



Norwood Young America Planning Commission
Tuesday, May 2, 2017
Norwood Young America City Council Chambers, 310 Elm St. W.
6:00 p.m.

AGENDA

- | | |
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| Bill
Grundahl | 1. Call to Order
Pledge of Allegiance |
| Cassandra
Kemp | 2. Adoption of Agenda |
| JR
Hoernemann | 3. Approve Minutes of April 18, 2017 meeting |
| Mark
Lagergren | 4. Public Hearings |
| Craig
Heher
Council
Liaison | 5. Old Business
A. Rental Housing Code Update
B. Appoint Comprehensive Plan Steering Committee Representative |
| | 6. New Business
A. Code Standards for Towers |
| | 7. Commissioner's Reports and April Building Permit report |
| | 8. Adjourn |

UPCOMING MEETINGS

- May 8th – City Council Meeting 6:00 p.m. – PC Rep – JR Hoernemann
May 10th – EDC Meeting 6:30 p.m.
May 16th – Parks & Recreation Commission Meeting 5:30 p.m. – JR Hoernemann
May 22nd – City Council Meeting 6:00 pm – PC Rep – JR Hoernemann
June 6th – Planning Commission Meeting

*Norwood Young America
Planning Commission Minutes
April 18, 2017*

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

Absent: Lagergren.

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

Others: Mike Werneke and Lisa Mosley.

1. Call to Order.

The meeting was called to order by Heher at 7:04 pm. All present stood for the Pledge of Allegiance.

2. Adoption of Agenda.

Chairperson Heher introduced the agenda. Staff requested the addition of item 6.D. relating to signs in the RC-1 District and consideration of reordering of agenda to allow public hearing applicants to have items acted on in a timely fashion.

Motion – Kemp, Second Hoernemann to approve the agenda with the addition of item 6.D. and reordering of business items related to public hearing items. The revised agenda was approved 4-0.

3. Approval of Minutes from the Regular Meeting March 21, 2017.

Heher introduced the minutes from the March 21, 2017 regular meeting.

Motion – Kemp to approve March 21, 2017 regular meeting minutes. Second by Grundahl. With all in favor the minutes were approved 4-0.

4. Public Hearings.

Heher addressed the audience regarding the public hearing process.

A. Ordinance Amendment Relating to First Floor Residential Uses in the C-3 Downtown Districts.

Heher introduced the agenda item and opened the public hearing at 7:10 p.m. Strack stated the Commission has had residential uses in the Downtown District on their radar before, principally as a means of assisting building owners in utilizing space and cash-flowing buildings.

Recently, City Administrator Helget became aware of a first floor residential use at 116 Union Street North. In March, Administrator Helget corresponded with the property owner, Mr. Mike Werneke. The Administrator's compliance letter noted a path to remedy the prohibited use

could be to file for a code amendment to allow first floor residential uses in certain situations. After receiving the correspondence and having discussions with staff, Mr. Werneke applied for a code amendment. Strack noted Mr. Werneke was present in the audience.

Strack referenced a draft Ordinance included in the packet. The draft ordinance provides for limited residential uses on the first floor in the C-3 Downtown District. The Ordinance envisions first floor residential uses as permitted uses provided several standards are achieved:

1. The residential use does not compose greater than fifty (50) percent of the ground floor area;
2. A storefront is retained in the front of the building adjacent to public streets;
3. A separate entry is provided for the residential use;
4. The residential use is not adversely impacted by the adjoining commercial use in terms of hours of operation prior to 7 a.m. or after 9 p.m., production of odor or noise, or increased traffic generation;
5. Off-street parking is provided for the residential use.

Strack opined the proposed code amendment is not only a means to rectify a non-compliant use, but also allows increased flexibility in the Downtown District wherein vacant buildings are reoccurring issues. The code amendment intends to keep the appearance of storefronts (large windows, welcoming entries, etc) and avoid reducing window/door opaqueness which often accompanies residential uses at ground level.

Strack noted a public hearing notice had been published. No comments for or against the proposed Ordinance have been received.

Mike Werneke addressed the Commission. Werneke noted he bought the building with an existing renter in a first floor apartment. He noted he didn't intend to operate a non-conforming use. Werneke also stated he has a salon going into the storefront. Werneke noted the City of St. Peter has similar allowances in their Code for first floor residential provided a commercial storefront is retained.

Heher inquired as to where other C-3 Districts were located. Strack noted adjacent to Elm Street and by the former City Hall.

Grundahl asked the Property Owner if the building already remodeled when he purchased it. Werneke confirmed there was a full kitchen and bath and residential tenant in the back of the building when he and his wife purchased the building. Werneke noted parking in the back was established prior to purchase as well. Werneke stated he didn't know what the building looked like when it was a coffee shop, only that when he purchased it there was a clothing store in the front.

Heher asked how the proposed Ordinance related to the Comprehensive Plan. Strack noted it was consistent with mixed use building occupancies in the Downtown areas.

Grundahl inquired as to whether a rezoning process was a potential option. Strack opined rezoning would be problematic as it is surrounded by C-3 District. Spot zoning has been struck

down by courts. She further opined it was difficult to envision the area as a highway commercial district. Strack opined it was appropriately zoned as C-3 allows for residential on second floor. She stated she didn't detect a measurable difference between first floor behind commercial and second story residential. Finally she stated that any other type of residential, for example single family, is grandfathered in.

Grundahl asked Administrator Helget for an opinion on how the current discussion related to a scheduled joint meeting discussion on Downtowns. Helget noted he supported the Ordinance; he opined it wouldn't directly impact scheduled joint meeting discussion. Helget opined the proposed Ordinance protects the integrity of storefronts in Downtown Districts.

Grundahl asked Werneke whether or not he was able to meet the proposed conditions. Werneke confirmed he met proposed conditions.

Heher asked for other comments for or against the proposed Ordinance.

Motion – Kemp, Second Grundahl to close the public hearing at 7:25 p.m. Approved 4-0.

B. Rezoning C-3 Downtown District to R-3 Medium Density Mixed Residential – 120 Morse Street North.

Heher introduced the agenda item and opened the public hearing at 7:26 p.m.

Strack stated a residential structure at 120 Morse Street North is currently non-homestead and renter occupied. Rental housing as a principal use of the entire dwelling is not an allowed use in the C-3 Downtown District which is the current applicable zoning classification.

Lisa Mosley (Broker) and Suman Thotakura (Property Owner) have applied for rezoning of the subject parcel to R-3, Medium Density Mixed Residential District.

Rezoning was an option suggested by City Administrator Helget in a compliance letter after he became the property was being rented. After receiving the correspondence and having discussions with staff, Ms. Mosley applied for rezoning on behalf of her client, Mr. Thotakura. Both have signed the application included in the PC meeting packet.

The Applicant has petitioned for rezoning as R-3 Residential. R-3 zoning abuts the subject parcel to the east and south; therefore, the rezoning will not constitute "spot zoning". The code does not specify review criteria or required standards for approving a rezoning request. The Code does require specific adoption criteria, that is, a two-thirds super majority vote by the City Council.

Strack stated the Applicant is requesting the property be rezoned to R-3 Residential to reflect the fact the structure is a dwelling as opposed to a commercial structure and to reflect the current and recent use of the structure.

A notice of public hearing has been posted, published, and mailed as required by law. At this time no oral or written comment for or against the request have been received.

Helget noted he received one call for information but the individual requesting input didn't have a concern with the proposed rezoning.

Grundahl stated that at the previous meeting he expressed concern regarding about mailed notices. He stated he did not receive a notice for this rezoning either, but that he was the caretaker and not the owner of property in the vicinity. He further noted his shop was likely in the mailed notice area, but he was not the owner of the building.

Grundahl asked Strack to identify where R-3 zoning was adjacent to the subject parcel. Strack explained.

Grundahl asked Lisa Mosley to identify the property owner. Mosley noted Suman Thotakura is the fee owner of the property.

Kemp stated she didn't have an issue with the proposed rezoning. She opined occupied properties were favorable to vacant buildings.

Grundahl asked Mosley if any other development was envisioned on the property. Mosley stated the owner had considered commercial space for the building but ultimately determined too much existing vacant commercial property was present in the City.

Motion – Kemp, second Hoernemann to close the public hearing at 7:38 p.m. Approved 4-0.

5. New Business.

A. Ordinance Amendment Relating to First Floor Residential Uses in the C-3 Downtown Districts.

Heher introduced the agenda item.

Strack noted the Applicant was in attendance. She noted several rural communities similar in size and geographic location allow first floor residential uses in Central Business Districts providing storefronts are retained adjacent to public streets. She noted with the considerations suggested, she recommended approval of the Ordinance.

Strack then alluded to results of survey conducted in advance of a planned joint work session. One question related to the most important task to undertake in the Downtown areas. All responding said filling vacant structures is utmost importance. The proposed Ordinance would assist in filling portions of vacant building assist in cash-flow for building owners.

Kemp stated she supported the draft Ordinance.

Grundahl stated he was on the fence about the proposed Ordinance. He opined previous elected and appointed officials established existing zoning rules after deliberating considerably. He

opined they opted not to include residential in the rear of first floor structures and that should be considered.

Kemp stated more vacant buildings were now existing, she questioned whether those establishing the existing rules would view things differently at this time. She opined occupied buildings lead to better building maintenance and further investment in buildings. She stated mixed use buildings were favorable revenue sources for cities.

Heher opined retailers are struggling and closing due to competition from online retailers.

Kemp agreed noting all communities are challenged to keep storefronts occupied.

Heher opined shopping trends are changing.

Grundahl asked Commissioners to consider what would be appropriate if commuter rail was extended to the City. Hoernemann noted he didn't see that as a concern at this time.

Kemp opined the amendment would help building owners increase revenue and fill vacant spaces.

Heher asked Hoernemann for his thoughts. Hoernemann voiced support for the draft Ordinance.

Heher asked Grundahl for his thoughts on the issue. Grundahl expressed support for the draft Ordinance.

Heher voiced support for the Ordinance.

Motion – Hoernemann, Second Kemp to recommend approval of the ordinance allowing residential uses on the first floor of buildings in the C-3 District providing performance standards were achieved. Approved 4-0.

B. Rezoning C-3 Downtown District to R-3 Medium Density Mixed Residential – 120 Morse Street North.

Heher introduced the agenda item.

Strack referenced a draft ordinance included in the packet rezoning property at 120 Morse Street North from C-3 Downtown District to R-3 Medium Density Mixed Residential District. She noted the subject property was an existing non-homestead residential dwelling. She noted the subject parcel was adjacent to existing R-3 uses meaning spot zoning was not an issue with this request.

Kemp supported the rezoning request. She noted she's always considered the subject parcel as a residential property not a commercial property.

Grundahl stated he remembered when it was a business, a laundromat. He opined that when that use ceased people remodeled it to residential thereby changing use without consideration of zoning.

Kemp asked Helget whether or not zoning was considered when building permit applications were filed. Helget noted he told the Applicant several times the property could not be used for residential rental. He noted he shared that information with the current property owner. He stated he communicated on several occasions that a residential use was not allowed at the site. Helget stated the Commission should consider whether or not the property will ever be used for commercial purposes.

Kemp noted the subject property has been vacant for several years. She stated it hasn't been a business for at least ten years.

Hoernemann stated the remainder of the subject lot is not easily buildable.

Kemp supported rezoning. Hoernemann agreed.

Heher stated his concern is that the property is not likely to be commercial in the future; with that he supported residential zoning. He then stated he would like to make sure the property is kept up and clean and orderly.

Grundahl stated he would not make a motion regarding the request.

Motion – Kemp, second Hoernemann to recommend the City Council approve an Ordinance rezoning 120 Morse Street North from C-3 Downtown District to R-3 Medium Density Mixed Residential District. Kemp, Hoernemann, and Heher voted in favor; Grundahl opposed.

6. Old Business.

A. Rental Code Update.

Heher introduced the agenda item.

Strack noted the Commission called for a work session on the draft rental code update following input from landlords at the February 22nd meeting. Discussion at the work session primarily centered on tenant registration and disorderly conduct draft provisions. At the meeting the Commission received feedback from the public which favored conduct standards addressed in lease agreements and not code. A sample management plan was presented to the Commission and viewed favorably.

Following the meeting the information was forwarded to Zachary Cronen at the City Attorney's Office (original drafter of proposed changes). Cronen has suggested replacement language and developed management plan criteria.

Strack noted included in the packet was an updated rental code. She noted the draft code previous agreed upon updates were illustrated in yellow highlight; those made following the work session were connoted with blue highlight.

She reviewed proposed changes:

Made after the work session:

1. The definition of ‘rent’ was updated by removing the last sentence.
2. Subd. 10 relating to tenant registry was updated by removing the last sentence which required posting of tenant registry near building entry.
3. Subd. 14 relating to disorderly conduct was removed and replaced with enabling language referencing a required management plan.

Made prior to the work session:

1. Language included in the ‘scope’ related to “direct family members” has been removed.
2. A reference to ‘overcrowding’ as a ‘nuisance’ has been removed.
3. A definition of ‘occupant’ has been removed.
4. Miscellaneous references to variance codes have been updated.
5. Rental licenses are proposed to be in effect for three rather than two years.

Strack noted that following review, if appropriate the PC may call for a public hearing on the rental code for the June 6th regular meeting.

Kemp noted support for the language and proposed management plan.

Heher stated one of the driving forces behind the code amendment was adding accountability for tenant behaviors. That directive was provided by the City Council. Heher opined the management plan provides for tenant behavior accountability. He stated that if the City Attorney is comfortable with the management plan, he accepted it as well.

Helget asked Strack how the proposed amendment addresses problem tenants. Strack noted the proposed required lease language makes the property owner or manager responsible for enforcement of lease. If the lease is not enforced, the rental license can be either not issued or revoked.

Helget requested a reference to ‘building official’ be changed to ‘code official’ in Section 350.05.

Heher asked for input from Grundahl. Grundahl opined the ordinance is overwritten, amounting to too much regulation. He opined it may be fine for larger complexes but not for individual property owners. He opined it would be difficult for renters of single family homes to accept the management plan requirements.

Kemp agreed the language could be viewed as cumbersome but at the same time noted change is often seen as difficult.

Grundahl opined the proposed language put the City in the middle of rental issues.

Helget opined the driving issue for the rental code update was repeated police activity which generates requests curtail behavior necessitating police activity. The current code doesn't address tenant behavior; the proposed language does.

Heher asked Helget whether the management plan helped to put 'teeth' in the code. Helget noted that was his hope.

Grundahl asked Strack what the next step should be. Strack noted the Commission should make some decisions. If the Commission wanted to pare down the management plan language then it should identify what parts of the plan could be changed. If the Commission wanted to remove the management plan requirement, then direction should be given. If the Commission wanted to remove any reference to disorderly conduct, then that suggestion should be made. Strack noted she would not recommend going to public hearing if changes are pending.

Kemp suggested allowing a rental property owner to propose their own management plan or use the sample created by the City.

The Commission reached consensus to continue discussion at the next meeting.

7. Old Business.

A. Partial Vacation of Liberty Street: 524 Elm Street West.

Heher introduced the agenda item.

Strack stated the City Council has requested input from the Planning Commission regarding vacation of a 1,054 sf portion of unimproved Liberty Street in the 500 Block of West Elm Street. A similar issue was heard in 2015 in the same block. If approved the vacation would allow an existing detached garage to remain in its present location. The City Council will be holding a public hearing on the request on April 24th.

Petitioners for partial vacation are the holder of a purchase agreement and the fee owners at 524 Elm Street West and adjacent property owners Peter and Michelle Luskey and Marilyn Franck. The request relates to a partial vacation of the eastern half of Liberty Street. The partial vacation would accommodate an attached garage which is located in the public right of way.

Strack stated the Applicant's represented:

- The vacation of an approximate 1,054 sf of unimproved Liberty 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 17 feet (portion of eastern half of public street ROW and western boundary of subject lot).
- The garage was constructed in the public easement decades ago.
- 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.

Strack noted 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. The City Council is responsible for consideration of easement vacation requests.

The City Engineer has reviewed the request and notes:

1. To the best of his knowledge no public utilities are located in the subject area.
2. Private utilities could be located in the subject area that are unknown by the City at this time (please note notices mailed).
3. Property to the North is privately owned. Private development "Hidden Glen" was proposed but never materialized. City Engineer recommends access to the private property be retained. At this time West Street and Liberty Street provide access with West Street perhaps being the most viable. There is a potential water main looping may need to occupy the Liberty Street right of way. Adequate remaining width appears to be able to accommodate said looping.
4. The proposed vacation results in narrowing of the right of way. If an improved street is necessary in the future, the boulevard will be smaller if a 34' paved roadway is envisioned. Alternately a roadway of less width is possible.
5. Retaining a drainage/utility easement (5') along the newly created lot line is recommended.

The City has received correspondence from Xcel Energy. Xcel recommends retaining a utility easement across the vacated portion.

Strack stated City Attorney Jay Squires will be drafting an easement and resolution for consideration by the City Council on April 24th. If approved, presumably a quit claim deed would be drafted to convey property to the Applicant.

Discussion regarding extent of Liberty Street proposed for vacation and access to the “Hidden Glen” property occurred.

Motion – Hoernemann, Second Kemp, to recommend the Council approve the proposed partial vacation of Liberty Street. Motion carried 4-0.

Strack noted agenda item 5.B. had been inadvertently skipped. Heher introduced the agenda item relating to appointment of a liaison from the Planning Commission to the EDC. Commissioners agreed to delay appointment of a liaison until additional members were appointed to the PC.

B. Pylon Signs in the RC-1 District.

Heher introduced the agenda item.

Strack noted the City has received an inquiry regarding maximum sign area for pylon signs in the RC-1 District adjacent to Railroad Street. The request involves adding on to an existing pylon sign. At this time no sign regulations apply to the RC-1 District under Section 1260 of the Code.

Specific sign standards relate to every other zoning classification leading staff to believe this is an inadvertent oversight rather than a deliberate attempt to completely prohibit signs in the RC-1 District.

Pylon signs are not allowed in the C-3 Downtown District. For pylon signs in the C-2 General Commercial, B-I Business Industrial and the I-1 General Industrial District the following standards apply:

- One Pylon Sign facing each street frontage. For signs adjacent to collector streets like Railroad Street the maximum sign area allowed is forty eight (48) square feet. Sign width can't exceed twelve feet and sign height can't exceed six feet.
- Pylon signs facing major arterials can be up to 60 square feet in area but must not exceed 15 feet in width or eight feet in height.
- For multi-tenant buildings facing collector streets, one pylon sign per lot is allowed. The area of that sign can't exceed 60 square feet with a maximum area per tenant of 30 square feet.
- Multi-tenant pylon signs facing an arterial street can be up to 80 square feet in area with up to 40 square feet per occupant.
- Pylons can't exceed thirty (30) feet in height with the actual sign height not being more than 40 feet.

Strack stated staff recommends pylon signs for multi-tenant buildings adjacent to collector streets be appropriate for the pending request with the Code updated to reflect said recommendation as soon as possible. The Code amendment would simply add the RC-1

District to performance standards applicable to the C-2, B-I, and I-1 Districts. Staff is looking for a motion from the PC following discussion. A sample Motion could be to find performance standards for signs in the RC-1 District should be those applicable to the C-2, B-I, and I-1 Districts and ordering staff to prepare a code amendment reflecting the finding at their earliest possible convenience.

Commissioners agreed the absence of specific standards for signs in the RC-1 District was likely an oversight and not a deliberate action.

Motion – Kemp to find performance standards for signs in the RC-1 District should be those applicable to the C-2, B-I, and I-1 Districts and ordering staff to prepare a code amendment reflecting the finding at their earliest possible convenience. Second Hoernemann. All voted in favor of the Motion.

8. Commissioner Reports – Building Permit Report.

Hoernemann reported The Haven only has three vacant rental units at this time. A new bus will be placed into service in June.

Grundahl inquired as to why siding at the Loomis building looked the way it did. Helget noted it would be painted in the future.

Kemp provided an update from the EDC meeting.

Heher noted the Council approved several planning items and Tony Voight had joined the City staff.

9. Adjourn

Motion – Grundahl, Second Kemp, with all in favor the meeting adjourned at 9:13 p.m.

Respectfully submitted,

Steven Helget
Zoning Administrator



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: May 2, 2017

Re: Rental Housing Code Update

BACKGROUND

The Commission has been reviewing the rental code since September 2016. At the April meeting the PC reviewed a draft management plan drafted by the City Attorney's Office in lieu of language inserted in the draft rental code pertaining to disorderly conduct. The Commission reached consensus to continue discussion at the May meeting.

At the May meeting, presumably, if the Commission wants to pare down the management plan language it should identify what parts of the plan could be changed. Or, if the Commission wants to remove the management plan requirement then agreement on that direction should be given. If the Commission wants to remove any reference to disorderly conduct, then that suggestion should be made.

Please find attached an updated rental code and the proposed management plan.

Please note in the draft code previous agreed upon updates are illustrated in **yellow highlight**; those made following the work session are connoted with **blue highlight**.

A reminder of the proposed changes:

Made at the April Meeting

1. Section 350.05, two references to "Building Official" changed to "Code Official".

Made after the work session:

1. The definition of 'rent' was updated by removing the last sentence.
2. Subd. 10 relating to tenant registry was updated by removing the last sentence which required posting of tenant registry near building entry.
3. Subd. 14 relating to disorderly conduct was removed and replaced with enabling language referencing a required management plan.

Made prior to the work session:

1. Language included in the 'scope' related to "direct family members" has been removed.

2. A reference to 'overcrowding' as a 'nuisance' has been removed.
3. A definition of 'occupant' has been removed.
4. Miscellaneous references to variance codes have been updated.
5. Rental licenses are proposed to be in effect for three rather than two years.

ACTION

Discussion is requested.

ATTACHMENTS

- Draft rental code
- Draft management plan

Section 350 – Rental Housing Licensing

350.01 Purpose and Scope.

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

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

Subd. 3 Application to Existing Buildings. Additions, alterations or repairs, shall be done in compliance with the Building, Fire, Plumbing and Mechanical Codes. Applicable permits shall apply as required by these Codes. All properties, whether pre-existing as Rental Property at the time of adoption of this ordinance or afterward becoming Rental Property shall comply with all terms of this ordinance. *(Amended by Ord. 222, 8/16/10)*

350.02 Definitions.

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

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

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

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

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

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

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

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

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

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

Electrical Code. “Electrical Code” is the **Minnesota State National** Electrical Code.

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

Fire Code. “Fire Code” is the Minnesota State Fire Code.

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

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

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

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

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

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

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

Mechanical Code. “Mechanical Code” is the **Minnesota State International** Mechanical Code.

Nuisance. The following shall be defined as nuisances:

- A. Any public nuisance as defined in Chapter 6 of the City Code.
- B. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
- C. Whatever is dangerous to human life or is detrimental to health, as determined by the code official or health officer.
- D. ~~Overcrowding a room with occupants.~~

- E. Insufficient ventilation or illumination.
- F. Inadequate or unsanitary sewage or plumbing facilities.
- G. Un-cleanliness, as determined by the health officer.
- H. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the Health Officer.

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

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

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

Plumbing Code. “Plumbing Code” is the **Minnesota State International** Plumbing Code.

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

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

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

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

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

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

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

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

350.03 Rental Housing License.

Subd. 1 License Required. No person may operate, let, or cause to be let, a rental dwelling unit without first

having obtained a rental housing license from the City as hereinafter provided. Further, no owner or manager shall allow the occupancy of a rental dwelling unit by a tenant after the expiration of the rental housing license for the rental dwelling in which the rental dwelling unit is located unless the license has been properly renewed.
(Amended by Ord. 222, 8/16/10)

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

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

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

Subd. 3 Fees.

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

Subd. 4 Rental Dwelling Inspections No license may be issued or renewed unless the City determines, following an inspection conducted pursuant to this section, that rental dwelling unit(s) conform to the provisions of this Section 350. As more specifically provided below, the code official and his or her agents may cause inspections, follow-up inspections, and reinspections on rental dwelling units within the city on a scheduled basis, and on

rental dwelling units when reason exists to believe that a violation of an applicable subdivision of this Section 350 exists, has been, or is being committed. *(Amended by Ord. 222, 8/16/10)*

- A. **Consent.** The code official and his or her agents are authorized to contact owners, tenants and/or managers of rental dwellings to schedule inspections of rental dwellings at reasonable times. If the City is unsuccessful in securing consent for an inspection pursuant to this Section 350, the City shall seek permission, from a judicial officer through an administrative warrant, for its enforcement officer or his or her agents to conduct an inspection. Nothing in this Section shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant. *(Amended by Ord. 222, 8/16/10)*
- B. **Inspections not Required.** Inspection for the issuance or renewal of a license may be waived by the City if the owner of a dwelling unit:
1. Proves that within the previous 12 months the dwelling unit(s) passed an inspection required by the County, State, or Federal regulations that is at least as stringent as the inspection required under this Section 350.
 2. Has, within the 12 months preceding the licensing period deadline as defined in Subd. 6 below, applied for and received a rental dwelling license from the city. *(Amended by Ord. 222, 8/16/10)*

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

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

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

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

Subd. 9 Transfer of Rental Property. A license is not transferable to another person or to another rental

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

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

Subd. 10 11 Revocation. A Rental Housing License may be suspended or revoked as prescribed in this ordinance.

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

350.04 Requirements.

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

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

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

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

Subd. 5. Carbon Monoxide Alarms. Each rental dwelling shall have an approved and operational carbon

monoxide alarm installed with ten feet of each room used for sleeping purposes as required by Minnesota Statutes §§ 299F.50 and 51, as amended, unless an exception listed in Section 299F.51, Subd. 5, applies.

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

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

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

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

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

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

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

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

Subd. 14. Management Plan. As a condition of receiving and maintaining a Rental Housing License, every Owner must submit a Management Plan to the Code Official. Management Plan forms are available with the Code Official. Upon receiving notice that the City has approved an Owner's Management Plan, the Owner must adhere to the terms and conditions in the Management Plan. Failure to do so may result in the suspension or revocation of the Owner's Rental Housing License.

~~Subd. 14. Disorderly Conduct Prohibited. Disorderly conduct is prohibited on all licensed premises. It shall be the responsibility of the licensee to take appropriate action to prevent disorderly conduct by tenants and their guests on the licensed premises.~~

~~A. For purposes of this subchapter, a violation of the following statutes or ordinances shall be deemed disorderly conduct:~~

- ~~1. Minnesota Statutes, Sections 609.75 through 609.76, which prohibit gambling, as may be amended;~~
- ~~2. Minnesota Statutes, Sections 609.321 through 609.324, which prohibit prostitution and acts relating thereto, as may be amended;~~

3. Minnesota Statutes, Sections 152.01 through 152.025, and Section 152.027, subdivisions 1 and 2, which prohibit the unlawful sale or possession of controlled substances, as may be amended;
4. Minnesota Statutes, Section 340A.401, which prohibits the unlawful sale of alcoholic beverages, as may be amended;
5. Minnesota Statutes, Section 340A.503, which prohibits the underage use of alcoholic beverages, as may be amended;
6. Chapter 600 of this Code, which prohibits nuisances, as may be amended;
7. Minnesota Statutes, Sections 97B.021, 97B.045, 609.66 through 609.67, and 624.712 through 624.716, which prohibit the unlawful possession, transportation, sale, or use of a weapon, as may be amended;
8. Minnesota Statutes, Section 609.72, which prohibits disorderly conduct, when the violation disturbs the peace and quiet of the occupants of at least one unit on the licensed premises or other premises, other than the unit occupied by the person(s) committing the violation, as may be amended;
9. Minnesota Statutes, Sections 609.185, 609.19, 609.195, 609.20, and 609.205, which prohibit murder and manslaughter, as may be amended;
10. Minnesota Statutes, Sections 609.221, 609.222, 609.223, Section 609.2231 which prohibit assault, excluding domestic assaults, as may be amended;
11. Minnesota Statutes, Sections 609.342, 609.343, 609.344, 609.345, and 609.3451, which prohibit criminal sexual conduct, as may be amended;
12. Minnesota Statutes, Section 609.52, which prohibits theft, as may be amended;
13. Minnesota Statutes, Sections 609.561, 609.562, 609.563, 609.5631, and 609.5632, which prohibit arson, as may be amended;
14. Minnesota Statutes, Section 609.582, which prohibits burglary, as may be amended;
15. Minnesota Statutes, Section 609.595, which prohibits damage to property, as may be amended;
16. Failure to comply with the dangerous dog requirements in violation of Minnesota Statutes Chapter 347, as may be amended;
17. Minnesota Statutes, Section 152.07, subdivision 4, which prohibits the sale or possession of small amounts of marijuana, as may be amended; and
18. Minnesota Statutes, Section 152.092, which prohibits the unlawful possession or use of drug paraphernalia, as may be amended.

B. Upon determination by the Code Official that a licensed premises or unit within a licensed premises was used for disorderly conduct activities as set forth in this Subdivision, the Code Official shall cause notice to be made to the owner and manager of the violation and direct the owner and property manager to take steps to prevent further disorderly conduct violations.

C. If a second disorderly conduct violation as determined by the Code Official occurs within a continuous twelve month period involving the same tenancy, the Code Official shall cause notice to be made to the owner and manager of the second violation. The owner or manager shall be required to participate in a Problem Solving Conference (“PSC”), scheduled and conducted by the City Administrator or designee, and immediately remedy the violations. The purpose of the PSC shall be to develop, by consensus, a plan of action to reasonably ensure that future incidents will not occur at the licensed premises.

~~D. If a third disorderly conduct violation as determined by the Code Official occurs within a continuous twelve month period involving the same tenancy, the Code Official shall cause notice to be made to the owner and property manager of the third violation. The owner or manager shall notify the tenant or tenants within ten days of the Notice of Disorderly Conduct violation of the Crime Free/Drug Free lease language within the lease and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.~~

~~E. If, pursuant to Subdivision, a third disorderly conduct violation of the licensed premises occurs at the same dwelling within a twelve month period, the rental dwelling license for the premises may be denied, revoked, suspended, placed on probation, or not renewed. An action to deny, revoke, suspend, place on probation, or not renew a license under this section shall be initiated by the City in the manner described in Section 350, Subdivision 11, and proceed according to the procedures established therein.~~

~~F. No adverse license action shall be imposed where the instance of disorderly conduct occurring on the licensed premises occurred during the pendency of evictions proceedings or within 30 days after notice is given by the licensee to a tenant to vacate the premises. Evictions proceedings shall not be a bar to a license action, however, unless the licensee diligently pursues them. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the City within ten days of receipt of the violation notice. Further, an action to deny, revoke, suspend, place on probation, or not renew a license based upon violations of this section may be postponed or discontinued by the Code Official at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly conduct.~~

350.05 Enforcement.

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

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

- A. Buildings and structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be re-inspected.
- B. Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.
- C. Owners shall, when required by this ordinance, health laws or the health officer, furnish and

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

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

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

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

- A. Smoke Detector Violations. Corrections must be completed immediately and re-inspected within three (3) working days.
- B. All Other Violations. Preparations for the actual work for correcting the alleged violations shall be commenced immediately and work re-inspected within twenty-five (25) working days OR within the time period as specified by the Code Official.
- C. Follow-Up Inspection. Upon completion of the second follow up inspection:
 1. If the infraction(s) have been satisfactorily addressed or corrected the City will, at its discretion, levy a reinspection fee to cover the cost of the second follow up inspection. The fee will be set by the City Council.
 2. If the infractions remain, the following penalties shall be imposed upon the property owner(s) if the alleged violations are not corrected and verified by the Code Official within the time period allowed by this Ordinance:
 - a. A \$50.00 fine.
 - b. The assessment of \$5.00 per day, each and every day thereafter until a satisfactory follow up inspection is conducted.
 3. The \$50.00 fine and subsequent \$5.00 per day assessment must be paid in full to the city within 14 days of the satisfactory follow up inspection or, pursuant to Section 350.04

Subd 10, the City of Norwood Young America shall have the right and just cause to revoke or deny licensing the property as Rental Housing Property.

4. The property owner or agent shall be notified in writing of Section 350.06, indicating his or her right of appeal. *(Amended by Ord.184, 7/10/2006)*

- D. Extensions. Extensions may be granted by the Code Official. The request shall be made in writing and justifiable cause must be demonstrated for the requested extension. All requests shall be made and delivered to the Code Official prior to the expiration date of the violation or violations.

Subd. 6 Substandard Property Condition.

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

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

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

350.06 Appeals.

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

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

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

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

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

350.07 Violation and Penalties.

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

Subd. 2 Violation. Any person that maintains a rental dwelling unit without having either a valid temporary permit or a valid license, or permits new occupancy in violation of this Section 350, is guilty of a misdemeanor, and upon conviction is subject to a fine and imprisonment as prescribed by state law. In addition to, or in lieu of, charging a misdemeanor, the City may impose an administrative fee in an amount set in the City Fee Schedule. An administrative fee may be appealed pursuant to Subsection 350.06 of this Section. Upon the failure to appeal an administrative fee within the period established in Subsection 350.06 of this Section, the City may post the dwelling unit as illegal for habitation. Thereafter, all persons must vacate the premise and the dwelling unit may not be occupied by anyone other than the primary homestead owner and that person's immediate family until (a) the administrative fee has been paid and (b) a rental license is obtained or the City is satisfied that the dwelling unit will not be used as a rental dwelling unit. Each day of each violation constitutes a separate offense. *(Amended by Ord. 222, 8/16/10)*

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

NORWOOD YOUNG AMERICA MANAGEMENT PLAN BASIC REQUIREMENTS

Rental Property Address: _____

Owner Name (person required): _____

Company Name: _____

Owner Full Street Address (not the rental property address): _____

Owner Phone: _____ Owner Email: _____

Licensee Name/Company (required if different from manager and owner): _____

Full Street Address (not the rental property address): _____

Phone: _____ Email: _____

Property Manager Name (required if different from Licensee and Owner): _____

Full Street Address (not the rental property address): _____

Phone: _____ Email: _____

**** This plan applies to ALL of my rental properties in Norwood Young America****

The City requires that this form be filled out and returned by email. You may also mail it to **NAME**.

TENANT APPLICATION AND SCREENING

1. Applicants will be required to give their consent for a criminal history check and rental history profile. Rental license holder will employ the following applicant screening service to perform the background check:

Company: _____

Mailing Address: _____

Phone: _____

Web address: _____

Email: _____

2. The following background information on applicants is provided by this company: _____

3. I use the following criteria when accepting tenants with a criminal history (specify types of crimes, time-frame where convictions or patterns of arrests are unacceptable): _____

4. I use the following other criteria when processing applicants (minimum rent-to-income ratio, rental history etc.): _____

5. I will use the Rental Application Denial Form (following this questionnaire), or a form with selected criteria from the form when receiving applications, and provide it to rejected applicants (circle AGREED to indicate acceptance).

AGREED

LEASE PROVISIONS

6. I use the lease available from:

___ Minnesota Association of Realtors (mnrealtor.com)

___ Minnesota Bar Association (mnbar.org)

___ Minnesota Multi Housing Association (mmha.com)

___ If none of the above, I have attached/provided a copy of my lease.

7. The term of my rental agreement/lease is

month-to-month

six months

annual

other: _____

8. I issue written warnings for the all lease violations by residents and/or their guests.

AGREED

9. I will file for and pursue an eviction of residents in violation of the lease who are given notice and do not move.

AGREED

10. If you discover that someone has moved in with a tenant without your permission, how do you deal with it? Detail all actions you take in this situation:

11. I will use the Crime Free Lease Addendum (following this questionnaire), or have equivalent language in my lease, that the tenant must read and sign before moving in or renewing their lease.

AGREED

12. I will create Resident Conduct Rules and Building Rules largely patterned off the examples following this questionnaire, which must be submitted to the Code Official for approval. All residents must read, sign, and agree to follow the Conduct and Building Rules before moving in or renewing their lease.

AGREED

MONITORING AND INSPECTIONS

In order to ensure that properties remain a safe and healthy environment for tenants and neighbors, adequate monitoring and inspection of properties are essential. Monitoring needs to address both the physical condition of the property and the conduct of tenants.

13. I will visit my properties, or have my employees visit them, at least biweekly to monitor the activity of residents and their guests, and to ensure there are no issues with the physical condition of the properties.

AGREED

14. I will run the background check required under Minnesota Statute section 299C.68 (Kari Koskinen Background Check Law) for any building manager, employee, or contractor who works for me and who has access to keys to occupied units.

AGREED

15. I participate in the following local or regional rental property owner/manager group:

16. I will take the following steps to prevent further conduct violations and criminal activity by my residents and/or their guests:

PLAN IMPLEMENTATION

17. I will maintain all written and electronic records necessary to document the above management plan provisions. I will respond to any request from the City to confirm the implementation of my plan after 20 days from the date of my plan being filed as Satisfactory with the City. I will respond to any such request within 30 days.

AGREED

18. Additional comments or questions you might have: _____

I agree to abide by the provisions set forth above in this management plan.

Owner: _____

Date: _____

Authorized Property Manager: _____

Date: _____

Management plan accepted on: (Date)

RENTAL APPLICATION DENIAL FORM

Name of Property Owner or Manager: _____

Address: _____

Phone Number: _____

Applicants Name: _____

Applicants Address: _____

Applicant's Phone Number: _____

Unit Applied For: _____

Rental Disqualifications

APPLICATION

- _____ Application incomplete
- _____ Application falsified
- _____ Rent equals more than- ____ % of monthly income
- _____ Insufficient funds for deposit check
- _____ Insufficient fund check for application fee or credit check

RENTAL HISTORY

- _____ Negative landlord reference-current or past rental
- _____ Unable to verify current or past home ownership
- _____ Unable to verify current or past rental
- _____ Late or non-payment of rent-current or past rental
- _____ NSF check(s) used for payment of rent
- _____ Eviction-current or past rental
- _____ Unlawful Detainer-current or past rental
- _____ Property damage-current or past rental

_____Lack of proper notice-current or past rental

_____Lack of adequate rental history

EMPLOYMENT HISTORY

_____Unacceptable employment history

_____Unable to verify employment

_____Unable to verify income

CREDIT HISTORY

_____Unacceptable credit history

_____Lack of credit history

_____Unable to verify credit references

_____Unacceptable credit references

CRIMINAL HISTORY

_____Unacceptable criminal history

OTHER

_____Unable to rent under terms or conditions requested

_____Specify: _____

This application was denied due to information from the following Credit Reporting Agency:

Name: _____ Phone: _____

Address: _____ Fax: _____

RESIDENT CONDUCT RULES

The following rules are made in the interest of the health and safety of all residents. Everyone is expected to comply. Violations of these rules are grounds for immediate eviction.

1. Sale, possession, or possession with intent to distribute controlled substances (illegal drugs) on the premises will not be permitted.
2. Repeated incidents which disturb the peace of other residents are prohibited.
3. Intentional or repeated damage to the building or property belonging to the owner or another resident's property is prohibited.
4. Theft from the owner or his/her agent or another resident is prohibited.
5. Keeping anything that may be considered a hazard to the health and safety of residents (such as gasoline or other highly flammable or explosive chemicals storage in a unit or on the property) without permission is prohibited.
6. Possession of illegal weapons is prohibited.
7. Any violent act or verbal threat to an employee of the building on or off the property or to another resident or guests of a resident on the property is prohibited.
8. Do not prop open security doors at any time. Do not admit strangers through security doors.
9. Excessive police calls complaining about the conduct of you, your family, or your guests is grounds for eviction.

A signed copy of these rules will be kept in each Resident's file.

I have read the "Resident Conduct Rules" and fully understand and agree to abide by the contents.

Date: _____

Applicant or Resident

Applicant or Resident

BUILDING RULES

1. Residents are responsible for their guests. Parents are responsible for their children.
2. Your monthly rent is due and payable on or before the first of the month. Please make your checks or money orders payable to: _____

3. Only the persons specified in the Apartment Lease can reside in your apartment. Additional occupants cannot reside in the unit without applying for residency and, upon acceptance, signing a written lease that is approved by Owner.
4. You need written permission from Owner for guests to stay in your dwelling unit for more than 10 consecutive days.
5. No names other than those of a leased tenant are permitted on mailboxes.
6. No children under the age of twelve (12) years are to be left unattended in the apartment or on the grounds.
7. If there is any damage done to the property by your guests or children, you will be held responsible and must pay for all damages.
8. Bikes, tricycles, wagons, and all toys must be kept in your apartment or garage. If these items are left unattended outside the building or in the hallways, Owner will discard them.
9. Congregating, loitering, or playing in the hallways, entry steps, entrance area, back entrance steps, or parking lots is not permitted.
10. Screens shall not be removed from any window for any reason other than an emergency. Packages or other items cannot be delivered or passed through any windows.
11. Unnecessary horn honking at any time of the day or night by tenants or their guests is not permitted.
12. No motorcycle, moped, or bicycle riding will be allowed on the lawn or sidewalk. No parking of the above vehicles will be allowed on the lawn or sidewalks.
13. No loud music or loud parties will be tolerated in your apartment or on the property after 10 p.m.
14. No loud or profane language will be allowed on the premises.
15. All draperies or other window coverings must be compatible with the rest of the building. No sheets, blankets, or newspapers will be allowed to be used as drapes or window coverings.
16. Residents are responsible for placing all trash in the proper receptacles. Trash may not be left in the hallways or placed on sidewalks or in the grass.
17. To ensure the safety of all residents, Owner urges residents to call 911 on any crimes in progress, disturbances, disorderly behavior, or suspicious activity on or around the premises.
18. Each adult resident will be provided with one entry door, apartment door, and mailbox key. Residents are not to change, alter, or add additional locks or other security measures anywhere in the apartment or on the property without prior permission. If you desire

different or additional security for your apartment door, patio door, storage locker, or windows please contact Owner. Depending on your request, you may have to pay for additional security measures. All additional security devices will remain Owner's property.

Please have respect for all residents in your building.

I have read the "Building Rules" and fully understand and agree to abide by the contents.

Date: _____

Applicant or Resident

Applicant or Resident

CRIME FREE/DRUG FREE LEASE ADDENDUM

In consideration of the execution or renewal of the lease of the dwelling unit identified in the attached lease, Owner and Resident agree as follows:

1. Resident, any members of the resident's household, a guest or other person under the resident's control, shall not engage in criminal activity, including drug-related criminal activity, on or near the said premises. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use of a controlled substance (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802]).
2. Resident(s), any member of the resident's household, a guest or other person under the resident's control, shall not engage in any act intended to facilitate criminal activity, including drug-related criminal activity, on or near the said premises.
3. Resident or members of the household will not permit the dwelling unit to be used for, or to facilitate criminal activity, including drug-related criminal activity regardless of whether the individual engaging in such activity is a member of the household, or a guest.
4. Resident, any member of the resident's household, a guest, or another person under the resident's control, shall not engage in the unlawful manufacturing, selling, using, storing, keeping, or giving of a controlled substance at any location, whether on or near the dwelling unit or otherwise.
5. Resident, any member of the resident's household, a guest or another person under the resident's control, shall not engage in any criminal activity, including prostitution, criminal street gang activity, threatening, intimidating, or assaultive behavior including but not limited to the unlawful discharge of firearms, on or near the dwelling unit premises, or any breach of the lease agreement that otherwise jeopardizes the health, safety, and welfare of the landlord, his agent or other residents and/or involving imminent or actual serious property damage.
6. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY.
7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of this addendum shall govern.
8. This LEASE ADDENDUM is incorporated into the lease executed or renewed this day between Owner and Resident(s).

It is understood and agreed that a single violation shall be good cause for termination of the lease. Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be by the preponderance of the evidence.

Management Signature

Date

Resident Signature

Date

Resident Signature

Date



To: Chairperson Heher
Members of the Planning Commission
Administrator Helget

From: Cynthia Smith Strack, Consulting Planner

Date: May 2, 2017

Re: Code Standards for Towers

BACKGROUND

A few months ago the City received an inquiry regarding the location of telecommunications towers as a principal use of industrial zoned property adjacent to Highway 212. The request generated staff investigation into code standards relating to towers. The following are noted:

- Existing towers are located in an **R-2 District**.
- Antennas, satellite dishes, communication and radio towers are allowed as a principal use of property under a CUP in the T/A Transition/Agricultural District.
- Antennas, satellite dishes, communication and radio towers are allowed as a principal use of property under a CUP in the I-1 Light Industrial District.
- Communications towers including television antennae and radio and telephone transmission towers under Section 1220.01 are exempt from district height restrictions.
- Section 1210.06, Subd. 3(B)(2) establish the following conditions for antennas, satellite dishes, communication and amateur radio towers.
 - a. **In all residential districts**, only one of the following are permitted per lot:
 - i. Satellite dish
 - ii. Amateur radio tower
 - iii. Ground-mounted vertical antenna
 - b. A ground-mounted satellite dish shall not exceed fifteen (15) feet in height above the ground level.
 - c. No ground-mounted satellite dish, amateur radio tower, or ground-mounted vertical antenna shall be located within the required front yard setback or side yard setback.
 - d. Ground-mounted satellite dish, amateur radio tower, or ground-mounted vertical antennas shall be set back from all adjoining lots a distance equivalent to the height of the dish, tower, or antenna. If a portion of the tower or antenna is collapsible or securely fastened to a building, only the portion which can fall will be used to determine the setback from the property lines. Location shall not adversely obstruct views from adjacent property.
 - e. A building permit shall be required for the installation of any satellite dish, amateur tower, or ground-cover mounted vertical antenna. Building permit applications shall require the submission of a site plan and structural components.
 - f. Each satellite dish, amateur radio tower, and ground-mounted vertical antenna shall be grounded to protect against natural lightning strikes and be designed and installed in conformance with the National Electrical Code.

Specific standards which are potentially problematic include:

1. If taken literally **any** antennas, satellite dishes, communication or radio towers in the TA or I-2 districts require issuance of a CUP. There is no distinction between personal antennae or satellite dishes and commercial antennae or satellite dishes. There is no allowance for ham radio towers in residential areas (required).
2. In addition, CUP requirements (a), (b), and (c) appear to be related to personal devices and not commercial devices. CUP requirements (d) and (e) appear to be related to commercial devices and not personal devices. CUP requirements for (f) could be related to both personal and commercial devices.
3. Furthermore, in a Memorandum Opinion and Order, adopted September 16, 1985 (PRB-1), the Federal Communications Commission established a policy of limited preemption of state and local regulations governing amateur station facilities, including antennas and support structures. While PBR-1 requires cities to limit local land use regulations relating to structural height, screening, and placement of towers so as to reasonably accommodate amateur radio communications, it does not prohibit a community from exercising some control over such structure. Under PBR-1, regulations regarding amateur radio communications must be the minimum required to provide for the public's safety, health, and welfare.

DISCUSSION

It would appear consideration of tower standards is appropriate. If language updates are contemplated, input from the Commission is requested on:

1. Are I-1 General Industrial District properties adjacent to Highway 212 suitable for principal uses of property under CUP?
2. What districts are suitable for commercial telecommunications towers?
3. Should CUP standards (d) – (d) apply only to commercial towers? Can (a)-(c) be removed as CUP standards?
4. Incorporation of amateur radio tower allowances while protecting adjacent residents:
 - a. Require setback equal to height of unsecured amateur radio tower (i.e. that portion not attached to a structure).
 - b. Limit the number of amateur towers per lot.
 - c. Restrict height of the tower to the minimum height necessary to provide adequate service.
 - d. Require towers be placed in rear yards rather than side or front yards.
5. Should a separate code section be added to specifically address towers, antenna, dishes as opposed to sprinkled through several sections?