide a more creative approach to addressing the two downtown commercial areas and a document which would be able to be implemented.

DS suggested the dollar amount for expenses be defined in the KWA proposal.

**Motion:** MM/CL; all in favor to accept Keith Wicks & Associates proposal to complete a commercial market study and to direct the city administrator to negotiate a not to exceed amount for the additional expenses and to authorize submittal of the grant application to AgStar.

### Manufacturer's Week Proclamation

Mayor Diedrick read the Proclamation recognizing the week of October 1 through October 19, 2015 as Manufacture's Week in Norwood Young America.

### Council Member Reports

MM: Reported Stiftungsfest went well this year and that 2016 will be a parade year. Representatives of the EDC will be attending a trade show on October 28<sup>th</sup>.

DS: Had no items to report.

CL: Had no items to report.

TD: Reviewed the upcoming meetings and events. Reported the Personnel Committee will be meeting next week to continue its review of the City's Personnel Handbook. The Committee will also be reviewing the Swimming Pool 2015 end-of-season report at a future meeting.

### Adjournment

**Motion:** CL/MM; all in favor to adjourn the meeting at 7:45 p.m.

Respectfully Submitted,

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Steve Helget, City Administrator

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Tina Diedrick, Mayor

**CITY OF NORWOOD YOUNG AMERICA**

**VOUCHER LIST / CLAIMS ROSTER  
and CHECK SEQUENCE**

**To Be Approved: September 28, 2015**

<b>Pre-Paid Claims</b> (Check Sequence #503349-503373)	<b><u>\$39,165.34</u></b>
<b>Claims Pending Payment</b> (Check Sequence #24854-24893)	<b><u>\$45,150.18</u></b>
<b>Grand Total</b>	<b><u>\$84,315.52</u></b>

503349 Klein Bank Summary Check \$20,680.79 31-Aug-15

Check #	Employee #	Employee Name	Check Amount	Check Date
503350	000000067	BARTHEL, JOLENE F.	\$183.05	15-Sep-15
503351	000000088	BRINKMAN, MATTHEW J.	\$508.52	15-Sep-15
503352	000000086	EICHNER, REESE, W.	\$16.62	15-Sep-15
503353	000000091	GOLBERG, KAILEY	\$16.62	15-Sep-15
503354	000000085	HOEN, ROBERT G.	\$499.98	15-Sep-15
503355	000000032	Hormann, Duane	\$520.38	15-Sep-15
503356	000000092	LAGERGREN, BEN	\$16.62	15-Sep-15
503357	000000096	NIESEN, CHRISTOPHER D.	\$1,158.56	15-Sep-15
503358	000000095	ORR, AMBER G	\$58.18	15-Sep-15
503359	000000098	STORM, JENNIFER LYNN	\$599.61	15-Sep-15
503360	000000065	SULLIVAN, RYAN P	\$299.60	15-Sep-15
503361	000000082	WINTER, RYAN P	\$2,122.18	15-Sep-15
503362	000000203	ARETZ, BRENT R	\$2,350.36	15-Sep-15
503363	000000004	LATZKE, BRIANNA M.	\$846.55	15-Sep-15
503364	000000103	LENZ, DEBRA A	\$1,299.06	15-Sep-15
503365	000000118	MENZEL, ALICIA	\$949.46	15-Sep-15
503366	000000006	Noennig, Grant A	\$254.89	15-Sep-15
503367	000000219	SCHRUPP, JOHN O	\$1,291.29	15-Sep-15
503368	000000205	STENDER, DANIEL H	\$1,627.55	15-Sep-15
503369	000000058	Helget, Steven P	\$2,203.31	15-Sep-15
503370	000000060	KLOEMPKEN, JASON A	\$953.83	15-Sep-15
503371	000000089	JOHNSON, MATTHEW	\$453.44	15-Sep-15
503372	000000046	Eichner, Alex	\$254.89	15-Sep-15
503373		Klein Bank Summary Check	<u>\$18,484.55</u>	15-Sep-15

CITY OF NORWOOD YOUNG AMERICA

09/24/15 2:36 PM

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**\*Check Detail Register©**

SEPTEMBER 2015

Check Amt Invoice Comment

**10100 CHECKING**

Paid Chk#	Date	Payee	Check Amt	Invoice	Comment
Paid Chk# 024854	9/28/2015	<b>BOLTON &amp; MENK, INC</b>			
E 601-49400-303		Engineering Fees	\$82.50	182044	WATER
E 101-41500-303		Engineering Fees	\$31.00	182044	COPY PLANS FOR 250 5TH AVE
E 253-49450-303		Engineering Fees	\$317.50	182044	FLOODING
G 101-22100		Escrow Collected	\$98.00	182044	FAMILY DOLLAR
E 101-41500-303		Engineering Fees	\$27.50	182044	MISC ENGINEERING
		<b>Total BOLTON &amp; MENK, INC</b>	<b>\$566.50</b>		

Paid Chk#	Date	Payee	Check Amt	Invoice	Comment
Paid Chk# 024855	9/28/2015	<b>BUSINESS FORMS &amp; ACCOUNTING</b>			
E 101-41400-200		Office Supplies (GENERAL)	\$307.90	050363	LASER CHECKS
		<b>Total BUSINESS FORMS &amp; ACCOUNTING</b>	<b>\$307.90</b>		

Paid Chk#	Date	Payee	Check Amt	Invoice	Comment
Paid Chk# 024855	9/28/2015	<b>CARDMEMBER SERVICE</b>			
E 602-49450-350		Print/Publishing/Postage	\$2.41		SEWER
E 101-43100-210		Operating Supplies (GENERAL)	\$28.76		STREETS
E 101-49305-430		Miscellaneous (GENERAL)	\$33.24		STIFTUNGSFEST
E 601-49400-350		Print/Publishing/Postage	\$2.42		WATER
		<b>Total CARDMEMBER SERVICE</b>	<b>\$66.83</b>		

Paid Chk#	Date	Payee	Check Amt	Invoice	Comment
Paid Chk# 024857	9/28/2015	<b>CARVER COUNTY RECORDER</b>			
E 101-41320-305		Other Professional Fees	\$92.00		STOLZ VARIANCE ROGO CUP
		<b>Total CARVER COUNTY RECORDER</b>	<b>\$92.00</b>		

Paid Chk#	Date	Payee	Check Amt	Invoice	Comment
Paid Chk# 024858	9/28/2015	<b>CARVERLINK-CARVER CO BROADBAND</b>			
E 101-45500-321		Telephone	\$188.39		
E 101-41400-321		Telephone	\$150.71		
E 101-41940-321		Telephone	\$278.17		
E 101-43100-321		Telephone	\$118.31		
E 101-49860-321		Telephone	\$33.75		
E 101-46500-321		Telephone	\$37.68		
E 101-41300-321		Telephone	\$150.70		
E 101-41320-321		Telephone	\$150.71		
E 101-42100-321		Telephone	\$75.35		
E 101-42200-321		Telephone	\$106.62		
		<b>Total CARVERLINK-CARVER CO BROADBAND</b>	<b>\$1,290.39</b>		

Paid Chk#	Date	Payee	Check Amt	Invoice	Comment
Paid Chk# 024859	9/28/2015	<b>CENTER POINT</b>			
E 101-41940-383		Gas Utilities	\$15.00		318 ELM ST
E 601-49400-383		Gas Utilities	\$68.13		104 3RD AVE SE
E 101-45500-383		Gas Utilities	\$21.00		314 ELM
E 101-41940-383		Gas Utilities	\$21.00		310 ELM
E 602-49450-383		Gas Utilities	\$16.12		406 2ND AVE SE
		<b>Total CENTER POINT</b>	<b>\$141.25</b>		

Paid Chk#	Date	Payee	Check Amt	Invoice	Comment
Paid Chk# 024860	9/28/2015	<b>CONNELLY INDUSTRIAL ELECTRONIC</b>			
E 602-49450-223		Repair/Maintenance Bldg/Ground	\$453.60	14334	WWTP CLARIFIER
E 602-49450-223		Repair/Maintenance Bldg/Ground	\$913.08	14335	WWTP FIBER

## CITY OF NORWOOD YOUNG AMERICA

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			Check Amt	Invoice	Comment
<b>otal CONNELLY INDUSTRIAL ELECTRONIC</b>			\$1,366.68		
Paid Chk#	024861	9/28/2015	<b>DELTA DENTAL</b>		
G	101-21714	Dental Insurance	\$884.45		DENTAL INSURANCE
<b>Total DELTA DENTAL</b>			\$884.45		
Paid Chk#	024862	9/28/2015	<b>DPC INDUSTRIES INC</b>		
E	601-49400-216	Chemicals and Chem Products	\$72.00	827001477-15	CHLORINE
E	602-49450-216	Chemicals and Chem Products	\$192.00	827001478-15	CHLORINE
<b>Total DPC INDUSTRIES INC</b>			\$264.00		
Paid Chk#	024863	9/28/2015	<b>EMERGENCY RESPONSE SOLUTIONS</b>		
E	275-42200-541	Public Safety Equip	\$1,668.13	4335	TURN OUT GEAR
<b>otal EMERGENCY RESPONSE SOLUTIONS</b>			\$1,668.13		
Paid Chk#	024864	9/28/2015	<b>FASTENAL</b>		
E	602-49450-221	Repair/Maintenance Equipment	\$59.36	MNWAC42806	
E	601-49400-221	Repair/Maintenance Equipment	\$59.35	MNWAC42806	
<b>Total FASTENAL</b>			\$118.71		
Paid Chk#	024865	9/28/2015	<b>GOPHER STATE ONE-CALL, INC.</b>		
E	601-49400-223	Repair/Maintenance Bldg/Ground	\$27.60	145535	LOCATES
E	602-49450-223	Repair/Maintenance Bldg/Ground	\$27.60	145535	LOCATES
<b>Total GOPHER STATE ONE-CALL, INC.</b>			\$55.20		
Paid Chk#	024866	9/28/2015	<b>GRAINGER</b>		
E	601-49400-221	Repair/Maintenance Equipment	\$51.27	9840667613	DESK TOP
<b>Total GRAINGER</b>			\$51.27		
Paid Chk#	024867	9/28/2015	<b>HACH COMPANY</b>		
E	601-49400-216	Chemicals and Chem Products	\$947.92	9567272	
<b>Total HACH COMPANY</b>			\$947.92		
Paid Chk#	024868	9/28/2015	<b>HEALTH PARTNERS</b>		
G	101-21706	Hospitalization/Medical Ins	\$8,362.27		HEALTH INSURANCE
<b>Total HEALTH PARTNERS</b>			\$8,362.27		
Paid Chk#	024869	9/28/2015	<b>HEAVEN SCENT CLEANING INC</b>		
E	101-49305-430	Miscellaneous (GENERAL)	\$507.66	470950	STIFTUNGSFEST BAGS
<b>Total HEAVEN SCENT CLEANING INC</b>			\$507.66		
Paid Chk#	024870	9/28/2015	<b>HOLIDAY FLEET</b>		
E	101-43100-212	Motor Fuels	\$234.34		FUEL
<b>Total HOLIDAY FLEET</b>			\$234.34		
Paid Chk#	024871	9/28/2015	<b>J.P.COOKE CO</b>		
E	101-42700-210	Operating Supplies (GENERAL)	\$59.44	357166	ANIMAL LICENSE TAGS
<b>Total J.P.COOKE CO</b>			\$59.44		

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			Check Amt	Invoice	Comment
Paid Chk# 024872	9/28/2015	JERRY S TRANSMISSION SERVICE			
E 101-42200-221	Repair/Maintenance Equipment		\$3,586.30	25248	1218 REPAIRS
<b>Total</b>	<b>JERRY S TRANSMISSION SERVICE</b>		<b>\$3,586.30</b>		
Paid Chk# 024873	9/28/2015	LANO EQUIPMENT			
E 101-43100-221	Repair/Maintenance Equipment		\$314.32	11388A	CHECKED ALTERNATOR FUSE
<b>Total</b>	<b>LANO EQUIPMENT</b>		<b>\$314.32</b>		
Paid Chk# 024874	9/28/2015	LENZ, DEBRA			
E 101-41400-331	Travel/Meeting Expense		\$52.61		MILEAGE REIMBURSEMENT
<b>Total</b>	<b>LENZ, DEBRA</b>		<b>\$52.61</b>		
Paid Chk# 024875	9/28/2015	MID-AMERICA BACKFLOW PREVENTER			
E 601-49400-221	Repair/Maintenance Equipment		\$450.00	15321	BACKFLOW TEST RESULTS
<b>Total</b>	<b>MID-AMERICA BACKFLOW PREVENTER</b>		<b>\$450.00</b>		
Paid Chk# 024876	9/28/2015	MINI BIFF			
E 101-45200-418	Other Rentals (Biffs)		\$188.70	A-73170	SPORTS COMPLEX
E 101-45200-418	Other Rentals (Biffs)		\$107.10	A-73171	LEGION PARK
E 101-45200-418	Other Rentals (Biffs)		\$107.10	A-73182	FRIENDSHIP PARK
E 101-45200-418	Other Rentals (Biffs)		\$107.10	A-73289	FRIENDSHIP PARK
E 101-45200-418	Other Rentals (Biffs)		\$81.60	A-73292	WILLKOMMEN PARK
E 101-45200-418	Other Rentals (Biffs)		\$107.10	A-73526	WILLKOMMEN PARK
<b>Total</b>	<b>MINI BIFF</b>		<b>\$698.70</b>		
Paid Chk# 024877	9/28/2015	MINNESOTA VALLEY TESTING LAB			
E 601-49400-217	Lab Fees		\$89.00	773340	COLIFORM
E 602-49450-217	Lab Fees		\$36.20	773737	PHOSPHORUS
E 602-49450-217	Lab Fees		\$36.20	774703	PHOSPHORUS
E 602-49450-217	Lab Fees		\$36.20	775679	PHOSPHORUS
<b>Total</b>	<b>MINNESOTA VALLEY TESTING LAB</b>		<b>\$197.60</b>		
Paid Chk# 024878	9/28/2015	MUNICIPAL DEVELOPMENT GROUP			
E 101-41320-305	Other Professional Fees		\$1,784.40	NYA090815	PLANNING
E 101-46500-305	Other Professional Fees		\$880.25	NYAEDC0908	EDC
<b>Total</b>	<b>MUNICIPAL DEVELOPMENT GROUP</b>		<b>\$2,664.65</b>		
Paid Chk# 024879	9/28/2015	NEC FINANCIAL SERVICES LLC			
E 101-41400-437	Maintenance Contract		\$385.85	1837852	
<b>Total</b>	<b>NEC FINANCIAL SERVICES LLC</b>		<b>\$385.85</b>		
Paid Chk# 024880	9/28/2015	NYA TIMES			
E 101-41110-350	Print/Publishing/Postage		\$15.12	256014	BUDGET WORKSHOP
<b>Total</b>	<b>NYA TIMES</b>		<b>\$15.12</b>		
Paid Chk# 024881	9/28/2015	PRO AUTO & TRANSMISSION REPAIR			
E 101-42200-221	Repair/Maintenance Equipment		\$156.67	50480	PUMP ENGINE REPAIRS
<b>Total</b>	<b>PRO AUTO &amp; TRANSMISSION REPAIR</b>		<b>\$156.67</b>		

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SEPTEMBER 2015

			Check Amt	Invoice	Comment
Paid Chk#	024882	9/28/2015	QUILL CORPORATION		
E 101-41400-200	Office Supplies (GENERAL)		\$151.00	7332959	MONTHLY PLANNER, DESKTOP PADS
	<b>Total</b>	<b>QUILL CORPORATION</b>	<b>\$151.00</b>		
Paid Chk#	024883	9/28/2015	SAFE-FAST, INC		
E 601-49400-221	Repair/Maintenance Equipment		\$66.83	INV158030	TOWER HARNESS
E 602-49450-221	Repair/Maintenance Equipment		\$66.82	INV158030	TOWER HARNESS
	<b>Total</b>	<b>SAFE-FAST, INC</b>	<b>\$133.65</b>		
Paid Chk#	024884	9/28/2015	SCHRUPP, JOHN O.		
E 101-43100-211	Personal Protection Equipment		\$50.00		BOOT REIMBURSEMENT
	<b>Total</b>	<b>SCHRUPP, JOHN O.</b>	<b>\$50.00</b>		
Paid Chk#	024885	9/28/2015	ST. JOHNS LUTHERAN CHURCH		
E 101-45200-432	Rental Refund		\$50.00		PAVILION REIMBURSEMENT
	<b>Total</b>	<b>ST. JOHNS LUTHERAN CHURCH</b>	<b>\$50.00</b>		
Paid Chk#	024886	9/28/2015	STRUCTURED NETWORK SOLUTIONS		
E 602-49450-223	Repair/Maintenance Bldg/Ground		\$7,112.44	18919	FIBER OPTIC INSTALLATION
	<b>Total</b>	<b>STRUCTURED NETWORK SOLUTIONS</b>	<b>\$7,112.44</b>		
Paid Chk#	024887	9/28/2015	SUN LIFE ASSURANCE COMPANY		
G 101-21707	Disability Insurance		\$293.57		SHORT/LONG TERM DISABILITY
	<b>Total</b>	<b>SUN LIFE ASSURANCE COMPANY</b>	<b>\$293.57</b>		
Paid Chk#	024888	9/28/2015	TECHSTAR IT SOLUTIONS		
E 101-41400-437	Maintenance Contract		\$21.25	4783	WEB HOSTING
	<b>Total</b>	<b>TECHSTAR IT SOLUTIONS</b>	<b>\$21.25</b>		
Paid Chk#	024889	9/28/2015	TRAFFIC CONTROL CORP		
E 101-43100-221	Repair/Maintenance Equipment		\$582.00	86341	AMBER LED LIGHTS
	<b>Total</b>	<b>TRAFFIC CONTROL CORP</b>	<b>\$582.00</b>		
Paid Chk#	024890	9/28/2015	US POSTAL SERVICE		
E 101-41400-350	Print/Publishing/Postage		\$225.00		PERMIT #20
	<b>Total</b>	<b>US POSTAL SERVICE</b>	<b>\$225.00</b>		
Paid Chk#	024891	9/28/2015	US POSTAL SERVICE		
E 101-41400-350	Print/Publishing/Postage		\$490.00		1ST CLASS STAMPS
	<b>Total</b>	<b>US POSTAL SERVICE</b>	<b>\$490.00</b>		
Paid Chk#	024892	9/28/2015	XCEL ENERGY		
E 101-45200-381	Electric Utilities		\$44.51		326 REFORM ST
	<b>Total</b>	<b>XCEL ENERGY</b>	<b>\$44.51</b>		
Paid Chk#	024893	9/28/2015	ZIEGLER INC		
E 602-49450-223	Repair/Maintenance Bldg/Ground		\$5,250.00	E97530012	INSTALL NEW IN-LINE
E 601-49400-223	Repair/Maintenance Bldg/Ground		\$5,250.00	E97530012	INSTALL NEW IN-LINE

CITY OF NORWOOD YOUNG AMERICA

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SEPTEMBER 2015

Check Amt Invoice Comment

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Total ZIEGLER INC \$10,500.00

10100 CHECKING \$45,150.18

Fund Summary

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**10100 CHECKING**

101 GENERAL FUND \$21,795.50

253 2014 FLOODING EVENT \$317.50

275 CAPITAL \$1,668.13

601 WATER FUND \$7,167.02

602 SEWER FUND \$14,202.03

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\$45,150.18

# *City of Norwood Young America*

To: Mayor and City Council

From: Debbie Lenz, Deputy Clerk

Date: September 28, 2015

RE: approve temporary liquor license for NYA West Carver Lions Club

---

The NYA West Carver Lions Club is requesting a temporary intoxicating on-sale liquor license. They have scheduled a Harvest Moon Wine Tasting event on October 23, 2015 at the Willkommen Memorial Park Pavilion.

The Council is asked to approve the application pending receipt of certificate of insurance.

Recommendation: a motion approving a temporary intoxicating on-sale liquor license for the NYA West Carver Lions Club contingent on receipt of certificate of insurance.

APPLICATION  
CITY OF NORWOOD YOUNG AMERICA  
Temporary Intoxicating Liquor License

Organization is:  Club  Charity  Religious  Non-Profit  
Name NYA West Carver Lions  
Address PO Box 462  
NYA MN 55368

Incorporated in Minnesota as a Non-Profit or Religious Corporation  
 Yes  
 No  
City, St, Zip \_\_\_\_\_  
Responsible Party Karen Hallquist  
Phone (day) 952-200-8431 (night) \_\_\_\_\_

\$25<sup>00</sup> Fee paid for calendar year on 9/10/15

EVENT Harvest Moon Food + Wine Extravaganza

Dates & Times of Sale Oct 23, 2015 from 5:30pm to 8pm  
(4 Days Maximum)  
\_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_  
\_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_  
\_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_

The exact location of the sales stand or booth will be: Willkommen Park Pavilion

Attached is a copy of the Agreement the Organization has with Good Time Liquor, a holder of an Annual On-Sale Liquor License in Norwood Young America, to sell and dispense liquor at the times and dates stated above.

This location is on City owned property:  
 Yes  
 No

If Yes, organization must provide Certificate of Liability Insurance Coverage, as specified in the City Code, naming the City as an insured during the Event.

The above information is true and correct. I am the individual responsible for Liquor Sales of the Event and will conduct the Event in accordance with State Law and City Ordinances.

Signature [Signature] Date 9/10/15

Request approved by the Council of the City of Norwood Young America at a \_\_\_\_\_ Meeting on \_\_\_\_\_

City Clerk/Treasurer \_\_\_\_\_ Date \_\_\_\_\_

NORWOOD



**CITY OF NORWOOD YOUNG AMERICA  
TEMPORARY LIQUOR LICENSE RULES AND REGULATIONS CHECKLIST**

To receive a temporary liquor license from the City of Norwood Young America, all licensees must agree to the following terms and conditions set forth:

**Temporary Liquor License General Information**

- A club or charitable, religious, or non-profit organization may be issued a temporary on-sale license for the sale of 3.2 percent malt liquor.
- A club or charitable, religious, or other non-profit organization, in existence for at least three years, or a political committee registered under MN Statutes 10A.14, shall qualify for a temporary on-sale intoxicating liquor license in connection with a social event sponsored by the organization.
- Temporary licenses are subject to the terms set by the issuing city.

**Restrictions**

- No applicant shall qualify for a temporary license for more than a total of 12 days in any twelve-month period.
- No person under 18 years of age may serve or sell alcoholic beverages.
- It is unlawful to sell, barter, furnish, or give alcoholic beverages to any person under the age of 21 years.
- Proof of age for purchasing or consuming alcoholic beverages may be established by only one of the following: a valid driver's license or identification card including the photograph and date of birth; a valid military identification card issued by the U.S. Department of Defense; or a valid passport in the case of a foreign national.
- Hours & days of sale: between the hours of 8:00 a.m. until 1:00 a.m. Monday through Saturday; and between 10:00 a.m. Sunday and 1:00 a.m. on Monday.

I have read the above provisions and agree to abide by the rules and regulations set forth by the City of Norwood Young America and the State of Minnesota. I understand that any violations of the rules and regulations or failure to abide by the conditions set forth may result in penalties including, but not limited to, loss of future temporary liquor license privileges.

NYA West Carver Lions  
Organization Name

[Signature]  
Applicant/Officer Signature

9/10/15  
Date

# *City of Norwood Young America*

To: Mayor and City Council

From: Debbie Lenz, Deputy Clerk

Date: September 28, 2015

RE: Authorize cancellation of December 28, 2015 EDA and City Council meeting

---

Over the past number of years we have cancelled the second council meeting in December to include the EDA.

Recommendation: a motion to authorize the cancellation of the December 28, 2015 EDA and City Council meeting.



TO: Honorable Mayor Diedrick and City Council Members

FROM: Steve Helget, City Administrator

DATE: September 28, 2014

SUBJECT: Ordinance No. 264, Nuisances

---

The City Council at its July 13, 2015 regular meeting held a public hearing on Ordinance No. 264 and tabled any action on said ordinance, directing the City Attorney to establish language that would simplify the procedures for smaller nuisances and also include a cost recovery to the City for abating a nuisance. See Section 610.01, Subd 4 and Section 610.02, Subd 1 respectively.

**Suggested Motions:**

**Motion to adopt Ordinance No. 264, an ordinance amending the text of Chapter 6 (Nuisances).**

**Motion to approve the summary of Ordinance No. 264 and its publication.**

CITY OF NORWOOD YOUNG AMERICA  
CARVER COUNTY, MINNESOTA

ORDINANCE NO. 264

AN ORDINANCE AMENDING THE TEXT OF CHAPTER 6 (NUISANCES)

THE CITY COUNCIL OF THE CITY OF NORWOOD YOUNG AMERICA HEREBY ORDAINS:

**SECTION 1. AMENDMENT TO CHAPTER 6.** The text of Chapter 6, Nuisances, of the Norwood Young America City Code is hereby amended as follows:

**Section 600—Blighting Factors**

~~600.01 Causes of Blight.~~ It shall be hereby determined that the uses, structures and activities and causes of blight or blighting factors described in this Section, if allowed to exist, shall tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person, firm or corporation of any kind shall maintain or permit to be maintained any of these causes of blight upon any property in the City owned, leased, rented or occupied by such person, firm or corporation.

~~600.02 Junk, Trash, Rubbish and Refuse.~~ In any area within the City the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as shall not create a nuisance for a period of time as shall be necessary to remove the same by commercial or private removal to an authorized landfill, recycling center or other State approved method of removal, as provided for in Section 320 of this Code, and in no case shall this time exceed thirty (30) days.

The term "junk" shall include but shall not be limited to parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood, decayed, weathered or broken construction materials no longer suitable or safe, approved building materials, metal or any other material or cast off material of any kind whether or not the same could be put to any reasonable use.

~~600.03 Littering and Failure to Remove.~~ No person, firm or corporation shall leave, place, throw or deposit rubbish, garbage, yard wastes or other similar substances or materials in any public place, or in any vacant lot or premises in the City, or refuse to remove the same.

~~600.04 Weeds, Vegetation and Substances.~~ No owner, agent or occupant of any premises shall permit upon his or her premises any weeds or grass growing to a height greater than six (6) inches or which have gone or are about to go to seed, fallen trees, dead trees, tree limbs or items which shall be a fire hazard or otherwise detrimental to the health or appearance of the neighborhood.

~~600.05 Backyard Composting.~~ All composting consisting of yard waste and/or kitchen waste which have been left unattended and which cause offensive odors, attract rodents and/or pests or are unsightly, or do not meet the requirements stated below, are strictly prohibited:

**Subd. 1** Compost must be fully confined within fencing or an enclosed structure no larger than 4 feet high and 250 cubic feet in area.

*The stricken language is deleted; the underlined language is inserted.*

~~Subd. 2~~ Compost shall not be located in the front yard and must be located at least 5 feet from side and rear property lines.

~~Subd. 3~~ Compost materials shall be regularly mixed and shall not include items such as meat, bones, grease, whole eggs, dairy products and feces. — (Amended by Ord. 242, 11/3/13)

#### **600.06 Structures.**

~~Subd. 1 Unfit Structure.~~ In any area the existence of any structure or part of any structure which because of fire, wind or other natural disaster, or physical deterioration shall no longer be habitable as a dwelling, nor useful for any other purpose for which it may have been intended shall be illegal.

~~Subd. 2 Vacant Structure.~~ The existence of any vacant dwelling, garage, or other outbuilding, shall be illegal unless the building is kept securely locked, windows shall be kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals. — (Amended by Ord. 162, 10/11/04)

~~Subd. 3 Hazardous Building.~~ "Hazardous Building" shall be defined as any home, shop, barn, building, structure or other improvement to real estate by which reason of its:

- A. — Defective construction;
- B. — Deterioration;
- C. — Dilapidation;
- D. — Partial or complete destruction;
- E. — Condition constituting a fire menace;
- F. — Violation of fire regulations;
- G. — Violation of State Building Code;
- H. — Unsafe or unsanitary condition;
- I. — Unlawful or improper use;
- J. — Instability rendering it likely to fall, or
- K. — Emission of obnoxious fumes and odors, constitutes a present danger and peril to life, limb or property;
- L. — Any other structure that would be considered hazardous under Minnesota Statutes Chapter 463.

~~600.07 Enforcement.~~ Abatement of nuisances under this Section shall be handled as provided for in Section 610. In addition, a violation of this Section shall constitute a petty misdemeanor. All subsequent offenses shall constitute a separate violation of this Section.  
(Amended by Ord. 168, 7/25/05)

### **Section 610—General Abatement Procedures**

~~610.01 Service of Notice.~~ When service of an order or notice is required, unless otherwise required, any one or more of the following methods of service shall be adequate:

- A. — by personal service; or

*The stricken language is deleted; the underlined language is inserted.*

- ~~B. — by mail, unless it is a written order which gives three days or less for the completion of any act it requires; or~~
- ~~C. — if the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property;~~

~~If a mailed order or notice is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.~~

~~**610.02 Abatement Procedure.** Unless the nuisance is subject to special procedures described in State law or elsewhere in this Code, in which case those procedures shall be followed, the City may abate a nuisance by the procedure described below:~~

~~**Subd. 1 Order.** The enforcement officer or his or her authorized representative shall serve a written notice upon the owner and occupant. The notice may be served upon any additional party known to have caused the nuisance. The notice shall contain the following:~~

- ~~A. — a description of the real estate sufficient for identification;~~
- ~~B. — a description and the location of the nuisance and the remedial action required to abate the nuisance;~~
- ~~C. — the abatement deadline, to be determined by the enforcement officer and his or her authorized representative(s) allowing a reasonable time for the performance of any act required, not to be less than 10 days unless a shorter time is required to protect the health, safety, and welfare of the public;~~
- ~~D. — a statement that the order may be appealed and a hearing before the City Council obtained by filing a written request with the City Administrator before the abatement deadline designated in the order; and~~
- ~~E. — a statement that if the remedial action is not taken nor a request for a public hearing filed with the City Administrator within the time specified, the City shall abate the nuisance and charge all costs incurred therein against the real estate as a special assessment to be collected in the same manner as property taxes or to be recovered by obtaining a judgment against the property owner.~~

~~**Subd. 2 Setting Hearing Date.** In the event that an appeal is filed with the City Administrator, the City Council shall as soon as possible fix a date for a public hearing.~~

~~**Subd. 3 Notice.** The City Administrator shall mail a notice of the date, time, place, and subject of the hearing to the owner, occupant, and known responsible parties.~~

~~**Subd. 4 Hearing.** At the time of the public hearing, the City Council shall hear from the enforcement officer, his or her authorized representative(s), and any other parties who wish to be heard. After the hearing, the City Council may confirm or modify the order of the enforcement officer. In either case, if the Council's determination requires abatement, the City Council shall, in the resolution, fix a time within which the nuisance shall be abated and shall provide that if corrective action is not taken within the time specified, the City may abate the nuisance. The City Administrator shall mail a copy of this resolution to same parties required to be notified in Subd. 3 of this Subsection.~~

*The stricken language is deleted; the underlined language is inserted.*

**Subd. 5 City Abatement.** ~~If the remedial action is not taken nor an appeal filed within the time specified, the City may abate the nuisance.~~

**610.03 Substantial Abatement Procedure.** ~~When the enforcement officer or an authorized representative(s) determines that a nuisance exists on a property and the cost of abatement of the nuisance is estimated to exceed two thousand dollars or the abatement involves demolition of a building other than a structure accessory to a residential building or the abatement diminishes the value of the property in an amount estimated to exceed two thousand dollars, except in the case of an emergency as provided for in Subsection 610.04, the City shall abate the nuisance by the procedure described below. A good faith estimate of the diminution in value or the abatement costs, not the actual cost calculated after the abatement is completed, shall be the basis which determines whether this abatement procedure shall be used.~~

**Subd. 1 Orders.** ~~The enforcement officer shall serve a written order upon the owner, occupant, all interested parties, and any responsible party known to the officer. The order shall contain the following:~~

- ~~A. — a description of the real estate which shall be sufficient for identification;~~
- ~~B. — the location of the nuisance on the property;~~
- ~~C. — a description of the nuisance and the basis upon which it shall be declared to be a nuisance;~~
- ~~D. — the remedial action required to abate the nuisance; and~~
- ~~E. — the abatement deadline, to be determined by the enforcement officer allowing a reasonable time for the completion of any act required;~~
- ~~F. — a statement that if the remedial action is not taken before the abatement deadline, the matter shall be referred to the City Council who, after a public hearing, may order the City to abate the nuisance and charge all costs incurred against the real estate as a special assessment to be collected in the same manner as property taxes or to be recovered by obtaining a judgment against the property owner.~~

**Subd. 2 Notice to Public.** ~~When an order requires, exclusively or as an option, the demolition of a building, the public shall be put on notice as follows:~~

- ~~A. — A copy of the order shall be placed on file in the office of the City Administrator.~~
- ~~B. — The enforcement officer shall notify the City Council of each property subject to a demolition order as follows. Each month the enforcement officer shall send to the City Council a list of the properties that have become subject to a demolition order. The list shall be in the form of a resolution declaring that an enforcement action has been commenced and that as a result of the nuisance status of a building on the property, an order has been issued detailing the violation and requiring, exclusively or as an option, that the building be demolished and that a copy of this order shall be on file in the office of the City Administrator. This resolution shall include a description of each property sufficient to identify the property and shall authorize and direct the City Administrator to file a copy of the resolution with the Carver County Recorder and/or Registrar of Titles.~~

**Subd. 3 Setting Hearing Date.** ~~If the remedial action is not taken within the time specified in the written order, the enforcement officer may notify the City Council that substantial abatement shall be necessary and appropriate. Upon being notified by the enforcement officer, the City Council shall, as soon as possible, fix a date for an abatement hearing.~~

**Subd. 4 Notice.** ~~Written notice of the time, date, place and subject of the hearing shall be given as set forth in this Subdivision.~~

- A. ~~The City Administrator shall immediately notify the enforcement officer and his or her authorized representative(s).~~
- B. ~~At least ten days prior to the hearing, the City Administrator shall mail a notice to all property owners of record within 300 feet of the property in violation of the Code provision.~~
- C. ~~At least ten days prior to the hearing, the City Administrator shall notify the owner and all interested parties by personal service of the notice upon the owner or any duly authorized representative. If, after reasonable effort personal service cannot be made, either of the following methods of notice shall be considered adequate:~~
  - 1. ~~confirmed mail service which shall be either certified mail with signed receipt returned or first class mail confirmed by written response;~~
  - 2. ~~mailing the notice to the last known address and publishing the notice once a week for two weeks in a newspaper of general circulation in the City and posting the notice in a conspicuous place on the building or property.~~
- D. ~~At least ten days prior to the hearing, the City administrator shall mail a notice to any responsible party known to the City Administrator.~~

**Subd. 5 Hearing.** ~~At the time of the public hearing, the City Council shall hear from the enforcement officer, authorized representative(s) and any other parties who wish to be heard. After the hearing, the City Council shall adopt a resolution, describing what abatement action, if any, it deems appropriate. If the resolution calls for abatement action it may either order the City to take the abatement action or fix a time within which the nuisance shall be abated and provide that if corrective action is not taken within the specified time, the City shall abate the nuisance. The City Administrator shall mail copies of the resolution to the parties required to be notified in Subd. 4 to their last known mailing address.~~

**610.04 Emergency Abatement Procedure.** ~~When the enforcement officer and an authorized representative determines that a nuisance exists on a property and the nuisance constitutes an immediate danger or hazard which if not immediately abated shall endanger the health or safety of the public and there shall not exist sufficient time to follow the procedures of Subsections 610.02 or 610.03, the City may abate the nuisance by the procedure described below.~~

**Subd. 1 Order by Mayor.** ~~The City shall order emergency abatement by an administrative order to be signed by the Mayor. A good faith effort shall be made to inform the owner that the action is being taken.~~

**Subd. 2 Notice of the Abatement.** ~~Following an emergency abatement, as soon as the costs incurred are known, the enforcement officer shall serve written notice upon the owner. The notice shall contain:~~

- ~~A. a description of the nuisance;~~
- ~~B. the action taken by the City;~~
- ~~C. the reasons for immediate action;~~
- ~~D. the costs incurred in abating the nuisance and a statement that these costs may be charged as a special assessment against the property and collected in the same manner as property taxes; and~~
- ~~E. a statement that the owner may obtain a hearing before the City Council to review the actions taken by the City by filing a written request with the City Administrator within ten working days of the date of the notice.~~

**Subd. 3 Setting Hearing Date.** ~~In the event that the owner files a request for a review of the action with the City Administrator, the City Council shall as soon as possible fix a date for a public hearing.~~

**Subd. 4 Notice.** ~~The City Administrator shall notify the owner of the date, time, place, and subject of the hearing.~~

**Subd. 5 Hearing.** ~~At the time of the hearing, the City Council shall hear from the enforcement officer, any authorized representative(s) and any other parties who wish to be heard. After the hearing, the City Council may adopt a resolution levying an assessment for all or a portion of the costs incurred by the City in abating the nuisance. A copy of the resolution shall be mailed to the owner.~~

## Section 600 Nuisances

### 600.01 Public Nuisance Prohibition.

**Subd. 1** A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purposes of this section, a person that does any of the following is guilty of maintaining a public nuisance:

- A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or
- B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- C. Does any other act or omission declared by law or this ordinance to be a public nuisance.

### 600.02 Public Nuisances Affecting Health.

**Subd. 1** The following are hereby declared to be nuisances affecting health:

- A. The exposed accumulation of decayed or unwholesome food or vegetable matter;

*The stricken language is deleted; the underlined language is inserted.*

- B. All diseased animals running at large;
- C. All ponds or pools of stagnant water;
- D. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- E. Accumulation of junk, trash, rubbish, manure, refuse, or other debris;
- F. Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- H. All noxious weeds and other rank growths of vegetation upon public or private property and all other weed or grass growing to a height of six (6) inches or more;
- I. Dead trees, fallen trees, or tree limbs which are a fire hazard or are otherwise detrimental to the neighborhood;
- J. Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;
- K. All public exposure of people having a contagious disease; and
- L. Any offensive trade or business as defined by statute not operating under local license.

#### **600.03 Public Nuisances Affecting Morals And Decency.**

**Subd. 1** The following are hereby declared to be nuisances affecting public morals and decency:

- A. All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;
- B. Betting, bookmaking, and all apparatus used in those occupations;
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- D. All places where intoxicating or 3.2 malt liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort, for the purpose of drinking intoxicating or 3.2 malt liquor, or where intoxicating or 3.2 malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and
- E. Any vehicle used for the unlawful transportation of intoxicating or 3.2 malt liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

#### **600.4 Public Nuisances Affecting Peace And Safety.**

**Subd. 1** The following are declared to be nuisances affecting public peace and safety:

- A. All snow and ice that is not removed from public sidewalks within twenty-four (24) hours after the snow or other precipitation causing the condition has ceased to fall;
- B. All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- C. All wires and limbs of trees that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- D. Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person;
- E. All unnecessary and annoying vibrations;

*The stricken language is deleted; the underlined language is inserted.*

- F. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law;
- G. Radio aerials or television antennae erected or maintained in a dangerous manner;
- H. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds or people to gather, obstructing traffic and the free use of the street or sidewalk;
- I. All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;
- J. The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to follow across any sidewalk;
- K. Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;
- L. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- M. Wastewater cast upon or permitted to flow upon streets or other public properties;
- N. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation;
- O. Any well, hole, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- P. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- Q. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;
- R. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- S. Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) footcandle when abutting any commercial or industrial parcel; and
- T. All other conditions or things that are likely to cause injury to the person or property of another.

#### **610.01 Abatement Procedure.**

**Subd. 1 Procedure.** Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the city, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek

*The ~~stricken~~ language is deleted; the underlined language is inserted.*

injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

**Subd. 2 Notice.** Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of the City Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the premises.

**Subd. 3 Emergency Procedure; Summary Enforcement.** In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions (1) and (2) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (one) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

**Subd. 4 Immediate Abatement.** Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety, or from immediately abating any of the conditions described in sections 600.02(H) and 600.04(A), (D), (E), (H), (J), (M), and (P) if the city determines, in its discretion, that the public interest would be served by immediate abatement.

**Subd. 5 Unlawful Parties or Gatherings.** When law enforcement determines that a gathering is creating a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

**Subd. 6 Judicial Remedy.** Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

## **610.02 Recovery of Cost.**

**Subd. 1 Personal Liability.** The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

*The stricken language is deleted; the underlined language is inserted.*

**Subd. 2 Assessment.** After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the City Council may determine in each case.

## **610.05**

**610.03 Administrative Offense and Penalty.** In addition to abatement procedures outlined in this Section 610, violations of the nuisance ordinance are designated as an administrative offense and subject to an administrative penalty as established in the Fee Schedule by Ordinance of the City Council.

**Subd. 1 Notice.** Any officer of the Carver County Sheriff's Department, or any other person employed by the city, and having authority to enforce a code provision designated as an administrative offense, shall, upon determining that there has been a violation, notify the violator pursuant to Section 610.01-610.05 above of the violation. In addition to this notice, the violator shall be provided:

- A. A statement that failure to take remedial action by the specified deadline will result in an administrative penalty for violation of the nuisance ordinance; and
- B. A statement that additional violations of the same or substantially similar offense within a 12 month period of the abatement deadline stated above will result in an automatic administrative fine, which shall be increased for each subsequent offense

**Subd. 2 Payment.** Once such notice is given, the alleged violator must, within 10 days after issuance of the notice or passing of the specified deadline for abating the nuisance ordinance violation, pay the amount set forth established in the Fee Schedule by Ordinance of the City Council, or may request a hearing in writing, pursuant to Section 610.02 above. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**Subd. 3 Failure to Pay.** In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violation in accordance with applicable statutes, or any unpaid fines may be charged against the real estate as a special assessment. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the city for the same violation.

**Subd. 4 Disposition of Penalties.** All penalties collected pursuant to this chapter shall be paid to the City Clerk's Office and may be deposited in the city's general fund.

**Subd. 5 Subsequent Offenses.** In the event a party is charged with a subsequent administrative offense within a 12-month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be increased by 25% above the previous administrative penalty except when otherwise provided by ordinance.

*(Amended by Ord. 242, 05-13-13)*

**SECTION 3. EFFECTIVE DATE.** This Ordinance shall be effective immediately upon its passage and publication.

Adopted by the City Council this 28<sup>th</sup> day of September, 2015.

\_\_\_\_\_  
Tina Diedrick, Mayor

ATTEST:

\_\_\_\_\_  
Steve Helget, City Administrator

( S E A L )

## PUBLIC NOTICE

The Norwood Young America City Council at a regular meeting held on September 28, 2015 adopted Ordinance No. 264, an Ordinance Amending Chapter 6, Section 600 of the Norwood Young America City Code.

### City of Norwood Young America Ordinance No. 264

The purpose of the ordinance is to define prohibited public nuisances. For purposes of this section, a person that does any of the following is guilty of maintaining a public nuisance:

- A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or
- B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- C. Does any other act or omission declared by law or this ordinance to be a public nuisance.

A complete printed copy of Ordinance No. 264 is available for inspection by any person during regular office hours in the office of the City Administrator.

Steve Helget  
City Administrator



TO: Honorable Mayor Diedrick and City Council Members  
FROM: Steve Helget, City Administrator  
DATE: September 28, 2014  
SUBJECT: Ordinance No. 266, CenterPoint Energy Franchise Agreement

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In accordance with state statute the City has the authority to require private utility companies who desire to provide service within the city limits to enter into a franchise agreement with the City. The City and CenterPoint Energy have had a Franchise Agreement in the past but the most recent one expired in November 2013. Proposed is to establish a new franchise agreement with CenterPoint Energy. Enclosed is the proposed Ordinance No. 266 which establishes a new franchise agreement. In addition, for your information enclosed is a copy of Ordinance No. 205 which was the former franchise agreement.

Chris Serritslev of CenterPoint Energy will be present to review the proposed Franchise Agreement.

If adopted, Ordinance No. 266 will be published in its entirety in the Norwood Young America Times at CenterPoint Energy's sole cost.

**Suggested Motions:**

**Motion to adopt Ordinance No. 266, an ordinance granting CenterPoint Energy, its successors and assigns, a nonexclusive Franchise to construct, operate, repair, and maintain facilities and equipment for the transportation, distribution, manufacture and sale of Gas Energy for public and private use and to use the public ways and grounds of the City of Norwood Young America, Carver County, Minnesota, for such purpose; and prescribing certain terms and conditions thereof.**

# CenterPoint Energy Gas Franchise Ordinance

ORDINANCE NO. 266

CITY OF NORWOOD YOUNG AMERICA, CARVER COUNTY, MINNESOTA

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP., d/b/a CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY"), ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN FACILITIES AND EQUIPMENT FOR THE TRANSPORTATION, DISTRIBUTION, MANUFACTURE AND SALE OF GAS ENERGY FOR PUBLIC AND PRIVATE USE AND TO USE THE PUBLIC WAYS AND GROUNDS OF THE CITY OF NORWOOD YOUNG AMERICA, CARVER COUNTY, MINNESOTA, FOR SUCH PURPOSE; AND, PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF

THE CITY COUNCIL OF THE CITY OF NORWOOD YOUNG AMERICA, CARVER COUNTY, MINNESOTA, ORDAINS:

## SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

**City.** The City of Norwood Young America, County of Carver, State of Minnesota.

**City Utility System.** Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

**Commission.** The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota Public Utilities Commission.

**Company.** CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas ("CenterPoint Energy") its successors and assigns including all successors or assigns that own or operate any part or parts of the Gas Facilities subject to this Franchise.

**Gas Energy.** Gas Energy includes both retail and wholesale natural, manufactured or mixed gas.

**Gas Facilities.** Gas transmission and distribution pipes, lines, ducts, fixtures, and all necessary equipment and appurtenances owned or operated by the Company for the purpose of providing Gas Energy for retail or wholesale use.

**Notice.** A writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 505 Nicolette Mall, Minneapolis, Minnesota 55402. Notice to the City shall be mailed to City of Norwood Young America, 310 Elm Street, P.O. Box 59, Norwood Young America, MN 55368. Any party may change its respective address for the purpose of this Ordinance by written Notice to the other parties.

**Ordinance.** This gas franchise ordinance, also referred to as the Franchise.

**Public Way.** Any highway, street, alley or other public right-of-way within the City.

**Public Ground.** Land owned or otherwise controlled by the City for utility easements, park, trail, walkway, open space or other public property, which is held for use in common by the public or for public benefit.

## **SECTION 2. ADOPTION OF FRANCHISE.**

2.1 **Grant of Franchise.** City hereby grants Company, for a period of 20 years from the date this Ordinance is passed and approved by the City, the right to import, manufacture, distribute and sell Gas Energy for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future and also the right to transport Gas Energy through the limits of the City for use outside of the City limits. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Ways and Public Grounds, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to a public right-of-way ordinance or permit requirements to the extent consistent with state law.

2.2 **Effective Date; Written Acceptance.** This Franchise shall be in force and effect from and after the passage of this Ordinance and publication as required by law and its acceptance by Company. If Company does not file a written acceptance with the City within 60 days after the date the City Council adopts this Ordinance, or otherwise inform the City, at any time, that the Company does not accept this Franchise, the City Council by resolution shall revoke this Franchise.

2.3. **Service and Gas Rates.** The terms and conditions of service and the rates to be charged by Company for Gas Energy in City are subject to the exclusive jurisdiction of the Commission.

2.4. **Publication Expense.** Company shall pay the expense of publication of this Ordinance.

2.5. **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written Notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this Franchise or for such other relief as may be permitted by law or equity.

2.6. **Continuation of Franchise.** If the City and the Company are unable to agree on the terms of a new franchise by the time this Franchise expires, this Franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the City or the Company serves written Notice to the other party of its intention to allow Franchise to expire. However, in no event shall this Franchise continue for more than one year after expiration of the 20-year term set forth in Section 2.1.

### **SECTION 3. LOCATION, OTHER REGULATIONS.**

3.1. **Location of Facilities.** Gas Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System. Gas Facilities may be located on Public Grounds in a location selected by the City. The location and relocation of Gas Facilities shall be subject to reasonable regulations of the City consistent with authority granted the City to manage its Public Ways and Public Grounds under state law, to the extent not inconsistent with a specific term of this Franchise.

3.2. **Street Openings.** Company shall not open or disturb the surface of any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee, unless the City is receiving a franchise fee pursuant to this Ordinance, in which case all permit fees will be waived. Permit conditions imposed on Company shall not be more burdensome than those imposed on other public-right-of-way users for similar facilities or work. Company may, however, open and disturb the surface of any Public Way or Public Ground without a permit if (i) an emergency exists requiring the immediate repair of Gas Facilities and (ii) Company gives telephone, email or similar Notice to the City before commencement of the emergency repair, if reasonably possible. Within two business days after commencing the repair, Company shall apply for any required permits and pay any required fees.

3.3. **Restoration.** After undertaking any work requiring the opening of any Public Way or Public Ground, the Company shall restore the Public Ways or Public Grounds in accordance with Minnesota Rules, 7819.1100 and the City's right-of-way ordinance to the extent consistent with applicable Minnesota State Rules and Minnesota State Statutes. Company shall restore the Public Ground to as good a condition as formerly existed, and shall maintain the surface in good condition for six months thereafter. All work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment

and material, and put the Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration of the Public Ways or Public Grounds at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. The Company shall not be required to post a construction performance bond.

3.4. **Avoid Damage to Gas Facilities.** The Company must take reasonable measures to prevent the Gas Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Gas Facilities from damage that could be inflicted on the Gas Facilities by persons, property, or the elements. Per Minnesota Statute 216D.05, the City must take protective measures when it performs work near the Gas Facilities.

3.5. **Notice of Improvements to Streets.** The City will give Company reasonable written Notice of plans for improvements to Public Ways and Public Grounds where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The Notice will contain: (i) the nature and character of the improvements, (ii) the Public Ways or Public Grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way or Public Grounds is involved, the order in which the work is to proceed. The Notice will be given to Company a sufficient length of time, considering seasonal working conditions, in advance of the actual commencement of the work to permit Company to make any additions, alterations or repairs to its Gas Facilities the Company deems necessary.

3.6 **Mapping Information.** If requested by City, the Company must promptly provide complete and accurate mapping information for any of its Gas Facilities in accordance with the requirements of Minnesota Rules 7819.4000 and 7819.4100 and the City's right-of-way ordinance, at no cost to the City to the extent consistent with applicable Minnesota State Rules and Minnesota State Statutes.

3.7. **Emergency Response.** As emergency first-responders, when a public safety concern exists both the City and Company shall respond to gas emergencies within the City without additional direct fee or expense to either City or Company. However, if the City's response exceeds 48 hours in duration, City reserves the right to bill Company for costs directly attributed to a Gas Facility emergency where public safety concerns exists.

#### **SECTION 4. RELOCATIONS.**

4.1. **Relocation in Public Ways and Public Grounds.** The Company and City shall comply with the provisions of Minnesota Rules 7819.3100, and the City's right-of-way ordinance to the extent consistent with applicable Minnesota State Rules and Minnesota State Statutes with respect to requests for the Company to relocate Gas Facilities located in either Public Ways or Public Grounds.

4.2. **Projects with Federal Funding.** Relocation, removal, or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally

aided highway project shall be governed by the provisions of Minnesota Statutes Sections 161.45 and 161.46.

#### **SECTION 5. INDEMNIFICATION.**

5.1. **Indemnity of City.** Company shall indemnify and hold the City harmless from any and all liability, on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence or otherwise wrongful act or omission except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work.

5.2. **Defense of City.** In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written Notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such Notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City. The Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. This Franchise agreement shall not be interpreted to constitute a waiver by the City of any of its defenses of immunity or limitations on liability under Minnesota Statutes, Chapter 466.

#### **SECTION 6. VACATION OF PUBLIC WAYS AND PUBLIC GROUNDS.**

The City shall give Company at least two weeks prior written Notice of a proposed vacation of a Public Ways or Public Grounds. The City and the Company shall comply with Minnesota Rules 7819.3100, Minnesota Rules 7819.3200 and the City's right-of-way ordinance to the extent consistent with applicable Minnesota State Rules and Minnesota State Statutes with respect to any request for vacation.

#### **SECTION 7. CHANGE IN FORM OF GOVERNMENT.**

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

#### **SECTION 8. FRANCHISE FEE.**

8.1. **Form.** During the term of the franchise hereby granted, the City may charge the Company a franchise fee. The Company will administer the collection and payment of franchise fees to City in lieu of permit fees or other fees that may otherwise be imposed on the Company in relation to its operations as a public utility in the City. The franchise fee will be collected on a flat per meter basis, or by some other method that is mutually acceptable to both City and Company for

each retail customer within the corporate limits of the City. The amount of the fee collected may differ for each customer class. The City will use a formula that provides a stable and predictable amount of fees, without placing the Company at a competitive disadvantage. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with the Minnesota Public Utility Commission's March 23, 2011 Order establishing franchise fee filing requirements in Docket No. E.G999/CI-09-970. If the Company claims that the City required fee formula is discriminatory or otherwise places the Company at a competitive disadvantage, the Company will provide a formula that will produce a substantially similar fee amount to the City. If the City and Company are unable to agree, the disagreement shall be subject to the Dispute Resolution provisions of this Ordinance.

8.2. **Separate Ordinance.** The franchise fee shall be imposed by separate ordinance duly adopted by the City Council. The effective date of the franchise fee ordinance shall be no less than ninety (90) days after written Notice enclosing a copy of the duly adopted and approved ordinance has been served upon the Company by First Class U.S. mail. The Company is not required to collect a franchise fee if the terms of the fee agreement are inconsistent with this franchise or state law, provided the Company notifies the City Council of the same within the ninety (90) day period.

8.3. **Condition of Fee.** The separate ordinance imposing the fee shall not be effective against the Company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of energy within the City by any other energy supplier, provided that, as to such supplier, the City has the authority or contractual right to require a franchise fee or similar fee through an agreed-upon franchise.

8.4. **Collection of Fee.** The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time, however, the change shall meet the same Notice and acceptance requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with Minnesota Public Utility Commission's March 23, 2011 Order establishing franchise fee filing requirements in Docket No. E.G999/CI-09-970. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the Company. The Company shall not be responsible to pay City fees that Company is unable to collect under Commission rules or order. The Company agrees to make available for inspection by the City at reasonable times all records necessary to audit the Company's determination of the franchise fee payments.

8.5. **Continuation of Franchise Fee.** If this franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this franchise expires, will remain in effect until a new franchise is agreed upon. However, the franchise fee will not remain in effect for more than one year after the franchise expires as stated in Section 2.6 of this Franchise. If for any reason the franchise terminates, the franchise fee will terminate at the same time.

## **SECTION 9. ABANDONED FACILITIES.**

The Company shall comply with Minnesota Statutes, Section 216D.01 et seq. as it may be amended from time to time with respect to abandoned facilities located in Public Ways and Public Grounds and with Minnesota Rules, Part 7819.3300, and the City's right-of-way ordinance to the extent consistent with applicable Minnesota State Rules and Minnesota State Statutes as it may be amended from time to time with respect to abandoned facilities in Public Ways. The Company shall maintain records describing the exact location of all abandoned and retired Gas Facilities within the Public Ways and Public Grounds, produce such records at the City's request at no cost to the City and comply with the location requirements of Minnesota Statutes, Section 216D.04 with respect to all Gas Facilities located in Public Ways and Public Grounds.

#### **SECTION 10. PROVISIONS OF ORDINANCE.**

10.1. **Severability.** Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2. **Limitation on Applicability.** This Ordinance constitutes a franchise agreement between the City and Company as the only parties. No provisions herein shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of this Ordinance or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

#### **SECTION 11. AMENDMENT PROCEDURE.**

Either party may propose at any time that this Franchise Ordinance be amended. Franchise Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 90 days after the effective date of the amendatory ordinance. If the Company does not consent to the amendment, the ordinance containing the amendment shall be revoked by City.

Adopted by the City Council this 28<sup>th</sup> day of September, 2015.

\_\_\_\_\_  
Tina Diedrick, Mayor

ATTEST:

\_\_\_\_\_  
Steve Helget, City Administrator

( S E A L )

## CenterPoint Energy Gas Franchise Ordinance

### ORDINANCE NO. 205

CITY OF NORWOOD YOUNG AMERICA, CARVER COUNTY, MINNESOTA

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP., d/b/a CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY"), ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE, REPAIR AND MAINTAIN FACILITIES AND EQUIPMENT FOR THE TRANSPORTATION, DISTRIBUTION, MANUFACTURE AND SALE OF GAS ENERGY FOR PUBLIC AND PRIVATE USE AND TO USE THE PUBLIC WAYS AND GROUNDS OF THE CITY OF NORWOOD YOUNG AMERICA, CARVER, COUNTY, MINNESOTA, FOR SUCH PURPOSE; AND, PRESCRIBING CERTAIN TERMS AND CONDITIONS THEREOF

THE CITY COUNCIL OF THE CITY OF NORWOOD YOUNG AMERICA, CARVER COUNTY, MINNESOTA, ORDAINS:

#### SECTION 1. DEFINITIONS.

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

**City.** The City of Norwood Young America, County of Carver, State of Minnesota.

**City Utility System.** Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

**Commission.** The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota Public Utilities Commission.

**Company.** CenterPoint Energy Resources Corp., d/b/a CenterPoint Energy Minnesota Gas ("CenterPoint Energy") its successors and assigns including all successors or assigns that own or operate any part or parts of the Gas Facilities subject to this Franchise.

**Gas Energy.** Gas Energy includes both retail and wholesale natural, manufactured or mixed gas.

**Gas Facilities.** Gas transmission and distribution pipes, lines, ducts, fixtures, and all necessary equipment and appurtenances owned or operated by the Company for the purpose of providing Gas Energy for retail or wholesale use.

**Notice.** A writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 800 LaSalle Avenue, Minneapolis, Minnesota 55402. Notice to the City shall be mailed to City of Norwood Young America, City Administrator, 10 1<sup>st</sup>. Ave. NE, PO Box 59, Norwood Young America, Minnesota 55368-0059. Any party may change its respective address for the purpose of this Ordinance by written Notice to the other parties.

**Ordinance.** This gas franchise ordinance, also referred to as the Franchise.

**Public Way.** Any highway, street, alley or other public right-of-way within the City.

**Public Ground.** Land owned or otherwise controlled by the City for utility easements, park, trail, walkway, open space or other public property, which is held for use in common by the public or for public benefit.

## **SECTION 2. ADOPTION OF FRANCHISE.**

2.1 **Grant of Franchise.** City hereby grants Company, for a period of 5 years from the date this Ordinance is passed and approved by the City, the right to import, manufacture, distribute and sell Gas Energy for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future and also the right to transport Gas Energy through the limits of the City for use outside of the City limits. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under and across the Public Ways and Public Grounds, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to a public right-of-way ordinance or permit requirements adopted consistent with state law.

2.2 **Effective Date; Written Acceptance.** This Franchise shall be in force and effect from and after the passage of this Ordinance and publication as required by law and its acceptance by Company. If Company does not file a written acceptance with the City within 60 days after the date the City Council adopts this Ordinance, or otherwise inform the City, at any time, that the Company does not accept this Franchise, the City Council by resolution shall revoke this Franchise.

2.3. **Service and Gas Rates.** The terms and conditions of service and the rates to be charged by Company for Gas Energy in City are subject to the exclusive jurisdiction of the Commission.

2.4. **Publication Expense.** Company shall pay the expense of publication of this Ordinance.

2.5. **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written Notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this Franchise or for such other relief as may be permitted by law or equity.

2.6. **Continuation of Franchise.** If the City and the Company are unable to agree on the terms of a new franchise by the time this Franchise expires, this Franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the City or the Company serves written Notice to the other party of its intention to allow Franchise to expire. However, in no event shall this Franchise continue for more than one year after expiration of the 5-year term set forth in Section 2.1.

### **SECTION 3. LOCATION, OTHER REGULATIONS.**

3.1. **Location of Facilities.** Gas Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System. Gas Facilities may be located on Public Grounds in a location selected by the City. The location and relocation of Gas Facilities shall be subject to reasonable regulations of the City consistent with authority granted the City to manage its Public Ways and Public Grounds under state law, to the extent not inconsistent with a specific term of this Franchise.

3.2. **Street Openings.** Company shall not open or disturb the surface of any Public Way or Public Ground for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee, unless the City is receiving a franchise fee pursuant to this Ordinance, in which case all permit fees will be waived. Permit conditions imposed on Company shall not be more burdensome than those imposed on other public-right-of-way users for similar facilities or work. Company may, however, open and disturb the surface of any Public Way or Public Ground without a permit if (i) an emergency exists requiring the immediate repair of Gas Facilities and (ii) Company gives telephone, email or similar Notice to the City before commencement of the emergency repair, if reasonably possible. Within two business days after commencing the repair, Company shall apply for any required permits and pay any required fees.

3.3. **Restoration.** After undertaking any work requiring the opening of any Public Way or Public Ground, the Company shall restore the Public Ways or Public Grounds in accordance with Minnesota Rules, 7819.1100. Company shall restore the Public Ground to as good a condition as formerly existed, and shall maintain the surface in good condition for six months thereafter. All work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage

of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration of the Public Ways or Public Grounds at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. The Company shall not be required to post a construction performance bond.

3.4. **Avoid Damage to Gas Facilities.** The Company must take reasonable measures to prevent the Gas Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Gas Facilities from damage that could be inflicted on the Gas Facilities by persons, property, or the elements. The Company must take protective measures when the City performs work near the Gas Facilities, if given reasonable Notice by the City of such work prior to its commencement.

3.5. **Notice of Improvements to Streets.** The City will give Company reasonable written Notice of plans for improvements to Public Ways and Public Grounds where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The Notice will contain: (i) the nature and character of the improvements, (ii) the Public Ways or Public Grounds upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way or Public Grounds is involved, the order in which the work is to proceed. The Notice will be given to Company a sufficient length of time, considering seasonal working conditions, in advance of the actual commencement of the work to permit Company to make any additions, alterations or repairs to its Gas Facilities the Company deems necessary.

3.6. **Mapping Information.** If requested by City, the Company must promptly provide complete and accurate mapping information for any of its Gas Facilities in accordance with the requirements of Minnesota Rules 7819.4000 and 7819.4100.

3.7. **Emergency Response.** As emergency first-responders, when a public safety concern exists both the City and Company shall respond to gas emergencies within the City without additional direct fee or expense to either City or Company.

#### **SECTION 4. RELOCATIONS.**

4.1. **Relocation in Public Ways and Public Grounds.** The Company and City shall comply with the provisions of Minnesota Rules 7819.3100, with respect to requests for the Company to relocate Gas Facilities located in either Public Ways or Public Grounds.

4.2. **Projects with Federal Funding.** Relocation, removal, or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally aided highway project shall be governed by the provisions of Minnesota Statutes Sections 161.45 and 161.46.

#### **SECTION 5. INDEMNIFICATION.**

5.1. **Indemnity of City.** Company shall indemnify and hold the City harmless from any and all liability, on account of injury to persons or damage to property occasioned by the

construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence or otherwise wrongful act or omission except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work.

5.2. **Defense of City.** In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written Notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such Notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City. The Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. This Franchise agreement shall not be interpreted to constitute a waiver by the City of any of its defenses of immunity or limitations on liability under Minnesota Statutes, Chapter 466.

#### **SECTION 6. VACATION OF PUBLIC WAYS AND PUBLIC GROUNDS.**

The City shall give Company at least two weeks prior written Notice of a proposed vacation of a Public Ways or Public Grounds. The City and the Company shall comply with Minnesota Rules 7819.3200 with respect to any request for vacation.

#### **SECTION 7. CHANGE IN FORM OF GOVERNMENT.**

Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

#### **SECTION 8. FRANCHISE FEE.**

8.1. **Form.** During the term of the franchise hereby granted, the City may charge the Company a franchise fee. The Company will administer the collection and payment of franchise fees to City in lieu of permit fees, or other fees that may otherwise be imposed on the Company in relation to its operations as a public utility in the City. The franchise fee will be collected on a flat per meter basis, or by some other method that is mutually acceptable to both City and Company for each retail customer within the corporate limits of the City. The amount of the fee collected may differ for each customer class. The City will use a formula that provides a stable and predictable amount of fees, without placing the Company at a competitive disadvantage. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City. If the Company claims that the City required fee formula is discriminatory or otherwise places the Company at a competitive disadvantage, the Company will provide a formula that will produce a substantially similar fee amount to the City. If the City and Company are unable to agree, the disagreement shall be subject to the Dispute Resolution provisions of this Ordinance.

8.2. **Separate Ordinance.** The franchise fee shall be imposed by separate ordinance duly adopted by the City Council, which ordinance shall not be adopted until at least sixty (60) days after written Notice enclosing such proposed ordinance has been served upon the Company by certified mail. The Company is not required to collect a franchise fee if the terms of the fee agreement are inconsistent with this franchise or state law, provided the Company notifies the City Council of the same within the sixty (60) day period.

8.3. **Condition of Fee.** The separate ordinance imposing the fee shall not be effective against the Company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of energy within the City by any other energy supplier, provided that, as to such supplier, the City has the authority or contractual right to require a franchise fee or similar fee through an agreed-upon franchise.

8.4. **Collection of Fee.** The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time, however, the change shall meet the same Notice and acceptance requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the Company. The Company shall not be responsible to pay City fees that Company is unable to collect under Commission rules or order. The Company agrees to make available for inspection by the City at reasonable times all records necessary to audit the Company's determination of the franchise fee payments.

8.5. **Continuation of Franchise Fee.** If this Franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this Franchise expires, will remain in effect until a new franchise is agreed upon. However, the franchise fee will not remain in effect for more than one year after the Franchise expires as stated in Section 2.6 of this Franchise. If for any reason the Franchise terminates, the franchise fee will terminate at the same time.

## **SECTION 9. ABANDONED FACILITIES.**

The Company shall comply with Minnesota Statutes, Section 216D.01 *et seq.* and Minnesota Rules 7819.3300, as they may be amended from time to time with respect to abandoned facilities located in Public Ways and Public Grounds. The Company shall maintain records describing the exact location of all abandoned and retired Gas Facilities within the Public Ways and Public Grounds, produce such records at the City's request and comply with the location requirements of Section 216D.04 with respect to all Gas Facilities, including abandoned and retired Gas Facilities not located in Public Ways and Public Grounds.

## **SECTION 10. PROVISIONS OF ORDINANCE.**

10.1. **Severability.** Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any

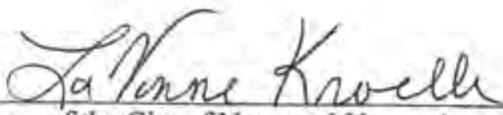
other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

10.2. **Limitation on Applicability.** This Ordinance constitutes a franchise agreement between the City and Company as the only parties. No provisions herein shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of this Ordinance or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

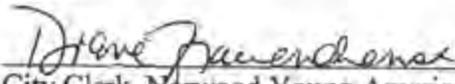
#### **SECTION 11. AMENDMENT-PROCEDURE.**

Either party may propose at any time that this Franchise Ordinance be amended. Franchise Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within 60 days after the effective date of the amendatory ordinance. If the Company does not consent to the amendment, the ordinance containing the amendment shall be revoked by City.

Passed and approved: November 10, 08.

  
\_\_\_\_\_  
Mayor of the City of Norwood Young America, Minnesota

Attest:

  
\_\_\_\_\_  
City Clerk, Norwood Young America, Minnesota



To: Honorable Mayor Diedrick  
Members of the City Council  
Administrator Helget

From: Cynthia Smith Strack, Municipal Development Group, Inc.

Date: September 25, 2015

Re: Biermann: Vacation of portion of Progress Street

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**Applicant:** Brian Biermann (Lawrence/Ruth Biermann)

**Subject Property Address:** 510 Elm Street West

**Legal Description:** See Attached

**Property ID:** 580500730

**Zoning Class:** R-3 Medium Density Mixed Residential

**Request:** **Call for public hearing regarding:** Vacation of a portion of an unimproved street (Progress Street) right of way to accommodate an existing attached garage constructed in the ROW decades previously.

#### **BACKGROUND**

A section of unimproved Progress Street lies between Elm Street West and the railway in the 500 Block of Elm Street West. The public street segment is approximately 66 feet in width and 400 feet in length. An east-west public alley intersects Progress Street approximately 125 feet north of Elm Street West.

The fee owner at 510 Elm Street West has petitioned for a partial vacation of the western half of Progress Street. The partial vacation would accommodate an attached garage which is located in the public right of way.

Please find attached the following:

1. A petition for partial street vacation
2. A survey and legal description of the proposed vacation
3. An area map of the subject property
4. Resolution calling for a public hearing

#### **Representations by Applicant:**

- The vacation of an approximate 900 sf of unimproved Progress Street (scalene triangle in shape) is proposed.
- A certificate of survey has been obtained and the survey has been used to demonstrate a proposed partial street vacation.

- The furthest point of projection into the unimproved right of way proposed for vacation is 14.9 feet (portion of western half of public street ROW and eastern boundary of subject lot).
- The garage was constructed in the public easement pursuant to a "variance" from the City decades ago (no evidence has been provided/located of said 'variance').
- Clear title to the subject property is not achievable but for the vacation request or removal of the attached garage.
- The encroachment results from common perception in the vicinity of the property that lots in the 500 block of Elm Street West are oriented perpendicular to Elm Street as opposed to intersecting but not perpendicular to the street. As a result encroachment of personal property improvements on non-fee owner properties are replicated throughout the vicinity.
- An application for an administrative lot boundary adjustment has been filed concurrent with the partial street vacation petition. The boundary adjustment request pertains to the east lot line of the subject property. If approved (administrative process), the boundary adjustment will enable an exchange of property on which a driveway has been constructed. The driveway for 514 Elm Street West is located on the Bierman's property at this time.

### **EXAMINATION OF REQUEST**

Norwood Young America is a statutory city, therefore, state statute governs vacation of easements. Although the request is for a partial street right of way easement vacation, the statutory process is the same. Planning Commission consideration is not part of the required vacation review process. The City Council is responsible for consideration of easement vacation requests.

The City received a petition for partial street vacation on September 8, 2015. The City Council will consider a resolution calling for a public hearing at their meeting September 28<sup>th</sup>.

The City is to consider whether or not a majority of the property owners abutting the street vacation have signed the petition. The City is to then call for a public hearing on the petition.

### **ACTION**

A resolution calling for a public hearing on October 12, 2015 on the partial street vacation request is attached for consideration.

# Planning and Zoning Application

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

Applicant's Name <i>Lawrence Ruth Biermann Brian Biermann POA</i>	Telephone (H) 952 467-2140 Home (C) 952 412-5057 Work/Cell W 507 237-3387
--	---

Address (Street, City, State, ZIP) <i>210 Broadway Ave, Hamburg, MN 55339</i>
--

Property Owner's Name (if different from above) <i>Lawrence Ruth Biermann, Brian Biermann POA</i>	Telephone <u>SAME</u> Home Work/Cell
--	--

Location of Project <i>510 Elm St. W NYA, MN 55368</i>
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Legal Description *commencing at the SE corner of block 10, then west 60 feet along the south line of block 10, then northerly 125 feet parallel to Progress St. to the alley, then east 60 feet to the east line of Block 10 then south 125 feet to the place of origin. \*land is SE 1/4 of NE 1/4 of section 15, Township 115 Range 3*

Description of Request (Attach separate sheet, if necessary)  
*1) Quit claim 10 feet east of the S.W. pin to the neighbor on the west, line to run to existing N.W. pin.  
 2) Vacate a portion of road right of way of Progress street, this would eliminate the portion of the garage encroaching on the right of way. A movement of the S.E. pin 14.8 ft east and the N.E. pin 10.9 ft east.*

\*Description Attached on checklist Proposed Action(s): Check all that apply

<input type="checkbox"/> Annexation \$300.00	<input type="checkbox"/> Comp Plan Amendment \$500.00 + Escrow	<input type="checkbox"/> Storm Water Plan \$250.00
<input type="checkbox"/> Application for Appeal \$150.00	<input type="checkbox"/> Sketch Plat \$200.00 + Escrow	<input type="checkbox"/> Rezoning \$350.00
<input type="checkbox"/> City Code Amendment \$250.00	<input type="checkbox"/> Site Plan \$300.00 + Escrow	<input checked="" type="checkbox"/> Street/Alley Vacation \$150.00
<input type="checkbox"/> Parking Reduction \$100.00	<input type="checkbox"/> PUD Sketch Plan \$200.00 + Escrow	<input type="checkbox"/> Zoning Text Amendment \$300.00
<input type="checkbox"/> CUP/IUP \$200.00 (Residential)	<input type="checkbox"/> PUD Plan Amendment \$300.00 + Escrow	<input checked="" type="checkbox"/> Recording Fee \$46.00
<input type="checkbox"/> CUP/IUP \$300.00 (Non Residential)	<input type="checkbox"/> PUD Final Plan \$300.00 + Escrow	<input type="checkbox"/> Other _____
<input type="checkbox"/> Variance \$150.00 (Residential)	<input type="checkbox"/> PUD General Concept Plan \$400.00 + Escrow	
<input type="checkbox"/> Variance \$200.00 (Non Residential)	<input type="checkbox"/> Preliminary Plat \$350.00 + \$10.00/Lot + Escrow	
<input type="checkbox"/> Lot Split \$200.00	<input type="checkbox"/> Final Plat \$250.00 + \$10.00/Lot + Escrow	
<input checked="" type="checkbox"/> Public Hearing Notice \$75.00	<input type="checkbox"/> Wetland Mitigation Plan \$100.00 + Escrow	

ALL ESCROW MUST BE PAID BY CERTIFIED CHECK  
 Escrow Deposit \$2,000.00  
 Escrow Deposit - Site Plan Review: \$7,500 (Tucoma West Industrial Park), \$5,000.00 (All other site plan reviews)  
 Escrow Deposit - Development Review (paid at Sketch Plan): \$10,000.00

ALL PLANNING & ZONING APPLICATION FEES ARE IN ADDITION TO LEGAL, ENGINEERING AND ASSOCIATED COSTS.

\*APPLICATIONS WILL BE PROCESSED ONLY IF ALL REQUIRED ITEMS ARE SUBMITTED\*

The undersigned certifies that they are familiar with application fees and other associated costs, and also with the procedural requirements of Chapter 11 and Chapter 12 of the City Code and other applicable ordinances.

Applicant's Signature: <i>Lawrence Ruth Biermann</i>	Date <i>9/8/15</i>
---	-----------------------

Fee Owner's Signature: <i>Brian Biermann</i>	Date <i>9/8/15</i>
---	-----------------------

For Office Use Only		
Accepted By:	Amount	Date

#2 Leiland Paulson  
 8880 Wildwood Ave 4/21/15  
 St Bonifacius MN



Gestrich Paulson Lel Paulson

## Vacation of Right-of-Way

### Checklist

#2 Dean Hilgers  
 Heartland Farms, LLC property address - 514 Elm St. W  
 1961 Silver St. Warburg, MN 55368 of real estate owner tax  
 55357

APPLICATIONS WILL BE PROCESSED ONLY IF ALL  
 REQUIRED ITEMS ARE SUBMITTED.

by Dean B. Hilgers

Petitioner Check-in		City Check-in
✓	Two (2) sets of the following:	
✓	1. Written narrative describing the request for a vacation of right-of-way and why it would be in the public best interest to vacate said right-of-way.	
✓	2. Names, addresses, and signatures of abutting property owners	
	3. Certificate of survey indicating right-of-way to be vacated and related legal description(s) <i>Attachments enclosed</i>	
	4. Any additional information requested by the Community Development Director	
	Cash fee: \$150.00	
	Completed application form	

ALL PLANNING & ZONING APPLICATION FEES ARE IN ADDITION TO LEGAL, ENGINEERING AND ASSOCIATED COSTS.

1.) We are requesting having the lot lines of 510 Elm St. W. in Norwood moved to accommodate two issues. In the process with a Quit claim we would deed 10 ft. east of the S.W. pin to the neighbor to the west. The new line would allow for the west property neighbor to have all of their driveway on their own property. We would adjust the S.W. pins and leave the N.W. pin in place.

We are also asking to vacate a portion of the Progress Street right-of-way. This would move the S.E. pin 115 ft. and the N.E. pin 1.9 ft. By having this line moved the existing attached garage would not be encroaching on the road right-of-way.

As the lot currently lays legally, it starts at the corner of lot 10, thence runs west 60 ft. parallel to the south line of said block 10, then northerly parallel with Progress St. 125 to the alley, then east 60 ft. to the east line of block 10 and then south 125 ft. to its place of origin. The lot is located upon the S.E. quarter of the N.E. quarter section 15 Township 115 Range 26

Both would resolve major issues related to a potential buyer getting title insurance. We also feel this would allow the buyer to eliminate future issues with neighbors. Also an empty house in the community would again have occupants helping to sustain the economy.

Existing (old lot lines : legal description)

# CERTIFICATE OF SURVEY ALLEY



**DESCRIPTION OF RECORD**  
 Commencing at the southeast corner of Block 10, thence running West sixty feet along the South line of said Block 10, thence northerly parallel with Progress Street 125 feet to the alley, thence East 60 feet to the East line of said Block 10, thence southerly along said East line of said Block 10, 125 feet to the place of beginning all of which being situated in the Village of Norwood, according to the plat thereof on file and of record in the office of the Register of Deeds, Carver County, Minnesota. The above land situated upon the Southeast Quarter of the Northeast Quarter (SE 1/4 of NE 1/4) Section Fifteen (15), Township One Hundred Fifteen (115), Range Twenty Six (26).

## ELM STREET

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

*[Signature]*  
 AVERY GROCHOW, LS  
 DATE 9/1/15 REGISTRATION NO. 15475

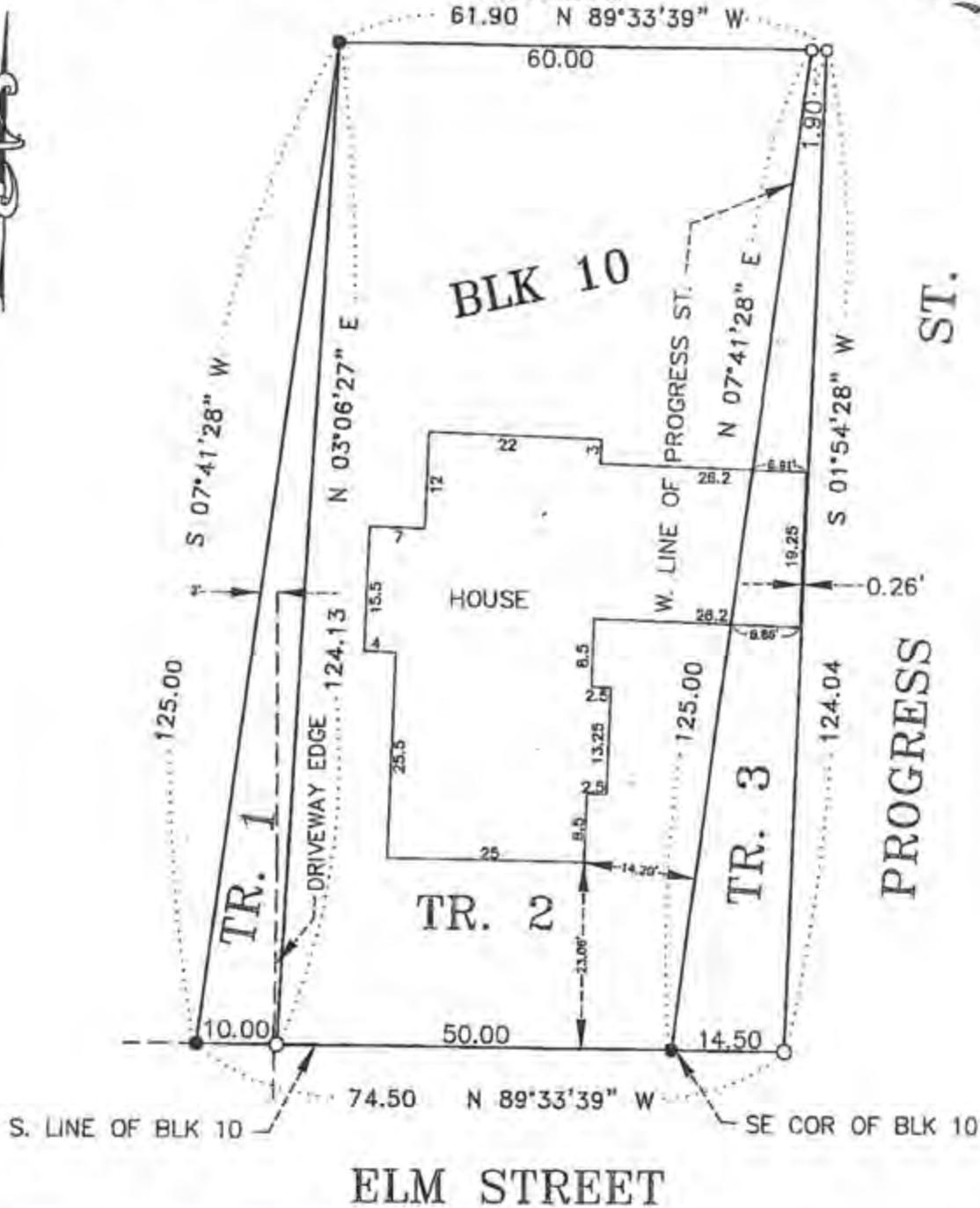
LOT SURVEY FOR  
**BRIAN BIERMANN**  
 PART OF BLOCK 10  
 ORIGINAL TOWN  
 NORWOOD, MINNESOTA

- DENOTES IRON PIPE FOUND
  - DENOTES IRON PIPE SET BY RLS NO. 15475
- SCALE: 1 INCH = 20 FEET



Proposed lot line changes for 510 Elm St. W.

# CERTIFICATE OF SURVEY ALLEY



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

*[Signature]*

AVERY GROCHOW, LS

DATE 9/1/15 REGISTRATION NO. 15475  
REVISED: 9/8/15

LOT SURVEY FOR  
**BRIAN BIERMANN**  
PART OF BLOCK 10  
ORIGINAL TOWN  
NORWOOD, MINNESOTA

- DENOTES IRON PIPE FOUND
  - DENOTES IRON PIPE SET BY RLS NO. 15475
- SCALE: 1 INCH = 20 FEET

Sep., 2015

FILE NO. 3635

SIBLEY SURVEYORS, INC.  
CARLSDALE, MINNESOTA



## BRIAN BIERMANN PROPOSED DESCRIPTIONS

### TRACT 1 (Biermann to neighbor)

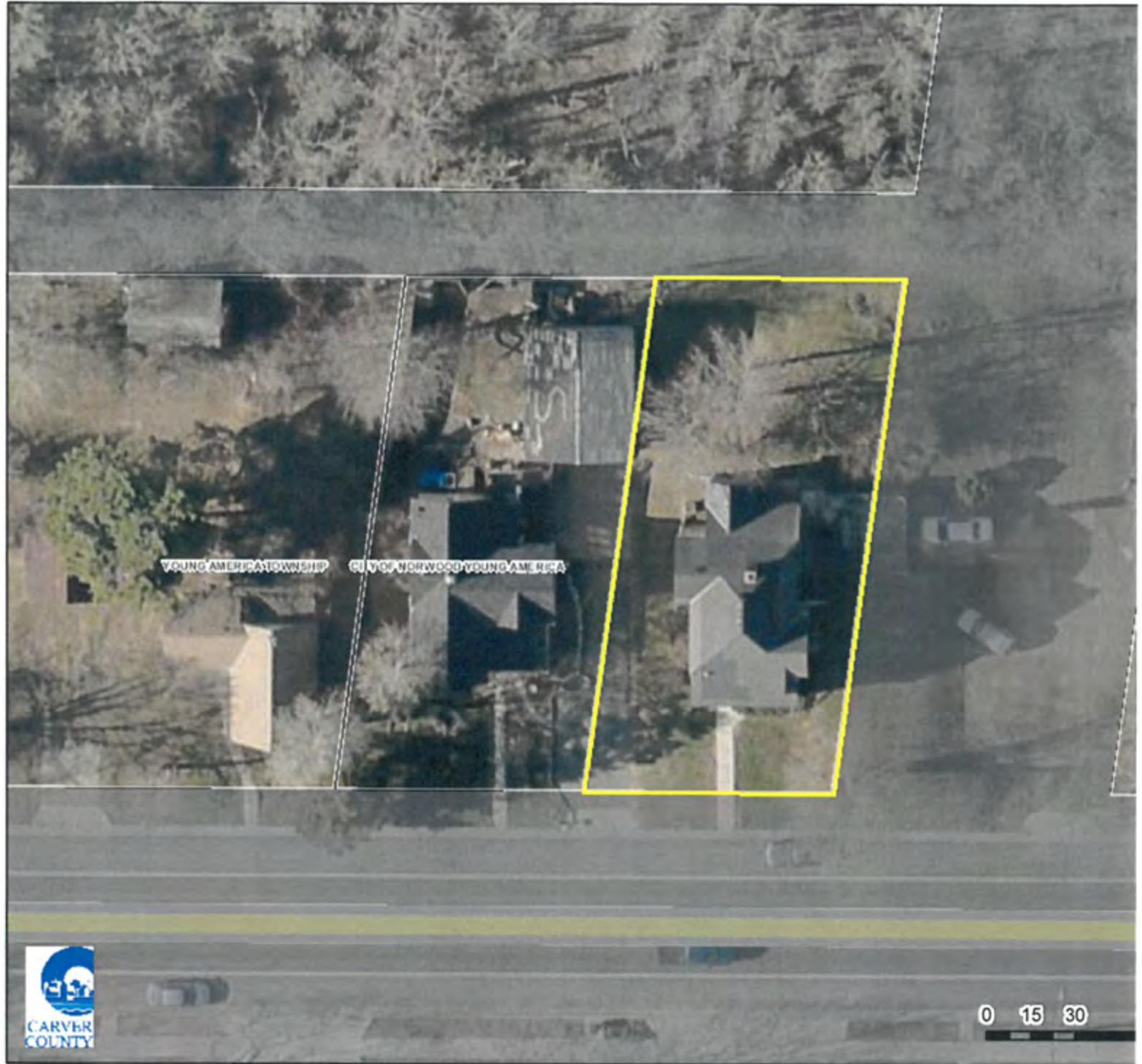
Part of Block 10 of the plat of the Village of Norwood, Minnesota, said plat being of record and on file at the Office of the Carver County Recorder, Carver County, Minnesota, described as follows: Commencing at the southeast corner of said Block 10; thence on an assumed bearing of North 89 degrees 33 minutes 39 seconds West along the South line of said Block 10 a distance of 50.00 feet to the point of beginning of the tract to be described; thence North 03 degrees 06 minutes 27 seconds East 124.13 feet to the South line of the Alley; thence South 07 degrees 41 minutes 28 seconds West, parallel with Progress Street in said plat, 125.00 feet to the South line of said Block 10; thence South 89 degrees 33 minutes 39 seconds East along said South line 10.00 feet to the point of beginning.

### TRACT 2 (Biermann revised description)

Part of Block 10 and part of Vacated Progress Street, all being part of the plat of the Village of Norwood, Minnesota, said plat being of record and on file at the Office of the Carver County Recorder, Carver County, Minnesota, described as follows: Beginning at the southeast corner of said Block 10; thence on an assumed bearing of North 89 degrees 33 minutes 39 seconds West along the South line of said Block 10 a distance of 50.00 feet; thence North 03 degrees 06 minutes 27 seconds East 124.13 feet to the South line of the Alley; thence South 89 degrees 33 minutes 39 seconds East along said South line 61.90 feet; thence South 01 degrees 54 minutes 28 seconds West 124.04 feet to the easterly extension of the South line of said Block 10; thence North 89 degrees 33 minutes 39 seconds West along said South line 14.50 feet to the point of beginning.

### TRACT 3 (Progress Street to be vacated)

Part of Progress Street in the plat of the Village of Norwood, Minnesota, said plat being of record and on file at the Office of the Carver County Recorder, Carver County, Minnesota, described as follows: Beginning at the southeast corner of Block 10 of said plat; thence on an assumed bearing of North 07 degrees 41 minutes 28 seconds East along the East line of said Block 10 and the West line of Progress Street 125.00 feet to the South line of the Alley; thence South 89 degrees 33 minutes 39 seconds East along the easterly extension of said South line 1.90 feet; thence South 01 degrees 54 minutes 28 seconds West 124.04 feet to the easterly extension of the South line of said Block 10; thence North 89 degrees 33 minutes 39 seconds West along said South line 14.50 feet to the point of beginning.



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

# RESOLUTION NO. 2015-

## A RESOLUTION SETTING A PUBLIC HEARING ON A VACATION COMMENCED BY A PETITION OF A MAJORITY OF ABUTTING LANDOWNERS

BE IT RESOLVED by the City Council of Norwood Young America, Carver County, Minnesota as follows:

WHEREAS, a petition signed by the majority of property owners abutting a portion of Progress Street in Norwood Young America was received by the City Clerk on September 8, 2015; and,

WHEREAS, the petition requested that the City Council pursuant to Minnesota Statute §412.851 vacate 900 square feet of the western half of Progress Street between Elm Street West and an east-west alley north of Elm Street which is legally described below; and,

Part of Progress Street in the plat of the Village of Norwood, Minnesota, said plat being of record and on file at the Office of the Carver County Recorder, Carver County, Minnesota described as follows: Beginning at the southeast corner of Block 10 of said plat; thence on an assumed bearing of North 07 degrees 41 minutes 28 seconds East along the East line of said Block 10 and the West line of Progress Street 125.00 feet to the South line of the Alley; thence South 89 degrees 33 minutes 39 seconds East along the easterly extension of said South line 1.90 feet; thence South 01 degrees 54 minutes 28 seconds West 124.04 feet to the easterly extension of the South line of said Block 10; thence North 89 degrees 33 minutes 39 seconds West along said South line 14.50 feet to the point of beginning.

WHEREAS, the City Clerk has reviewed and examined the signatures on said petition and determined that such signatures constitute a majority of the landowners abutting upon the portion of Progress Street to be vacated; and

WHEREAS, a copy of said petition is attached hereto.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NORWOOD YOUNG AMERICA, CARVER COUNTY MINNESOTA:**

The Council will consider the vacation of such street and a public hearing shall be held on Monday, October 12, 2015 at 6:30 PM or soon thereafter, in the Council Chambers at Oak Grove City Center, 310 Elm Street West

The City Clerk is hereby directed to give published, posted and mailed notice of such hearing as required by law.

Adopted by the City Council this 28<sup>th</sup> day of September, 2015.

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Tina Diedrick, Mayor

ATTEST:

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Steve Helget, City Administrator (Acting Clerk)



TO: Honorable Mayor Diedrick and City Council Members

FROM: Steve Helget, City Administrator

DATE: September 28, 2014

SUBJECT: Abdo Eick & Meyers Service Agreement

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The current service agreement with Abdo Eick & Meyers expired with the completion of the 2014 financial audit. Enclosed is a proposed 3-year service agreement for the years 2015-2017. The agreement also identifies the cost for completing the annual tax increment financing report due to the State Auditor's Office and the cost for updating the City's Financial Plan.

**Suggested Motion:**

**Motion to approve the three year service agreement with Abdo Eick & Meyers.**

**ABDO  
EICK &  
MEYERS<sub>LLP</sub>**

*Certified Public Accountants & Consultants*

September 9, 2015

Honorable Mayor and Council  
City of Norwood Young America  
Norwood Young America, Minnesota

The following sets forth the engagement of our services for the certified audit of the accounts of the City of Norwood Young America, Minnesota (the City).

We will audit the financial statements of the City for the years ending December 31, 2015, 2016 and 2017 in accordance with auditing standards generally accepted in the United States of America. Our audit will include tests of the accounting records and other procedures we consider necessary to enable us to express an opinion that the financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. Because of the concept of reasonable assurance and because we will not perform a detailed examination of all transactions, there is a risk that a material misstatement may exist and not be detected by us. In addition, an audit is not designed to detect errors, fraud, or other illegal acts that are immaterial to the financial statements. However, we will inform you of any material errors and any fraud that comes to our attention. We will also inform you of any other illegal acts that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to matters that might arise during any later periods of which we are not engaged as auditors.

We will perform the auditing services discussed above for the calendar years 2015, 2016 and 2017. In addition, we will prepare the annual Tax Increment Financing reports, and annual financial plan update as outlined below. If at any time during this period the Council is dissatisfied with our services for any reason whatsoever, our services may be terminated by so informing us. Our Firm, however, shall be obligated at your continuing discretion to perform the audit services for the three-year period at the following fees:

<u>Year</u>	<u>City Audit</u>	<u>TIF reports</u>	<u>Financial Plan Update</u>
2015	\$ 26,950	\$ 515/District	\$ 2,000
2016	27,500	530/District	2,500
2017	28,000	545/District	3,000

- The increase over 2014 is a result of additional audit procedures and time that will be necessary due to the required implementation of GASB 68 (the PERA pension liability) that will be added to your 2015 financial statements.
- Our fee for services quoted is a "not to exceed" fee. You will be billed at our normal per diem rates and in all cases will not exceed the schedule fees, which include out-of-pocket expenses.
- Our fee does not include additional audit services related to requirements a single audit if one would be required. Those fees would be discussed and agreed to prior to performing the services.
- Our fee includes the City audit, the Management Advisory Letter, and general consulting related to the audit.

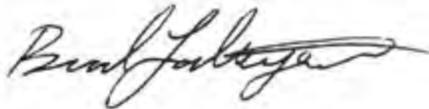
It is our belief that the proposed three-year audit engagement is in the best interest of the City. Our Firm can provide the City with a fixed three-year fee schedule to facilitate the budgeting process. Further, our ability to provide meaningful assistance through our Management Advisory Letter will improve with each year of continued audit involvement.

It is the policy of our Firm to issue a Management Advisory Letter. As independent auditors, we are in a position to acquire a detailed knowledge of client financial and administrative procedures; the Management Advisory Letter serves to summarize our recommendations toward improving the accounting and administrative controls, strengthening financial structure and developing a more efficient business operation.

Abdo, Eick & Meyers, LLP recognizes that its most important product is prompt and effective service of the highest quality. We will serve the City to its complete satisfaction and will apply the highest level of skills available in our firm to that end.

Sincerely,

ABDO, EICK & MEYERS, LLP  
*Certified Public Accountants & Consultants*



Brad Falteysek, CPA  
Governmental Services Partner

**RESPONSE:**

This letter correctly sets forth the understanding of the City of Norwood Young America.

Signature: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
City Administrator

Date: \_\_\_\_\_



TO: Honorable Mayor Diedrick and City Council Members  
FROM: Steve Helget, City Administrator  
DATE: September 28, 2014  
SUBJECT: City Clerk-Treasurer Hiring Recommendation

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The City received ten applications for the City Clerk-Treasurer position and the Personnel Committee interviewed three candidates. The Committee recommends hiring Kelly Hayes at pay Grade 11, Step 1 (\$48,672). Ms. Hayes has to give a 30-day notice at her current job.

**Suggested Motion:**

**Motion to approve the hiring of Kelly Hayes for the City Clerk-Treasurer position with a starting pay at Grade 11, Step 1.**



TO: Honorable Mayor Diedrick and City Council Members  
FROM: Steve Helget, City Administrator  
DATE: September 28, 2014  
SUBJECT: Schedule 2016 Budget Workshop Meetings

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Proposed is to schedule two special City Council meetings in the month of October for the purpose of continuing to work on the 2016 Budget.

Possible dates include: October 5, 6, 7, 8, 27, 28, and 29.

**Suggested Motion:**

**Motion to schedule special City Council meetings on October \_\_\_\_\_, 2015 for the purpose of continuing the review of the 2016 Budget.**



To: Honorable Mayor Diedrick  
Members of the City Council  
Administrator Helget

From: Cynthia Smith Strack, Municipal Development Group, Inc.

Date: September 25, 2015

Re: Encroachment Agreement: Parking in Merger Street Right of Way

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**BACKGROUND**

Young America Holdings, LLC has a buyer for the property at 717 Faxon Road, Lot 1, Block 1 of YA Addition. The prospective buyer is requesting the City enter into an easement encroachment agreement as a portion of an existing parking lot (non-structural aspect) is located in the Merger Street Boulevard. The attached map illustrates the area applicable to the request.

City Attorney Jay Squires' Associate John Edison has drafted the attached encroachment agreement for Council consideration.

**ACTION**

Authorize City Administrator and Mayor to execute the attached encroachment agreement.



This map was created using Carver County's Geographic Information System (GIS) data, which is derived from aerial photography, ground surveys, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a general guide only. For more information, please contact the Carver County GIS Department at [www.carvercounty.net/gis](http://www.carvercounty.net/gis).

Map Date: 9/24/2012

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(above space reserved for recording data)

## ENCROACHMENT AGREEMENT

**AGREEMENT** made this \_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Norwood Young America, a Minnesota municipal corporation ("City") and the Young America Holdings, LLC, a Minnesota limited liability company ("Owner").

1. **BACKGROUND.** The Owner is the fee owner of certain property located in the City of Norwood Young America, County of Carver, State of Minnesota (hereinafter the "Subject Property"). The legal description of the Subject Property is contained in the attached Exhibit A.

Nineteen (19) parking spaces in a parking lot constructed on the Subject Property currently encroach onto the City's right-of-way for Merger Street (formerly called Central Avenue) (hereinafter "Encroachment Area"), as depicted and described in the attached Exhibit A.

2. **ENCROACHMENT AUTHORIZATION.** The City hereby grants to the Owner of the Subject Property, and its successors and assigns, a permitted encroachment over the Encroachment Area for the existing nineteen (19) parking spaces, as shown and described in the attached Exhibit A. This permitted encroachment shall not extend to any additions to or alterations of the existing parking spaces and shall not extend to any new parking spaces or structures on the Subject Property. The duration of the permitted encroachment shall be perpetual unless the permitted encroachment expires as provided in this paragraph. Said permitted

encroachment shall expire upon demolition or removal of the existing nineteen (19) parking spaces. If the existing parking spaces need to be replaced, any such new parking spaces must meet all applicable setback requirements at the time of replacement. Replacement does not include routine maintenance or resurfacing of the existing parking spaces.

3. **ACCESS.** Subject to the terms of this Agreement, the City maintains the right to have full access and use of the Encroachment Area and the Merger Street right-of-way. All provisions of this instrument, including the benefits and burdens, run with the land and are binding upon and inure to the successors and assigns of the parties hereto.
4. **INSURANCE.** The Owner, and its successors and assigns, shall provide insurance against all liability, bodily injury, and property damage associated with its use of the Encroachment Area. The Owner's insurance coverage must be primary and written on an "occurrence" basis. The Owner shall provide evidence of the existence of such insurance to the City.
5. **DEFEND, INDEMNIFY, AND HOLD HARMLESS.** In consideration of being allowed to encroach on the City's easement, the Owner, its successors, heirs, and assigns, hereby agree to defend, indemnify, and hold the City harmless from any claims, demands, losses, or injuries (collectively "claims") to persons or property which arise from or in connection with the use of the Encroachment Area, which claims shall include, without limitation: loss, injury, or death to any licensee, invitee, agent, or employee of Owner. The Owner, its successors, heirs, and assigns also agree to defend, indemnify, and hold the City harmless from all injuries and losses of third parties caused by the Owner's use of the Encroachment Area.
6. **RECORDING.** This Agreement shall be recorded against the title to the Subject Property.

**CITY OF NORWOOD YOUNG AMERICA**

\_\_\_\_\_  
Its Mayor

Dated: \_\_\_\_\_

\_\_\_\_\_  
Its Clerk

Dated: \_\_\_\_\_

STATE OF MINNESOTA )  
 ) SS  
COUNTY OF CARVER )

The foregoing instrument was acknowledged before me this \_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_ and \_\_\_\_\_, respectively the Mayor and City Clerk for the City of Norwood Young America, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

\_\_\_\_\_  
Notary Public

**YOUNG AMERICA HOLDINGS, LLC**

\_\_\_\_\_  
Christopher R. Behrens  
Its President and CEO

Dated: \_\_\_\_\_

STATE OF MINNESOTA )  
 ) SS  
COUNTY OF CARVER )

The foregoing instrument was acknowledged before me this \_\_ day of \_\_\_\_\_, 2015, by Christopher R. Behrens, President and CEO of Young America Holdings, LLC, a duly authorized representative of the company.

\_\_\_\_\_  
Notary Public

This instrument was drafted by:

John P. Edison  
Rupp, Anderson, Squires & Waldspurger, P.A.  
527 Marquette Ave. S, Suite 1200  
Minneapolis, MN 55402  
(612) 436-4300

RASW 42533

